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**SUBSTITUTE SENATE BILL 5247**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Kline, Costa, Winsley, Goings and Rasmussen)

Read first time 02/18/1999.

1 AN ACT Relating to affordable housing; adding a new section to  
2 chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating  
3 new sections; providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** It is the policy of the state to contribute  
6 to the state's general welfare by assisting in making affordable,  
7 decent, and service-enriched housing available to low-income seniors  
8 and persons with disabilities. Housing production stimulates general  
9 economic growth and strengthens the general tax base. Providing  
10 affordable, decent, and service-enriched housing for low-income seniors  
11 and persons with disabilities helps protect the health and safety needs  
12 of those persons and reduces their dependency upon state welfare and  
13 medical assistance while contributing to the health of neighborhoods,  
14 families, and communities. The state recognizes that providing housing  
15 for low-income seniors and persons with disabilities requires  
16 additional resources and support.

17 The legislature intends to establish a business and occupation tax  
18 credit, providing a source of capital to expand the financing options  
19 available to preserve, rehabilitate, and construct housing for low-

1 income seniors and persons with disabilities. An investment of state  
2 resources is needed to overcome cutbacks in federal assistance for  
3 housing for low-income seniors and persons with disabilities, the  
4 unique financing needs of housing for these groups, and the increasing  
5 problems low-income seniors and persons with disabilities are having  
6 finding affordable, decent, and service-enriched housing. The  
7 legislature supports an expanded state commitment to long-term housing  
8 for low-income seniors and persons with disabilities.

9 It is the purpose of this act to establish a pool of funds to  
10 increase investment in affordable housing for low-income seniors and  
11 persons with disabilities through the creation of a tax credit to be  
12 used against the business and occupation or public utility tax.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
14 to read as follows:

15 (1) Subject to the limitations and conditions of this section, a  
16 person shall be allowed a credit against taxes due under this chapter  
17 equal to the face value of credit purchased in an auction under this  
18 section.

19 (2) The commission is authorized to conduct auctions of tax credits  
20 to be used against the business and occupation or public utility tax.  
21 The commission shall establish the procedures under which the auctions  
22 will be conducted. The commission shall not accept a bid less than  
23 fifty percent of the value of the credit. The commission may establish  
24 a minimum bid higher than this fifty percent statutory minimum. No  
25 more than ten million dollars worth of credit may be auctioned by the  
26 commission each biennium.

27 (3) A person purchasing a credit shall complete a registration form  
28 at the time of purchase. The commission shall develop and provide the  
29 form. The form shall include: An identifying number; the time period  
30 during which the credit must be used; in a conspicuous manner, the  
31 conditions under which the credit may be claimed; and the amount of  
32 credit purchased by the buyer. The identifying number on the form will  
33 be discrete as to each purchase. The commission shall maintain a  
34 registry of tax credits purchased at auction and shall provide the  
35 department electronic access to the file.

36 (4) No application is necessary for the use of the tax credit. The  
37 person must claim the credit on the combined excise tax reporting form.  
38 The person claiming the credit must keep records necessary for the

1 department to verify eligibility under this section. The person or its  
2 successor must keep a copy of the registration form.

3 (5) No applicant is eligible for tax credits under this section in  
4 excess of the amount of tax that would otherwise be due under this  
5 chapter. A credit must be used during the biennium in which it was  
6 purchased or it expires. Refunds will not be given in place of  
7 credits.

8 (6) If at any time the department finds that a person is not  
9 eligible for tax credit under this section, the amount of taxes for  
10 which a credit has been used shall be immediately due. The department  
11 shall assess interest, but not penalties, on the credited taxes for  
12 which the person is not eligible. The interest shall be assessed at  
13 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
14 be assessed retroactively to the date the tax credit was taken, and  
15 accrue until the taxes for which a credit has been used are repaid.

16 (7) The commission shall deposit all of the proceeds from the  
17 auction into a trust account. The trust account shall be an account  
18 with a qualified financial institution, established by the commission  
19 for the deposit of the proceeds of the auction.

20 (8) The proceeds and earnings in the trust account shall be used by  
21 the commission for the benefit of nonprofit organizations that provide  
22 housing for low-income seniors and persons with disabilities.  
23 Consistent with the recommendations of the advisory board and subject  
24 to the joint approval of the commission and the director of the  
25 department of community, trade, and economic development, the  
26 commission may allocate funds which include, but are not limited to,  
27 the following purposes:

28 (a) Providing funds for new construction;

29 (b) Providing funds for rehabilitation and repair;

30 (c) Providing funds for maintenance;

31 (d) Providing funds for housing infrastructure for low-income  
32 seniors and persons with disabilities, such as sewer, water, and  
33 electricity; and

34 (e) Providing funds for an emergency rental assistance voucher  
35 demonstration program.

36 (9) Programs funded under subsection (8) of this section shall be  
37 administered by the commission or the department of community, trade,  
38 and economic development.

1 (10) Unless the context clearly requires otherwise, the following  
2 definitions apply to this section.

3 (a) "Advisory board" means the task force created under section 2,  
4 chapter 128, Laws of 1998, which shall be continued as the advisory  
5 board to recommend the use of the funds earned from the auction.

6 (b) "Commission" means the housing finance commission.

7 (c) "Low-income senior" means a person sixty-two years of age or  
8 older who has an income below eighty percent of the median income in  
9 the county in which he or she resides or the state median income,  
10 whichever is higher.

11 (d) "Low-income person with disabilities" means an individual who  
12 has a physical or mental impairment that substantially limits one or  
13 more major life functions and has an income below eighty percent of the  
14 median income in the county in which he or she resides or the state  
15 median income, whichever is higher. For the purposes of this  
16 subsection, "major life functions" includes, but is not limited to,  
17 functions such as caring for oneself, performing manual tasks, seeing,  
18 hearing, speaking, breathing, learning, or working.

19 (e) "Auction" means the sale of a business and occupation or public  
20 utility tax credit through sealed bid, conducted by the commission.

21 NEW SECTION. **Sec. 3.** Purchase of a tax credit by a financial  
22 institution qualifies as an investment in affordable housing for  
23 purposes of the community reinvestment act under Titles 30 and 32 RCW.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16 RCW  
25 to read as follows:

26 A credit purchased at the auction under section 2 of this act may  
27 be used against tax due under this chapter. If a person has used a  
28 credit against tax due under chapter 82.04 RCW, the person may not use  
29 the same credit for tax due under this chapter.

30 NEW SECTION. **Sec. 5.** The department of revenue, the housing  
31 finance commission, the department of community, trade, and economic  
32 development, and the advisory board shall evaluate the results of all  
33 programs allocated funds from the trust account and shall report the  
34 findings to the governor and the legislature by December 1, 2001. The  
35 evaluation must consider the effect of the programs in meeting the  
36 purposes of this act, the financing options available to create or

1 preserve housing for low-income seniors and persons with disabilities,  
2 and the impact of the credit on the state economy and revenues.

3 NEW SECTION. **Sec. 6.** If any part of this act is found to be in  
4 conflict with federal requirements that are a prescribed condition to  
5 the allocation of federal funds to the state, the conflicting part of  
6 this act is inoperative solely to the extent of the conflict and with  
7 respect to the agencies directly affected, and this finding does not  
8 affect the operation of the remainder of this act in its application to  
9 the agencies concerned. Rules adopted under this act must meet federal  
10 requirements that are a necessary condition to the receipt of federal  
11 funds by the state.

12 NEW SECTION. **Sec. 7.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and takes effect  
19 July 1, 1999.

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