
SENATE BILL 6595

State of Washington

65th Legislature

2018 Regular Session

By Senators Warnick, Schoesler, Honeyford, Baumgartner, Takko, Fortunato, Short, and Brown

Read first time 02/02/18. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to ensuring efficiency and accountability in
2 affordable housing policy; amending RCW 43.180.050, 43.185.050,
3 43.185A.050, 43.185A.070, and 36.70A.540; and creating a new section.

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

5 **Sec. 1.** RCW 43.180.050 and 2013 c 13 s 1 are each amended to
6 read as follows:

7 (1) In addition to other powers and duties prescribed in this
8 chapter, and in furtherance of the purposes of this chapter to
9 provide decent, safe, sanitary, and affordable housing for eligible
10 persons, the commission is empowered to:

11 (a) Issue bonds in accordance with this chapter;

12 (b) Invest in, purchase, or make commitments to purchase or take
13 assignments from mortgage lenders of mortgages or mortgage loans;

14 (c) Make loans to or deposits with mortgage lenders for the
15 purpose of making mortgage loans;

16 (d) Make loans for down payment assistance to home buyers in
17 conjunction with other commission programs; and

18 (e) Participate fully in federal and other governmental programs
19 and to take such actions as are necessary and consistent with this
20 chapter to secure to itself and the people of the state the benefits
21 of those programs and to meet their requirements, including such

1 actions as the commission considers appropriate in order to have the
2 interest payments on its bonds and other obligations treated as tax
3 exempt under the code.

4 (2) The commission shall establish eligibility standards for
5 eligible persons, considering at least the following factors:

6 (a) Income;

7 (b) Family size;

8 (c) Cost, condition, and energy efficiency of available
9 residential housing;

10 (d) Availability of decent, safe, and sanitary housing;

11 (e) Age or infirmity; and

12 (f) Applicable federal, state, and local requirements.

13 (3)(a) The state auditor shall audit the books, records, and
14 affairs of the commission annually to determine, among other things,
15 if the use of bond proceeds complies with the general plan of housing
16 finance objectives including compliance with the objective for the
17 use of financing assistance for implementation of cost-effective
18 energy efficiency measures in dwellings.

19 (b) The audit must also examine the performance of the commission
20 in meeting its housing finance objectives for the state in the most
21 cost-effective and efficient manner. The commission must provide to
22 the state an annual report, including the following information:

23 (i) The total unit production and development cost of each
24 project funded or partially funded by the commission in the current
25 biennium;

26 (ii) A brief summary of all funding sources used in each project
27 approved by the commission;

28 (iii) The geographic distribution of funding approved by the
29 commission; and

30 (iv) Annual operating per unit cost of each project the
31 commission funded or partially funded in the previous biennium. The
32 state auditor must analyze the report as well as any additional
33 information relevant for consideration. The analysis should include a
34 comparison of costs associated with the development of projects
35 funded or partially funded by the commission with the costs of
36 developing similar market rate housing, as well as the cost of
37 affordable housing development associated with environmental
38 regulatory compliance.

1 **Sec. 2.** RCW 43.185.050 and 2017 3rd sp.s. c 12 s 13 are each
2 amended to read as follows:

3 (1) The department must use moneys from the housing trust fund
4 and other legislative appropriations to finance in whole or in part
5 any loans or grant projects that will provide housing for persons and
6 families with special housing needs and with incomes at or below
7 fifty percent of the median family income for the county or standard
8 metropolitan statistical area where the project is located.

9 (a) At least (~~thirty~~) fifty percent of these moneys used in any
10 given funding cycle shall be for the benefit of projects located in
11 rural areas of the state (~~as defined by the department~~).

