

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1046

Chapter 133, Laws of 2023

68th Legislature
2023 Regular Session

PUBLIC HOUSING AUTHORITY DEVELOPMENTS—AREA MEDIAN INCOME LIMIT

EFFECTIVE DATE: July 23, 2023

Passed by the House January 25, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved April 20, 2023 2:16 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1046** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 21, 2023

**Secretary of State
State of Washington**

HOUSE BILL 1046

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Representatives Walen, Leavitt, Ryu, Bateman, Peterson, Doglio, Reeves, Wylie, Bergquist, Springer, Kloba, Santos, and Ormsby

Prefiled 12/16/22. Read first time 01/09/23. Referred to Committee on Housing.

1 AN ACT Relating to expanding housing supply by supporting the
2 ability of public housing authorities to finance affordable housing
3 developments by rebenchmarking area median income limits; and
4 amending RCW 35.82.070.

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

6 **Sec. 1.** RCW 35.82.070 and 2022 c 273 s 2 are each amended to
7 read as follows:

8 An authority shall constitute a public body corporate and
9 politic, exercising public and essential governmental functions, and
10 having all the powers necessary or convenient to carry out and
11 effectuate the purposes and provisions of this chapter, including the
12 following powers in addition to others herein granted:

13 (1) To sue and be sued; to have a seal and to alter the same at
14 pleasure; to have perpetual succession; to make and execute contracts
15 and other instruments, including but not limited to partnership
16 agreements and joint venture agreements, necessary or convenient to
17 the exercise of the powers of the authority; to participate in the
18 organization or the operation of a nonprofit corporation which has as
19 one of its purposes to provide or assist in the provision of housing
20 for persons of low income; and to make and from time to time amend
21 and repeal bylaws, rules and regulations, not inconsistent with this

1 chapter, to carry into effect the powers and purposes of the
2 authority.

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

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

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

28 (5) To lease or rent any dwellings, houses, accommodations,
29 lands, buildings, structures or facilities embraced in any housing
30 project and (subject to the limitations contained in this chapter) to
31 establish and revise the rents or charges therefor; to own or manage
32 buildings containing a housing project or projects as well as
33 commercial space or other dwelling units that do not constitute a
34 housing project as that term is defined in this chapter. However,
35 notwithstanding the provisions under subsection (1) of this section,
36 dwelling units made available or sold to persons of low income,
37 together with functionally related and subordinate facilities, shall
38 occupy at least 50 percent of the interior space in the total
39 development owned by the authority or at least 50 percent of the
40 total number of units in the development owned by the authority,

1 whichever produces the greater number of units for persons of low
2 income, and for mobile home parks, the mobile home lots made
3 available to persons of low income shall be at least 50 percent of
4 the total number of mobile home lots in the park owned by the
5 authority; to own, hold, and improve real or personal property; to
6 purchase, lease, obtain options upon, acquire by gift, grant,
7 bequest, devise, or otherwise including financial assistance and
8 other aid from the state or any public body, person or corporation,
9 any real or personal property or any interest therein; to acquire by
10 the exercise of the power of eminent domain any real property; to
11 sell, lease, exchange, transfer, assign, pledge, or dispose of any
12 real or personal property or any interest therein; to sell, lease,
13 exchange, transfer, or dispose of any real or personal property or
14 interest therein at less than fair market value to a governmental
15 entity for any purpose when such action assists the housing authority
16 in carrying out its powers and purposes under this chapter, to a low-
17 income person or family for the purpose of providing housing for that
18 person or family, or to a nonprofit corporation provided the
19 nonprofit corporation agrees to sell the property to a low-income
20 person or family or to use the property for the provision of housing
21 for persons of low income for at least 20 years; to insure or provide
22 for the insurance of any real or personal property or operations of
23 the authority against any risks or hazards; to procure or agree to
24 the procurement of insurance or guarantees from the federal
25 government of the payment of any bonds or parts thereof issued by an
26 authority, including the power to pay premiums on any such insurance.

27 (6) To contract with a property management services company for
28 purposes of operating a housing project. Rental and other project
29 revenues collected by a property management services company from the
30 housing project's tenants and used to pay administrative operating
31 and ordinary maintenance costs incurred by the company under the
32 terms of the contract with the authority shall be treated as private
33 funds, and any resulting services as executed at the cost of the
34 property management services company and the housing project's
35 tenants, until the net operating revenues are distributed to the
36 authority for its exclusive use and control. For the purposes of this
37 subsection, "ordinary maintenance" only includes: Routine repairs
38 related to unit turnover work; grounds and parking lot upkeep; and
39 repairs and cleaning work needed to keep a property in a clean, safe,
40 sanitary, and rentable condition that are customarily undertaken or

1 administered by residential property management services companies.
2 "Ordinary maintenance" does not include repairs that would be
3 considered replacement capital repairs or scheduled regular
4 maintenance work on plumbing, electrical, or HVAC/R systems or their
5 components.

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

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

23 (9) Acting through one or more commissioners or other person or
24 persons designated by the authority: To conduct examinations and
25 investigations and to hear testimony and take proof under oath at
26 public or private hearings on any matter material for its
27 information; to administer oaths, issue subpoenas requiring the
28 attendance of witnesses or the production of books and papers and to
29 issue commissions for the examination of witnesses who are outside of
30 the state or unable to attend before the authority, or excused from
31 attendance; to make available to appropriate agencies (including
32 those charged with the duty of abating or requiring the correction of
33 nuisances or like conditions, or of demolishing unsafe or insanitary
34 structures within its area of operation) its findings and
35 recommendations with regard to any building or property where
36 conditions exist which are dangerous to the public health, morals,
37 safety or welfare.

