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**SUBSTITUTE SENATE BILL 5496**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Housing (originally sponsored by Senators Lovick, Saldaña, Cleveland, Frame, Kuderer, Liias, Lovelett, Nguyen, Pedersen, Salomon, Stanford, Valdez, Wellman, and C. Wilson)

AN ACT Relating to creating the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants in Washington state; amending RCW 36.18.010, 43.84.092, and 43.84.092; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Generations of systemic, racist, and discriminatory policies and practices have created barriers to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington state. The legislature finds that these policies and practices include redlining, racially restrictive covenants, mortgage subsidies and incentives, and displacement and gentrification.

(b) The state government was both an active and passive participant in this discrimination. For example, the legislature recognizes the role of state courts in facilitating discrimination by property owners; the existence of mandatory recording statutes that required county auditors to record racially restrictive covenants; the passage of the urban renewal law authorizing the designation, regulation, and displacement of certain neighborhoods that were deemed to be blighted; and state funding and regulation of the real estate and banking industries in ways that facilitated or promoted private discrimination. The legislature finds that the specific discriminatory acts and omissions are well documented, including in numerous public and private studies, reports, and other publications.

(c) This discrimination and its impacts continue to exist in the present day. The legislature recognizes that the homeownership rate for black, indigenous, and people of color and other historically marginalized communities in Washington is 19 percent below that of non-Hispanic white households, and the homeownership rate for black households is even lower. The legislature recognizes that credit, including home mortgages, is harder and more expensive to obtain for black, indigenous, and people of color and other historically marginalized communities in Washington than for non-Hispanic white households. The legislature finds that the imbalance in supply and demand in Washington's housing market has only exacerbated these inequities.

(d) These negative impacts extend beyond homeownership and affect wealth generation, housing security, and other outcomes for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that these impacts include higher rates of homelessness, rent burdening, substandard or otherwise unhealthy or unsafe housing, and predatory and discriminatory lending practices that lead to further displacement and gentrification.

(e) Existing state and federal programs and other race-neutral approaches are insufficient to remedy that discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that race-conscious programs, such as the special purpose credit programs authorized by section 6 of this act, are necessary to remedy the past discrimination in which the state was complicit and to remove the structural barriers that persist.

(2) The legislature declares that the state has a compelling interest in remedying past and ongoing discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington.

NEW SECTION. **Sec.**  A new section is added to chapter 36.22 RCW to read as follows:

(1) Beginning January 1, 2024, except as provided in subsection (2) of this section, the county auditor must collect a covenant homeownership program assessment of $100 for each document recorded, which is in addition to any other charge, surcharge, or assessment allowed by law. The county auditor may retain up to one percent of the moneys for collection of the assessment and must remit the remainder of the moneys to the state treasurer to be deposited in the covenant homeownership account created in section 4 of this act.

(2) The assessment imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional assessments under state law; (d) marriage licenses issued by the county auditor; or (e) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Commission" means the Washington state housing finance commission.

(3) "Covenant homeownership program study" means an evidence-based written report prepared by or on behalf of the commission as required in section 5 of this act.

(4) "Oversight committee" means the covenant homeownership program oversight committee established in section 7 of this act.

(5) "Program" means the covenant homeownership program described in section 6 of this act.

(6) "Program participant" means a person who receives down payment and closing cost assistance through a special purpose credit program created by the commission for purposes of the covenant homeownership program.

(7) "Racially restrictive real estate covenant" means a recorded covenant or deed restriction that includes or included racial restrictions on property ownership or use against protected classes that are unlawful under RCW 49.60.224. For example, these unlawful restrictions commonly included exclusions against black, indigenous, and people of color and other historically marginalized communities in Washington state, using terms, many of which are offensive, such as "African blood" meaning all sub-Saharan African ancestries; "Aryan" meaning not Jewish, not eastern or southern European, nor any ancestry except northern European; "Asiatic" meaning all Asian ancestries; Chinese; "colored person" meaning all sub-Saharan African ancestries; "colored races" meaning all nonwhite races; "Ethiopian" meaning all sub-Saharan African ancestries; "gentile" meaning non-Jewish; Hawaiian; "Hebrew" meaning Jewish; "Hindu" meaning all South Asian ancestries; "Indian" meaning Native Americans and also possibly South Asian ancestries; Japanese; "Malay" meaning Filipino; "Mongolian" meaning all East Asian ancestries; "Negro blood" meaning all sub-Saharan African ancestries; "oriental" meaning all Asian ancestries; "Turkish empire" meaning all middle easterners; and "yellow races" meaning all Asian ancestries.

(8) "Special purpose credit program" means a credit assistance program created by the commission as authorized by the federal consumer financial protection bureau under regulation B, 12 C.F.R. 1002.8(a)(1), pursuant to Title VII of the consumer credit protection act (the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq.) as amended, allowing a creditor to extend special purpose credit to applicants who meet eligibility requirements under a credit assistance program expressly authorized by state law for the benefit of an economically disadvantaged class of persons.

