
SENATE BILL 6620

State of Washington 57th Legislature

2002 Regular Session

By Senators Gardner, Winsley, Kline and Keiser

Read first time 01/23/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to local development; adding a new section to
2 chapter 42.17 RCW; and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that low and moderate-
5 income homebuyers may not be eligible for loans under traditional
6 standards used by banks and often borrow from subprime lenders at terms
7 that are disadvantageous to them and are not justified by the slight
8 increase in risk they might represent to a lender. It is the intent of
9 this chapter to assist low and moderate-income borrowers in obtaining
10 loans from standard or prime lenders by encouraging these lenders to
11 conduct outreach and offer technical assistance to homebuyers in low
12 and moderate-income communities and make mortgage loans that they might
13 not otherwise make.

14 NEW SECTION. **Sec. 2.** As used in this chapter, the term:

15 (1) "Lender participant" means financial institutions and credit
16 unions as are approved by the director to make loans under this
17 chapter.

1 (2) "Eligible loan" means a loan to a person under the conditions
2 set forth in this chapter.

3 (3) "Amount of loss" means an amount equal to the unpaid balance of
4 the principal amount, less any amounts realized by perfecting rights
5 under a security agreement, together with interest as the director
6 allows, to the maximum allowed by rule. The amount of loss is subject
7 to the limitations contained in section 9(2)(c) of this act.

8 (4) "Default" includes only defaults as have existed for at least
9 ninety days.

10 (5) "Premium charge" means the percent of the loan which shall be
11 deposited in the housing loan reserve fund by the lender and the
12 borrower on loans made pursuant to this chapter.

13 (6) "Director" means the director of financial institutions.

14 (7) "Fund" means the housing loan reserve fund.

15 (8) "State match" means the percent of the loan which shall be
16 deposited in the housing loan reserve fund by the state on loans made
17 pursuant to this chapter.

18 NEW SECTION. **Sec. 3.** (1) There is created in the department of
19 financial institutions a housing loan reserve program.

20 (2) In addition to the powers and duties prescribed under this
21 chapter, the director may exercise all the powers necessary or
22 convenient for the administration and enforcement of this chapter. The
23 director may adopt rules he or she finds necessary or appropriate in
24 carrying out this chapter after consultation with representatives of
25 housing advocates and lender participants. The director may examine
26 the loans made under this chapter by lender participants to ascertain
27 compliance with this chapter and any rules adopted under this chapter,
28 and to ascertain whether a lender participant is exercising reasonable
29 care and diligence in the making and collection of loans made under
30 this chapter.

31 The director may employ employees needed to carry out the powers
32 and duties imposed under this chapter.

33 The director shall report to the governor and the legislature by
34 December 1st of each year on the operation of the housing loan reserve
35 program and the condition of the housing loan reserve fund.

36 NEW SECTION. **Sec. 4.** (1) The housing loan reserve fund is hereby
37 established in the custody of the state treasurer. The fund shall

1 consist of appropriations made to the fund and any other public or
2 private money received under this chapter. Moneys in the fund may be
3 used only to secure loans made under this chapter. Disbursements from
4 the fund shall be on authorization of the director, or the director's
5 designee. The fund is subject to the allotment procedure provided
6 under chapter 43.88 RCW, but no appropriation is required for
7 disbursements.

8 (2) The state shall not be liable or obligated for any amount
9 exceeding its appropriations to the housing loan reserve fund.

10 (3) Funds held in the housing loan reserve fund which are
11 attributable to the lender participant's portion of the premium charge
12 shall be accounted for on a lender-by-lender basis and shall include
13 the matching premium charge paid by the borrowers and the state match
14 paid by the state.

15 (4) Upon authorization by the director, disbursements from the
16 housing loan reserve fund shall be made to lender participants by the
17 state treasurer in warrants drawn by the controller pursuant to this
18 chapter.

19 (5) Funds in the housing loan reserve fund shall be invested in
20 time certificates of deposit with lender participants in proportion to
21 each lender participant's participation in the housing loan reserve
22 program. Funds shall be offered on a right of first refusal to lender
23 participants. Should a lender participant refuse to receive funds for
24 investment, the funds shall then be offered to other lender
25 participants in proportion to their participation in the housing loan
26 reserve program.

27 NEW SECTION. **Sec. 5.** (1) All income from funds invested pursuant
28 to section 4 of this act shall be deposited in the housing loan reserve
29 fund, and shall be used exclusively for the support of the housing loan
30 reserve program.

31 (2) Whenever the director determines that the income from funds
32 invested pursuant to section 4 of this act exceeds amounts necessary to
33 support the housing loan reserve program pursuant to subsection (1) of
34 this section, the director may order any excess funds transferred into
35 the general fund, but not to exceed the amount appropriated to the
36 housing loan reserve fund.

1 NEW SECTION. **Sec. 6.** (1) The director shall certify those
2 financial institutions and credit unions whose experience, financial
3 capability, and other criteria the director may establish under rules
4 adopted under this chapter that qualify them to participate in the
5 housing loan reserve program.

