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ENGROSSED SUBSTITUTE SENATE BILL 6426

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State of Washington

54th Legislature

1996 Regular Session

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

Read first time 01/30/96.

1 AN ACT Relating to the Washington state housing finance commission;  
2 amending RCW 43.180.080, 43.180.300, and 43.180.160.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.180.080 and 1983 c 161 s 8 are each amended to read  
5 as follows:

6 In addition to other powers and duties specified in this chapter,  
7 the commission may:

8 (1) Establish in resolutions relating to any issuance of bonds, or  
9 in any financing documents relating to such issuance, such standards  
10 and requirements applicable to the purchase of mortgages and mortgage  
11 loans or the making of loans to mortgage lenders as the commission  
12 deems necessary or desirable, including but not limited to: (a) The  
13 time within which mortgage lenders must make commitments and  
14 disbursements for mortgages or mortgage loans; (b) the location and  
15 other characteristics of single-family housing or multifamily housing  
16 to be financed by mortgages and mortgage loans; (c) the terms and  
17 conditions of mortgages and mortgage loans to be acquired; (d) the  
18 amounts and types of insurance coverage required on mortgages, mortgage  
19 loans, and bonds; (e) the representations and warranties of mortgage

1 lenders confirming compliance with such standards and requirements; (f)  
2 restrictions as to interest rate and other terms of mortgages or  
3 mortgage loans or the return realized therefrom by mortgage lenders;  
4 (g) the type and amount of collateral security to be provided to assure  
5 repayment of any loans from the commission and to assure repayment of  
6 bonds; and (h) any other matters related to the purchase of mortgages  
7 or mortgage loans or the making of loans to lending institutions as  
8 shall be deemed relevant by the commission;

9 (2) Sue and be sued in its own name;

10 (3) Make and execute contracts and all other instruments necessary  
11 or convenient for the exercise of its purposes or powers, including but  
12 not limited to contracts or agreements for the origination, servicing,  
13 and administration of mortgages or mortgage loans, and the borrowing of  
14 money;

15 (4) Procure such insurance, including but not limited to insurance:  
16 (a) Against any loss in connection with its property and other assets,  
17 including but not limited to mortgages or mortgage loans, in such  
18 amounts and from such insurers as the commission deems desirable, and  
19 (b) to indemnify members of the commission for acts done in the course  
20 of their duties;

21 (5) Provide for the investment of any funds, including funds held  
22 in reserve, not required for immediate disbursement, and provide for  
23 the selection of investments;

24 (6) Fix, revise, and collect fees and charges in connection with  
25 the investigation and financing of housing or in connection with  
26 assignments, contracts, purchases of mortgages or mortgage loans, or  
27 any other actions permitted under this chapter or by the commission;  
28 and receive grants and contributions;

29 (7) Make such expenditures as are appropriate for paying the  
30 administrative costs of the commission and for carrying out the  
31 provisions of this chapter. These expenditures may be made only from  
32 funds consisting of the commission's receipts from fees and charges,  
33 grants and contributions, the proceeds of bonds issued by the  
34 commission, and other revenues; these expenditures shall not be made  
35 from funds of the state of Washington;

36 (8) Establish such special funds, and controls on deposits to and  
37 disbursements from them, as it finds convenient for the implementation  
38 of this chapter;

- 1 (9) Conduct such investigations and feasibility studies as it deems  
2 appropriate;
- 3 (10) Proceed with foreclosure actions or accept deeds in lieu of  
4 foreclosure together with the assignments of leases and rentals  
5 incidental thereto. Any properties acquired by the commission through  
6 such actions shall be sold as soon as practicable through persons  
7 licensed under chapter 18.85 RCW or at public auction, or by transfer  
8 to a public agency. In preparation for the disposition of the  
9 properties, the commission may own, lease, clear, construct,  
10 reconstruct, rehabilitate, repair, maintain, manage, operate, assign,  
11 or encumber the properties;
- 12 (11) Take assignments of leases and rentals;
- 13 (12) Subject to any provisions of the commission's contracts with  
14 the holders of obligations of the commission, consent to any  
15 modification with respect to rate of interest, time, and payment of any  
16 installment of principal or interest or any other term of any contract,  
17 mortgage, mortgage loan, mortgage loan commitment, contract, or  
18 agreement of any kind;
- 19 (13) Subject to provisions of the commission's contracts with the  
20 holders of bonds, permit the reduction of rental or carrying charges to  
21 persons unable to pay the regular rent or schedule of charges if, by  
22 reason of other income of the commission or by reason of payment by any  
23 department, agency, or instrumentality of the United States or of this  
24 state, the reduction can be made without jeopardizing the economic  
25 stability of the housing being financed;
- 26 (14) Sell, at public or private sale, with or without public  
27 bidding, any mortgage, mortgage loan, or other instrument or asset held  
28 by the commission;
- 29 (15) Employ, contract with, or engage engineers, architects,  
30 attorneys, financial advisors, bond underwriters, mortgage lenders,  
31 mortgage administrators, housing construction or financing experts,  
32 other technical or professional assistants, and such other personnel as  
33 are necessary. The commission may delegate to the appropriate persons  
34 the power to execute legal instruments on its behalf;
- 35 (16) Receive contributions or grants from any source unless  
36 otherwise prohibited;
- 37 (17) Impose covenants running with the land in order to satisfy and  
38 enforce the requirements of applicable state and federal law and  
39 commission policy with respect to housing or other facilities financed