NEW SECTION. **Sec.**  The covenant homeownership account is created in the state treasury. All receipts from the assessment established in section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only for the purposes of the program described in section 6 of this act. The legislature may appropriate moneys in the account as follows:

(1) The legislature may appropriate up to one percent of moneys in the account to the department for costs related to the program described in section 6 of this act including, but not limited to, costs related to administering one or more contracts with the commission for purposes of the program, costs related to outreach and stakeholder engagement, and other administrative, data collection, and reporting costs. The legislature may appropriate a portion of this one percent of moneys in the account to the department of financial institutions for costs related to the oversight committee created in section 7 of this act; and

(2) The legislature may appropriate the remainder of the moneys in the account to the department to contract with the commission for the purposes of the program described in section 6 of this act.

NEW SECTION. **Sec.**  (1)(a) The commission shall complete, or cause to be completed, an initial covenant homeownership program study. The initial covenant homeownership program study must:

(i) Document past and ongoing discrimination against black, indigenous, and people of color and other historically marginalized communities in Washington state and the impacts of this discrimination on homeownership in the state, including access to credit and other barriers to homeownership in the state;

(ii) Analyze whether and to what extent existing programs and race-neutral approaches have been insufficient to remedy this discrimination and its impacts;

(iii)(A) Recommend and evaluate potential programmatic and policy changes, including creation of one or more special purpose credit programs, to remedy this discrimination and its impacts;

(B) As part of the recommendations related to creation of one or more special purpose credit programs, identify through evidence-based documentation the economically disadvantaged class or classes of persons that require down payment and closing cost assistance in order to reduce racial disparities in homeownership in the state. The class or classes of persons identified in the study may share one or more common characteristics such as, race, national origin, or sex; and

(iv) Identify methodology to evaluate the efficacy of any recommended programmatic and policy changes over time.

(b) By December 31, 2023, and in compliance with RCW 43.01.036, the commission shall submit a copy of the initial covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(2)(a) At least every five years after the initial covenant homeownership program study is completed, the commission shall complete, or cause to be completed, an updated covenant homeownership program study. The updated covenant homeownership program study must:

(i) Update and reevaluate the findings and recommendations contained in the initial covenant homeownership program study and any subsequent program studies;

(ii) Document the experience of program participants and others impacted by past and ongoing discrimination, including their experience accessing or attempting to access credit and any barriers to homeownership in the state that they have faced or continue to face;

(iii) Evaluate the special purpose credit program or programs' efficacy in providing down payment and closing cost assistance to the economically disadvantaged class or classes of persons identified in the initial covenant homeownership program study and any subsequent program studies, and the special purpose credit program or programs' impacts on remedying discrimination and reducing racial disparities in homeownership in the state; and

(iv) Recommend program modifications and improvements.

(b) By December 31, 2028, and by December 31st every five years thereafter, and in compliance with RCW 43.01.036, the commission shall submit a copy of an updated covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(c) The board of the commission shall review each subsequent covenant homeownership program study and consider the evidence-based documentation and recommendations in designing and implementing program amendments.

NEW SECTION. **Sec.**  (1) As part of the covenant homeownership program, the department shall contract with the commission to design, develop, implement, and evaluate one or more special purpose credit programs to reduce racial disparities in homeownership in the state by providing down payment and closing cost assistance. The contract must authorize the commission to use the contract funding as follows:

(a) The contract must authorize the commission to use up to one percent of the contract funding for costs related to administering the program including, but not limited to, costs related to completing a covenant homeownership program study required under section 5 of this act, and other administrative, data collection, and reporting costs;

(b) The contract must authorize the commission to use up to one percent of the contract funding to provide targeted education, homeownership counseling, and outreach about special purpose credit programs created under this section to black, indigenous, and people of color and other historically marginalized communities in Washington state, including outreach to relevant affinity groups for mortgage lenders; and

(c) The contract must authorize the commission to use the remainder of the contract funding to provide down payment and closing cost assistance to program participants. This portion of the contract funding may not be used to provide any type of assistance other than down payment and closing cost assistance.

(2) The commission shall create one or more special purpose credit programs to provide down payment and closing cost assistance for the benefit of one or more economically disadvantaged classes of persons identified in a covenant homeownership program study under section 5 of this act. In creating a special purpose credit program, the commission must consider the evidence-based documentation and programmatic and policy recommendations set forth in the initial covenant homeownership program study and any subsequent program studies. If the covenant homeownership program study identifies an economically disadvantaged class or classes of persons that share one or more common characteristics such as, race, national origin, or sex and the board of the commission finds it necessary to consider this information in tailoring a special purpose credit program to provide credit assistance to economically disadvantaged classes of persons, the commission may consider these characteristics in designing and implementing the program.

(3) At minimum, a special purpose credit program authorized under this section must:

(a) Provide loans for down payment and closing cost assistance to program participants that can be combined with other forms of down payment and closing cost assistance;

(b) Require a program participant to repay loans for down payment and closing cost assistance at the time that the house is sold; and

(c) Be implemented in conjunction with the commission's housing finance programs.

