
HOUSE BILL 2581

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Tarleton, S. Hunt, Pollet, and Carlyle

Read first time 01/21/14. Referred to Committee on Environment.

1 AN ACT Relating to on-water dwellings; amending RCW 90.58.270 and
2 79.105.060; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that all
5 Washington residents benefit from the unique aesthetic, recreational,
6 and economic opportunities that are derived from the state's aquatic
7 resources, including its navigable waters and shoreline areas. The
8 legislature also recognizes that, as affirmed in chapter 212, Laws of
9 2011, existing floating homes are an important cultural amenity and an
10 element of the state's maritime history and economy. The 2011
11 legislation, which clarified the legal status of floating homes, was
12 intended to ensure the vitality and long-term survival of floating home
13 communities.

14 (2) The legislature finds that further clarification of the status
15 of floating on-water residences that meet specific requirements and
16 share important cultural, historical, and economic commonalities with
17 floating homes, is necessary.

18 (3) The legislature, therefore, intends to: Preserve the existence
19 and vitality of current, floating on-water residences; establish

1 greater clarity and regulatory uniformity for these residences; and
2 respect the well-established authority of local governments to
3 determine compliance with regulatory requirements applicable to their
4 jurisdiction.

5 **Sec. 2.** RCW 90.58.270 and 2011 c 212 s 2 are each amended to read
6 as follows:

7 (1) Nothing in this ((statute)) section shall constitute authority
8 for requiring or ordering the removal of any structures, improvements,
9 docks, fills, or developments placed in navigable waters prior to
10 December 4, 1969, and the consent and authorization of the state of
11 Washington to the impairment of public rights of navigation, and
12 corollary rights incidental thereto, caused by the retention and
13 maintenance of said structures, improvements, docks, fills or
14 developments are hereby granted: PROVIDED, That the consent herein
15 given shall not relate to any structures, improvements, docks, fills,
16 or developments placed on tidelands, shorelands, or beds underlying
17 said waters which are in trespass or in violation of state statutes.

18 (2) Nothing in this section shall be construed as altering or
19 abridging any private right of action, other than a private right which
20 is based upon the impairment of public rights consented to in
21 subsection (1) ((hereof)) of this section.

22 (3) Nothing in this section shall be construed as altering or
23 abridging the authority of the state or local governments to suppress
24 or abate nuisances or to abate pollution.

25 (4) Subsection (1) of this section shall apply to any case pending
26 in the courts of this state on June 1, 1971 relating to the removal of
27 structures, improvements, docks, fills, or developments based on the
28 impairment of public navigational rights.

29 (5)(a) A floating home permitted or legally established prior to
30 January 1, 2011, must be classified as a conforming preferred use.

31 (b) A floating on-water residence that is permitted or legally
32 established prior to July 1, 2014, must be classified as a conforming
33 preferred use.

34 (c) For the purposes of this subsection:

35 (i) "Conforming preferred use" means that applicable development
36 and shoreline master program regulations may only impose reasonable
37 conditions and mitigation that will not effectively preclude

1 maintenance, repair, replacement, and remodeling of ((existing))
2 floating homes ((and floating home)), floating on-water residences, and
3 associated moorages by rendering these actions impracticable.

4 (ii) "Floating home" means a single-family dwelling unit
5 constructed on a float, that is moored, anchored, or otherwise secured
6 in waters, and is not a vessel, even though it may be capable of being
7 towed.

8 (iii) "Floating on-water residence" means a vessel, as that term is
9 defined in RCW 88.02.310, that is registered under chapter 88.02 RCW
10 and is: (A) Used as a residence on the water and has detachable
11 utilities; (B) moored, anchored, or otherwise secured in marinas; and
12 (C) compliant with all applicable regulatory requirements. A floating
13 on-water residence may be capable of propulsion and steering, or
14 without a means of self-propulsion and steering equipment or
15 capability, but capable of being towed.

16 **Sec. 3.** RCW 79.105.060 and 2005 c 155 s 102 are each amended to
17 read as follows:

18 The definitions in this section apply throughout chapters 79.105
19 through 79.145 RCW unless the context clearly requires otherwise.

20 (1) "Aquatic lands" means all tidelands, shorelands, harbor areas,
21 and the beds of navigable waters.

22 (2) "Beds of navigable waters" means those lands lying waterward of
23 and below the line of navigability on rivers and lakes not subject to
24 tidal flow, or extreme low tide mark in navigable tidal waters, or the
25 outer harbor line where harbor area has been created.

26 (3) "First-class shorelands" means the shores of a navigable lake
27 or river belonging to the state, not subject to tidal flow, lying
28 between the line of ordinary high water and the line of navigability,
29 or inner harbor line where established and within or in front of the
30 corporate limits of any city or within two miles of either side.

31 (4) "First-class tidelands" means the shores of navigable tidal
32 waters belonging to the state, lying within or in front of the
33 corporate limits of any city, or within one mile of either side and
34 between the line of ordinary high tide and the inner harbor line; and
35 within two miles of the corporate limits on either side and between the
36 line of ordinary high tide and the line of extreme low tide.

1 (5) "Harbor area" means the area of navigable waters determined as
2 provided in Article XV, section 1 of the state Constitution, which
3 shall be forever reserved for landings, wharves, streets, and other
4 conveniences of navigation and commerce.

5 (6) "Improvements" when referring to state-owned aquatic lands
6 means anything considered a fixture in law placed within, upon, or
7 attached to aquatic lands that has changed the value of those lands, or
8 any changes in the previous condition of the fixtures that changes the
9 value of the land.

