
HOUSE BILL 2691

State of Washington

56th Legislature

2000 Regular Session

By Representatives Pennington, Hatfield, Doumit, McIntire, Romero, Haigh, Kenney, Scott, Voloria, Santos, Miloscia, Edwards, Lantz, Murray, Cooper, Conway and Reardon

Read first time . Referred to Committee on .

1 AN ACT Relating to disasters and emergencies; amending RCW
2 38.52.030; reenacting and amending RCW 43.79A.040; adding a new section
3 to chapter 43.31 RCW; adding a new section to chapter 19.182 RCW;
4 adding a new section to chapter 82.04 RCW; adding new sections to
5 chapter 38.52 RCW; adding a new section to chapter 48.14 RCW; creating
6 new sections; and providing for submission of certain sections of this
7 act to a vote of the people.

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

9 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. The legislature finds
10 that natural disasters and emergencies affect the health, safety, and
11 well-being of Washington residents. The legislature established a
12 program to prepare for and address disasters and emergencies in chapter
13 38.52 RCW and other statutes. Recent emergencies and disasters
14 involving landslides affecting a large number of people were not
15 typical; rather than happening suddenly and affecting improvements to
16 real property, the landslide disasters occurred and are occurring over
17 time and are destroying not only the improvements but are moving the
18 land as well. The legislature intends to enhance responses to
19 disasters and emergencies, including unusual disasters, through this

1 act by: (1) Improving coordination of disaster and emergency
2 assistance; (2) providing counseling and ombudsman services for
3 homeowners and others who are victims; (3) protecting victims' credit
4 ratings; (4) providing tax credits for lenders who forgive loans in
5 landslide disasters; and (5) creating an emergency management and
6 assistance fund.

7 **Sec. 2.** RCW 38.52.030 and 1997 c 49 s 2 are each amended to read
8 as follows:

9 IMPROVING COORDINATION OF DISASTER ASSISTANCE. (1) The director
10 may employ such personnel and may make such expenditures within the
11 appropriation therefor, or from other funds made available for purposes
12 of emergency management, as may be necessary to carry out the purposes
13 of this chapter.

14 (2)(a) The director, subject to the direction and control of the
15 governor, shall be responsible to the governor for carrying out the
16 program for emergency management of this state. The director shall
17 coordinate the activities of all organizations for emergency management
18 within the state, and shall maintain liaison with and cooperate with
19 emergency management agencies and organizations of other states and of
20 the federal government, and shall have such additional authority,
21 duties, and responsibilities authorized by this chapter, as may be
22 prescribed by the governor.

23 (b)(i) To improve coordination and communication when an emergency
24 or disaster is not a flood, earthquake, or windstorm, but is unusual or
25 occurring over a long period of time, such as a large landslide, or
26 whenever the director deems it appropriate, the director may form a
27 task force which includes a designated member from the emergency
28 management division who shall chair the task force, the department of
29 community, trade, and economic development, any other state agency at
30 the request of the director, any local organization or organizations
31 under RCW 38.52.070, and the local government or governments where the
32 emergency or disaster occurred or is occurring. The director may
33 request that the federal emergency management agency, the small
34 business administration, or any other federal agency participate in the
35 task force.

36 (ii) The task force shall focus on enhancing the coordination of
37 emergency response, hazard mitigation efforts, environmental issues,
38 and disaster relief and assistance between the state, local agencies,

1 the private sector, and disaster victims, particularly where the
2 initial emergency response has successfully stabilized the situation
3 and addressed immediate public health and safety issues, but the
4 impacts of the emergency or disaster, or the emergency or disaster
5 itself, are ongoing over a long period of time. The state agencies
6 shall collaborate with one another to most effectively address the
7 emergency or disaster. Communicating with and providing assistance to
8 local agencies, local governments, and disaster victims over time shall
9 be a priority of the task force, particularly facilitating
10 communication and streamlining problem identification and resolution.

11 (3) The director shall develop and maintain a comprehensive, all-
12 hazard emergency plan for the state which shall include an analysis of
13 the natural, technological, or human caused hazards which could affect
14 the state of Washington, and shall include the procedures to be used
15 during emergencies for coordinating local resources, as necessary, and
16 the resources of all state agencies, departments, commissions, and
17 boards. The comprehensive emergency management plan shall direct the
18 department in times of state emergency to administer and manage the
19 state's emergency operations center. This will include representation
20 from all appropriate state agencies and be available as a single point
21 of contact for the authorizing of state resources or actions, including
22 emergency permits. The comprehensive emergency management plan must
23 specify the use of the incident command system for
24 multiagency/multijurisdiction operations. The comprehensive, all-
25 hazard emergency plan authorized under this subsection may not include
26 preparation for emergency evacuation or relocation of residents in
27 anticipation of nuclear attack. This plan shall be known as the
28 comprehensive emergency management plan.