12 (b) If the department determines that it has not received an
13 adequate number of suitable applications for rural projects during
14 any given funding cycle, the department (~~may~~) must allocate unused
15 moneys for predevelopment, feasibility studies, and capacity building
16 projects in (~~nonrural~~) rural areas of the state, including
17 technical assistance, design and finance services, consultation, and
18 administrative costs. If any unused money is not allocated within
19 eighteen months of becoming available, then the unused money may be
20 used for the benefit of projects in nonrural areas, including uses
21 authorized in (c) of this subsection.

22 (c) If the department determines that it has not received an
23 adequate number of suitable applications for nonrural projects,
24 during any given funding cycle, the department must allocate unused
25 moneys for predevelopment, feasibility studies, and capacity building
26 projects in nonrural areas of the state, including technical
27 assistance, design and finance services, consultation, and
28 administrative costs. If any unused money is not allocated within
29 eighteen months of becoming available, then the unused money may be
30 used for the benefit of projects in rural areas, including uses
31 authorized in (b) of this subsection.

32 (2) Activities eligible for assistance from the housing trust
33 fund and other legislative appropriations include, but are not
34 limited to:

35 (a) New construction, rehabilitation, or acquisition of low and
36 very low-income housing units;

37 (b) Rent subsidies;

38 (c) Matching funds for social services directly related to
39 providing housing for special-need tenants in assisted projects;

1 (d) Technical assistance, design and finance services and
2 consultation, and administrative costs for eligible nonprofit
3 community or neighborhood-based organizations;

4 (e) Administrative costs for housing assistance groups or
5 organizations when such grant or loan will substantially increase the
6 recipient's access to housing funds other than those available under
7 this chapter;

8 (f) Shelters and related services for the homeless, including
9 emergency shelters and overnight youth shelters;

10 (g) Mortgage subsidies, including temporary rental and mortgage
11 payment subsidies to prevent homelessness;

12 (h) Mortgage insurance guarantee or payments for eligible
13 projects;

14 (i) Down payment or closing cost assistance for eligible first-
15 time home buyers;

16 (j) Acquisition of housing units for the purpose of preservation
17 as low-income or very low-income housing; and

18 (k) Projects making housing more accessible to families with
19 members who have disabilities.

20 (3) Preference shall be given for projects that include an early
21 learning facility.

22 (4) Legislative appropriations from capital bond proceeds may be
23 used only for the costs of projects authorized under subsection
24 (2)(a), (i), and (j) of this section, and not for the administrative
25 costs of the department.

26 (5) Moneys from repayment of loans from appropriations from
27 capital bond proceeds may be used for all activities necessary for
28 the proper functioning of the housing assistance program except for
29 activities authorized under subsections (1)(b) and (c) and (2)(b) and
30 (c) of this section.

31 (6) Administrative costs associated with application,
32 distribution, and project development activities of the department
33 may not exceed three percent of the annual funds available for the
34 housing assistance program. Reappropriations must not be included in
35 the calculation of the annual funds available for determining the
36 administrative costs.

37 (7) Administrative costs associated with compliance and
38 monitoring activities of the department may not exceed one-quarter of
39 one percent annually of the contracted amount of state investment in
40 the housing assistance program.

1 (8) Projects in nonrural areas are not eligible for funding under
2 this section if the project receives:

3 (a) Any payment of money or property in lieu of low-income
4 housing units, as provided in RCW 36.70A.540; or

5 (b) Any local funding through taxes, levies, fees, or charges for
6 the purpose of affordable housing development.

7 (9) For purposes of this section, "rural area" means a county
8 with a population density of fewer than one hundred persons per
9 square mile or a county smaller than two hundred twenty-five square
10 miles, as determined by the office of financial management, as well
11 as cities within any nonrural county that have a population of
12 nineteen thousand nine hundred ninety-nine or less.

