
SENATE BILL 5786

State of Washington

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By Senators Sheldon, Winsley, Bauer, Skratek and Snyder

Read first time 02/15/93. Referred to Committee on Trade, Technology & Economic Development.

1 AN ACT Relating to public housing authorities; and amending RCW
2 35.82.070, 35.82.130, 35.82.210, and 82.04.190.

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

4 **Sec. 1.** RCW 35.82.070 and 1991 c 167 s 1 are each amended to read
5 as follows:

6 An authority shall constitute a public body corporate and politic,
7 exercising public and essential governmental functions, and having all
8 the powers necessary or convenient to carry out and effectuate the
9 purposes and provisions of this chapter, including the following powers
10 in addition to others herein granted:

11 (1) To sue and be sued; to have a seal and to alter the same at
12 pleasure; to have perpetual succession; to make and execute contracts
13 and other instruments, including but not limited to partnership
14 agreements and joint venture agreements, necessary or convenient to the
15 exercise of the powers of the authority; to participate in the
16 organization or the operation of a nonprofit corporation which has as
17 one of its purposes to provide or assist in the provision of housing
18 for persons of low income; and to make and from time to time amend and

1 repeal bylaws, rules and regulations, not inconsistent with this
2 chapter, to carry into effect the powers and purposes of the authority.

3 (2) Within its area of operation: To prepare, carry out, acquire,
4 lease and operate housing projects; to provide for the construction,
5 reconstruction, improvement, alteration or repair of any housing
6 project or any part thereof; to agree to rent or sell dwellings forming
7 part of the projects to or for persons of low income. Where an
8 agreement or option is made to sell a dwelling to a person of low
9 income, the authority may convey the dwelling to the person upon
10 fulfillment of the agreement irrespective of whether the person is at
11 the time of the conveyance a person of low income. Leases, options,
12 agreements, or conveyances may include such covenants as the authority
13 deems appropriate to assure the achievement of the objectives of this
14 chapter.

15 (3) To acquire, lease, rent, sell, or otherwise dispose of any
16 commercial space located in buildings or structures containing a
17 housing project or projects.

18 (4) To provide directly or arrange or contract for the furnishing
19 by any person or agency, public or private, of services, including drug
20 rehabilitation, elderly or child day care, or other social services,
21 privileges, works, or facilities for, or in connection with, a housing
22 project or the occupants thereof; and (notwithstanding anything to the
23 contrary contained in this chapter or in any other provision of law) to
24 include in any contract let in connection with a project, stipulations
25 requiring that the contractor and any subcontractors comply with
26 requirements as to minimum wages and maximum hours of labor, and comply
27 with any conditions which the federal government may have attached to
28 its financial aid of the project.

29 (5) To lease or rent any dwellings, houses, accommodations, lands,
30 buildings, structures or facilities embraced in any housing project and
31 (subject to the limitations contained in this chapter) to establish and
32 revise the rents or charges therefor; to own or manage buildings
33 containing a housing project or projects as well as commercial space or
34 other dwelling units that do not constitute a housing project as that
35 term is defined in this chapter: PROVIDED, That notwithstanding the
36 provisions under subsection (1) of this section, dwelling units made
37 available or sold to persons of low income, together with functionally
38 related and subordinate facilities, shall occupy ~~((at least thirty~~
39 ~~percent of the interior space of any individual building other than a~~

1 ~~detached single family or duplex residential building or mobile or~~
2 ~~manufactured home and))~~ at least fifty percent of the interior space in
3 the total development owned by the authority or at least fifty percent
4 of the total number of units in the development owned by the authority,
5 whichever produces the greater number of units for persons of low
6 income, and for mobile home parks, the mobile home lots made available
7 to persons of low income shall be at least fifty percent of the total
8 number of mobile home lots in the park owned by the authority; to own,
9 hold, and improve real or personal property; to purchase, lease, obtain
10 options upon, acquire by gift, grant, bequest, devise, or otherwise
11 including financial assistance and other aid from the state or any
12 public body, person or corporation, any real or personal property or
13 any interest therein; to acquire by the exercise of the power of
14 eminent domain any real property; to sell, lease, exchange, transfer,
15 assign, pledge, or dispose of any real or personal property or any
16 interest therein; to sell, lease, exchange, transfer, or dispose of any
17 real or personal property or interest therein at less than fair market
18 value to a governmental entity for any purpose when such action assists
19 the housing authority in carrying out its powers and purposes under
20 this chapter, to a low-income person or family for the purpose of
21 providing housing for that person or family, or to a nonprofit
22 corporation provided the nonprofit corporation agrees to sell the
23 property to a low-income person or family or to use the property for
24 the provision of housing for persons of low income for at least twenty
25 years; to insure or provide for the insurance of any real or personal
26 property or operations of the authority against any risks or hazards;
27 to procure or agree to the procurement of insurance or guarantees from
28 the federal government of the payment of any bonds or parts thereof
29 issued by an authority, including the power to pay premiums on any such
30 insurance.