29 (4) In accordance with the comprehensive emergency management plans
30 and the programs for the emergency management of this state, the
31 director shall procure supplies and equipment, institute training
32 programs and public information programs, and shall take all other
33 preparatory steps, including the partial or full mobilization of
34 emergency management organizations in advance of actual disaster, to
35 insure the furnishing of adequately trained and equipped forces of
36 emergency management personnel in time of need.

37 (5) The director shall make such studies and surveys of the
38 industries, resources, and facilities in this state as may be necessary

1 to ascertain the capabilities of the state for emergency management,
2 and shall plan for the most efficient emergency use thereof.

3 (6) The emergency management council shall advise the director on
4 all aspects of the communications and warning systems and facilities
5 operated or controlled under the provisions of this chapter.

6 (7) The director, through the state enhanced 911 coordinator, shall
7 coordinate and facilitate implementation and operation of a state-wide
8 enhanced 911 emergency communications network.

9 (8) The director shall appoint a state coordinator of search and
10 rescue operations to coordinate those state resources, services and
11 facilities (other than those for which the state director of
12 aeronautics is directly responsible) requested by political
13 subdivisions in support of search and rescue operations, and on request
14 to maintain liaison with and coordinate the resources, services, and
15 facilities of political subdivisions when more than one political
16 subdivision is engaged in joint search and rescue operations.

17 (9) The director, subject to the direction and control of the
18 governor, shall prepare and administer a state program for emergency
19 assistance to individuals within the state who are victims of a
20 natural, technological, or human caused disaster, as defined by RCW
21 38.52.010(6). Such program may be integrated into and coordinated with
22 disaster assistance plans and programs of the federal government which
23 provide to the state, or through the state to any political subdivision
24 thereof, services, equipment, supplies, materials, or funds by way of
25 gift, grant, or loan for purposes of assistance to individuals affected
26 by a disaster. Further, such program may include, but shall not be
27 limited to, grants, loans, or gifts of services, equipment, supplies,
28 materials, or funds of the state, or any political subdivision thereof,
29 to individuals who, as a result of a disaster, are in need of
30 assistance and who meet standards of eligibility for disaster
31 assistance established by the department of social and health services:
32 PROVIDED, HOWEVER, That nothing herein shall be construed in any manner
33 inconsistent with the provisions of Article VIII, section 5 or section
34 7 of the Washington state Constitution.

35 (10) The director shall appoint a state coordinator for radioactive
36 and hazardous waste emergency response programs. The coordinator shall
37 consult with the state radiation control officer in matters relating to
38 radioactive materials. The duties of the state coordinator for

1 radioactive and hazardous waste emergency response programs shall
2 include:

3 (a) Assessing the current needs and capabilities of state and local
4 radioactive and hazardous waste emergency response teams on an ongoing
5 basis;

6 (b) Coordinating training programs for state and local officials
7 for the purpose of updating skills relating to emergency mitigation,
8 preparedness, response, and recovery;

9 (c) Utilizing appropriate training programs such as those offered
10 by the federal emergency management agency, the department of
11 transportation and the environmental protection agency; and

12 (d) Undertaking other duties in this area that are deemed
13 appropriate by the director.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.31 RCW
15 to read as follows:

16 COUNSELING AND OMBUDSMAN SERVICES FOR VICTIMS. (1) The legislature
17 finds that, in addition to existing emergency and disaster programs,
18 homeowners who are victims of emergencies or disasters may need
19 assistance in dealing with their lenders and insurers when their homes
20 are temporarily or permanently uninhabitable as a result of the
21 emergency or disaster. This is especially true if the disaster is
22 unusual or occurs over a long period of time. The legislature also
23 finds that the earlier these services can be provided, the more
24 effective they are.

25 (2) The department of community, trade, and economic development,
26 with the assistance of other agencies, may provide ombudsman and
27 counseling services to homeowners who are victims of emergencies or
28 disasters in dealing with their lenders, insurers, or other
29 organizations. The housing finance commission, the office of the
30 insurance commissioner, the department of financial institutions, and
31 other state agencies shall assist the department of community, trade,
32 and economic development when requested, and may initiate services on
33 their own if the department of community, trade, and economic
34 development does not provide ombudsman and counseling services. The
35 legislature intends that these homeowner related ombudsman and
36 counseling services be coordinated, preferably by the department of
37 community, trade, and economic development. The department may request

1 other public agencies and private organizations to assist in its
2 counseling and ombudsman services.

