

SENATE BILL REPORT

2SHB 1696

As Reported by Senate Committee On:
Housing, March 26, 2025
Ways & Means, April 7, 2025

Title: An act relating to modifying the covenant homeownership program by adjusting the area median income threshold for program eligibility, introducing loan forgiveness, and modifying the oversight committee membership.

Brief Description: Modifying the covenant homeownership program.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Taylor, Peterson, Ryu, Ortiz-Self, Stearns, Salahuddin, Duerr, Reed, Cortes, Street, Mena, Entenman, Hill, Gregerson, Simmons, Obras, Santos, Ramel, Donaghy, Berry, Goodman, Parshley, Stonier, Scott, Fosse, Berg, Macri, Kloba, Nance, Hunt, Springer, Fey, Walen, Leavitt, Reeves, Bergquist, Bernbaum, Doglio, Zahn, Pollet, Ormsby and Thomas).

Brief History: Passed House: 3/6/25, 57-39.

Committee Activity: Housing: 3/19/25, 3/26/25 [DP-WM, DNP].
Ways & Means: 4/04/25, 4/07/25 [DP, DNP].

Brief Summary of Bill

- Modifies the Covenant Homeownership Program by raising the area median income threshold for eligibility to 120 percent, authorizing full loan forgiveness under certain circumstances, and modifying one of the membership positions on the oversight committee.

SENATE COMMITTEE ON HOUSING

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Bateman, Chair; Alvarado, Vice Chair; Orwall, Salomon and Trudeau.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Goehner, Ranking Member; Gildon.

Staff: Melissa Van Gorkom (786-7491)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Braun, Muzzall, Wagoner and Warnick.

Staff: Trevor Press (786-7446)

Background: Restrictive Real Estate Covenants. Restrictive real estate covenants prohibiting people of certain races, religions, and ethnicities from buying or owning homes were recorded across the state until 1968, when the federal Fair Housing Act (FHA) prohibited real estate covenants that discriminate on the basis of race, color, religion, or national origin. In 1969 the Washington Law Against Discrimination also made these types of restrictive covenants void.

Special Purpose Credit Programs. The federal Equal Credit Opportunity Act and Regulation B issued by the federal Consumer Financial Protection Bureau permit creditors to extend special purpose credit through Special Purpose Credit Programs (SPCPs) to applicants who meet eligibility requirements under certain types of credit programs, including a credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons. This may include a specific class of persons who share one or more common characteristics such as race, national origin, or sex.

Covenant Homeownership Program Study. In 2023 the Legislature authorized a Covenant Homeownership Program (Program) study to provide recommendations related to the creation of one or more SPCPs. The Washington State Housing Finance Commission (Commission) must consider the evidence-based documentation, and programmatic and policy recommendations set forth in the study when creating the SPCPs. At minimum, an authorized SPCP must:

- provide loans for down payment and closing cost assistance that can be combined with other forms of down payment and closing cost assistance;
- require a Program participant to repay loans or down payment and closing cost assistance at the time the house is sold; and

- be implemented in conjunction with the Commission's housing finance programs.

The initial Program study published in March 2024 recommended implementing an SPCP:

- for economically disadvantaged households with Black, Latino, Native American, Alaska Native, Native Hawaiian, Other Pacific Islander, Korean, or Asian Indian borrowers; and
- with down payment assistance as a zero-interest loan and customized amounts that would enable households with incomes between 80 to 100 percent of the area median income (AMI) to afford a modest-cost home in their county.

The study also made recommendations for the consideration of new state legislation to allow for different types of assistance and eligibility, including:

- expanding eligibility to impacted residents with incomes up to 140 percent of the AMI; and
- reuse of some or all of the assistance to apply to the purchase of a subsequent home, or provide alternative repayment options such as forgiving all or some portion of the assistance amount over time.

The first updated Program study is due December 31, 2028, with subsequent studies due by December 31st every five years thereafter.

Covenant Homeownership Program. The Program is funded through a \$100 document recording assessment that is deposited into a dedicated Program account. The Legislature may appropriate moneys in the Program account to the Department of Commerce (Commerce) for costs related to the Program, including administering contracts with the Commission for the Program. On July 1, 2024, the Commission started providing down payment and closing cost assistance to Program participants under the SPCP.

To be eligible to receive down payment and closing cost assistance through the Program, an applicant must have a household income at or below 100 percent of the AMI, be a first-time home buyer, and be a Washington resident who:

- was a state resident on or before the enactment of the FHA on April 11, 1968, and was or would have been excluded from homeownership in Washington by a racially restrictive real estate covenant on or before that date; or
- is a descendant of a person who meets that criterion.

The Commission and Commerce must report to the Program Oversight Committee (Committee) on a quarterly basis. The Commission must submit a report to the appropriate committees of the Legislature on the progress of the SPCP beginning December 31, 2025, and annually thereafter.

Covenant Homeownership Program Oversight Committee. The Committee, staffed by the Department of Financial Institutions, oversees and reviews the Commission's activities and performance related to the Program, including the Commission's creation and

administration of the SPCPs authorized under the Program.

The Committee must consist of the following members appointed by the Governor:

- two people who meet the eligibility criteria for SPCP applicants, one from east and one from the west of the crest of the Cascade Mountains;
- one representative of an organization that operates an SPCP, counseling service, or debt relief program that serves people who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;
- one representative of a community-based organization that specializes in the development of permanently affordable housing that serves people who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;
- one representative of the real estate sales profession;
- one representative of the home mortgage lending profession who has a minimum of five years' lending or underwriting experience; and
- one representative of the nonprofit affordable housing development industry.