31 (6) To acquire, develop, construct, rehabilitate, own, operate, and
32 lease as lessor or lessee administrative, community, health,
33 commercial, recreational, welfare, or other facilities on or near the
34 site of a housing project to provide services to residents of the
35 housing project.

36 (7) To invest any funds held in reserves or sinking funds, or any
37 funds not required for immediate disbursement, in property or
38 securities in which savings banks may legally invest funds subject to
39 their control; to purchase its bonds at a price not more than the

1 principal amount thereof and accrued interest, all bonds so purchased
2 to be canceled.

3 ~~((+7))~~ (8) Within its area of operation: To investigate into
4 living, dwelling and housing conditions and into the means and methods
5 of improving such conditions; to determine where slum areas exist or
6 where there is a shortage of decent, safe and sanitary dwelling
7 accommodations for persons of low income; to make studies and
8 recommendations relating to the problem of clearing, replanning and
9 reconstructing of slum areas, and the problem of providing dwelling
10 accommodations for persons of low income, and to cooperate with the
11 city, the county, the state or any political subdivision thereof in
12 action taken in connection with such problems; and to engage in
13 research, studies and experimentation on the subject of housing.

14 ~~((+8))~~ (9) Acting through one or more commissioners or other
15 person or persons designated by the authority: To conduct examinations
16 and investigations and to hear testimony and take proof under oath at
17 public or private hearings on any matter material for its information;
18 to administer oaths, issue subpoenas requiring the attendance of
19 witnesses or the production of books and papers and to issue
20 commissions for the examination of witnesses who are outside of the
21 state or unable to attend before the authority, or excused from
22 attendance; to make available to appropriate agencies (including those
23 charged with the duty of abating or requiring the correction of
24 nuisances or like conditions, or of demolishing unsafe or insanitary
25 structures within its area of operation) its findings and
26 recommendations with regard to any building or property where
27 conditions exist which are dangerous to the public health, morals,
28 safety or welfare.

29 ~~((+9))~~ (10) To initiate eviction proceedings against any tenant as
30 provided by law. Activity occurring in any housing authority unit that
31 constitutes a violation of chapter 69.41, 69.50 or 69.52 RCW shall
32 constitute a nuisance for the purpose of RCW 59.12.030(5).

33 ~~((+10))~~ (11) To exercise all or any part or combination of powers
34 herein granted.

35 No provisions of law with respect to the acquisition, operation or
36 disposition of property by other public bodies shall be applicable to
37 an authority unless the legislature shall specifically so state.

1 ~~((11))~~ (12) To agree (notwithstanding the limitation contained in
2 RCW 35.82.210) to make such payments in lieu of taxes as the authority
3 finds consistent with the achievement of the purposes of this chapter.

4 ~~((12))~~ (13) Upon the request of a county or city, to exercise any
5 powers of an urban renewal agency under chapter 35.81 RCW or a public
6 corporation, commission, or authority under chapter 35.21 RCW.
7 However, in the exercise of any such powers the housing authority shall
8 be subject to any express limitations contained in this chapter.

9 (14) To exercise the powers granted in this chapter within the
10 boundaries of any city, town, or county not included in the area in
11 which such housing authority is originally authorized to function:
12 PROVIDED, HOWEVER, The governing or legislative body of such city,
13 town, or county, as the case may be, adopts a resolution declaring that
14 there is a need for the authority to function in such territory.

15 ~~((13))~~ (15) To administer contracts for assistance payments to
16 persons of low income in accordance with section 8 of the United States
17 Housing Act of 1937, as amended by Title II, section 201 of the Housing
18 and Community Development Act of 1974, P.L. 93-383.