3 (3) The ombudsman and counseling services may, to the extent
4 resources are available, assist victims of an emergency or disaster
5 with their housing needs and other issues caused by the emergency or
6 disaster.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.182 RCW
8 to read as follows:

9 PROTECTING VICTIMS' CREDIT RATINGS. Whenever a lender is notified
10 that the single-family residence securing the loan is in a federally
11 declared disaster area or is in an area that is proclaimed an emergency
12 by the governor, and the loan was not delinquent at the time the
13 disaster or emergency began and the emergency or disaster is the
14 primary reason for any delinquency, the lender shall notify the credit
15 reporting agency that the loan is delinquent due to a declared disaster
16 or proclaimed emergency.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW
18 to read as follows:

19 TAX CREDIT FOR FORGIVING LOANS IN LANDSLIDE DISASTERS. (1) In
20 computing the tax imposed under this chapter, a credit is allowed for
21 each financial institution for each loan in which part or all of the
22 principal balance owed is forgiven to assist the victim of a landslide
23 in an area that has been proclaimed an emergency by the governor. The
24 loan must be secured by a home that is in the boundaries of the
25 declared emergency area and the home is or will be a total loss or is
26 or will be permanently uninhabitable.

27 (2)(a) The credit is equal to one-quarter of the amount forgiven,
28 up to a maximum credit per loan of fifty thousand dollars.

29 (b) If less than the total principal balance is forgiven, the
30 financial institution may claim the credit only if the partial
31 forgiveness is part of a plan to assist multiple victims of the
32 emergency and involves multiple financial institutions in a pooling or
33 other arrangement.

34 (c) The department may request verification from the military
35 department or other state agency that the loan is secured by a home in
36 the proclaimed emergency area, that (b) of this subsection applies, or
37 may request other reasonable verification.

1 (3) For purposes of this section:

2 (a) "Financial institution" means any person to which a loan is
3 owed.

4 (b) "Loan" means an obligation secured by a deed of trust or
5 mortgage on a single-family residence that is located in a state
6 declared emergency area resulting from a landslide.

7 (4) This section applies to all loans or parts of loans forgiven
8 after the effective date of this section.

9 (5) Participation of a financial institution in this program
10 contributes toward meeting the credit needs of the communities it
11 serves as set forth under chapter 30.60 RCW for state banks, chapter
12 32.40 RCW for state savings banks, and the federal community
13 reinvestment act of 1977 for federal savings banks, federal savings and
14 loan associations, and national banks.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 38.52 RCW
16 to read as follows:

17 EMERGENCY MANAGEMENT AND ASSISTANCE FUND. (1) The emergency
18 management and assistance fund is created in the custody of the state
19 treasurer. The account shall consist of amounts deposited into the
20 account as provided in sections 7 and 8 of this act, other funds
21 appropriated or deposited to the account, and income derived from the
22 investment of moneys in the account. Only the director or the
23 director's designee may authorize expenditures from the account. The
24 account is subject to allotment procedures under chapter 43.88 RCW, but
25 an appropriation is not required for expenditures.

26 (2) The purpose of this account is to provide supplemental moneys:

27 (a) To focus on disaster planning and preparedness, hazard
28 mitigation, and response to and recovery from emergencies and disasters
29 in order to reduce the impact of disasters on the state;

30 (b) To help to protect lives, property, and the environment from
31 the risk and impact of natural hazards;

32 (c) To promote the development of a standardized, trained, and
33 adequately staffed and equipped state-wide emergency management and
34 mitigation system for use by all state and local emergency management
35 agencies; and

36 (d) To provide funds to help local governments and citizens cope
37 with disasters.

1 (3) The account shall be used for risk-based all hazard planning,
2 mitigation, training, public education and awareness programs, and
3 disaster response, relief, and recovery. These moneys are intended to
4 supplement and not supplant existing state and local fiscal resources
5 dedicated to emergency management. Use of the account is intended to
6 revitalize and improve upon the existing emergency management
7 infrastructure throughout the state to effectively mitigate against the
8 effects and cost of any disaster and to provide more flexibility and
9 resources to address unusual disasters or emergencies. The account
10 shall be used:

11 (a) To provide that all residents of the state are educated before,
12 during, and after a disaster to protect themselves, their families, and
13 their homes, businesses, and other private or public property;

14 (b) To encourage that structures, whether public or private, be
15 designed, constructed, retrofitted, or relocated away from flood prone
16 areas, in accordance with the most current safety, land use, and
17 building codes; and