38 (10) To initiate eviction proceedings against any tenant as
39 provided by law. Activity occurring in any housing authority unit

1 that constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW
2 shall constitute a nuisance for the purpose of RCW 59.12.030(5).

3 (11) To exercise all or any part or combination of powers herein
4 granted.

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

8 (12) To agree (notwithstanding the limitation contained in RCW
9 35.82.210) to make such payments in lieu of taxes as the authority
10 finds consistent with the achievement of the purposes of this
11 chapter.

12 (13) Upon the request of a county or city, to exercise any powers
13 of a community renewal agency under chapter 35.81 RCW or a public
14 corporation, commission, or authority under chapter 35.21 RCW.

15 (14) To exercise the powers granted in this chapter within the
16 boundaries of any city, town, or county not included in the area in
17 which such housing authority is originally authorized to function:
18 PROVIDED, HOWEVER, The governing or legislative body of such city,
19 town, or county, as the case may be, adopts a resolution declaring
20 that there is a need for the authority to function in such territory.

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

25 (16) To sell at public or private sale, with or without public
26 bidding, for fair market value, any mortgage or other obligation held
27 by the authority.

28 (17) To the extent permitted under its contract with the holders
29 of bonds, notes, and other obligations of the authority, to consent
30 to any modification with respect to rate of interest, time, and
31 payment of any installment of principal or interest security, or any
32 other term of any contract, mortgage, mortgage loan, mortgage loan
33 commitment, contract, or agreement of any kind to which the authority
34 is a party.

35 (18) To make, purchase, participate in, invest in, take
36 assignments of, or otherwise acquire loans to persons of low income
37 to enable them to acquire, construct, reconstruct, rehabilitate,
38 improve, lease, or refinance their dwellings, and to take such
39 security therefor as is deemed necessary and prudent by the
40 authority.

1 (19) To make, purchase, participate in, invest in, take
2 assignments of, or otherwise acquire loans for the acquisition,
3 construction, reconstruction, rehabilitation, improvement, leasing,
4 or refinancing of land, buildings, or developments for housing for
5 persons of low income. For purposes of this subsection, development
6 shall include either land or buildings or both.

7 (a) Any development financed under this subsection shall be
8 subject to an agreement that for at least 20 years the dwelling units
9 made available to persons of low income together with functionally
10 related and subordinate facilities shall occupy at least 50 percent
11 of the interior space in the total development or at least 50 percent
12 of the total number of units in the development, whichever produces
13 the greater number of units for persons of low income. For mobile
14 home parks, the mobile home lots made available to persons of low
15 income shall be at least 50 percent of the total number of mobile
16 home lots in the park. During the term of the agreement, the owner
17 shall use its best efforts in good faith to maintain the dwelling
18 units or mobile home lots required to be made available to persons of
19 low income at rents affordable to persons of low income. The 20-year
20 requirement under this subsection (19)(a) shall not apply when an
21 authority finances the development by nonprofit corporations or
22 governmental units of dwellings or mobile home lots intended for sale
23 to persons of low and moderate income, and shall not apply to
24 construction or other short-term financing provided to nonprofit
25 corporations or governmental units when the financing has a repayment
26 term of one year or less.

27 (b) In addition, if the development is owned by a for-profit
28 entity, the dwelling units or mobile home lots required to be made
29 available to persons of low income shall be rented to persons whose
30 incomes do not exceed (~~50~~) 80 percent of the area median income,
31 adjusted for household size, and shall have unit or lot rents that do
32 not exceed 15 percent of area median income, adjusted for household
33 size, unless rent subsidies are provided to make them affordable to
34 persons of low income.

35 For purposes of this subsection (19)(b), if the development is
36 owned directly or through a partnership by a governmental entity or a
37 nonprofit organization, which nonprofit organization is itself not
38 controlled by a for-profit entity or affiliated with any for-profit
39 entity that a nonprofit organization itself does not control, it
40 shall not be treated as being owned by a for-profit entity when the

1 governmental entity or nonprofit organization exercises legal control
2 of the ownership entity and in addition, (i) the dwelling units or
3 mobile home lots required to be made available to persons of low
4 income are rented to persons whose incomes do not exceed ((60)) 80
5 percent of the area median income, adjusted for household size, and
6 (ii) the development is subject to an agreement that transfers
7 ownership to the governmental entity or nonprofit organization or
8 extends an irrevocable right of first refusal to purchase the
9 development under a formula for setting the acquisition price that is
10 specified in the agreement.

11 (c) Commercial space in any building financed under this
12 subsection that exceeds four stories in height shall not constitute
13 more than 20 percent of the interior area of the building. Before
14 financing any development under this subsection the authority shall
15 make a written finding that financing is important for project
16 feasibility or necessary to enable the authority to carry out its
17 powers and purposes under this chapter.

18 (20) To contract with a public authority or corporation, created
19 by a county, city, or town under RCW 35.21.730 through 35.21.755, to
20 act as the developer for new housing projects or improvement of
21 existing housing projects.

Passed by the House January 25, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
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