
SENATE BILL 5542

State of Washington

65th Legislature

2017 Regular Session

By Senator Darneille

Read first time 01/27/17. Referred to Committee on Energy,
Environment & Telecommunications.

1 AN ACT Relating to overwater residences within a historic
2 district listed in the Washington heritage register; and amending RCW
3 90.58.270.

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

5 **Sec. 1.** RCW 90.58.270 and 2014 c 56 s 2 are each amended to read
6 as follows:

7 (1) Nothing in this section shall constitute authority for
8 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
20 which is based upon the impairment of public rights consented to in
21 subsection (1) of this section.

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

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

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

10 (b) For the purposes of this subsection:

11 (i) "Conforming preferred use" means that applicable development
12 and shoreline master program regulations may only impose reasonable
13 conditions and mitigation that will not effectively preclude
14 maintenance, repair, replacement, and remodeling of existing floating
15 homes and floating home moorages by rendering these actions
16 impracticable.

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

21 (6)(a) A floating on-water residence legally established prior to
22 July 1, 2014, must be considered a conforming use and accommodated
23 through reasonable shoreline master program regulations, permit
24 conditions, or mitigation that will not effectively preclude
25 maintenance, repair, replacement, and remodeling of existing floating
26 on-water residences and their moorages by rendering these actions
27 impracticable.

28 (b) For the purpose of this subsection, "floating on-water
29 residence" means any floating structure other than a floating home,
30 as defined under subsection (5) of this section(~~, that~~): (i) That
31 is designed or used primarily as a residence on the water and has
32 detachable utilities; and (ii) whose owner or primary occupant has
33 held an ownership interest in space in a marina, or has held a lease
34 or sublease to use space in a marina, since a date prior to July 1,
35 2014.

36 (7)(a) A historic overwater residence permitted or legally
37 established prior to January 1, 2017, must be classified as a
38 conforming preferred use and accommodated through reasonable
39 shoreline master program regulations, permit conditions, or
40 mitigation that will not effectively preclude maintenance, repair,

1 replacement, and remodeling of existing overwater residences by
2 rendering these actions impracticable.

3 (b) For the purposes of this subsection, "historic overwater
4 residence" means a single-family dwelling unit constructed on
5 pilings, located at least partially over saltwaters at high tide, and
6 located in a historic district on the Washington heritage register
7 that includes more than ten overwater residences.

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