
ENGROSSED HOUSE BILL 1740

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

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 initiate eviction proceedings against any tenant as provided
17 by law. Activity occurring in any housing authority unit that
18 constitutes a violation of chapter 69.41, 69.50 or 69.52 RCW shall
19 constitute a nuisance for the purpose of RCW 59.12.030(5).

20 ~~(10)~~ To exercise all or any part or combination of powers herein
21 granted.

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

25 ~~((10))~~ ~~(11)~~ To agree (notwithstanding the limitation contained in
26 RCW 35.82.210) to make such payments in lieu of taxes as the authority
27 finds consistent with the achievement of the purposes of this chapter.

28 ~~((11))~~ ~~(12)~~ To exercise the powers granted in this chapter within
29 the boundaries of any city, town, or county not included in the area in
30 which such housing authority is originally authorized to function:

1 PROVIDED, HOWEVER, The governing or legislative body of such city,
2 town, or county, as the case may be, adopts a resolution declaring that
3 there is a need for the authority to function in such territory.

4 ~~((12))~~ (13) To administer contracts for assistance payments to
5 persons of low income in accordance with section 8 of the United States
6 Housing Act of 1937, as amended by Title II, section 201 of the Housing
7 and Community Development Act of 1974, P.L. 93-383.

8 ~~((13))~~ (14) To sell at public or private sale, with or without
9 public bidding, for fair market value, any mortgage or other obligation
10 held by the authority.

11 ~~((14))~~ (15) To the extent permitted under its contract with the
12 holders of bonds, notes, and other obligations of the authority, to
13 consent to any modification with respect to rate of interest, time and
14 payment of any installment of principal or interest security, or any
15 other term of any contract, mortgage, mortgage loan, mortgage loan
16 commitment, contract or agreement of any kind to which the authority is
17 a party.

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

24 ~~((16))~~ (17) To make, purchase, participate in, invest in, take
25 assignments of, or otherwise acquire loans for the acquisition,
26 construction, reconstruction, rehabilitation, improvement, leasing, or
27 refinancing of land, buildings, or developments ((containing)) for
28 housing for persons of low income. ((However, an authority shall not
29 finance the acquisition or construction of new buildings or
30 developments under this subsection unless: (a) All of the housing

1 ~~within the building or development will be made available to persons of~~
2 ~~low income; (b) a federal, state, or local government loan, grant, or~~
3 ~~investment is provided with respect to the building or development; or~~
4 ~~(c) a housing authority owns at least a twenty-five percent interest in~~
5 ~~the completed building or development or at least twenty-five percent~~
6 ~~of the number of housing units therein.)) For purposes of this~~
7 ~~subsection, development shall include either land or buildings or both.~~

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

1 available to persons of low income at rents affordable to persons of
2 low income.

3 (b) In addition, if the development is owned by a for-profit
4 entity, the dwelling units or mobile home lots required to be made
5 available to persons of low income shall be rented to persons whose
6 incomes do not exceed fifty percent of the area median income, adjusted
7 for household size, and shall have unit or lot rents that do not exceed
8 fifteen percent of area median income, adjusted for household size,
9 unless rent subsidies are provided to make them affordable to persons
10 of low income.

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

26 (c) Commercial space in any building ((or development)) financed
27 under this subsection ((which)) that exceeds four stories in height
28 shall not ((contain)) constitute more than twenty percent of the
29 interior area ((in commercial space)) of the building. Before
30 financing any ((building or)) development under this subsection the

1 authority shall make a written finding that financing is((+)) important
2 for project feasibility((+)) or necessary to enable the authority to
3 carry out its powers and purposes under this chapter.

4 ((~~17~~)) 18 To contract with a public authority or corporation,
5 created by a county, city, or town under RCW 35.21.730 through
6 35.21.755, to act as the developer for new housing projects or
7 improvement of existing housing projects.

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

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

1 pledge shall be valid and binding as against all parties having claims
2 of any kind in tort, contract, or otherwise against the authority,
3 irrespective or whether the parties have notice thereof. The
4 resolution and any other instrument by which a pledge is created shall
5 be filed or recorded.

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

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

25 Housing authorities (~~(of first class counties)~~) created under this
26 chapter may establish and operate group homes or halfway houses to
27 serve juveniles released from state juvenile or correctional
28 institutions, or to serve the developmentally disabled as defined in
29 (~~(42 U.S.C. 2670, 85 Stat. 1316)~~) RCW 71A.10.020(2). ((Such))

1 Authorities may contract for the operation of facilities so
2 established, with qualified nonprofit organizations as agent of the
3 authority. Authorities may provide support or supportive services in
4 facilities serving juveniles, the developmentally disabled or other
5 persons under a disability, and the frail elderly, whether or not they
6 are operated by the authority.

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

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

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

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

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

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

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

1 (5) "Federal government" shall include the United States of
2 America, the United States housing authority, or any other agency or
3 instrumentality, corporate or otherwise, of the United States of
4 America.

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

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

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

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

19 (3) Furnish, dedicate, close, pave, install, grade, regrade, plan
20 or replan streets, roads, roadways,
21 alleys, sidewalks or other places which it is otherwise empowered to
22 undertake;

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

26 (5) Cause services to be furnished to the housing authority of the
27 character which such state public body is otherwise empowered to
28 furnish;

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

4 (7) Employ (notwithstanding the provisions of any other law) any
5 funds belonging to or within the control of such state public body,
6 including funds derived from the sale or furnishing of property or
7 facilities to a housing authority, in the purchase of the bonds or
8 other obligations of a housing authority; and exercise all the rights
9 of any holder of such bonds or other obligations;

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

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

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

26 (11) With respect to any housing project which a housing authority
27 has acquired or taken over from the federal government and which the
28 housing authority by resolution has found and declared to have been
29 constructed in a manner that will promote the public interest and
30 afford necessary safety, sanitation and other protection, no state

1 public body shall require any changes to be made in the housing project
2 or the manner of its construction or take any other action relating to
3 such construction.