
SUBSTITUTE HOUSE BILL 1250

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Eickmeyer, Schoesler, Linville, Sump, Quall and Mielke; by request of Commissioner of Public Lands)

READ FIRST TIME 3/10/03.

1 AN ACT Relating to lease rates for marinas on state-owned aquatic
2 lands that provide public moorage; amending RCW 79.90.480; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 79.90.480 and 1998 c 185 s 2 are each amended to read
6 as follows:

7 Except as otherwise provided by this chapter, annual rent rates for
8 the lease of state-owned aquatic lands for water-dependent uses shall
9 be determined as follows:

10 (1)(a) The assessed land value, exclusive of improvements, as
11 determined by the county assessor, of the upland tax parcel used in
12 conjunction with the leased area or, if there are no such uplands, of
13 the nearest upland tax parcel used for water-dependent purposes divided
14 by the parcel area equals the upland value.

15 (b) The upland value times the area of leased aquatic lands times
16 thirty percent equals the aquatic land value.

17 (2) As of July 1, 1989, and each July 1st thereafter, the
18 department shall determine the real capitalization rate to be applied
19 to water-dependent aquatic land leases commencing or being adjusted

1 under subsection (3)(a) of this section in that fiscal year. The real
2 capitalization rate shall be the real rate of return, except that until
3 June 30, 1989, the real capitalization rate shall be five percent and
4 thereafter it shall not change by more than one percentage point in any
5 one year or be more than seven percent or less than three percent.

6 (3) The annual rent shall be:

7 (a) Determined initially, and redetermined every four years or as
8 otherwise provided in the lease, by multiplying the aquatic land value
9 times the real capitalization rate; and

10 (b) Adjusted by the inflation rate each year in which the rent is
11 not determined under subsection (3)(a) of this section.

12 (4) If the upland parcel used in conjunction with the leased area
13 is not assessed or has an assessed value inconsistent with the purposes
14 of the lease, the nearest comparable upland parcel used for similar
15 purposes shall be substituted and the lease payment determined in the
16 same manner as provided in this section.

17 (5) For the purposes of this section, "upland tax parcel" is a tax
18 parcel, some portion of which has upland characteristics. Filled
19 tidelands or shorelands with upland characteristics which abut state-
20 owned aquatic land shall be considered as uplands in determining
21 aquatic land values.

22 (6) The annual rent for filled state-owned aquatic lands that have
23 the characteristics of uplands shall be determined in accordance with
24 RCW 79.90.500 in those cases in which the state owns the fill and has
25 a right to charge for the fill.

26 (7) For leases for marina uses only, (~~beginning on June 11, 1998~~)
27 as of January 1, 2004, the annual rental rates (~~in effect on December~~
28 ~~31, 1997, shall remain in effect until July 1, 1999, at which time the~~
29 ~~annual water dependent rent~~) shall be determined by the (~~method in~~
30 ~~effect at that time. In order to be eligible for the rate to remain at~~
31 ~~this level, a marina lease must be in good standing, meaning that the~~
32 ~~lessee must be current with payment of rent, the lease not expired or~~
33 ~~in approved holdover status, and the lessee not in breach of other~~
34 ~~terms of the agreement~~) marina rent formula developed by the
35 department pursuant to subsection (8) of this section.

36 (8)(a) On January 1, 2004, consistent with the provisions of this
37 subsection (8), the lease rates for a marina are a percentage of the
38 annual gross revenues generated by that marina. Lease rates must be

1 recalculated annually based upon the marina's gross revenues from the
2 previous year, as reported to the department consistent with this
3 subsection (8).

4 (b) By January 1, 2004, the department must develop a formula for
5 calculating marina rents consistent with this subsection (8). The
6 formula prepared and implemented by the department must at a minimum
7 include the percentage of gross revenues that will serve as the basis
8 for a marina's rent and a designation of revenue sources that will be
9 considered for rent calculation purposes. In developing a percentage
10 of gross revenues, the department must ensure, given the available
11 information, that the rent formula is initially calculated to at least
12 maintain state proceeds from marina rents as of July 1, 2003, and that
13 if the department does not receive ninety percent of the income
14 reporting forms required to be delivered under (d) of this subsection,
15 the department may determine the initial percentage of revenue
16 consistent with the goals of this section. In addition to the percent
17 of marina income, the department shall determine the administrative
18 costs of the department to calculate, audit, execute, and monitor
19 marina leases. All administrative costs recovered by the department
20 must be deposited into the resource management cost account created in
21 RCW 79.64.020.

22 (c) When developing a marina lease formula consistent with this
23 subsection (8), the department shall ensure that the percentage of
24 revenue established is applied to the income of the direct lessee, as
25 well as to the income of any person or entity that subleases, or
26 contracts to operate the marina, with the direct lessee, less the
27 amount paid by the sublease to the direct lessee.

28 (d) All marina operators under lease with the department must
29 return to the department an income reporting form, provided by the
30 department, and all state and federal tax information before July 1,
31 2003, and again annually on a date set by the department. On the
32 income reporting form, the department may require a marina to disclose
33 to the department any information about income from all marina related
34 sources, excluding restaurants and bars. All income reports submitted
35 to the department are subject to audit and revision by the department
36 and the department may inspect all of the lessee's books, records, and
37 documents relating to the operation of the leased aquatic lands at all

1 reasonable times. If the lessee fails to submit the required income
2 information, the department may conduct an audit at the lessee's
3 expense or cancel the lease.

4 (e) Initially, the marina rent formula developed by the department
5 pursuant to (b) of this subsection will be applied to each marina on
6 its 2004 anniversary date, and will be based on that marina's 2003
7 income information.

8 (f) No marina lease may be for less than five hundred dollars, plus
9 any administrative costs required to reimburse the department for the
10 cost of establishing new marina leases.

11 (9) For all new leases for ((marinas, or any)) other water-
12 dependent uses, issued after December 31, 1997, the initial annual
13 water-dependent rent shall be determined by the methods in subsections
14 (1) through (6) of this section.

15 NEW SECTION. Sec. 2. This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and takes effect
18 immediately.

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