

SENATE BILL REPORT

ESSB 6426

As Passed Senate, February 10, 1996

Title: An act relating to the Washington state housing finance commission.

Brief Description: Administering the state housing finance commission.

Sponsors: Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Winsley, Fraser, Snyder, Hale and Franklin; by request of Housing Finance Commission).

Brief History:

Committee Activity: Financial Institutions & Housing: 1/18/96, 1/25/96 [DPS].
Passed Senate, 2/10/96, 49-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Majority Report: That Substitute Senate Bill No. 6426 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Hale, Roach, Sellar and Smith.

Staff: David Cheal (786-7576)

Background: The Washington State Housing and Finance Commission stimulates the production of affordable housing through the issuance of tax exempt bonds, through the administration of federal tax credit programs and other programs authorized by state and federal law.

Financial advantages and incentives are often made available to developers and owners of housing facilities on the condition that requirements of commission policy and applicable state and federal law be met. Typically, these requirements relate to making housing available to households of a certain income level for a certain period of time.

These conditions can be enforced by the commission by contract with the recipient. If the contracting party sells the housing asset to someone not party to the original contract, it might be possible for the successor to assert some defenses to the conditions in the contract.

Some of the nonprofit housing providers the commission works with are not organized as corporations. The total outstanding indebtedness of the commission is limited to \$1.5 billion.

Summary of Bill: The commission is given authority to impose covenants that run with the land in order to satisfy and enforce requirements of applicable state and federal law and commission policy and to enforce contracts between the commission and developers. These regulatory covenants are enforceable against successor owners of the housing or other

facility, even though there may be no privity of contract or estate between the commission and the successor owner. This regulatory option is made available to the commission for existing as well as future agreements. Covenants last as long as the contractual obligations being enforced and not in perpetuity.

The definition of "nonprofit" is amended to include entities that are not organized as a corporation.

The statutory limitation on indebtedness is raised from \$1.5 billion to \$2 billion.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Agreements between the commission and original developers of affordable housing may be difficult to enforce against subsequent owners. This enforcement device will ensure the public gets the full affordable housing benefit from the economic benefit provided to the developer. The debt limit will soon limit the program of the commission and should be removed. Concerns that led to ceiling are now handled in other ways.

Testimony Against: Covenants that run with the land could last forever and limit land use. This enforcement tool is overkill.

Testified: Dick Ducharme, BIAW; Kim Herman, Dave Busse, WSHFC (pro).