S-4688.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 6595**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Warnick, Schoesler, Honeyford, Baumgartner, Takko, Fortunato, Short, and Brown

AN ACT Relating to ensuring efficiency and accountability in affordable housing policy; amending RCW 43.180.050, 43.185.050, 43.185A.050, 43.185A.070, and 36.70A.540; and creating a new section.

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

**Sec.**  RCW 43.180.050 and 2013 c 13 s 1 are each amended to read as follows:

(1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

(a) Issue bonds in accordance with this chapter;

(b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;

(c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans;

(d) Make loans for down payment assistance to home buyers in conjunction with other commission programs; and

(e) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

(a) Income;

(b) Family size;

(c) Cost, condition, and energy efficiency of available residential housing;

(d) Availability of decent, safe, and sanitary housing;

(e) Age or infirmity; and

(f) Applicable federal, state, and local requirements.

(3)(a) The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

(b) The audit must also examine the performance of the commission in meeting its housing finance objectives for the state in the most cost-effective and efficient manner. The commission must provide to the state an annual report, including the following information:

(i) The total unit production and development cost of each project funded or partially funded by the commission in the current biennium;

(ii) A brief summary of all funding sources used in each project approved by the commission;

(iii) The geographic distribution of funding approved by the commission; and

(iv) Annual operating per unit cost of each project the commission funded or partially funded in the previous biennium. The state auditor must analyze the report as well as any additional information relevant for consideration. The analysis should include a comparison of costs associated with the development of projects funded or partially funded by the commission with the costs of developing similar market rate housing, as well as the cost of affordable housing development associated with environmental regulatory compliance.

**Sec.**  RCW 43.185.050 and 2017 3rd sp.s. c 12 s 13 are each amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located.

(a) At least ((~~thirty~~)) fifty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state ((~~as defined by the department~~)).

(b) If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department ((~~may~~)) must allocate unused moneys for predevelopment, feasibility studies, and capacity building projects in ((~~nonrural~~)) rural areas of the state, including technical assistance, design and finance services, consultation, and administrative costs. If any unused money is not allocated within eighteen months of becoming available, then the unused money may be used for the benefit of projects in nonrural areas, including uses authorized in (c) of this subsection.

(c) If the department determines that it has not received an adequate number of suitable applications for nonrural projects, during any given funding cycle, the department must allocate unused moneys for predevelopment, feasibility studies, and capacity building projects in nonrural areas of the state, including technical assistance, design and finance services, consultation, and administrative costs. If any unused money is not allocated within eighteen months of becoming available, then the unused money may be used for the benefit of projects in rural areas, including uses authorized in (b) of this subsection.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities.

(3) Preference shall be given for projects that include an early learning facility.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsections (1)(b) and (c) and (2)(b) and (c) of this section.

(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

(8) Projects in nonrural areas are not eligible for funding under this section if the project receives:

(a) Any payment of money or property in lieu of low‑income housing units, as provided in RCW 36.70A.540; or

(b) Any local funding through taxes, levies, fees, or charges for the purpose of affordable housing development.

(9) For purposes of this section, "rural area" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management, as well as cities within any nonrural county that have a population of nineteen thousand nine hundred ninety-nine or less.

**Sec.**  RCW 43.185A.050 and 2013 c 145 s 6 are each amended to read as follows:

(1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185A.030.

(2) Until June 30, ((~~2013~~)) 2023, for applications submitted for funding under RCW 43.185A.030(2)(a), the department must consider total cost and per-unit cost of each project compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department must develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board:

(a) Additional criteria to evaluate applications for assistance under this chapter; and

(b) Recommendations for awarding funds under RCW 43.185A.030(2)(a) in a cost-effective manner, including an implementation plan, timeline, and any other items the department identifies as important to consider. The department must submit a report with the recommendations to the legislature by December 1, ((~~2012~~)) 2019.

**Sec.**  RCW 43.185A.070 and 1991 c 356 s 16 are each amended to read as follows:

(1) The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.

(2) By December 1st of each even-numbered year, the director shall report to the capital budget committee of the house of representatives and the ways and means committee of the senate, on compliance monitoring, including the record of compliance and any violations, of each grant or loan recipient.

