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ENGROSSED HOUSE BILL 1740

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Ogden, Winsley, Nelson, Leonard, May, Ebersole, Ballard, R. Johnson and Wineberry.

Read first time February 7, 1991. Referred to Committee on Housing.

1            AN ACT Relating to public housing authorities; and amending RCW  
2 35.82.070, 35.82.130, 35.82.285, 35.83.020, and 35.83.030.

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

4            **Sec. 1.** RCW 35.82.070 and 1989 c 363 s 2 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

1 organization or the operation of a nonprofit corporation which has as  
2 one of its purposes to provide or assist in the provision of housing  
3 for persons of low income; and to make and from time to time amend and  
4 repeal bylaws, rules and regulations, not inconsistent with this  
5 chapter, to carry into effect the powers and purposes of the authority.

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

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

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

1 (5) To lease or rent any dwellings, houses, accommodations, lands,  
2 buildings, structures or facilities embraced in any housing project and  
3 (subject to the limitations contained in this chapter) to establish and  
4 revise the rents or charges therefor; to own or manage buildings  
5 containing a housing project or projects as well as commercial space or  
6 other dwelling units that do not constitute a housing project as that  
7 term is defined in this chapter: PROVIDED, That notwithstanding the  
8 provisions under subsection (1) of this section, dwelling units (~~that~~  
9 ~~constitute a housing project~~) made available to persons of low income,  
10 together with functionally related and subordinate facilities, shall  
11 occupy at least thirty percent of the interior space of any individual  
12 building (~~in the project~~) other than a detached single-family or  
13 duplex residential building(~~(7)~~) or mobile or manufactured home and at  
14 least fifty percent of the interior space in the total (~~project~~)  
15 development owned by the authority or at least fifty percent of the  
16 total number of units in the development owned by the authority,  
17 whichever produces the greater number of units for persons of low  
18 income, and for mobile home parks, the mobile home lots made available  
19 to persons of low income shall be at least fifty percent of the total  
20 number of mobile home lots in the park owned by the authority; to own,  
21 hold, and improve real or personal property; to purchase, lease, obtain  
22 options upon, acquire by gift, grant, bequest, devise, or otherwise  
23 including financial assistance and other aid from the state or any  
24 public body, person or corporation, any real or personal property or  
25 any interest therein; to acquire by the exercise of the power of  
26 eminent domain any real property; to sell, lease, exchange, transfer,  
27 assign, pledge, or dispose of any real or personal property or any  
28 interest therein; to sell, lease, exchange, transfer, or dispose of any  
29 real or personal property or interest therein at less than fair market  
30 value to a governmental entity for any purpose when such action assists

1 the housing authority in carrying out its powers and purposes under  
2 this chapter, to a low-income person or family for the purpose of  
3 providing housing for that person or family, or to a nonprofit  
4 corporation provided the nonprofit corporation agrees to sell the  
5 property to a low-income person or family or to use the property for  
6 the provision of housing for persons of low income for at least twenty  
7 years; to insure or provide for the insurance of any real or personal  
8 property or operations of the authority against any risks or hazards;  
9 to procure or agree to the procurement of insurance or guarantees from  
10 the federal government of the payment of any bonds or parts thereof  
11 issued by an authority, including the power to pay premiums on any such  
12 insurance.

13 (6) To invest any funds held in reserves or sinking funds, or any  
14 funds not required for immediate disbursement, in property or  
15 securities in which savings banks may legally invest funds subject to  
16 their control; to purchase its bonds at a price not more than the  
17 principal amount thereof and accrued interest, all bonds so purchased  
18 to be canceled.

19 (7) Within its area of operation: To investigate into living,  
20 dwelling and housing conditions and into the means and methods of  
21 improving such conditions; to determine where slum areas exist or where  
22 there is a shortage of decent, safe and sanitary dwelling  
23 accommodations for persons of low income; to make studies and  
24 recommendations relating to the problem of clearing, replanning and  
25 reconstructing of slum areas, and the problem of providing dwelling  
26 accommodations for persons of low income, and to cooperate with the  
27 city, the county, the state or any political subdivision thereof in  
28 action taken in connection with such problems; and to engage in  
29 research, studies and experimentation on the subject of housing.

