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## Housing Committee

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### HB 3180

**Brief Description:** Addressing housing reform policies to achieve greater efficiencies in housing investments.

**Sponsors:** Representatives Ormsby, Green, Morrell, Lias, Dunn and Wood.

#### Brief Summary of Bill

- Requires the Department of Community, Trade and Economic Development (DCTED) to identify and propose strategies to reduce professional costs associated with affordable housing development financed through the Housing Trust Fund.
- Requires the DCTED and the Office of the Insurance Commissioner to recommend strategies to assist affordable housing developers with projects funded by the Housing Trust Fund economically fulfill liability insurance requirements.
- Creates the Floating Loan Program within the DCTED to assist organizations with affordable housing projects continue with their development process while awaiting a full Housing Trust Fund award or securing alternate project funding.
- Adds objectives to the Washington State Housing Finance Commission (HFC) plan and requires the plan be updated every two years.
- Requires that the HFC award multi-family tax exempt bonds first to nonprofit organizations and outlines additional specific award priority criteria.
- Exempts projects funded by the Housing Trust Fund from commercial relocation rules of the Department of Transportation.
- Creates a \$25,000 Nonprofit Equity Account within CTED to facilitate the use of tax exempt bonds through the HFC.

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

- Creates the Housing Communities Program within DCTED to assist nonprofit organizations develop or expand affordable housing programs.
- Increases the income threshold necessary for residents of nonprofit owned housing to 60 percent of the median family income in order for the nonprofit to qualify for a tax exemption.

**Hearing Date:** 1/30/08

**Staff:** Robyn Dupuis (786-7166).

**Background:**

**Housing Trust Fund**

The Department of Community, Trade and Economic Development (DCTED) provides financial assistance to affordable housing projects for low-income persons through its Housing Trust Fund loan and grant program. Eligible activities for Housing Trust Fund assistance include new construction and rehabilitation, rent subsidies, housing related social services, shelters, acquisition of low-income housing units, and down payment assistance.

**Housing Development Liability Insurance**

***Condominium Developments:*** The Washington Condominium Act (WCA) controls the creation, construction, sale, financing, management, and termination of condominiums. The WCA contains special rules regarding express and implied warranty protection for condominium purchasers. These provisions are unique to condominium construction and do not apply generally to other kinds of construction. Express warranties are assertions that are made by the declarant with respect to a condominium and that are relied upon by a buyer. Implied warranties are statutorily created in the WCA and include warranties of quality that the units and common areas are free from defective materials, built in accordance with sound engineering and construction standards, and built in a workmanlike manner, amongst others. These warranty provisions may be seen as providing extra protection against defective construction for condominium purchasers as compared to purchasers of other buildings. Although a condominium purchaser may have more grounds upon which to sue, however, he or she has a shorter time in which to bring a lawsuit than does the purchaser of a non-condominium building.

Lawsuits under the WCA that are based on an alleged breach of one of the statutory warranties must be brought within four years. This four year period begins with respect to a condo unit when the first owner of the unit takes possession. With respect to common elements of the condo, the four years begins at the later of when the first unit is sold or when the common element is completed or added to the condominium. The four years begins to run at those times regardless of whether an owner knows or reasonably should have known of the defect.

***Non-Condominium Construction:*** In a non-condominium construction defect case, there are no statutory grounds for a lawsuit. Injured claimants rely instead on common law principles of tort and contract. In suits against builders for construction defects in non-condo cases a six year "statute of repose" applies to all claims. This period of repose operates in conjunction with various statutes of limitations, and also with the so-called discovery rule in some cases. The six years begin after substantial completion of construction. Depending on the nature of the case and

the applicable statute of limitations, a claimant may have more than six years to bring a claim for a defect in a non-condominium construction defect case.

***Liability Insurance Costs Related to Housing Development:*** For a variety of reasons, lenders appear to require additional construction liability insurance for condominium projects, including coverage for construction defects discovered after construction is complete, than for non-condominium projects. Condominium liability insurance has been more expensive than general construction liability insurance.

### **Housing Finance Commission**

The Washington State Housing Finance Commission (HFC) was created by the Legislature in 1983, however it is not a state agency. The HFC does not receive state funds, it does not lend state funds, and the state is not liable for any of the HFC's debt. The HFC acts as a financial conduit of federal funds and has the authority to issue bonds for the development of affordable housing and nonprofit facilities.

The HFC acts as a conduit of federal financing for housing and nonprofit facilities. It issues both tax-exempt and taxable bonds to provide below market-rate financing to nonprofit and for-profit developers who set aside a certain percentage of their units for low income individuals and families. To date, the HFC has financed more than 126,000 affordable housing units and elderly beds, and provided over 38,000 loans for home ownership. It has also financed 127 nonprofit facilities throughout the state.

