

# HOUSE BILL REPORT

## ESHB 2849

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**As Passed House:**  
February 16, 2020

**Title:** An act relating to housing programs administered by the department of commerce.

**Brief Description:** Concerning housing programs administered by the department of commerce.

**Sponsors:** House Committee on Capital Budget (originally sponsored by Representatives Tharinger, DeBolt, Macri, Robinson, Chopp, Harris, Leavitt, Ramel and Lekanoff).

**Brief History:**

**Committee Activity:**

Capital Budget: 2/6/20, 2/10/20 [DPS].

**Floor Activity:**

Passed House: 2/16/20, 92-4.

**Brief Summary of Engrossed Substitute Bill**

- Combines the Housing Assistance Program and the Affordable Housing Program into the Housing Trust Fund Program.
- Requires loan deferrals for Housing Trust Fund projects with at least half of the units serving households with incomes under 50 percent.
- Requires the Department of Commerce to issue cash flow loans for all other Housing Trust Fund loans.
- Changes the funding sources for administrative costs associated with the Housing Trust Fund Program.

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### HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Tharinger, Chair; Callan, Vice Chair; Doglio, Vice Chair; Davis, Leavitt, Lekanoff, Morgan, Pellicciotti, Peterson, Riccelli, Santos, Sells and Stonier.

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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.*

**Minority Report:** Do not pass. Signed by 10 members: Representatives Smith, Assistant Ranking Minority Member; Corry, Dye, Eslick, Gildon, Harris, Irwin, Jenkin, Maycumber and Walsh.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives DeBolt, Ranking Minority Member; Steele, Assistant Ranking Minority Member.

**Staff:** Kelci Karl-Robinson (786-7116).

## **Background:**

### Housing Trust Fund.

Established in 1986, the Washington Housing Trust Fund (HTF) Program provides grants or loans to help communities develop and preserve affordable housing to meet the needs of low-income and special needs populations. Since 1986, the HTF has awarded over \$1 billion in funding and helped build or preserve over 50,000 units of affordable housing statewide.

The HTF is governed by two statutory programs: the Housing Assistance Program established in 1986 and the Affordable Housing Program established in 1991. The 1991-93 Capital Budget provided \$8 million for the Affordable Housing Program and \$34 million for the Housing Assistance Program. Since that time, the capital budget appropriations do not distinguish between the two programs. The Department of Commerce (Department) refers to both of these statutes in the administration of the HTF.

### Housing Trust Fund Appropriation.

The 2019-21 Capital Budget includes \$175 million for the HTF Program. The definition of "first-time home buyer" is an individual who has not owned a home during the prior three-year period. The budget includes an expanded definition for "first-time home buyer" to include an individual who meets any of the following:

- a single parent who has only owned a home with a former spouse while married;
- an individual who is a displaced homemaker and has only owned a home with a spouse;
- an individual who has only owned a principal residence not permanently affixed to a permanent foundation; and
- an individual who has only owned a property that is discerned to be uninhabitable by a licensed building inspector.

The Department must annually report on its website the following:

- the number of homeownership and multifamily projects funded by the HTF;
- the percentage of the HTF investments made to homeownership and multifamily projects; and
- the total number of households being served at up to 80 percent of the area median income, up to 50 percent of the area median income, and up to 30 percent of the area median income, for both homeownership and multifamily projects.

Ten million dollars has been appropriated for the HTF Housing Preservation Program (HPP) in each of the last two capital budgets. The HPP competitively awards grants or loans to fund major building improvements, preservation, and system replacements necessary for the existing HTF portfolio to maintain long-term viability. The HPP applications are evaluated based on the following criteria:

- the age of the property, with priority given to buildings older than 15 years old;
- the population served, with priority given to projects serving the lowest income populations;
- the degree of demonstrated reduction in operating or utility costs;
- the potential for additional years added to the affordability commitment period; and
- other criteria determined by the Department.

#### Administrative Costs.

The cap on administrative costs associated with application, distribution, and project development activities is set at 3 percent of annual funds available for the Housing Assistance Program and the Affordable Housing Program. Reappropriations are not included in the calculation of the annual funds available for determining the administrative costs. The cap on administrative costs for compliance and monitoring activities is set at 0.25 percent of the contracted amount of state investment in the Housing Assistance Program and the Affordable Housing Program.

The 2019-21 State Omnibus Operating Appropriations Act (Operating Budget) includes an appropriation of \$12.6 million from the HTF account to support administration and other costs. The HTF account includes revenues from appropriations by the Legislature, private contributions, repayment of loans, interest on real estate brokers' pooled interest bearing escrow accounts, and other sources.

In addition, the Department assesses a 2 percent fee on affordable housing contractors that is deposited into the Community and Economic Development Fee Account.

#### **Summary of Engrossed Substitute Bill:**

The Housing Assistance Program and the Affordable Housing Program are combined into the Housing Trust Fund (HTF) Program.

