

SENATE BILL REPORT

SB 6817

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 3, 2010

Title: An act relating to a new surcharge on certain recorded documents for affordable housing purposes.

Brief Description: Concerning funds for certain affordable housing purposes.

Sponsors: Senators McDermott, Kline, Kohl-Welles and Fairley.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/02/10, 2/03/10 [w/oRec-WM, DNP, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That it be referred without recommendation and be referred to Committee on Ways & Means.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

Minority Report: Do not pass.

Signed by Senators Benton, Ranking Minority Member; Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette.

Staff: Alison Mendiola (786-7483)

Background: Housing Trust Fund. The Department of Commerce (Commerce) administers the Housing Assistance Program and the Affordable Housing Program. Both of these programs, commonly referred to as the Housing Trust Fund (HTF), provide loan and grant moneys to eligible organizations to provide housing for low-income and special needs populations. The HTF is available to fund acquisition, new construction, and rehabilitation of low-income housing units. The HTF is funded with moneys mostly from HTF loan repayments, real estate excise taxes, unclaimed interest earned on escrow accounts, and bond appropriations provided in the state's capital budget.

Bond Issuance, Debt Limitations. Washington issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge

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.

the full faith and credit and taxing power of the state towards payment of debt service. Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer withdraws the amounts necessary to make the payments from a fund identified for debt service and/or the State General Fund, and deposits the moneys into bond retirement funds.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for the issuance of all state bonds.

The amount of state general obligation debt that may be incurred is limited by constitutional and statutory restrictions. Debt service is limited to 9 percent of the average amount of general state revenues collected over the previous three years.

County Auditors - Document Recording Surcharges. County auditors, in addition to other duties, are charged with recording deeds and other written instruments that are required to be filed and recorded in and for the county for which they are elected. In addition to the general recording fee of \$5 that is established by statute, county auditors are obligated to impose numerous surcharges, each for a specific purpose or program, upon each recorded instrument. Examples of the surcharges include the following:

- \$5 for historical preservation or programs;
- \$10 for providing shelter and housing through an affordable housing for all account;
- \$30 for local homeless housing and assistance; and
- \$2 for the Washington State Heritage Center.

Washington Housing Policy Act, Five-Year Housing Advisory Plan. Established in 1993, the Washington Housing Policy Act (Housing Act) establishes a state goal of coordinating, encouraging, and directing public and private sector efforts in the attainment of a decent home in a healthy and safe environment for every resident of the state.

In furtherance of this goal, the Legislature directed Commerce, in consultation with an affordable housing advisory board created in the Housing Act, to prepare and periodically amend a five-year housing advisory plan. The stated purposes of the plan are to:

- document the need for affordable housing and the extent to which that need is being met through public and private sector programs;
- facilitate planning to meet the affordable housing needs of the state; and
- enable the development of sound strategies and programs for affordable housing.

The information in the five-year housing advisory plan must include delineated elements, including:

- an assessment of the state's housing market trends;
- an assessment of the housing needs for all economic segments of the state and special needs populations;
- an inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs; and
- specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

The initial five-year housing advisory plan was due to the Legislature on or before February 1, 1994, and subsequent plans were to be submitted every five years thereafter.

Commerce is required to submit an annual progress report to the Legislature that details the extent to which the state's affordable housing needs were met during the preceding year. This report must also include recommendations for meeting those needs.

Summary of Bill: Housing Trust Fund Bonds. The State Finance Committee (SFC) is authorized to issue \$100.34 million, or as much thereof as may be required, in general obligation bonds (bonds) for the purpose of providing funds for the Housing Trust Fund (HTF) at Commerce. The funds are to be used to finance authorized projects and associated incidental costs. The bonds may be sold at a price determined by the SFC, but the bonds may not be sold without prior legislative appropriation of the net proceeds from the sale. Proceeds from the sale of the bonds must be deposited in the Washington State Housing Bond Account (Bond Account) created in the state treasury. The proceeds are to be administered by the Office of Financial Management, subject to legislative appropriation.

Additional provisions governing the sale of the bonds and the use of the proceeds are specified. For example, the SFC is authorized to issue the bonds as taxable bonds if doing so is deemed necessary to comply with requirements of the federal Internal Revenue Service. If revenues in excess of what are certified as needed by the SFC to meet annual bond retirement and interest obligations are realized, the excess revenue must be used for the early retirement of the bonds. Additionally, the Legislature is authorized to provide additional means for raising moneys for the payment of principal and interest obligations for the bonds.