**Sec.**  RCW 36.70A.540 and 2009 c 80 s 1 are each amended to read as follows:

(1)(a) Any city or county planning under RCW 36.70A.040 may enact or expand affordable housing incentive programs providing for the development of low‑income housing units through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development: Residential; commercial; industrial; or mixed-use. An affordable housing incentive program may include, but is not limited to, one or more of the following:

(i) Density bonuses within the urban growth area;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting.

(b) The city or county may enact or expand such programs whether or not the programs may impose a tax, fee, or charge on the development or construction of property.

(c) If a developer chooses not to participate in an optional affordable housing incentive program adopted and authorized under this section, a city, county, or town may not condition, deny, or delay the issuance of a permit or development approval that is consistent with zoning and development standards on the subject property absent incentive provisions of this program.

(2) Affordable housing incentive programs enacted or expanded under this section shall comply with the following:

(a) The incentives or bonuses shall provide for the development of low‑income housing units;

(b) Jurisdictions shall establish standards for low‑income renter or owner occupancy housing, including income guidelines consistent with local housing needs, to assist low‑income households that cannot afford market‑rate housing. Low‑income households are defined for renter and owner occupancy program purposes as follows:

(i) Rental housing units to be developed shall be affordable to and occupied by households with an income of fifty percent or less of the county median family income, adjusted for family size;

(ii) Owner occupancy housing units shall be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size. The legislative authority of a jurisdiction, after holding a public hearing, may establish lower income levels; and

(iii) The legislative authority of a jurisdiction, after holding a public hearing, may also establish higher income levels for rental housing or for owner occupancy housing upon finding that higher income levels are needed to address local housing market conditions. The higher income level for rental housing may not exceed eighty percent of the county area median family income. The higher income level for owner occupancy housing may not exceed one hundred percent of the county area median family income. These established higher income levels are considered "low‑income" for the purposes of this section;

(c) The jurisdiction shall establish a maximum rent level or sales price for each low‑income housing unit developed under the terms of a program and may adjust these levels or prices based on the average size of the household expected to occupy the unit. For renter‑occupied housing units, the total housing costs, including basic utilities as determined by the jurisdiction, may not exceed thirty percent of the income limit for the low‑income housing unit;

(d) Where a developer is utilizing a housing incentive program authorized under this section to develop market rate housing, and is developing low-income housing to satisfy the requirements of the housing incentive program, the low‑income housing units shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in low‑income units must be in the same proportion as the number of bedrooms in units within the entire development. The low‑income units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development;

(e) Low‑income housing units developed under an affordable housing incentive program shall be committed to continuing affordability for at least fifty years. A local government, however, may accept payments in lieu of continuing affordability. The program shall include measures to enforce continuing affordability and income standards applicable to low‑income units constructed under this section that may include, but are not limited to, covenants, options, or other agreements to be executed and recorded by owners and developers;

(f) Programs authorized under subsection (1) of this section may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section or RCW 82.02.020;

(g) Low‑income housing units developed under an affordable housing incentive program are encouraged to be provided within developments for which a bonus or incentive is provided. However, programs may allow units to be provided in a building located in the general area of the development for which a bonus or incentive is provided; and

(h) Affordable housing incentive programs may allow a payment of money or property in lieu of low‑income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site, as long as the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Any city or county shall use these funds or property to support the development of low‑income housing, including support provided through loans or grants to public or private owners or developers of housing.

(3) Affordable housing incentive programs enacted or expanded under this section may be applied within the jurisdiction to address the need for increased residential development, consistent with local growth management and housing policies, as follows:

(a) The jurisdiction shall identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;

(b) The jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives;

(c) The jurisdiction shall determine that increased residential development capacity or other incentives can be achieved within the identified area, subject to consideration of other regulatory controls on development; and

(d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

(4) Any jurisdiction that accepts any payment of money or property in lieu of low-income housing units shall not be eligible for moneys from the housing trust fund, as provided in RCW 43.185.050.

NEW SECTION. **Sec.**  This act may be known and cited as the housing efficiency and fairness act.

**--- END ---**