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**SUBSTITUTE SENATE BILL 5630**

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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 Prentice, Rasmussen, Sellar, Deccio, Fraser, Brown, Shin, Hargrove, Heavey, Kline, Bauer, Franklin, B. Sheldon, Snyder, Spanel, Morton, Wojahn, Hale, Jacobsen, Kohl-Welles, Costa and McAuliffe)

Read first time 03/03/99.

1 AN ACT Relating to authorizing the housing finance commission to  
2 provide a revenue source for farm worker housing through the auction  
3 sale of tax credits; adding new sections to chapter 82.04 RCW; adding  
4 a new section to chapter 82.16 RCW; creating new sections; providing an  
5 effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** It is the policy of the state to contribute  
8 to the state's general welfare by assisting in making affordable and  
9 decent housing available to farm workers. Providing affordable and  
10 decent housing for farm workers helps protect the health and safety  
11 needs of those persons.

12 It is the purpose of this act to establish a pool of funds to  
13 provide a source of revenue for farm worker housing through the  
14 creation of a tax credit to be used against the business and occupation  
15 or public utility tax.

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

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

5 (2) The commission is authorized to conduct auctions of tax credits  
6 to be used against the business and occupation or public utility tax.  
7 The commission shall establish the procedures under which the auctions  
8 will be conducted. The commission shall not accept a bid less than  
9 seventy-five percent of the value of the credit. The commission may  
10 establish a minimum bid higher than this seventy-five percent statutory  
11 minimum. No more than ten million dollars worth of credit may be  
12 auctioned by the commission each biennium.

13 (3) A person purchasing a credit shall complete a registration form  
14 at the time of purchase. The commission shall develop and provide the  
15 form. The form shall include: An identifying number; the time period  
16 during which the credit must be used; in a conspicuous manner, the  
17 conditions under which the credit may be claimed; and the amount of  
18 credit purchased by the buyer. The identifying number on the form will  
19 be discrete as to each purchase. The commission shall maintain a  
20 registry of tax credits purchased at auction and shall provide the  
21 department electronic access to the file.

22 (4) No application is necessary for the use of the tax credit. The  
23 person must claim the credit on the combined excise tax reporting form.  
24 The person claiming the credit must keep records necessary for the  
25 department to verify eligibility under this section. The person or its  
26 successor must keep a copy of the registration form.

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

32 (6) If at any time the department finds that a person is not  
33 eligible for tax credit under this section, the amount of taxes for  
34 which a credit has been used shall be immediately due. The department  
35 shall assess interest, but not penalties, on the credited taxes for  
36 which the person is not eligible. The interest shall be assessed at  
37 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
38 be assessed retroactively to the date the tax credit was taken, and  
39 accrue until the taxes for which a credit has been used are repaid.

1 (7) The commission shall deposit all of the proceeds from the  
2 auction into a trust account. The trust account shall be an account  
3 with a qualified financial institution, established by the commission  
4 for the deposit of the proceeds of the auction.

5 (8) The proceeds and earnings in the trust account shall be used by  
6 the commission for the benefit of nonprofit organizations that provide  
7 housing for farm workers. Subject to the joint approval of the  
8 commission and the director of the department of community, trade, and  
9 economic development, the commission may allocate funds which include,  
10 but are not limited to, the following purposes:

11 (a) Providing funds for new construction;

12 (b) Providing funds for rehabilitation and repair;

13 (c) Providing funds for operation and maintenance; and

14 (d) Providing funds for farm worker housing infrastructure, such as  
15 sewer, water, and electricity.

16 (9) Programs established under subsection (8) of this section shall  
17 be administered by the commission or the department of community,  
18 trade, and economic development.

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

21 (a) "Commission" means the housing finance commission.

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

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW  
25 to read as follows:

26 Purchase of a tax credit by a financial institution qualifies as an  
27 investment in affordable housing for purposes of the community  
28 reinvestment act under Titles 30 and 32 RCW.

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

31 A credit purchased at the auction under section 2 of this act may  
32 be used against tax due under this chapter. If a person has used a  
33 credit against tax due under chapter 82.04 RCW, the person may not use  
34 the same credit for tax due under this chapter.

35 NEW SECTION. **Sec. 5.** The department of revenue, the housing  
36 finance commission, and the department of community, trade, and

1 economic development shall evaluate the results of all programs  
2 allocated funds from the trust account and report the findings to the  
3 governor and the legislature by December 1, 2001. The evaluation must  
4 consider the effect of the programs in meeting the purposes of this  
5 act, the financing options available to create or preserve housing for  
6 farm workers, and the impact of the credit on the state economy and  
7 revenues.

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

17 NEW SECTION. **Sec. 7.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

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

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