In addition to the nonlegislative members appointed by the Governor, the Committee must also consist of the following legislative members:

- two senators, one from each of the two largest caucuses, appointed by the President of the Senate; and
- two members of the House of Representatives, one from each of the two largest caucuses, appointed by the Speaker of the House of Representatives.

Summary of Bill: Special Purpose Credit Programs. An authorized SPCP may fully forgive a loan entered into at any time after enactment of the SPCP once the loan has been outstanding for at least five years for Program participants who have a household income at or below 80 percent of the AMI for the county where the home is located.

Covenant Homeownership Program Eligibility. The AMI threshold for Program eligibility is raised to 120 percent of the AMI for the county where the home is located, instead of 100 percent of the AMI.

Covenant Homeownership Program Oversight Committee. The Committee membership is adjusted to include one representative of a nonprofit organization that provides housing counseling to persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants. This replaces the membership position for a representative of a community-based organization that specializes in the development of permanently affordable housing that serves persons who were commonly subject to these types of unlawful exclusions.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Housing): PRO: This is a trailer bill based on recommendations from the Covenant Homeownership Oversight Committee to expand the AMI to respond to the difficulties of getting home loans to families in regions like Snohomish, Pierce, and King County, where home prices are higher to allow for more folks to access the program. As you know, April 11, 1968, was a step in the right direction to close the equity gap, but the reality is that in 2025, that gap is still there. As of 2019, 42 percent of Black Americans versus 14 percent of white Americans had zero net worth and 49 percent of white Americans were homeowners in the greater Seattle area with only 22 percent Black, so we are not there yet.

This is a program that is supporting the state in moving forward towards the goal of closing the homeownership gap in our state. This program was extremely successful in the first eight months, offering zero interest down payment and assistance across the state to 270 families in 21 counties thus far, with an additional 60 families who have loans reserved and waiting to close. These are credit worthy income qualified families who are prepared and able to take on a monthly mortgage payment over the long term.

Every county in the state is suffering from high home prices, steady income earners with good credit are struggling to buy homes and home buyers earning closer to 120 percent AMI may be earning a little bit more, but that's still nearly not enough to purchase a home. In fact, home buyers are struggling everywhere. For context, AMI for this program is set at 100 percent which is just over \$112,000 a year in Pierce County, but Fannie Mae, Freddie Mac allow over \$136,000 and bringing the AMI to 120 percent would bring the amount to \$134,000 a year.

The bill also provides loan forgiveness because we believe that this program is a tort claim for folks who have been harmed through their lineage that would have been subjected to these discriminatory covenants which is reflected in the very narrowly tailored eligibility criteria. Families like mine, especially people of color, have faced systemic barriers like discriminatory lending and limited access to credit, making it tough to break the cycle of poverty and build wealth. This bill provides a chance to change that offering a path to home ownership and loan forgiveness for those who've been historically disadvantaged. Currently, a little more than half of the borrowers are below 80 percent AMI, but regardless of income the biggest barrier all borrowers face are the high cost of homes and very low inventory. It's not just about owning a home, it's about breaking the cycle of financial struggle and building a generation of wealth for my children and others like them.

The program is a beacon of light that shines on the state of Washington. Young people and adults have eyes on this legislative session and the message it sends to the people when a historical policy continues to have present-day impacts and it is my belief that the

Legislature can change the direction to distribute what is fair and what is just. It took hard work on the part of white people to create these racially restrictive covenants that excluded Black people and other people of color from home ownership and wealth, it's time to work hard to undo the harms.

CON: The voters of the state in 1998 approved an initiative that said the government can't give preferential treatment to anyone based on their race, their gender, their ethnicity, their national origin, or their color. This flies in the face of that. The voters said no to that in 1998 and in 2019, they want the government to treat everyone equally, that doesn't create division, that creates uniform feeling that we're all in this together. The government should not be deciding who is in the right or wrong group to get money.

Persons Testifying (Housing): PRO: Representative Jamila Taylor, Prime Sponsor; Tracy Brown; LaKeisha Davis, Habitat for Humanity Spokane; Patience Malaba, Housing Development Consortium Seattle-King County; Lisa DeBrock, Washington State Housing Finance Commission; Delbert Richardson; Bryan LaFlamme; Adria Buchanan, Fair Housing Center of Washington; Denise Rodriguez, Washington Homeownership Resource Center; Bryce Yadon, Habitat for Humanity Seattle- King, & Kittitas Counties; Michael Fornerette; Dee Scott; Christina Davis; Susan Cozzens, Quaker Voice on Washington Public Policy; Merlin Rainwater, Quaker Voice on Washington Public Policy.

CON: Tim Eyman, Initiative Activist.

Persons Signed In To Testify But Not Testifying (Housing): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The Covenant Homeownership Program has already helped 300 families. Rising housing costs continue to be a barrier to homebuyers which is why you should raise the income limit. This bill would expand access without impacting the budget. Since the launch of the program, over 1000 have checked to see if they qualify for the Covenant Homeownership Program. Many of the people who have relatives that were impacted by housing discrimination have incomes between 100 and 120 percent of AMI. This bill begins to correct the harm of being systemically excluded from homeownership. Loan forgiveness is one of the most impactful changes in this bill.

Persons Testifying (Ways & Means): PRO: Kyle Lucas, Urban Indians Northwest; Steve Walker, Washington State Housing Finance Commission; Denise Rodriguez, Washington Homeownership Resource Center; Dana Le Roy, Habitat for Humanity Spokane.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.