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SENATE BILL 6371

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State of Washington

65th Legislature

2018 Regular Session

By Senator Mullet; by request of Housing Finance Commission

1 AN ACT Relating to facilities financing by the housing finance  
2 commission; and amending RCW 43.180.160 and 43.180.300.

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

4 **Sec. 1.** RCW 43.180.160 and 2010 1st sp.s. c 6 s 2 are each  
5 amended to read as follows:

6 (1) The total amount of outstanding indebtedness of the  
7 commission may not exceed (~~six~~) eight billion dollars at any time.  
8 The calculation of outstanding indebtedness shall include the initial  
9 principal amount of an issue and shall not include interest that is  
10 either currently payable or that accrues as a part of the face amount  
11 of an issue payable at maturity or earlier redemption. Outstanding  
12 indebtedness shall not include notes or bonds as to which the  
13 obligation of the commission has been satisfied and discharged by  
14 refunding or for which payment has been provided by reserves or  
15 otherwise.

16 (2)(a) The Washington works housing program is created to  
17 increase opportunities for nonprofit organizations and public  
18 agencies to purchase, acquire, build, and own real property to be  
19 used for affordable housing for low and moderate-income households.  
20 The Washington works housing program is intended to provide access to  
21 new funding mechanisms and build long-term community equity by

1 increasing the stock of permanently affordable housing owned by  
2 nonprofit organizations and public agencies.

3 (b) The Washington works housing program is intended to provide  
4 these opportunities for public agencies and nonprofit organizations,  
5 including those materially participating as a managing member or  
6 general partner of a partnership, limited liability company, or  
7 equivalent organization, through the issuance of tax exempt or  
8 taxable revenue bonds issued by the commission in conjunction with a  
9 subsidy necessary to make bond issues to finance affordable housing  
10 properties financially feasible. The program is intended to provide  
11 financing for affordable housing that will meet the following income  
12 and rent restrictions during the period of initial bond indebtedness  
13 and thereafter:

14 (c) During the period of initial bond indebtedness under the  
15 program, the owner of the property must meet one of the following  
16 requirements: A minimum of twenty percent of the units will be  
17 occupied by households earning less than fifty percent of area median  
18 income and an additional thirty-one percent of the units will be  
19 occupied by persons earning less than eighty percent of area median  
20 income; or forty percent of the units will be occupied by households  
21 earning less than sixty percent of area median income and an  
22 additional eleven percent of the units will be occupied by households  
23 earning less than eighty percent of area median income.

24 (d) After the initial bond indebtedness is retired, the rents  
25 charged for units in the project will be adjusted to be sufficient to  
26 pay reasonable operation and maintenance expenses, including  
27 necessary capital needs, and to make reasonable deposits into a  
28 reserve account with the intent of providing affordable housing to  
29 very low or low-income households for the remaining useful life of  
30 the property. The reasonableness of the rent levels must be  
31 periodically approved by the commission based on information provided  
32 by the owner of the property about income, expenses, and necessary  
33 reserve levels. The determination of the commission regarding the  
34 reasonableness of the rent levels will be final.

35 (e) The commission will enter into a recorded regulatory  
36 agreement with the borrower at the time of the issuance of bonds  
37 under the program for the purpose of ensuring that the property will  
38 meet the income and rent restrictions established in this section.  
39 The commission may charge such compliance fees as necessary to ensure

1 enforcement of the income and rent restrictions during the useful  
2 life of the property.

3 (3) One billion dollars of the outstanding indebtedness of the  
4 commission is for the primary purpose of implementing the Washington  
5 works housing program.

6 (4) If no subsidies are available to make the program in  
7 subsection (2) of this section feasible, then the commission may pass  
8 a resolution stating these facts and authorize the use of a portion  
9 of the one billion dollars of indebtedness intended for the program  
10 to support its other bond programs until such time as the one billion  
11 dollars is exhausted or subsidies are available to make the program  
12 feasible.

13 **Sec. 2.** RCW 43.180.300 and 1997 c 44 s 1 are each amended to  
14 read as follows:

15 As used in RCW 43.180.310 through 43.180.360, the following terms  
16 have the meanings indicated unless the context clearly requires  
17 otherwise.

18 (1) "Construction" or "construct" means construction and  
19 acquisition, whether by device, purchase, gift, lease, or otherwise.

20 (2) "Facilities" means land, rights in land, buildings,  
21 structures, equipment, landscaping, utilities, approaches, roadways  
22 and parking, handling and storage areas, and similar ancillary  
23 facilities.

24 (3) "Financing document" means a lease, sublease, installment  
25 sale agreement, conditional sale agreement, loan agreement, mortgage,  
26 deed of trust guaranty agreement, or other agreement for the purpose  
27 of providing funds to pay or secure debt service on revenue bonds.

28 (4) "Improvement" means reconstruction, remodeling,  
29 rehabilitation, extension, and enlargement. "To improve" means to  
30 reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

31 (5) "Nonprofit corporation" means a nonprofit organization  
32 described under section 501(c)(3) of the Internal Revenue Code, or  
33 similar successor provisions, any public development authority, or  
34 any organization identified in RCW 43.185A.040.

35 (6) "Nonprofit facilities" means facilities owned or used by a  
36 nonprofit corporation for any nonprofit activity described under  
37 section 501(c)(3) of the Internal Revenue Code that qualifies such a  
38 corporation for an exemption from federal income taxes under section  
39 501(a) of the Internal Revenue Code, or similar successor provisions

1 provided that facilities which may be funded pursuant to chapter  
2 28B.07, 35.82, (~~43.180,~~) or 70.37 RCW shall not be included in this  
3 definition.

4 (7) "Project costs" means costs of (a) acquisition, construction,  
5 and improvement of any facilities included in a nonprofit facility;  
6 (b) architectural, engineering, consulting, accounting, and legal  
7 costs related directly to the development, financing, and  
8 construction of a nonprofit facility, including costs of studies  
9 assessing the feasibility of a nonprofit facility; (c) finance costs,  
10 including discounts, if any, the costs of issuing revenue bonds, and  
11 costs incurred in carrying out any trust agreement; (d) interest  
12 during construction and during the six months after estimated  
13 completion of construction, and capitalized debt service or repair  
14 and replacement or other appropriate reserves; (e) the refunding of  
15 any outstanding obligations incurred for any of the costs outlined in  
16 this subsection; and (f) other costs incidental to any of the costs  
17 listed in this section.

18 (8) "Revenue bond" means a taxable or tax-exempt nonrecourse  
19 revenue bond, nonrecourse revenue note, or other nonrecourse revenue  
20 obligation issued for the purpose of providing financing to a  
21 nonprofit corporation on an interim or permanent basis.

22 (9) "User" means one or more persons acting as lessee, purchaser,  
23 mortgagor, or borrower under a financing document and may include a  
24 party who transfers the right of use and occupancy to another party  
25 by lease, sublease, or otherwise.

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