19 ~~((14))~~ (16) To sell at public or private sale, with or without
20 public bidding, for fair market value, any mortgage or other obligation
21 held by the authority.

22 ~~((15))~~ (17) To the extent permitted under its contract with the
23 holders of bonds, notes, and other obligations of the authority, to
24 consent to any modification with respect to rate of interest, time and
25 payment of any installment of principal or interest security, or any
26 other term of any contract, mortgage, mortgage loan, mortgage loan
27 commitment, contract or agreement of any kind to which the authority is
28 a party.

29 ~~((16))~~ (18) To make, purchase, participate in, invest in, take
30 assignments of, or otherwise acquire loans to persons of low income to
31 enable them to acquire, construct, reconstruct, rehabilitate, improve,
32 lease, or refinance their dwellings, and to take such security therefor
33 as is deemed necessary and prudent by the authority.

34 ~~((17))~~ (19) To make, purchase, participate in, invest in, take
35 assignments of, or otherwise acquire loans for the acquisition,
36 construction, reconstruction, rehabilitation, improvement, leasing, or
37 refinancing of land, buildings, or developments for housing for persons
38 of low income. For purposes of this subsection, development shall
39 include either land or buildings or both.

1 (a) Any development financed under this subsection shall be subject
2 to an agreement that for at least twenty years the dwelling units made
3 available to persons of low income together with functionally related
4 and subordinate facilities shall occupy at least (~~thirty percent of~~
5 ~~the interior space of any individual building other than a detached~~
6 ~~single family or duplex residential building or mobile or manufactured~~
7 ~~home and shall occupy at least~~) fifty percent of the interior space in
8 the total development or at least fifty percent of the total number of
9 units in the development, whichever produces the greater number of
10 units for persons of low income. For mobile home parks, the mobile
11 home lots made available to persons of low income shall be at least
12 fifty percent of the total number of mobile home lots in the park.
13 During the term of the agreement, the owner shall use its best efforts
14 in good faith to maintain the dwelling units or mobile home lots
15 required to be made available to persons of low income at rents
16 affordable to persons of low income. The twenty-year requirement under
17 this subsection (19)(a) shall not apply when an authority finances the
18 development by nonprofit corporations or governmental units of
19 dwelling or mobile home lots intended for sale to persons of low and
20 moderate income, and shall not apply to construction or other short-
21 term financing provided to nonprofit corporations or governmental units
22 when the financing has a repayment term of one year or less.

23 (b) In addition, if the development is owned by a for-profit
24 entity, the dwelling units or mobile home lots required to be made
25 available to persons of low income shall be rented to persons whose
26 incomes do not exceed fifty percent of the area median income, adjusted
27 for household size, and shall have unit or lot rents that do not exceed
28 fifteen percent of area median income, adjusted for household size,
29 unless rent subsidies are provided to make them affordable to persons
30 of low income.

31 For purposes of this subsection (~~(17)~~)(19)(b), if the development
32 is owned directly or through a partnership by a governmental entity or
33 a nonprofit organization, which nonprofit organization is itself not
34 controlled by a for-profit entity or affiliated with any for-profit
35 entity that a nonprofit organization itself does not control, it shall
36 not be treated as being owned by a for-profit entity when the
37 governmental entity or nonprofit organization exercises legal control
38 of the ownership entity and in addition, (i) the dwelling units or
39 mobile home lots required to be made available to persons of low income

1 are rented to persons whose incomes do not exceed sixty percent of the
2 area median income, adjusted for household size, and (ii) the
3 development is subject to an agreement that transfers ownership to the
4 governmental entity or nonprofit organization or extends an irrevocable
5 right of first refusal to purchase the development under a formula for
6 setting the acquisition price that is specified in the agreement.

7 (c) Commercial space in any building financed under this subsection
8 that exceeds four stories in height shall not constitute more than
9 twenty percent of the interior area of the building. Before financing
10 any development under this subsection the authority shall make a
11 written finding that financing is important for project feasibility or
12 necessary to enable the authority to carry out its powers and purposes
13 under this chapter.