18 (c) To strengthen state and local government and private sector
19 emergency plans, training, mitigation, and resources for response and
20 recovery from disaster, and to provide additional funds to help local
21 governments and citizens cope with disasters.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.14 RCW
23 to read as follows:

24 EMERGENCY MANAGEMENT AND ASSISTANCE FUND. An annual surcharge of
25 five dollars is imposed on every homeowner's, mobile homeowner's,
26 tenant home renter's, and condominium unit owner's insurance policy,
27 and an annual surcharge of ten dollars is imposed on every commercial
28 fire, commercial multiple peril, and business owner's property
29 insurance policy issued or renewed on or after January 1, 2001. The
30 surcharge shall be imposed on the insured and paid by the insured to
31 the insurer. The insurer issuing or renewing the policy shall collect
32 the surcharge and remit it to the department of revenue, which shall
33 collect, administer, audit, and enforce the surcharge. The surcharge
34 shall not be considered premiums to the insurer. All proceeds of the
35 surcharge shall be deposited in the emergency management and assistance
36 fund created in section 6 of this act.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 38.52 RCW
2 to read as follows:

3 EMERGENCY MANAGEMENT AND ASSISTANCE FUND. (1) A one-time surcharge
4 of twenty-five dollars is imposed on every loan secured by a one to
5 four unit single-family residence located in this state that is secured
6 by a mortgage or deed of trust made on or after January 1, 2001. The
7 surcharge shall be imposed on the borrower and paid by the borrower to
8 the lender at the time the loan is closed. The lender shall collect
9 the surcharge and remit it to the department of revenue, which shall
10 collect, administer, audit, and enforce the surcharge. The surcharge
11 shall not be considered a fee or other income to the lender. All
12 proceeds of the surcharge shall be deposited in the emergency
13 management and assistance fund created in section 6 of this act.

14 (2) This section does not apply to an individual who made fewer
15 than ten loans the previous calendar year.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 38.52 RCW
17 to read as follows:

18 EMERGENCY MANAGEMENT AND ASSISTANCE FUND. (1) Of the annual amount
19 available for disbursement from the emergency management and assistance
20 fund established in section 6 of this act, the director shall provide
21 that:

22 (a) Thirty percent shall be made available to implement and
23 administer state and local emergency management programs, including
24 training and public awareness, of which twenty-five percent, the state
25 share, shall be used by the department and seventy-five percent, the
26 local share, shall be allocated to local directors;

27 (b) Twenty-five percent shall be allocated to provide for state
28 relief assistance for nonfederally declared disasters, the state share
29 of federally declared disasters, or up to three-fourths of the local
30 match required to receive federal disaster funds;

31 (c) Twenty-five percent shall be made available for grants and
32 loans to state or regional agencies or authorities, local governments,
33 and local private nonprofit organizations to implement programs or
34 projects that will further state and local emergency management
35 objectives of which:

36 (i) Fifty percent shall be dedicated to mitigation projects, and
37 shall be provided in consultation with the department of community,
38 trade, and economic development. These projects shall include

1 mitigation to reduce the risk from the impact of disaster. Projects
2 shall include, but need not be limited to, projects that will promote
3 public education or awareness of disaster mitigation, improving land
4 use planning, particularly identifying critical areas such as steep
5 slopes and landslide areas, developing or revising building codes that
6 incorporate the latest available information on risk reduction from
7 natural hazards;

8 (ii) At least ten percent shall be provided to the department of
9 community, trade, and economic development to provide technical
10 assistance and education to local governments regarding identifying
11 critical areas such as steep slopes and landslide areas and developing
12 or revising building codes that incorporate the latest available
13 information on risk reduction from natural hazards;

14 (iii) At least five percent to the department of natural resources
15 to help identify landslide zones; and

16 (iv) The remaining amount for nonmitigation programs and projects
17 that include, but are not limited to, improving preparedness planning,
18 enhancement, and coordination of relief efforts of state-wide private
19 sector organizations and improving the training and operational
20 capabilities of agencies assigned lead or support responsibilities in
21 emergency management; and

22 (d)(i) Twenty percent shall be used to provide assistance to low-
23 income persons in a disaster or emergency area in the form of loans and
24 grants. This assistance can only be used for expenses not covered by
25 any other public disaster assistance or private insurance. No grant or
26 loan may exceed twelve thousand five hundred dollars. The director may
27 use some or all of the funds available under this subsection for other
28 emergency or disaster assistance programs or efforts if the director
29 finds that it is in the public's best interest to do so.

30 (ii) For purposes of this subsection, "low-income person" means a
31 person or family whose adjusted gross income is less than eighty
32 percent of the median family income, adjusted for household size for
33 the county where the disaster occurred.