6 (2) Any lender participant may be disqualified from further
7 participation in the housing loan reserve program on a finding, by the
8 director, as specified by rule, that the participant has violated any
9 provision of this chapter, or any rule adopted under this chapter, or
10 that the participant is insolvent.

11 (3) A loan made by a lender participant shall be recorded under
12 this section if made to an individual or a nonprofit organization
13 purchasing housing in Washington.

14 (4) The director shall adopt by rule eligibility criteria for loans
15 made under this chapter. The criteria shall be consistent with the
16 intent of this chapter to assist low and moderate-income borrowers in
17 obtaining loans from standard or prime lenders and shall include
18 requirements that:

19 (a) Lenders make particular efforts to inform low and moderate-
20 income borrowers of the availability of mortgage loans from the
21 lenders; and

22 (b) Lenders offer technical assistance to low and moderate-income
23 homebuyers in the mortgage loan application process.

24 NEW SECTION. **Sec. 7.** The lender and borrower shall negotiate the
25 premium charge for each loan made pursuant to this chapter. The charge
26 shall not exceed six percent of the loan. The lender and borrower
27 shall contribute an equal amount to the premium charge. The state
28 match made under this chapter shall be equal in amount to the premium
29 charge. When a loan is participated in by two or more lender
30 participants, the premium charge shall be a single rate, applicable to
31 the entire loan. The lender's portion of the premium charge shall be
32 apportioned among the lenders in proportion to each lender's
33 participation in the loan.

34 NEW SECTION. **Sec. 8.** (1)(a) An application to record a loan made
35 under this chapter shall be made by an eligible lender on a form or
36 forms the director may require. The application shall set forth the
37 amount of the loan, its maturity, interest rate, and amortization. In

1 addition, the director may require other information relating to loan
2 terms.

3 (b) If, upon application by a lender participant, the director
4 finds that the lender has made an eligible loan, the director shall
5 cause the loan to be recorded.

6 (2)(a) The lender shall submit, together with the application under
7 subsection (1) of this section, the following premium charges
8 determined by the lender under section 7 of this act: (i) The percent
9 premium charge payable by the lender; and (ii) the percent premium
10 charge payable by the borrower.

11 (b) Premium charges collected under this section shall be deposited
12 in the housing loan reserve fund.

13 (c) Upon recording a loan, the director shall allocate, from
14 appropriated funds, the state match payable by the state in the housing
15 loan reserve fund.

16 (3) All loans made under this chapter shall be recorded in a
17 register to be maintained by the director. The registration shall set
18 forth the information contained in the application.

19 (4) At least annually, and more frequently at the direction of the
20 director, a summary of the information contained in the register
21 maintained pursuant to subsection (3) of this section shall be provided
22 to each lender participant.

23 NEW SECTION. **Sec. 9.** (1) Upon default by the borrower on any loan
24 made under this chapter, the lender, if a secured party, shall take
25 steps, and avail itself of rights and remedies as may be provided for
26 in the security agreement and by virtue of chapter 62A.9A RCW except
27 when, in the determination of the director, special circumstances exist
28 which do not warrant taking such action.

29 (2)(a) Upon default by the borrower on any loan made under this
30 chapter, the lender shall promptly notify the director, and the
31 director shall, if requested, either at that time, or after further
32 collection efforts, pay to the lender the amount of the loss, subject
33 to the limitation contained in (c) of this subsection, sustained by the
34 lender.

35 (b) In addition to the amount of loss, the lender may claim five
36 hundred dollars for collection expenses incurred in the attempted
37 collection of the loan. The collection expense shall be a charge
38 against that portion of the housing loan reserve fund attributable to

1 the lender who made the loan, and shall be subject to the limitation
2 contained in (c) of this subsection.

3 (c) Payments made to a lender pursuant to this section shall not
4 exceed the amount retained in the housing loan reserve fund
5 attributable to the lender who made the loan.

6 (3) Amounts recovered by a lender's collection efforts subsequent
7 to presenting a claim for loss pursuant to this section shall first be
8 paid into the housing loan reserve fund to the credit of the lender to
9 reimburse the fund for amounts paid to the lender pursuant to
10 subsection (2)(a) of this section.

11 (4) Nothing in this section may be construed to excuse the lender
12 from exercising reasonable care and diligence in the making and
13 collection of loans under this chapter.

14 If the director, after reasonable notice and opportunity for
15 hearing to an eligible lender, finds that it has substantially failed
16 to exercise the care and diligence required under this section, the
17 director shall disqualify that lender for further loans under this
18 chapter until the director is satisfied that its failure has ceased and
19 finds that there is reasonable assurance that the lender will in the
20 future exercise necessary care and diligence.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 42.17 RCW
22 to read as follows:

23 Notwithstanding the provisions of RCW 42.17.260 through 42.17.340,
24 no application to record a loan or the register of loans under chapter
25 43.-- RCW (sections 1 through 9 of this act) may be made available to
26 the public.

27 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act shall
28 constitute a new chapter in Title 43 RCW.

29 NEW SECTION. **Sec. 12.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

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