14 ~~((18))~~ (20) To make, purchase, participate in, invest in, take
15 assignments of, or otherwise acquire loans for the acquisition,
16 construction, reconstruction, rehabilitation, improvement, leasing, or
17 refinancing of land, equipment, furnishings, buildings, or developments
18 utilized for administrative, community, health, recreational, welfare,
19 or other purposes by or for persons of low income when the land,
20 equipment, furnishings, buildings, or developments so financed are
21 owned or are to be owned by a governmental unit or a nonprofit
22 corporation and either (a) a federal, state, or local government loan,
23 grant, investment, lease, rent subsidy, tax credit, or tax incentive is
24 provided with respect to the land, equipment, furnishings, buildings,
25 or developments or (b) a housing authority owns at least a twenty-five
26 percent interest in the land, equipment, furnishings, buildings, or
27 developments.

28 (21) To contract with a public authority or corporation, created by
29 a county, city, or town under RCW 35.21.730 through 35.21.755, to act
30 as the developer for new housing projects or improvement of existing
31 housing projects.

32 **Sec. 2.** RCW 35.82.130 and 1991 c 167 s 2 are each amended to read
33 as follows:

34 An authority shall have power to issue bonds from time to time in
35 its discretion, for any of its corporate purposes. An authority shall
36 also have power to issue refunding bonds for the purpose of paying or
37 retiring bonds previously issued by it. An authority may issue such
38 types of bonds as it may determine, including (without limiting the

1 generality of the foregoing) bonds on which the principal and interest
2 are payable: (1) Exclusively from the income and revenues of the
3 housing project financed with the proceeds of such bonds; (2)
4 exclusively from the income and revenues of certain designated housing
5 projects whether or not they are financed in whole or in part with the
6 proceeds of such bonds; or (3) from all or part of its revenues or
7 assets generally. Any such bonds may be additionally secured by a
8 pledge of any grant or contributions from the federal government or
9 other source, or a pledge of any income or revenues of the authority,
10 or a mortgage of any housing project, projects or other property of the
11 authority. Any pledge made by the authority shall be valid and binding
12 from the time when the pledge is made and recorded; the revenues,
13 moneys, or property so pledged and thereafter received by the authority
14 shall immediately be subject to the lien of the pledge without any
15 physical delivery thereof or further act, and the lien of any such
16 pledge shall be valid and binding as against all parties having claims
17 of any kind in tort, contract, or otherwise against the authority,
18 irrespective of whether the parties have notice thereof. ((The
19 resolution and any other instrument by which a pledge is created shall
20 be filed or recorded.))

21 Neither the commissioners of an authority nor any person executing
22 the bonds shall be liable personally on the bonds by reason of the
23 issuance thereof. The bonds and other obligations of an authority (and
24 such bonds and obligations shall so state on their face) shall not be
25 a debt of the city, the county, the state or any political subdivision
26 thereof and neither the city or the county, nor the state or any
27 political subdivision thereof shall be liable thereon, nor in any event
28 shall such bonds or obligations be payable out of any funds or
29 properties other than those of said authority. The bonds shall not
30 constitute an indebtedness within the meaning of any constitutional or
31 statutory debt limitation or restriction. Bonds of an authority are
32 declared to be issued for an essential public and governmental purpose
33 and to be public instrumentalities and, together with interest thereon
34 and income therefrom, shall be exempt from taxes. Nothing in this
35 section shall prevent an authority from issuing bonds the interest on
36 which is included in gross income of the owners thereof for income tax
37 purposes.

1 **Sec. 3.** RCW 35.82.210 and 1965 c 7 s 35.82.210 are each amended to
2 read as follows:

3 The property of an authority is declared to be public property used
4 for essential public and governmental purposes and such property and an
5 authority shall be exempt from all taxes and special assessments of the
6 city, the county, the state or any political subdivision thereof:
7 PROVIDED, HOWEVER, That in lieu of such taxes an authority may agree to
8 make payments to the city or the county or any such political
9 subdivision for improvements, services and facilities furnished by such
10 city, county or political subdivision for the benefit of a housing
11 project, but in no event shall such payments exceed the amount last
12 levied as the annual tax of such city, county or political subdivision
13 upon the property included in said project prior to the time of its
14 acquisition by the authority. As used in this section, the meaning of
15 "property of an authority" includes property (1) leased by an
16 authority, (2) owned or leased by a partnership in which an authority
17 (a) has a majority interest, (b) is the sole general partner, or (c) is
18 a cogeneral partner with one or more nonprofit corporations or public
19 authorities or corporations created under RCW 35.21.730, or (3) owned
20 or leased by a nonprofit corporation controlled by an authority.