(4) To be eligible to receive down payment and closing cost assistance through a special purpose credit program authorized under this section, a special purpose credit program applicant must:

(a) Have a household income at or below 100 percent of the area median income;

(b) Be a first-time homebuyer; and

(c)(i) Be a Washington state resident who:

(A) Was a Washington state resident on or before the enactment of the federal fair housing act (Title VIII of the civil rights act of 1968; P.L. 90–284; 82 Stat. 73) on April 11, 1968, and was or would have been excluded from homeownership in Washington state by a racially restrictive real estate covenant on or before April 11, 1968; or

(B) Is a descendant of a person who meets the criteria in (c)(i)(A) of this subsection;

(ii) Records that show a person's address on or about a specific date or include a reference indicating that a person is a resident of a specific city or area on or about a specific date may be used to provide proof that a person satisfies the criteria in (c)(i) of this subsection, such as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents.

(5) The commission may adopt rules, and shall adopt program policies, as necessary to implement this section. Program rules or policies must include procedures and standards for extending credit under the special purpose credit program, including program eligibility requirements. From time to time, including in response to a covenant homeownership program study's evaluation of program efficacy, the board of the commission may amend the special purpose credit programs, rules, and policies.

(6) By July 1, 2024, one or more of the special purpose credit programs must begin providing down payment and closing cost assistance to program participants.

(7) By December 31, 2025, and by each following December 31st, and in compliance with RCW 43.01.036, the commission shall submit an annual report to the appropriate committees of the legislature on the progress of the special purpose credit program or programs developed under this section. The report shall include, at minimum, the program eligibility requirements, the type and amount of down payment and closing cost assistance provided to program participants, the number of program participants and their corresponding eligibility categories, the location of property financed, and program outreach efforts. The report must be posted on the commission's website.

NEW SECTION. **Sec.**  (1) The department shall establish the covenant homeownership program oversight committee consisting of the following members appointed by the director of the department or the director's designee, except for the legislative members who must be appointed by the president of the senate or the speaker of the house of representatives as described in this section:

(a) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from east of the crest of the Cascade mountains;

(b) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from west of the crest of the Cascade mountains;

(c) One representative of an organization that operates a special purpose credit program, counseling service, or debt relief program that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants as defined in section 3 of this act;

(d) One representative of a community-based organization that specializes in the development of permanently affordable housing that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;

(e) One representative of the real estate sales profession;

(f) One representative of the home mortgage lending profession who has a minimum of five years' lending or underwriting experience;

(g) One representative of the nonprofit affordable housing development industry;

(h) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and

(i) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(2) Members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that provide for the staggering of terms so that, after the first three years of the committee's existence, the terms of one-third of the members expire each year.

(3) The oversight committee shall oversee and review the commission's activities and performance related to the program, including the commission's creation and administration of one or more special purpose credit programs authorized in section 6 of this act. The oversight committee may, from time to time, make recommendations to the appropriate committees of the legislature regarding the program.

(4)(a) The oversight committee is a class one group under RCW 43.03.220. Except as provided in (b) of this subsection, members of the committee receive no compensation for their services as members of the committee but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(b) As authorized by RCW 43.03.220, the department may provide a stipend to individuals who are low income or have lived experience to support their participation on the oversight committee.

(5) The department and the commission shall work together to supply the oversight committee with any information necessary for the committee to carry out its duties under this section.

(6) The department shall provide administrative assistance and staff support to the oversight committee.

(7) For the purposes of this section, "department" means the department of financial institutions.

**Sec.**  RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~five dollars~~)) $5; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~three dollars~~)) $3; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(3) For preparing noncertified copies, for each page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(4) For administering an oath or taking an affidavit, with or without seal, ((~~two dollars~~)) $2;

(5) For issuing a marriage license, ((~~eight dollars~~)) $8, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional ((~~five dollar~~)) $5 fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ((~~ten dollar~~)) $10 fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, ((~~eight dollars~~)) $8;

(7) For recording plats, ((~~fifty~~)) 50 cents for each lot except cemetery plats for which the charge shall be ((~~twenty-five~~)) 25 cents per lot; also ((~~one dollar~~)) $1 for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of ((~~twenty-five dollars~~)) $25 per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~five dollars~~)) $5; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, ((~~fifty dollars~~)) $50, in addition to all other applicable recording fees;

(11) For recording instruments, a ((~~three dollar~~)) $3 surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a ((~~two dollar~~)) $2 surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

(13) For recording instruments, a surcharge as provided in RCW 36.22.178; ((~~and~~))

(14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179; and

(15) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, an assessment as provided in section 2 of this act.

**Sec.**  RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  This act may be known and cited as the covenant homeownership account and program act.

NEW SECTION. **Sec.**  Sections 1 and 3 through 7 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec.**  (1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) In addition, if the covenant homeownership program described in section 6 of this act is held invalid, in whole or in part, the legislature may appropriate moneys in the covenant homeownership account to the department of commerce to contract with the Washington state housing finance commission for one or more other programs that support homeownership for first-time homebuyers.

NEW SECTION. **Sec.**  Section 9 of this act expires July 1, 2024.

NEW SECTION. **Sec.**  Section 10 of this act takes effect July 1, 2024.

**--- END ---**