1           (8) Acting through one or more commissioners or other person or  
2 persons designated by the authority: To conduct examinations and  
3 investigations and to hear testimony and take proof under oath at  
4 public or private hearings on any matter material for its information;  
5 to administer oaths, issue subpoenas requiring the attendance of  
6 witnesses or the production of books and papers and to issue  
7 commissions for the examination of witnesses who are outside of the  
8 state or unable to attend before the authority, or excused from  
9 attendance; to make available to appropriate agencies (including those  
10 charged with the duty of abating or requiring the correction of  
11 nuisances or like conditions, or of demolishing unsafe or insanitary  
12 structures within its area of operation) its findings and  
13 recommendations with regard to any building or property where  
14 conditions exist which are dangerous to the public health, morals,  
15 safety or welfare.

16           (9) To exercise all or any part or combination of powers herein  
17 granted.

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

21           (10) To agree (notwithstanding the limitation contained in RCW  
22 35.82.210) to make such payments in lieu of taxes as the authority  
23 finds consistent with the achievement of the purposes of this chapter.

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

1 (12) To administer contracts for assistance payments to persons of  
2 low income in accordance with section 8 of the United States Housing  
3 Act of 1937, as amended by Title II, section 201 of the Housing and  
4 Community Development Act of 1974, P.L. 93-383.

5 (13) To sell at public or private sale, with or without public  
6 bidding, for fair market value, any mortgage or other obligation held  
7 by the authority.

8 (14) To the extent permitted under its contract with the holders of  
9 bonds, notes, and other obligations of the authority, to consent to any  
10 modification with respect to rate of interest, time and payment of any  
11 installment of principal or interest security, or any other term of any  
12 contract, mortgage, mortgage loan, mortgage loan commitment, contract  
13 or agreement of any kind to which the authority is a party.

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

20 (16) To make, purchase, participate in, invest in, take assignments  
21 of, or otherwise acquire loans for the acquisition, construction,  
22 reconstruction, rehabilitation, improvement, leasing, or refinancing of  
23 land, buildings, or developments (~~containing~~) for housing for persons  
24 of low income. (~~However, an authority shall not finance the~~  
25 ~~acquisition or construction of new buildings or developments under this~~  
26 ~~subsection unless: (a) All of the housing within the building or~~  
27 ~~development will be made available to persons of low income; (b) a~~  
28 ~~federal, state, or local government loan, grant, or investment is~~  
29 ~~provided with respect to the building or development; or (c) a housing~~  
30 ~~authority owns at least a twenty-five percent interest in the completed~~

1 ~~building or development or at least twenty-five percent of the number~~  
2 ~~of housing units therein.))~~ For purposes of this subsection,  
3 development shall include either land or buildings or both.

4 (a) Any ((building or)) development financed under this subsection  
5 shall be subject to ((a covenant)) an agreement that for at least  
6 twenty years the dwelling units ((that constitute a housing project))  
7 made available to persons of low income together with functionally  
8 related and subordinate facilities shall occupy at least thirty percent  
9 of the interior space of any individual building ((in the project))  
10 other than a detached single-family or duplex residential building or  
11 mobile or manufactured home and shall occupy at least fifty percent of  
12 the interior space in the total ((project; and be made available to  
13 persons of low income for at least twenty years. For purposes of this  
14 subsection, dwelling units that constitute a housing project in any  
15 building or development owned by other than a nonprofit corporation and  
16 are made available for rent shall: Not be rented to persons whose  
17 incomes exceed fifty percent of the area median income; and not have  
18 rents that exceed fifteen percent of the area median income))  
19 development or at least fifty percent of the total number of units in  
20 the development, whichever produces the greater number of units for  
21 persons of low income. For mobile home parks, the mobile home lots  
22 made available to persons of low income shall be at least fifty percent  
23 of the total number of mobile home lots in the park. During the term  
24 of the agreement, the owner shall use its best efforts in good faith to  
25 maintain the dwelling units or mobile home lots required to be made  
26 available to persons of low income at rents affordable to persons of  
27 low income.

28 (b) In addition, if the development is owned by a for-profit  
29 entity, the dwelling units or mobile home lots required to be made  
30 available to persons of low income shall be rented to persons whose

1 incomes do not exceed fifty percent of the area median income, adjusted  
2 for household size, and shall have unit or lot rents that do not exceed  
3 fifteen percent of area median income, adjusted for household size,  
4 unless rent subsidies are provided to make them affordable to persons  
5 of low income.