1 by the commission or assisted by federal, state, or local programs  
2 administered by the commission, by executing and recording regulatory  
3 agreements or other covenants between the commission and the person or  
4 entity to be bound. These regulatory agreements and covenants shall  
5 run with the land and be enforceable by the commission or its  
6 successors or assigns against the person or entity making the  
7 regulatory agreement or covenants or its successors or assigns, even  
8 though there may be no privity of estate or privity of contract between  
9 the commission or its successors or assigns and the person or entity  
10 against whom enforcement is sought. The term of any such covenant  
11 shall be set forth in the recorded agreement containing the covenant.  
12 This subsection shall apply to regulatory agreements and covenants  
13 previously entered into by the commission as well as regulatory  
14 agreements and covenants entered into by the commission on or after the  
15 effective date of this act;

16 (18) Delegate any of its powers and duties if consistent with the  
17 purposes of this chapter;

18 (~~(18)~~) (19) Exercise any other power reasonably required to  
19 implement the purposes of this chapter.

20 **Sec. 2.** RCW 43.180.300 and 1990 c 167 s 2 are each amended to read  
21 as follows:

22 As used in RCW 43.180.310 through 43.180.360, the following terms  
23 have the meanings indicated unless the context clearly requires  
24 otherwise.

25 (1) "Construction" or "construct" means construction and  
26 acquisition, whether by device, purchase, gift, lease, or otherwise.

27 (2) "Facilities" means land, rights in land, buildings, structures,  
28 equipment, landscaping, utilities, approaches, roadways and parking,  
29 handling and storage areas, and similar ancillary facilities.

30 (3) "Financing document" means a lease, sublease, installment sale  
31 agreement, conditional sale agreement, loan agreement, mortgage, deed  
32 of trust guaranty agreement, or other agreement for the purpose of  
33 providing funds to pay or secure debt service on revenue bonds.

34 (4) "Improvement" means reconstruction, remodeling, rehabilitation,  
35 extension, and enlargement. "To improve" means to reconstruct, to  
36 remodel, to rehabilitate, to extend, and to enlarge.

1 (5) "Nonprofit corporation" means a nonprofit (~~corporation~~)  
2 organization described under section 501(c)(3) of the Internal Revenue  
3 Code, or similar successor provisions.

4 (6) "Nonprofit facilities" means facilities owned or used by a  
5 nonprofit corporation for any nonprofit activity described under  
6 section 501(c)(3) of the Internal Revenue Code that qualifies such a  
7 corporation for an exemption from federal income taxes under section  
8 501(a) of the Internal Revenue Code, or similar successor provisions  
9 provided that facilities which may be funded pursuant to chapter  
10 28B.07, 35.82, 43.180, or 70.37 RCW shall not be included in this  
11 definition.

12 (7) "Project costs" means costs of (a) acquisition, construction,  
13 and improvement of any facilities included in a nonprofit facility; (b)  
14 architectural, engineering, consulting, accounting, and legal costs  
15 related directly to the development, financing, and construction of a  
16 nonprofit facility, including costs of studies assessing the  
17 feasibility of a nonprofit facility; (c) finance costs, including  
18 discounts, if any, the costs of issuing revenue bonds, and costs  
19 incurred in carrying out any trust agreement; (d) interest during  
20 construction and during the six months after estimated completion of  
21 construction, and capitalized debt service or repair and replacement or  
22 other appropriate reserves; (e) the refunding of any outstanding  
23 obligations incurred for any of the costs outlined in this subsection;  
24 and (f) other costs incidental to any of the costs listed in this  
25 section.

26 (8) "Revenue bond" means a taxable or tax-exempt nonrecourse  
27 revenue bond, nonrecourse revenue note, or other nonrecourse revenue  
28 obligation issued for the purpose of providing financing to a nonprofit  
29 corporation on an interim or permanent basis.

30 (9) "User" means one or more persons acting as lessee, purchaser,  
31 mortgagor, or borrower under a financing document and may include  
32 a party who transfers the right of use and occupancy to another party by  
33 lease, sublease, or otherwise.

34 **Sec. 3.** RCW 43.180.160 and 1986 c 264 s 2 & 1983 c 161 s 16 are  
35 each amended to read as follows:

36 The total amount of outstanding indebtedness of the commission may  
37 not exceed (~~one and one-half~~) two billion dollars at any time. The  
38 calculation of outstanding indebtedness shall include the initial

1 principal amount of an issue and shall not include interest that is  
2 either currently payable or that accrues as a part of the face amount  
3 of an issue payable at maturity or earlier redemption. Outstanding  
4 indebtedness shall not include notes or bonds as to which the  
5 obligation of the commission has been satisfied and discharged by  
6 refunding or for which payment has been provided by reserves or  
7 otherwise.

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