
HOUSE BILL 2199

State of Washington

61st Legislature

2009 Regular Session

By Representatives Newhouse and Hudgins

Read first time 02/12/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to regulatory relief for properties impacted by
2 shifts in shoreline location due to habitat restoration projects;
3 adding a new section to chapter 90.58 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that restoration of
6 degraded shoreline conditions is important to the ecological function
7 of our waters. However, restoration projects that shift the location
8 of the shoreline can inadvertently create hardships for property
9 owners, particularly in urban areas. Hardship may occur when a
10 shoreline restoration project shifts shoreline management act
11 regulations into areas that had not previously been regulated under the
12 act or shifts the location of required shoreline buffers. The
13 legislature intends to provide relief to property owners in such cases,
14 while protecting the viability of shoreline restoration projects.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW
16 to read as follows:

17 (1) The local government may grant relief from shoreline master

1 program development standards and use regulations within urban growth
2 areas when the following apply:

3 (a) A shoreline restoration project causes or would cause a
4 landward shift in the ordinary high water mark, resulting in the
5 following:

6 (i) Land that had not been regulated under this chapter prior to
7 construction of the restoration project is brought under shoreline
8 jurisdiction; or

9 (ii) Additional regulatory requirements apply due to a landward
10 shift in required shoreline buffers or other regulations of the
11 applicable shoreline master program; and

12 (iii) Application of shoreline master program regulations would
13 preclude or interfere with use of the property permitted by local
14 development regulations, thus presenting a hardship to the project
15 proponent;

16 (b) The proposed relief meets the following criteria:

17 (i) The proposed relief is the minimum necessary to relieve the
18 hardship;

19 (ii) After granting the proposed relief, there is net environmental
20 benefit from the restoration project;

21 (iii) Granting the proposed relief is consistent with the
22 objectives of the shoreline restoration project and consistent with the
23 shoreline master program; and

24 (iv) Where a shoreline restoration project is created as mitigation
25 to obtain a development permit, the project proponent required to
26 perform the mitigation is not eligible for relief under this section;
27 and

28 (c) The application for relief must be submitted to the department
29 for written approval or disapproval. This review must occur during the
30 department's normal review of a shoreline substantial development
31 permit, conditional use permit, or variance. If no such permit is
32 required, then the department shall conduct its review when the local
33 government provides a copy of a complete application and all supporting
34 information necessary to conduct the review.

35 (i) Except as otherwise provided in subsection (2) of this section,
36 the department shall provide at least twenty-days notice to parties
37 that have indicated interest to the department in reviewing

1 applications for relief under this section, and post the notice on
2 their web site.

3 (ii) The department shall act within thirty calendar days of close
4 of the public notice period, or within thirty days of receipt of the
5 proposal from the local government if additional public notice is not
6 required.

7 (2) The public notice requirements of subsection (1)(c) of this
8 section do not apply if the relevant shoreline restoration project was
9 included in a shoreline master program or shoreline restoration plan as
10 defined in WAC 173-26-201, as follows:

11 (a) The restoration plan has been approved by the department under
12 applicable shoreline master program guidelines;

13 (b) The shoreline restoration project is specifically identified in
14 the shoreline master program or restoration plan or is located along a
15 shoreline reach identified in the shoreline master program or
16 restoration plan as appropriate for granting relief from shoreline
17 regulations; and

18 (c) The shoreline master program or restoration plan includes
19 policies addressing the nature of the relief and why, when, and how it
20 would be applied.

21 (3) A substantial development permit is not required on land within
22 urban growth areas as defined in RCW 36.70A.030 that is brought under
23 shoreline jurisdiction due to a shoreline restoration project creating
24 a landward shift in the ordinary high water mark.

25 (4) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Shoreline restoration project" means a project designed to
28 restore impaired ecological function of a shoreline.

29 (b) "Urban growth areas" has the same meaning as defined in RCW
30 36.70A.030.

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