6 For purposes of this subsection (16)(b), if the development is  
7 owned directly or through a partnership by a governmental entity or a  
8 nonprofit organization, which nonprofit organization is itself not  
9 controlled by a for-profit entity or affiliated with any for-profit  
10 entity that a nonprofit organization itself does not control, it shall  
11 not be treated as being owned by a for-profit entity when the  
12 governmental entity or nonprofit organization exercises legal control  
13 of the ownership entity and in addition, (i) the dwelling units or  
14 mobile home lots required to be made available to persons of low income  
15 are rented to persons whose incomes do not exceed sixty percent of the  
16 area median income, adjusted for household size, and (ii) the  
17 development is subject to an agreement that transfers ownership to the  
18 governmental entity or nonprofit organization or extends an irrevocable  
19 right of first refusal to purchase the development under a formula for  
20 setting the acquisition price that is specified in the agreement.

21 (c) Commercial space in any building ((or development)) financed  
22 under this subsection ((which)) that exceeds four stories in height  
23 shall not ((contain)) constitute more than twenty percent of the  
24 interior area ((in commercial space)) of the building. Before  
25 financing any ((building or)) development under this subsection the  
26 authority shall make a written finding that financing is((+)) important  
27 for project feasibility((+)) or necessary to enable the authority to  
28 carry out its powers and purposes under this chapter.

29 (17) To contract with a public authority or corporation, created by  
30 a county, city, or town under RCW 35.21.730 through 35.21.755, to act



1 as the developer for new housing projects or improvement of existing  
2 housing projects.

3 **Sec. 2.** RCW 35.82.130 and 1977 ex.s. c 274 s 5 are each amended to  
4 read as follows:

5 An authority shall have power to issue bonds from time to time in  
6 its discretion, for any of its corporate purposes. An authority shall  
7 also have power to issue refunding bonds for the purpose of paying or  
8 retiring bonds previously issued by it. An authority may issue such  
9 types of bonds as it may determine, including (without limiting the  
10 generality of the foregoing) bonds on which the principal and interest  
11 are payable: (1) exclusively from the income and revenues of the  
12 housing project financed with the proceeds of such bonds; (2)  
13 exclusively from the income and revenues of certain designated housing  
14 projects whether or not they are financed in whole or in part with the  
15 proceeds of such bonds; or (3) from all or part of its revenues or  
16 assets generally. Any such bonds may be additionally secured by a  
17 pledge of any grant or contributions from the federal government or  
18 other source, or a pledge of any income or revenues of the authority,  
19 or a mortgage of any housing project, projects or other property of the  
20 authority. Any pledge made by the authority shall be valid and binding  
21 from the time when the pledge is made and recorded; the revenues,  
22 moneys, or property so pledged and thereafter received by the authority  
23 shall immediately be subject to the lien of the pledge without any  
24 physical delivery thereof or further act, and the lien of any such  
25 pledge shall be valid and binding as against all parties having claims  
26 of any kind in tort, contract, or otherwise against the authority,  
27 irrespective or whether the parties have notice thereof. The  
28 resolution and any other instrument by which a pledge is created shall  
29 be filed or recorded.

1       Neither the commissioners of an authority nor any person executing  
2 the bonds shall be liable personally on the bonds by reason of the  
3 issuance thereof. The bonds and other obligations of an authority (and  
4 such bonds and obligations shall so state on their face) Shall not be  
5 a debt of the city, the county, the state or any political subdivision  
6 thereof and neither the city or the county, nor the state or any  
7 political subdivision thereof shall be liable thereon, nor in any event  
8 shall such bonds or obligations be payable out of any funds or  
9 properties other than those of said authority. The bonds shall not  
10 constitute an indebtedness within the meaning of any constitutional or  
11 statutory debt limitation or restriction. Bonds of an authority are  
12 declared to be issued for an essential public and governmental purpose  
13 and to be public instrumentalities and, together with interest thereon  
14 and income therefrom, shall be exempt from taxes. Nothing in this  
15 section shall prevent an authority from issuing bonds the interest on  
16 which is included in gross income of the owners thereof for income tax  
17 purposes.

18       **Sec. 3.** RCW 35.82.285 and 1973 1st ex.s. c 198 s 2 are each  
19 amended to read as follows:

20       Housing authorities (~~(of first class counties)~~) created under this  
21 chapter may establish and operate group homes or halfway houses to  
22 serve juveniles released from state juvenile or correctional  
23 institutions, or to serve the developmentally disabled as defined in  
24 (~~(42 U.S.C. 2670, 85 Stat. 1316)~~) RCW 71A.10.020(2). (~~(Such)~~)  
25 Authorities may contract for the operation of facilities so  
26 established, with qualified nonprofit organizations as agent of the  
27 authority. Authorities may provide support or supportive services in  
28 facilities serving juveniles, the developmentally disabled or other

1 persons under a disability, and the frail elderly whether or not they  
2 are operated by the authority.

