
ENGROSSED SUBSTITUTE SENATE BILL 6426

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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