

RCW 79.13.420 Nondefault or early termination provision. (1)

For the purposes of this section, "nondefault or early termination provision" means a provision that authorizes the department to terminate a lease in the event the department includes the leased land in a plan for higher and better use, land exchange, or sale.

(2) Any nondefault or early termination provision included in a state land lease for agricultural or grazing purposes must:

(a) Require advance written notice of at least one hundred eighty days by the department to the lessee prior to termination of the lease; and

(b) Require the department to provide to the lessee, along with the notice under (a) of this subsection, written documentation demonstrating that the department has included the leased land in a plan for higher and better use, land exchange, or sale.

(3) This section does not require the department to include a nondefault or early termination provision in any state land lease for agricultural or grazing purposes.

(4) This section does not prohibit the department from allowing the lessee to surrender the leasehold subject to terms provided in the lease.

(5) This section does not prohibit the department from executing other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a nondefault or early termination provision.

(6) In the event that the department exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes, the department shall compensate the lessee according to the following schedule:

(a) For grazing leases, the department shall pay to the lessee the annual rent for the land subject to the lease, multiplied by a factor of six, except that the department need not compensate the lessee for any years that are specifically designated in the lease as nongrazing years.

(b) For agricultural leases, the department shall pay to the lessee the expected net return the lessee would have realized from crops raised on the leased land, which shall be calculated according to the following formula: The annual net revenue per acre for the class of crop produced by the lessee, less the rental rate per acre for the land leased by the lessee; multiplied by the number of acres leased by the lessee. For purposes of this subsection, the annual net revenue per acre for a class of crop must be calculated according to the most recent rolling average annual net rental return per acre for that class of crop as established by the county assessor of the county in which the leased land is located or, if the county assessor of the county in which the land is located has not established an annual net rental return per acre, as established by the county assessor of the nearest county in which the county assessor has established such an annual net rental return per acre. The annual net rental return per acre, as established by the county assessor, must be adjusted to reflect the total annual net revenue per acre.

(c) For both grazing leases and agricultural leases, the department shall make payments to the lessee on an annual basis for the remaining term of the terminated lease, unless the department and the lessee agree to an alternate schedule of payments. In the event that payments are made on any schedule other than on an annual basis, any advance payments must be subjected to an appropriate discount rate

in order to reflect the net present value of the compensation owed by the department.

(d) For both grazing leases and agricultural leases, in the event that the lessee has placed any improvements, as authorized under RCW 79.13.050, on the land that is subject to the lease, the department is responsible for compensating the lessee for the fair market value of the improvements. In the event that an agreement cannot be reached between the state and the lessee on the fair market value of the improvements, the valuation must be determined as prescribed under RCW 79.13.160.

(7) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes results in the removal of fencing from the land subject to the lease, the department is responsible for ensuring the replacement of any removed fencing.

(8) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes causes the lessee to incur a financial penalty as a result of an early withdrawal from a natural resources conservation service program, the department is responsible for reimbursing the lessee for payment of the financial penalty.

(9) The compensation and reimbursement available to a lessee under subsections (6) and (8) of this section, respectively, is the sole financial remedy available to the lessee based on the department's exercise of a nondefault or early termination provision in an agriculture or grazing lease. Appeal rights under RCW 79.02.030 are unaffected by the relief provided in this section. [2021 c 36 s 1; 2017 c 56 s 1.]