County Auditors - Document Recording Surcharge. Revenues to retire the principal and interest obligations of the bonds are generated through a \$62 surcharge on each assignment or substitution of a previously recorded deed of trust that is recorded with a county auditor. These funds must be transmitted monthly to the State Treasurer who must deposit them in HTF. Commerce is obligated to use these funds solely for the payment of principal and interest obligations for the bonds.

Appropriation. The sum of \$100 million, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2011, from the Bond Account to Commerce for implementing the provisions of the legislation. Of this total sum, up to \$10 million is for the workforce housing program established in SB 6589 (2010), and up to \$750,000 is for Commerce to develop a long-term state affordable housing strategy, based on a 10-year plan to end homelessness and the State Affordable Housing for All Plan (State Plan).

The State Plan.

Numerous changes pertaining to the state's five-year housing advisory plan, including the renaming of the plan, are specified. Commerce, in consultation with the Affordable Housing Advisory Board, must prepare and periodically amend the State Plan. The State Plan must incorporate strategies, objectives, goals, and performance measures, including those required for an existing state homeless housing strategic plan (strategic plan). The State Plan may be combined with the strategic plan if the requirements of both plans are met.

The State Plan has specific purposes delineated, including:

- documenting the need for affordable housing in the state, and the extent to which that need is being met through public and private sector programs;
- establishing, evaluating, and reporting upon interim goals and timelines that are determined by Commerce and by which the state and counties may be measured;
- evaluating and reporting upon all counties' use of the affordable housing for all program surcharge funds and all other sources directed to the counties' affordable housing for all programs; and
- reporting upon how HTF awards within the previous five-year period are consistent with the State Plan and have contributed to its goal.

The information in the State Plan must include numerous elements, including:

- an assessment of the housing needs for economic segments of the state by low-income, very low-income, and extremely low-income households and special needs populations, including a report on the number and percentage of additional affordable rental housing units that are needed statewide and in each county to house persons in the specified economic segments;
- a summary of the activities of all state housing programs, as well as all housing programs operated by or coordinated by city and county governments, including local housing-related levy initiatives, housing-related tax exemption programs, and federally funded programs operated or coordinated by the state or local governments;
- an analysis, statewide and within each county and major city, of the primary contributors to the cost of housing and an outline of potential strategies to keep the increasing cost of housing below the relative rise in wages; and
- a report of any differences in the rates of inflation between median house prices, median rent for a two-bedroom apartment, and median family income for low-income, very low-income, and extremely low-income households.

The State Plan must be submitted to the appropriate committees of the Legislature on or before December 31, 2010. Updated State Plans must be submitted to the Legislature every five years, beginning December 31, 2015.

Regarding State Plan administration, Commerce is authorized to revise the performance measures and goals of the State Plan and to set goals for years following December 31, 2020, based on changes in the general population and in the housing market.

Appropriation: The sum of \$100 million from the Washington Housing Bond Account to Commerce.

Fiscal Note: Requested on January 30, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This provides funding for the Housing Trust Fund (HTF) which creates affordable housing statewide. The HTF is out of funds so the surcharge under this bill closes a loophole. Some transactions are exempted from the

affordable housing recording surcharge such as assignments, so this surcharge would only apply to those recordings. There is a long wait for affordable housing programs. For example, in Snohomish county there is a year-long waitlist for senior housing and homeless families are using emergency shelters and long term housing which is not what they are designed for. Agriculture is the largest employer in the state but the workers need a place to sleep at night. Non-profit housing developers are ready but lack the necessary capital investment needed to leverage other funding. The funding provided by this bill would jump start construction, lead to jobs, revitalize neighborhoods and create safe, affordable housing. Every HTF dollar leverages another \$4.

CON: The recording fee only applies to assignments, which would make recording them more than other types of deeds of trust. These are great programs but they shouldn't be funded by recording fees. Lenders already support affordable housing through the Community Reinvestment Act.

Persons Testifying: PRO: Senator McDermott, prime sponsor; June Robinson, Housing Consortium of Everett and Snohomish County; Nick Federici, Washington Low Income Housing Institute Alliance; Brian Thane, Washington Farmworker Housing Trust; Lynn Davison, Solid Ground; Paul Purcell, Beacon Development Group.

CON: James McMahan, County Auditors; Denny Eliason, Washington Bankers Association; Greg Pierce, Washington Financial League.