### **Relocation Assistance - Real Property Acquisition Policy**

The DCTED received an Attorney General opinion in 1991 which asserts that any agency, which includes government agencies, persons, and nonprofit organizations, who displaces people (which include businesses) with projects funded with state revenues (such as the Housing Trust Fund) is subject to the relocation assistance requirements in chapter 8.26 RCW. Local public agencies may elect not to comply with the relocation assistance requirements if the displacing project is not receiving federal financial assistance.

Required relocation assistance includes:

- (a) paying for a person's moving and related expenses (RCW 8.36.035);
- (b) payment for a property owner's replacement housing up to \$22,500 (RCW 8.36.036);
- (c) payment for replacement housing for tenants and others up to \$5,250 (RCW 8.36.055); and
- (d) relocation assistance advisory services (RCW 8.36.065).

All projects funded by the Housing Trust Fund (except those of local public agencies which are not also receiving federal monies) have been directed to comply with the relocation assistance requirements of chapter 8.26 RCW.

### **Property Tax Exemption for Non-Profits**

Nonprofit organizations may receive a property tax exemption for rental housing developments or mobile home spaces when at least 75% of units are occupied by households with incomes at or below 50% of the adjusted median county income.

### **Summary of Bill:**

#### **Strategies to Reduce Costs and Fees for Housing Trust Fund (HTF) Projects**

The DCTED must work with housing advocates to:

- identify affordable housing development costs and fees; and
- propose strategies to reduce these costs and fees for HTF projects.

The DCTED will report its findings and recommendations to the Legislature by December 1, 2008.

### **Recommendations to Reduce Liability Insurance Costs for Housing Trust Fund Projects**

The DCTED and the Office of the Insurance Commissioner (OIC) must identify liability insurance requirements for affordable housing developers and identify economical strategies by which developers with projects funded by the HTF may more economically obtain the required coverage. Recommendations for strategies to help such developers fulfill liability insurance requirements may include the creation of a self-insurance program and the assignment of liability for HTF assisted projects to the State of Washington.

- The DCTED and the OIC will report on recommendations to the Legislature by December 1, 2008.

### **Housing Trust Fund Floating Loan Program and Account**

The HTF Floating Loan Program provides zero or low interest loans to organizations which apply to the HTF (and are ready to proceed with development) but for which there is not adequate monies within the HTF to fund their project during the current funding round. The loan program is funded by existing funds within the Housing Trust Fund and by repayments of Floating Loans (there is a new account created for this purpose). Funding may be for up to 3 years. Loan recipients must repay the loan and may do so with a subsequent HTF award. The DCTED will develop criteria to use in awarding loans and will determine a limit to funds that can be awarded any given year. CTED will report on this program to the Legislature by December 1, 2009.

### **Washington State Housing Finance Commission (HFC) Reform Objectives and Reporting Amendments**

One major objective of the HFC is to increase the supply of affordable and decent housing throughout the state. Within its plan, amongst other objectives, the HFC must consider and set objectives for the use of funds to promote increased housing density. The Commission will update its plan every 2 years and report annually to the Legislature on plan implementation.

### **Housing Finance Commission - Preference to Non-Profit Organizations**

The HFC must make multi-family tax exempt bond awards first to qualified nonprofit organizations. Furthermore, preference must be given to projects that utilize government rental subsidies, leverage other sources of financing, and are located in officially recognized target areas.

### **Exemption of Affordable Housing Developments from Transportation Relocation Requirements**

Projects funded by the HTF are exempt from Department of Transportation rules regarding commercial relocation. Reasonable relocation standards and requirements for HTF projects must be developed.

### **\$25,000 Non-Profit Equity Fund for Tax-Exempt Bond Projects**

A non-appropriated Nonprofit Equity Account is created and funded by \$25,000 from the HTF for fiscal year 2008. The fund must be used to facilitate the use of tax exempt bonds through the HFC by nonprofit organizations.

**Housing Communities Program**

The Housing Communities Program is created within the DCTED to provide technical assistance and capacity building programs to help nonprofit organizations serving communities of color or multilingual communities develop or expand housing programs. The DCTED will contract with experienced housing nonprofits to operate the program in Eastern and Western Washington.

**Increasing Income Threshold for Non-Profit Property Tax Exemption Program**

Nonprofit organizations may receive a property tax exemption for rental housing developments or mobile home spaces when at least 75 percent of units are occupied by households with incomes at or below 60 percent of the adjusted median county income.

**Appropriation:** \$25,000.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.