3 Action under this section shall be taken by the authority only  
4 after a public hearing as provided by chapter 42.30 RCW. In exercising  
5 this power the authority shall not be empowered to acquire property by  
6 eminent domain, and the facilities established shall comply with all  
7 zoning, building, fire, and health regulations and procedures  
8 applicable in the locality.

9 **Sec. 4.** RCW 35.83.020 and 1965 c 7 s 35.83.020 are each amended to  
10 read as follows:

11 The following terms, whenever used or referred to in this chapter  
12 shall have the following respective meanings, unless a different  
13 meaning clearly appears from the context:

14 (1) "Housing authority" shall mean any housing authority created  
15 pursuant to the housing authorities law of this state.

16 (2) "Housing project" shall mean any work or undertaking of a  
17 housing authority pursuant to the housing authorities law or any  
18 similar work or undertaking of the federal government.

19 (3) "State public body" shall mean the state of Washington and any  
20 city, town, county, municipal corporation, commission, district,  
21 authority, other subdivision or public body of the state.

22 (4) "Governing body" shall mean the council, the commission, board  
23 of county commissioners or other body having charge of the fiscal  
24 affairs of the state public body.

25 (5) "Federal government" shall include the United States of  
26 America, the United States housing authority, or any other agency or  
27 instrumentality, corporate or otherwise, of the United States of  
28 America.

1       **Sec. 5.** RCW 35.83.030 and 1965 c 7 s 35.83.030 are each amended to  
2 read as follows:

3       For the purpose of aiding and cooperating in the planning,  
4 undertaking, construction or operation of housing projects located  
5 within the area in which it is authorized to act, any state public body  
6 may upon such terms, with or without consideration, as it may  
7 determine:

8       (1) Dedicate, sell, grant, convey, or lease any of its interest in  
9 any property, or grant easements, licenses or any other rights or  
10 privileges therein to a housing authority or the federal government;

11       (2) Cause parks, playgrounds, recreational, community, educational,  
12 water, sewer or drainage facilities, or any other works which it is  
13 otherwise empowered to undertake, to be furnished adjacent to or in  
14 connection with housing projects;

15       (3) Furnish, dedicate, close, pave, install, grade, regrade, plan  
16 or replan streets, roads, roadways,  
17 alleys, sidewalks or other places which it is otherwise empowered to  
18 undertake;

19       (4) Plan or replan, zone or rezone any part of such state public  
20 body; make exceptions from building regulations and ordinances; any  
21 city or town also may change its map;

22       (5) Cause services to be furnished to the housing authority of the  
23 character which such state public body is otherwise empowered to  
24 furnish;

25       (6) Enter into agreements with respect to the exercise by such  
26 state public body of its powers relating to the repair, elimination or  
27 closing of unsafe, insanitary or unfit dwellings;

28       (7) Employ (notwithstanding the provisions of any other law) any  
29 funds belonging to or within the control of such state public body,  
30 including funds derived from the sale or furnishing of property or

1 facilities to a housing authority, in the purchase of the bonds or  
2 other obligations of a housing authority; and exercise all the rights  
3 of any holder of such bonds or other obligations;

4 (8) Do any and all things, necessary or convenient to aid and  
5 cooperate in the planning, undertaking, construction or operation of  
6 such housing projects;

7 (9) Incur the entire expense of any public improvements made by  
8 such state public body in exercising the powers granted in this  
9 chapter;

10 (10) Enter into agreements (which may extend over any period,  
11 notwithstanding any provision or rule of law to the contrary), with a  
12 housing authority respecting action to be taken by such state public  
13 body pursuant to any of the powers granted by this chapter. Any law or  
14 statute to the contrary notwithstanding, any sale, conveyance, lease or  
15 agreement provided for in this section may be made by a state public  
16 body without appraisal, advertisement or public bidding: PROVIDED,  
17 There must be five days public notice given either by posting in three  
18 public places or publishing in the official county newspaper of the  
19 county wherein the property is located; and

20 (11) With respect to any housing project which a housing authority  
21 has acquired or taken over from the federal government and which the  
22 housing authority by resolution has found and declared to have been  
23 constructed in a manner that will promote the public interest and  
24 afford necessary safety, sanitation and other protection, no state  
25 public body shall require any changes to be made in the housing project  
26 or the manner of its construction or take any other action relating to  
27 such construction.