10 (7) "Inflation rate" means for a given year the percentage rate of
11 change in the previous calendar year's all commodity producer price
12 index of the bureau of labor statistics of the United States department
13 of commerce. If the index ceases to be published, the department shall
14 designate by rule a comparable substitute index.

15 (8) "Inner harbor line" means a line located and established in
16 navigable waters between the line of ordinary high tide or ordinary
17 high water and the outer harbor line, constituting the inner boundary
18 of the harbor area.

19 (9) "Log booming" means placing logs into and taking them out of
20 the water, assembling and disassembling log rafts before or after their
21 movement in water-borne commerce, related handling and sorting
22 activities taking place in the water, and the temporary holding of logs
23 to be taken directly into a processing facility. "Log booming" does
24 not include the temporary holding of logs to be taken directly into a
25 vessel.

26 (10) "Log storage" means the water storage of logs in rafts or
27 otherwise prepared for shipment in water-borne commerce, but does not
28 include the temporary holding of logs to be taken directly into a
29 vessel or processing facility.

30 (11) "Nonwater-dependent use" means a use that can operate in a
31 location other than on the waterfront. Examples include, but are not
32 limited to, hotels, condominiums, apartments, restaurants, retail
33 stores, and warehouses not part of a marine terminal or transfer
34 facility.

35 (12) "Outer harbor line" means a line located and established in
36 navigable waters as provided in Article XV, section 1 of the state
37 Constitution, beyond which the state shall never sell or lease any
38 rights whatever to private persons.

1 (13) "Person" means any private individual, partnership,
2 association, organization, cooperative, firm, corporation, the state or
3 any agency or political subdivision thereof, any public or municipal
4 corporation, or any unit of government, however designated.

5 (14) "Port district" means a port district created under Title 53
6 RCW.

7 (15) "Public utility lines" means pipes, conduits, and similar
8 facilities for distribution of water, electricity, natural gas,
9 telephone, other electronic communication, and sewers, including sewer
10 outfall lines.

11 (16) "Real rate of return" means the average for the most recent
12 ten calendar years of the average rate of return on conventional real
13 property mortgages as reported by the federal home loan bank board or
14 any successor agency, minus the average inflation rate for the most
15 recent ten calendar years.

16 (17) "Second-class shorelands" means the shores of a navigable lake
17 or river belonging to the state, not subject to tidal flow, lying
18 between the line of ordinary high water and the line of navigability,
19 and more than two miles from the corporate limits of any city.

20 (18) "Second-class tidelands" means the shores of navigable tidal
21 waters belonging to the state, lying outside of and more than two miles
22 from the corporate limits of any city, and between the line of ordinary
23 high tide and the line of extreme low tide.

24 (19) "Shorelands," where not preceded by "first-class" or "second-
25 class," means both first-class shorelands and second-class shorelands.

26 (20) "State-owned aquatic lands" means all tidelands, shorelands,
27 harbor areas, the beds of navigable waters, and waterways owned by the
28 state and administered by the department or managed under RCW
29 79.105.420 by a port district. "State-owned aquatic lands" does not
30 include aquatic lands owned in fee by, or withdrawn for the use of,
31 state agencies other than the department.

32 (21) "Terminal" means a point of interchange between land and water
33 carriers, such as a pier, wharf, or group of such, equipped with
34 facilities for care and handling of either cargo or passengers, or
35 both.

36 (22) "Tidelands," where not preceded by "first-class" or "second-
37 class," means both first-class tidelands and second-class tidelands.

1 (23) "Valuable materials" when referring to state-owned aquatic
2 lands means any product or material within or upon lands, such as
3 forest products, forage, stone, gravel, sand, peat, agricultural crops,
4 and all other materials of value except mineral, coal, petroleum, and
5 gas as provided for under chapter 79.14 RCW. However, RCW 79.140.190
6 and 79.140.200 also apply to materials provided for under chapter 79.14
7 RCW.

8 (24) "Water-dependent use" means a use that cannot logically exist
9 in any location but on the water. Examples include, but are not
10 limited to: Water-borne commerce; terminal and transfer facilities;
11 ferry terminals; watercraft sales in conjunction with other water-
12 dependent uses; watercraft construction, repair, and maintenance;
13 moorage and launching facilities; aquaculture; log booming; ~~((and))~~
14 public fishing piers and parks; and floating homes and floating on-
15 water residences, as those terms are defined in RCW 90.58.270(5), and
16 associated moorages.

17 (25) "Water-oriented use" means a use that historically has been
18 dependent on a waterfront location, but with existing technology could
19 be located away from the waterfront. Examples include, but are not
20 limited to, wood products manufacturing, watercraft sales, fish
21 processing, petroleum refining, sand and gravel processing, and log
22 storage(~~(, and houseboats)~~). For the purposes of determining rent
23 under this chapter, water-oriented uses shall be classified as water-
24 dependent uses if the activity either is conducted on state-owned
25 aquatic lands leased on October 1, 1984, or was actually conducted on
26 the state-owned aquatic lands for at least three years before October
27 1, 1984. If, after October 1, 1984, the activity is changed to a use
28 other than a water-dependent use, the activity shall be classified as
29 a nonwater-dependent use. If continuation of the existing use requires
30 leasing additional state-owned aquatic lands and is permitted under the
31 shoreline management act of 1971, chapter 90.58 RCW, the department may
32 allow reasonable expansion of the water-oriented use.

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