

SENATE BILL REPORT

SB 6185

As of January 20, 2020

Title: An act relating to improving access to homeownership by expanding opportunities for down payment assistance programs.

Brief Description: Improving access to homeownership by expanding opportunities for down payment assistance programs.

Sponsors: Senators Zeiger, Becker, Conway and Mullet.

Brief History:

Committee Activity: Housing Stability & Affordability: 1/15/20.

Brief Summary of Bill

- Clarifies that other entities in addition to the Housing Finance Commission may provide down payment assistance programs within Washington State.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

Staff: Brandon Popovac (786-7465)

Background: The Housing Finance Commission (Commission) is a finance authority established to act as a financial conduit to make additional funds available at affordable rates to help provide housing throughout the state. The Commission is financially self-supported and does not receive funding from the state.

To provide financing, the Commission may:

- issue bonds;
- make loans to or deposits with mortgage lenders for the purpose of making mortgage loans;
- make loans for down payment assistance to home buyers; and
- participate in federal and other government programs to carry out its purpose.

Down payment assistance through the Commission is provided only for homebuyers who use Commission home loan programs. The down payment assistance loan has an interest rate

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range from 0 to 4 percent and is not due until the mortgage is paid off or the homebuyer sells, transfers, moves out of, or refinances the property. The average loan amount is approximately \$10,000.

In 2019, the Washington Supreme Court in *Wash. State Hous. Fin. Comm'n v. Nat'l Homebuyers Fund, Inc.* considered whether the Commission has standing to bring a declaratory judgment action against National Homebuyers Fund (NHF), a California nonprofit formed for the purpose of providing down payment assistance to low and moderate-income home buyers throughout the United States, including Washington. The majority held that the Commission did have standing, but expressed no opinion on the merits of the Commission's claims, specifically whether NHF's activities in Washington would require authorization from the Legislature. The majority did reveal in its analysis that the Commission has an interest in preventing unauthorized actors from asserting similar legislatively delegated authority to the Commission to perform an essential government function by participating in a federal mortgage insurance program in a governmental capacity. In addition to its conclusion that the Commission failed to establish standing, the dissent expressed that the Commission's governing provisions do not expressly declare it unlawful for entities other than the Commission to provide down payment assistance or prohibit other entities from participating in an activity within a specified territory.

Summary of Bill: The provisions governing the financing authority of the Housing Finance Commission do not prohibit or exclude other entities from providing down payment assistance programs within Washington State.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Washington State has a very restrictive environment for down payment assistance products. There are a lot of products that are available in other states that are not available here. Although the current down payment assistance program under the Commission is good and has made homeownership available to many Washingtonians, our housing market is inflating quickly and housing prices are rising dramatically and more people need to qualify for additional down payment assistance products that are already highly regulated under federal law.

Higher interest rates that are offered through down payment assistance programs are just a reality for most down payment assistance programs. If a nonprofit organization is successful in another state or another jurisdiction, it should be available for our constituents here in Washington State. The regulatory agencies that oversee community programs put HUD guidelines in practice so that lenders are not going to close a loan unless it falls within these guidelines. A mortgage letter that HUD had released that prohibited some of the down payment assistance programs has been reversed. Mortgage brokers undergo a thorough vetting and examination process to get licensed. Their goal is to provide short-term and

long-term solutions. Other down payment assistance offered could be a grant program where the funds could be forgiven unlike loans offered by the Commission.

OTHER: This bill could allow low-income homebuyers to be taken advantage of by non-governmental entities offering down payment assistance with very little oversight. Consumer protections and home buyer education are vitally important to ensure that low-income home buyers are fairly prepared and fully aware of how their options will affect them into the future. Down payment assistance programs that claim to have government authority have already tried to establish themselves in our state offering the illusion of free money while charging higher interest rates and fees. No homebuyer education is required or offered with these programs and hundreds of millions of dollars generated from this practice has gone to investors and special interests in other states instead of coming back to the state. The Commission does have an ongoing lawsuit against one of these entities. The Commission is having record high mortgage success over the last year.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Michael Patterson, Washington Association of Mortgage Professionals.

OTHER: Lisa Vatske, Washington State Housing Finance Commission.

Persons Signed In To Testify But Not Testifying: No one.