#### Housing Trust Fund Appropriation.

The definition of "first-time home buyer," the Housing Preservation Program, and the reporting requirements from the 2019-21 Capital Budget are added to the HTF statute.

#### Administrative Costs.

The Housing Portfolio Monitoring Account is created in the State Treasury. The Department of Commerce (Department) is directed to certify the administrative costs needed for compliance and monitoring activities. The State Treasurer is directed to transfer the certified amount from the HTF account on July 1 of each year. Compliance and monitoring activities are subject to amounts appropriated.

The Department may spend up to 3 percent of the HTF appropriation for administrative costs associated with application, distribution, and project development activities.

The Department of Commerce (Department) may spend up to an additional 1 percent from the Housing Trust Fund appropriation if the following conditions are met:

- A spending plan of total anticipated administrative costs is submitted to the Office of Financial Management (OFM) and the appropriate fiscal committees of the Legislature.
- The Director of the OFM (Director) finds that the spending plan exceeds the funding available and provides written authorization for the Department to spend up to an additional 1 percent.
- The Director notifies the appropriate fiscal committees 10 days prior to authorizing the additional expenditures.

The Department may not charge additional fees for HTF administrative costs.

#### Loan Terms.

The Department is required to defer loan payments for projects with at least half of the units or beds serving households:

- under 50 percent of the area median income;
- experiencing homelessness; or
- in need of permanent supportive housing.

For all other loans, the Department must define cash flow loan terms and conditions.

"Permanent supportive housing" is defined as subsidized, leased housing with no limit on length of stay, paired with on-site or off-site voluntary services designed to support a person living with a disability to be a successful tenant in a housing arrangement, improve the resident's health status, and connect residents of the housing with community-based health care, treatment, and employment services. For projects that receive a Low-Income Housing Tax Credit (LIHTC), the loan payment may not start until the LIHTC investor exits or the project refinances, but in no case before the end of the initial 15-year compliance period.

The Department is directed to submit a report to the Governor and Legislature by December 31, 2020, with recommendations for loan terms and conditions for projects not subject to loan deferral.

#### Other Provisions.

The Department must implement policies that require projects to remain as affordable housing for a minimum of:

- 40 years for multifamily rental projects; and
- 25 years for homeownership projects.

Eligible activities of the HTF Program are amended to include those funded out of the HTF capital budget appropriation. Priority is given to projects that increase the total number of affordable housing units, instead of to existing privately owned housing stock and then to

publicly owned housing stock. Nonstate funding sources and project readiness are added as application evaluation criteria. The requirement that the advice from the Affordable Housing Advisory Board be consistent with the plans and policies developed by the Behavioral Health Administrative Services Organizations and the Developmental Disabilities Planning Council is removed.

**Appropriation:** None.

**Fiscal Note:** Requested on February 11, 2020.

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

**Staff Summary of Public Testimony:**

(In support) The goals of the bill include the consolidation of the Housing Trust Fund (HTF) statutes, the provision of more predictability and transparency of the source of administrative funding, and the resolution of concerns around the structure of loan repayments. The root cause of homelessness is sky high rents and the solution is affordable housing. The bill resolves a long-standing concern around the loan terms for Permanent Supportive Housing (PSH) and housing for very low-income households exiting homelessness. Loan deferrals would help develop and operate permanent supportive housing in rural Washington. The current practice of requiring affordability terms for a minimum of 40 years is codified. An amendment to provide the Department of Commerce (Department) a 5 percent administrative fee will allow the department to remain fully staffed and to continue to do a good job. The HTF is an important tool to develop homeless housing units throughout the state. Loan repayment requirements reduce the amount of PSH projects serving individuals experiencing homelessness. Seventeen of the 36 projects awarded in 2019 would be eligible for loan deferral under the bill. Homeownership makes up a small portion of the HTF appropriation, but makes a mighty contribution to affordable housing. The change in the definition of "first-time home buyer" aligns the state and federal definitions and helps people who do not fit the current definition to be eligible for the HTF. Ownership is struck from the list of priorities. Homeownership projects have not always had a separate application process and it is important to maintain the current practice of treating homeownership projects separate from rental projects. Homeownership projects are awarded in the form of grants and clarification is needed to continue that practice.

(Opposed) None.

(Other) There is an unmet statewide need of 17,000 PSH units and exempting PSH from loan repayments is a drop in the bucket and a first step towards an interagency conversation to secure operating and capital funding for PSH facilities. Annual net cash flow loans are not a standard underwriting practice. The change in the administrative fee structure will lead to lost revenue and staff. The HTF administrative costs have been supported by loan repayments and as the state moves toward loan deferrals then the costs need to shift to a new operating revenue source.

**Persons Testifying:** (In support) Representative Tharinger, prime sponsor; Michele Thomas, Washington Low Income Housing Alliance; John Torrence, Plymouth Housing Group; and Debora Munguia and Kathleen Hosfeld, Washington Affordable Homeownership Coalition.

(Other) Jasmine Vasavada, Department of Commerce.

**Persons Signed In To Testify But Not Testifying:** None.