
**Agriculture & Natural Resources
Committee**

HB 1241

Brief Description: Exempting normal maintenance from the definition of substantial development under chapter 90.58 RCW.

Sponsors: Representatives B. Sullivan, Upthegrove, Kessler and Kretz.

Brief Summary of Bill

- Defines "normal maintenance" and "normal repair" within the Shoreline Management Act.
- Designates which docks are exempt as substantial development within the Shoreline Management Act.

Hearing Date: 2/22/07

Staff: Jaclyn Ford (786-7339).

Background:

The Shoreline Management Act (Act) is intended to ensure that development of shorelines will promote and enhance the public interest. The Act regulates activities through local shoreline master programs developed by local governments with policy guidance from the Department of Ecology. A number of terms are defined in the Act, including "substantial development."

Each of the following is considered to be a "substantial development:" constructing or altering the exterior of structures; dredging; drilling; dumping; filling; removing of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act.

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.

In general, a development for which the cost or market value is greater than \$2,500 or which materially interferes with the normal public use of the water or shorelines of the state is considered to be a "substantial development."

The construction of a dock, including a community dock, is not considered to be a substantial development if it is designed for pleasure craft, non-commercial use for single or multi-family residences, and costs no more than \$2,500. Other excepted activities include such things as construction of normal protective bulkheads for single family residences; construction and practices normal or necessary for farming, irrigation, and ranching; and construction of a single family house for personal use that does not exceed 35 feet in height.

A substantial development may not be undertaken on the shorelines of the state without a substantial development permit. A substantial development permit is obtained from the local jurisdiction where the activity is to take place. Applying for a substantial development permit requires public notice, an application, and possible review by the Department of Ecology.

Thus, an exemption from the definition of "substantial development" affords an exemption from the substantial development permit requirement.

Summary of Bill:

Within the Shoreline Management Act, normal maintenance and repair of existing structures and developments are exempt from the definition of "substantial development."

The definition for "normal maintenance" includes "those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition."

"Normal repair" is defined as restoring a development to a state comparable to its original condition, except where repair causes significant adverse effects to the quality of the environment. Replacement of a structure or development is authorized as "normal repair" where replacement is the common method of repair for that type of structure or development.

"Substantial development" also does not include either the construction of a dock or installation of a freestanding or portable boat lift, or both, designed for pleasure crafts. In addition, either the dock and/or the boat lift must not exceed \$40,000. Or, for community docks, the fair market value must not exceed \$40,000 for the first moorage space plus \$10,000 for each additional moorage space. However, if construction exceeding \$5,000 occurs within five years of the previous construction, then the additional construction is considered "substantial development."

The dollar thresholds established will be adjusted for inflation, based on changes in the "consumer price index," by the Office of Financial Management (OFM) every five years beginning in July, 2008. The "consumer price index" is defined as a calendar year's annual consumer price index for all items in the Seattle, Washington area for urban wage earners and clerical workers. The OFM must calculate the new dollar threshold and give it to the code reviser for publication in the Washington State Register at least one month before the new dollar threshold goes into effect.

Appropriation: None.

Fiscal Note: Requested on February 16, 2007.

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