13 **Sec. 3.** RCW 43.185A.050 and 2013 c 145 s 6 are each amended to
14 read as follows:

15 (1) During each calendar year in which funds are available for
16 use by the department for the affordable housing program, the
17 department must announce to all known interested parties, and through
18 major media throughout the state, a grant and loan application period
19 of at least ninety days' duration. This announcement must be made as
20 often as the director deems appropriate for proper utilization of
21 resources. The department must then promptly grant as many
22 applications as will utilize available funds less appropriate
23 administrative costs of the department as provided in RCW
24 43.185A.030.

25 (2) Until June 30, (~~2013~~) 2023, for applications submitted for
26 funding under RCW 43.185A.030(2)(a), the department must consider
27 total cost and per-unit cost of each project compared to similar
28 housing projects constructed or renovated within the same geographic
29 area.

30 (3) The department must develop, with advice and input from the
31 affordable housing advisory board established in RCW 43.185B.020, or
32 a subcommittee of the affordable housing advisory board:

33 (a) Additional criteria to evaluate applications for assistance
34 under this chapter; and

35 (b) Recommendations for awarding funds under RCW
36 43.185A.030(2)(a) in a cost-effective manner, including an
37 implementation plan, timeline, and any other items the department
38 identifies as important to consider. The department must submit a

1 report with the recommendations to the legislature by December 1,
2 ((2012)) 2019.

3 **Sec. 4.** RCW 43.185A.070 and 1991 c 356 s 16 are each amended to
4 read as follows:

5 (1) The director shall monitor the activities of recipients of
6 grants and loans under this chapter to determine compliance with the
7 terms and conditions set forth in its application or stated by the
8 department in connection with the grant or loan.

9 (2) By December 1st of each even-numbered year, the director
10 shall report to the capital budget committee of the house of
11 representatives and the ways and means committee of the senate, on
12 compliance monitoring, including the record of compliance and any
13 violations, of each grant or loan recipient.

14 **Sec. 5.** RCW 36.70A.540 and 2009 c 80 s 1 are each amended to
15 read as follows:

16 (1)(a) Any city or county planning under RCW 36.70A.040 may enact
17 or expand affordable housing incentive programs providing for the
18 development of low-income housing units through development
19 regulations or conditions on rezoning or permit decisions, or both,
20 on one or more of the following types of development: Residential;
21 commercial; industrial; or mixed-use. An affordable housing incentive
22 program may include, but is not limited to, one or more of the
23 following:

- 24 (i) Density bonuses within the urban growth area;
25 (ii) Height and bulk bonuses;
26 (iii) Fee waivers or exemptions;
27 (iv) Parking reductions; or
28 (v) Expedited permitting.

29 (b) The city or county may enact or expand such programs whether
30 or not the programs may impose a tax, fee, or charge on the
31 development or construction of property.

32 (c) If a developer chooses not to participate in an optional
33 affordable housing incentive program adopted and authorized under
34 this section, a city, county, or town may not condition, deny, or
35 delay the issuance of a permit or development approval that is
36 consistent with zoning and development standards on the subject
37 property absent incentive provisions of this program.

1 (2) Affordable housing incentive programs enacted or expanded
2 under this section shall comply with the following:

3 (a) The incentives or bonuses shall provide for the development
4 of low-income housing units;

5 (b) Jurisdictions shall establish standards for low-income renter
6 or owner occupancy housing, including income guidelines consistent
7 with local housing needs, to assist low-income households that cannot
8 afford market-rate housing. Low-income households are defined for
9 renter and owner occupancy program purposes as follows:

10 (i) Rental housing units to be developed shall be affordable to
11 and occupied by households with an income of fifty percent or less of
12 the county median family income, adjusted for family size;

13 (ii) Owner occupancy housing units shall be affordable to and
14 occupied by households with an income of eighty percent or less of
15 the county median family income, adjusted for family size. The
16 legislative authority of a jurisdiction, after holding a public
17 hearing, may establish lower income levels; and