21 **Sec. 4.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read
22 as follows:

23 "Consumer" means the following:

24 (1) Any person who purchases, acquires, owns, holds, or uses any
25 article of tangible personal property irrespective of the nature of the
26 person's business and including, among others, without limiting the
27 scope hereof, persons who install, repair, clean, alter, improve,
28 construct, or decorate real or personal property of or for consumers
29 other than for the purpose (a) of resale as tangible personal property
30 in the regular course of business or (b) of incorporating such property
31 as an ingredient or component of real or personal property when
32 installing, repairing, cleaning, altering, imprinting, improving,
33 constructing, or decorating such real or personal property of or for
34 consumers or (c) of consuming such property in producing for sale a new
35 article of tangible personal property or a new substance, of which such
36 property becomes an ingredient or component or as a chemical used in
37 processing, when the primary purpose of such chemical is to create a
38 chemical reaction directly through contact with an ingredient of a new

1 article being produced for sale or (d) purchases for the purpose of
2 consuming the property purchased in producing ferrosilicon which is
3 subsequently used in producing magnesium for sale, if the primary
4 purpose of such property is to create a chemical reaction directly
5 through contact with an ingredient of ferrosilicon;

6 (2) Any person engaged in any business activity taxable under RCW
7 82.04.290 and any person who purchases, acquires, or uses any telephone
8 service as defined in RCW 82.04.065, other than for resale in the
9 regular course of business;

10 (3) Any person engaged in the business of contracting for the
11 building, repairing or improving of any street, place, road, highway,
12 easement, right of way, mass public transportation terminal or parking
13 facility, bridge, tunnel, or trestle which is owned by a municipal
14 corporation or political subdivision of the state of Washington or by
15 the United States and which is used or to be used primarily for foot or
16 vehicular traffic including mass transportation vehicles of any kind as
17 defined in RCW 82.04.280, in respect to tangible personal property when
18 such person incorporates such property as an ingredient or component of
19 such publicly owned street, place, road, highway, easement, right of
20 way, mass public transportation terminal or parking facility, bridge,
21 tunnel, or trestle by installing, placing or spreading the property in
22 or upon the right of way of such street, place, road, highway,
23 easement, bridge, tunnel, or trestle or in or upon the site of such
24 mass public transportation terminal or parking facility;

25 (4) Any person who is an owner, lessee or has the right of
26 possession to or an easement in real property which is being
27 constructed, repaired, decorated, improved, or otherwise altered by a
28 person engaged in business, excluding only (a) municipal corporations
29 or political subdivisions of the state in respect to labor and services
30 rendered to their real property which is used or held for public road
31 purposes, and (b) the United States, instrumentalities thereof, and
32 county and city housing authorities created pursuant to chapter 35.82
33 RCW in respect to labor and services rendered to their real property.
34 Nothing contained in this or any other subsection of this definition
35 shall be construed to modify any other definition of "consumer";

36 (5) Any person who is an owner, lessee, or has the right of
37 possession to personal property which is being constructed, repaired,
38 improved, cleaned, imprinted, or otherwise altered by a person engaged
39 in business;

1 (6) Any person engaged in the business of constructing, repairing,
2 decorating, or improving new or existing buildings or other structures
3 under, upon, or above real property of or for the United States, or any
4 instrumentality thereof, (~~(or a county or city housing authority~~
5 ~~created pursuant to chapter 35.82 RCW,~~) including the installing or
6 attaching of any article of tangible personal property therein or
7 thereto, whether or not such personal property becomes a part of the
8 realty by virtue of installation; also, any person engaged in the
9 business of clearing land and moving earth of or for the United States,
10 or any instrumentality thereof(~~(, or a county or city housing authority~~
11 ~~created pursuant to chapter 35.82 RCW)~~). Any such person shall be a
12 consumer within the meaning of this subsection in respect to tangible
13 personal property incorporated into, installed in, or attached to such
14 building or other structure by such person;

15 (7) "Consumer" does not mean any housing authority created under
16 chapter 35.82 RCW.

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