

SENATE BILL REPORT

SB 6027

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, January 23, 2020

Title: An act relating to floating residences.

Brief Description: Concerning floating residences.

Sponsors: Senators Pedersen, Carlyle, Warnick, Van De Wege, Hunt, Rolfes, Short and Honeyford.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/16/20, 1/23/20 [DPS-WM].

Brief Summary of First Substitute Bill

- Amends the definition of floating on-water residence under the Shoreline Management Act (SMA) to specify floating on-water residence also means a vessel that meets certain criteria.
- Amends the definition of water-dependent use in the aquatic lands provisions to include a vessel or any other floating structure other than a floating home as similarly provided under the definition of on-water residence in the SMA.
- Amends the definition of water-oriented use in the aquatic lands provisions by removing houseboats as an example and adding a floating home as defined in the SMA as an example.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6027 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, McCoy, Rolfes and Short.

Staff: Karen Epps (786-7424)

Background: Shoreline Management Act—Floating Homes and Floating On-Water Residences. The SMA requires development of local shoreline master programs, which must be consistent with guidelines adopted by the Department of Ecology. Each local government must establish a program for administering and enforcing a shoreline permit system.

The SMA provides that all permitted or legally established floating homes as of January 1, 2011 must be considered a conforming preferred use under local shoreline regulations. This means development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude actions such as maintenance, repair, replacement, and remodeling of floating homes.

A floating home means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in water, and is not a vessel, even though it may be capable of being towed. A floating on-water residence established prior to July 1, 2014, must be considered a conforming use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable. A floating on-water residence means any floating structure other than a floating home:

- designed or used primarily as a residence on water and has detachable utilities; and
- whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Aquatic Lands—Water-Dependent Uses and Water-Oriented Uses. The Legislature delegated management of state-owned aquatic lands to the Department of Natural Resources (DNR), with directions to encourage public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources. The management of state-owned aquatic lands must preserve and enhance water-dependent uses. Water-dependent uses must be favored over other uses in state-owned aquatic land planning and when resolving conflicts between competing lease applications. In cases of conflict between water-dependent uses, priority must be given to uses which enhance renewable resources, waterborne commerce, and navigational and biological capacity of water, and to statewide interests as distinguished from local interests. DNR is further instructed to charge a rent to the users of state-owned aquatic lands, with different standards applying to different use types. Non-water dependent uses are charged fair market value for use of land. Water-dependent uses are charged rent according to a statutory formula.

Water-dependent uses, defined as uses that cannot logically exist except on water, are assessed rent associated with upland values. Generally, water-dependent users, such as marinas, must pay rent based on a percentage of the assessed value of the nearest upland parcel. After an initial rent amount is determined, DNR is directed to apply a real capitalization rate every four years. Water-oriented uses, as the term is defined in aquatic lands provisions, is defined as uses that historically have been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples specified in the definition include watercraft sales, fish processing, and houseboats.

For the purposes of determining rent, water-oriented uses must be classified as waterdependent uses if the activity either is conducted on state-owned aquatic lands leased on October 1, 1984, or was actually conducted on the state-owned aquatic lands for at least three years before October 1, 1984. If, after October 1, 1984, the activity is changed to a use other than a water-dependent use, the activity must be classified as a nonwater-dependent use. If continuing the existing use requires leasing additional state-owned aquatic lands and is permitted under the SMA, DNR may allow reasonable expansion of the water-oriented use.

Summary of Bill (First Substitute): The definition of floating on-water residence under the SMA is amended to specify that floating on-water residence also means a vessel:

- designed or used primarily as a residence on water and has detachable utilities; and
- whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Under provisions governing aquatic lands, the definitions of water-oriented use and waterdependent use are amended. The definition of water-oriented use removes houseboats as an example of a water-oriented use and adds a floating home as defined in the SMA as an example of a water-oriented use. The definition of water-dependent use is amended to include a vessel or any other floating structure, other than a floating home as defined in the SMA:

- designed or used primarily as a residence on water and has detachable utilities; and
- whose owner or primary occupant has held an ownership interest in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

A retroactivity clause provides for these definitions to apply retroactively to July 1, 2014.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Requires that replaced or remodeled floating on-water residences must be similar to the original residence in size and height.
- Deletes the retroactivity clause.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Floating home residences are long standing communities and folks value the ability to keep living in their affordable housing. In 2011, the Legislature passed a bill saying that existing floating homes should be maintained. In 2014, the Legislature defined floating on-water residences. This bill amends the definition to clarify that a vessel can be a floating on-water residence. On a separate track, there has been an issue in which lease rates have been raised dramatically because these residences have been considered water-oriented uses rather than water-dependent uses. The bill amends these definitions so that these roughly 400 on-water residences will be considered water-dependent uses and have their lease rates somewhat protected. This bill will provide floating residences with longer term stability. This bill will allow the little fleet of houseboats to remain as affordable homes for the community. Treating these houseboats as vessels will require they comply with the derelict vessels provisions. Under current DNR rents rates, the marina owner pays 18 times the amount for a houseboat slip compared to a vessel slip of the same size. Lease rates for a marina on Harstine Island increased from \$700 to \$7,000 a year, but the houseboat lease rate went up \$2,000 a year and the other vessels shared the remainder of the lease increase. Treating houseboats as water-dependent uses will address this issue. Houseboats are designed as a vessel and also as a residence and this bill will incorporate these two terms in the definition.

OTHER: Ecology is working on an amendment to clarify that replacement of floating onwater residences are of a similar size and possibly hull design. The statute is trying to preserve an existing community, so when they are replaced, they should be replaced with something substantially similar. DNR is required to charge rent when allowable private uses of state-owned aquatic lands exclude the general public. Water-dependent uses are charged rent based on a statutorily directed formula. Uses that are not water-dependent are charged fair market rent. The changes in this bill attempts to address concerns with rent inequality and DNR supports this goal.

Persons Testifying: PRO: Senator Jamie Pedersen, Prime Sponsor; cAROL Brown; DAVID HASENSTAB, LAKE UNION LIVEABOARD; Barbara Engram, LULA; LYNNE Reister, Lodestar Marine Surveying and investigation; jeanette laffoon; John Chaney, Lake Union Liveaboard Association; mauri Shuler, LULA, Lake Union Liveaboard Assoc.

OTHER: Tim Gates, Ecology; Katrina Lassiter, Washington State Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: No one.