18 (iii) The legislative authority of a jurisdiction, after holding
19 a public hearing, may also establish higher income levels for rental
20 housing or for owner occupancy housing upon finding that higher
21 income levels are needed to address local housing market conditions.
22 The higher income level for rental housing may not exceed eighty
23 percent of the county area median family income. The higher income
24 level for owner occupancy housing may not exceed one hundred percent
25 of the county area median family income. These established higher
26 income levels are considered "low-income" for the purposes of this
27 section;

28 (c) The jurisdiction shall establish a maximum rent level or
29 sales price for each low-income housing unit developed under the
30 terms of a program and may adjust these levels or prices based on the
31 average size of the household expected to occupy the unit. For
32 renter-occupied housing units, the total housing costs, including
33 basic utilities as determined by the jurisdiction, may not exceed
34 thirty percent of the income limit for the low-income housing unit;

35 (d) Where a developer is utilizing a housing incentive program
36 authorized under this section to develop market rate housing, and is
37 developing low-income housing to satisfy the requirements of the
38 housing incentive program, the low-income housing units shall be
39 provided in a range of sizes comparable to those units that are
40 available to other residents. To the extent practicable, the number

1 of bedrooms in low-income units must be in the same proportion as the
2 number of bedrooms in units within the entire development. The
3 low-income units shall generally be distributed throughout the
4 development and have substantially the same functionality as the
5 other units in the development;

6 (e) Low-income housing units developed under an affordable
7 housing incentive program shall be committed to continuing
8 affordability for at least fifty years. A local government, however,
9 may accept payments in lieu of continuing affordability. The program
10 shall include measures to enforce continuing affordability and income
11 standards applicable to low-income units constructed under this
12 section that may include, but are not limited to, covenants, options,
13 or other agreements to be executed and recorded by owners and
14 developers;

15 (f) Programs authorized under subsection (1) of this section may
16 apply to part or all of a jurisdiction and different standards may be
17 applied to different areas within a jurisdiction or to different
18 types of development. Programs authorized under this section may be
19 modified to meet local needs and may include provisions not expressly
20 provided in this section or RCW 82.02.020;

21 (g) Low-income housing units developed under an affordable
22 housing incentive program are encouraged to be provided within
23 developments for which a bonus or incentive is provided. However,
24 programs may allow units to be provided in a building located in the
25 general area of the development for which a bonus or incentive is
26 provided; and

27 (h) Affordable housing incentive programs may allow a payment of
28 money or property in lieu of low-income housing units if the
29 jurisdiction determines that the payment achieves a result equal to
30 or better than providing the affordable housing on-site, as long as
31 the payment does not exceed the approximate cost of developing the
32 same number and quality of housing units that would otherwise be
33 developed. Any city or county shall use these funds or property to
34 support the development of low-income housing, including support
35 provided through loans or grants to public or private owners or
36 developers of housing.

37 (3) Affordable housing incentive programs enacted or expanded
38 under this section may be applied within the jurisdiction to address
39 the need for increased residential development, consistent with local
40 growth management and housing policies, as follows:

1 (a) The jurisdiction shall identify certain land use designations
2 within a geographic area where increased residential development will
3 assist in achieving local growth management and housing policies;

4 (b) The jurisdiction shall provide increased residential
5 development capacity through zoning changes, bonus densities, height
6 and bulk increases, parking reductions, or other regulatory changes
7 or other incentives;

8 (c) The jurisdiction shall determine that increased residential
9 development capacity or other incentives can be achieved within the
10 identified area, subject to consideration of other regulatory
11 controls on development; and

12 (d) The jurisdiction may establish a minimum amount of affordable
13 housing that must be provided by all residential developments being
14 built under the revised regulations, consistent with the requirements
15 of this section.

16 (4) Any jurisdiction that accepts any payment of money or
17 property in lieu of low-income housing units shall not be eligible
18 for moneys from the housing trust fund, as provided in RCW
19 43.185.050.

20 NEW SECTION. **Sec. 6.** This act may be known and cited as the
21 housing efficiency and fairness act.

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