34 (2) The department shall, by rule, establish criteria and
35 procedures for the equitable allocation of funds as provided in
36 subsection (1)(a), (b), and (d) of this section, and shall establish
37 criteria and procedures for competitive allocation of funds provided in
38 subsection (1)(c) of this section. Not more than five percent of any
39 award made under this section may be used for administrative expenses.

1 The distribution formula provided in this section may be adjusted
2 proportionally when necessary to meet any matching requirements imposed
3 as a condition of receiving federal disaster relief assistance or
4 planning funds.

5 (3) Whenever the amounts available under subsection (1)(b) of this
6 section are insufficient to meet the estimated amounts needed to
7 respond to and recover from any nonfederally declared disaster or to
8 provide the state share in any federally declared disaster, the
9 governor, in consultation with the director, shall seek additional
10 funds adequate to meet the needs of such disaster, plus an amount equal
11 to an additional fifteen percent of such funds to be utilized
12 exclusively for mitigation. Within thirty days of the close of each
13 fiscal year, any unexpended balance of funds allocated in accordance
14 with the provisions of subsection (1)(b) of this section for
15 nonfederally declared disasters or the state share of federally
16 declared disasters, shall be made available for supplemental mitigation
17 grants in accordance with subsection (1)(c) of this section.

18 (4) The department shall collaborate with other state and local
19 agencies in developing rules and administering the funds allocated
20 under this section.

21 **Sec. 10.** RCW 43.79A.040 and 1999 c 384 s 8 and 1999 c 182 s 2 are
22 each reenacted and amended to read as follows:

23 INTEREST EARNINGS. (1) Money in the treasurer's trust fund may be
24 deposited, invested, and reinvested by the state treasurer in
25 accordance with RCW 43.84.080 in the same manner and to the same extent
26 as if the money were in the state treasury.

27 (2) All income received from investment of the treasurer's trust
28 fund shall be set aside in an account in the treasury trust fund to be
29 known as the investment income account.

30 (3) The investment income account may be utilized for the payment
31 of purchased banking services on behalf of treasurer's trust funds
32 including, but not limited to, depository, safekeeping, and
33 disbursement functions for the state treasurer or affected state
34 agencies. The investment income account is subject in all respects to
35 chapter 43.88 RCW, but no appropriation is required for payments to
36 financial institutions. Payments shall occur prior to distribution of
37 earnings set forth in subsection (4) of this section.

1 (4)(a) Monthly, the state treasurer shall distribute the earnings
2 credited to the investment income account to the state general fund
3 except under (b) and (c) of this subsection.

4 (b) The following accounts and funds shall receive their
5 proportionate share of earnings based upon each account's or fund's
6 average daily balance for the period: The Washington advanced college
7 tuition payment program account, the agricultural local fund, the
8 American Indian scholarship endowment fund, the Washington
9 international exchange scholarship endowment fund, the developmental
10 disabilities endowment trust fund, the emergency management and
11 assistance fund, the energy account, the fair fund, the game farm
12 alternative account, the grain inspection revolving fund, the juvenile
13 accountability incentive account, the rural rehabilitation account, the
14 stadium and exhibition center account, the youth athletic facility
15 grant account, the self-insurance revolving fund, the sulfur dioxide
16 abatement account, and the children's trust fund. However, the
17 earnings to be distributed shall first be reduced by the allocation to
18 the state treasurer's service fund pursuant to RCW 43.08.190.

19 (c) The following accounts and funds shall receive eighty percent
20 of their proportionate share of earnings based upon each account's or
21 fund's average daily balance for the period: The advanced right of way
22 revolving fund, the advanced environmental mitigation revolving
23 account, the federal narcotics asset forfeitures account, the high
24 occupancy vehicle account, the local rail service assistance account,
25 and the miscellaneous transportation programs account.

26 (5) In conformance with Article II, section 37 of the state
27 Constitution, no trust accounts or funds shall be allocated earnings
28 without the specific affirmative directive of this section.

29 NEW SECTION. **Sec. 11.** REPORT TO LEGISLATURE. The departments of
30 community, trade, and economic development and natural resources shall
31 report to the legislature by December 1, 2001, on its activities under
32 section 9(1)(c) of this act and shall make recommendations regarding
33 strategies to improve the identification of landslide zones.

34 NEW SECTION. **Sec. 12.** Captions used in this act are not any part
35 of the law.

1 NEW SECTION. **Sec. 13.** The secretary of state shall submit
2 sections 6 through 10 of this act to the people for their adoption and
3 ratification, or rejection, at the next general election to be held in
4 this state, as required by Initiative Measure No. 695.

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