

Chapter 79.130 RCW
AQUATIC LANDS—BEDS OF NAVIGABLE WATERS

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RCW 79.130.001 Intent—2005 c 155. See RCW 79.105.001.

RCW 79.130.010 Lease of beds of navigable waters. (1) Except as provided in RCW 79.130.060, the department may lease to the abutting tidelands or shorelands owner or lessee, the beds of navigable waters lying below the line of extreme low tide in waters where the tide ebbs and flows, and below the line of navigability in lakes and rivers claimed by the state and defined in Article XVII, section 1 of the state Constitution.

(2) In case the abutting tidelands or shorelands or the abutting uplands are not improved or occupied for residential or commercial purposes, the department may lease the beds to any person for a period not exceeding ten years for booming purposes.

(3) Nothing in this chapter shall change or modify any of the provisions of the state Constitution or laws of the state which provide for the leasing of harbor areas and the reservation of lands lying in front of harbor areas. [2005 c 155 § 601; 1987 c 271 § 2; 1982 1st ex.s. c 21 § 130. Formerly RCW 79.95.010.]

Severability—1987 c 271: See note following RCW 79.130.050.

RCW 79.130.020 Lease of beds of navigable waters—Terms and conditions of lease—Forfeiture for nonuser. (1) The department shall, prior to the issuance of any lease under the provisions of this chapter, fix the annual rent and prescribe the terms and conditions of the lease. However, in fixing the rent, the department shall not take into account the value of any improvements placed upon the lands by the lessee.

(2) No lease issued under the provisions of this chapter shall be for a term longer than thirty years. Failure to use those beds leased under the provisions of this chapter for booming purposes, for a period of three years shall work a forfeiture of the lease and the land shall revert to the state without notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

[2019 c 131 § 2; 2005 c 155 § 602; 1982 1st ex.s. c 21 § 131. Formerly RCW 79.95.020.]

RCW 79.130.030 Lease of beds of navigable waters—Improvements—Federal permit—Forfeiture—Plans and specifications. The applicant for a lease under the provisions of this chapter shall first obtain from the United States army corps of engineers or other federal regulatory agency, a permit to place structures or improvements in the navigable waters and file with the department a copy of the permit. No structures or improvements shall be constructed beyond a point authorized by the army corps of engineers or the department and any construction beyond authorized limits will work a forfeiture of all rights granted by the terms of any lease issued under the provisions of this chapter. The applicant shall also file plans and specifications of any proposed improvements to be placed upon the areas with the department, the plans and specifications to be the same as provided for in the case of the lease of harbor areas. [2005 c 155 § 603; 1982 1st ex.s. c 21 § 132. Formerly RCW 79.95.030.]

RCW 79.130.040 Lease of beds of navigable waters—Preference right to re-lease. At the expiration of any lease issued under the provisions of this chapter, the lessee or the lessee's successors or assigns, shall have a preference right to re-lease all or part of the area covered by the original lease if the department deems it to be in the best interest of the state to re-lease the area. Such re-lease shall be for the term as specified by the provisions of this chapter, and at the rental and upon the conditions as may be prescribed by the department. However, if the preference right is not exercised, the rights and obligations of the lessee, the department, and any subsequent lessee shall be the same as provided in RCW 79.125.300 relating to failure to re-lease tidelands or shorelands. Any person who prior to June 11, 1953, had occupied and improved an area subject to lease under this chapter and has secured a permit for the improvements from the United States army corps of engineers, or other federal regulatory agency, shall have the rights and obligations of a lessee under this section upon the filing of a copy of the permit together with plans and specifications of the improvements with the department. [2005 c 155 § 604; 1982 1st ex.s. c 21 § 133. Formerly RCW 79.95.040.]

RCW 79.130.050 United States Navy base—Legislative findings and declaration. The legislature recognizes the importance of economic development in the state of Washington, and finds that the location of a United States Navy base in Everett, Washington will enhance economic development. The legislature finds that the state should not assume liability or risks resulting from any action taken by the United States Navy, now or in the future associated with the dredge disposal program for that project known as confined aquatic disposal (CAD). The legislature also recognizes the importance of improving water quality and cleaning up pollution in Puget Sound. The legislature declares these actions to be a public purpose necessary to protect the health, safety, and welfare of its citizens, and to promote economic growth and improve environmental quality in the state of Washington. The

United States Navy proposes to commence the Everett home port project immediately. [2005 c 155 § 605; 1987 c 271 § 1. Formerly RCW 79.95.050.]

Severability—1987 c 271: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 271 § 6.]

RCW 79.130.060 Lease of bedlands in Port Gardner Bay for dredge spoil site—Conditions. (1) Upon application by the United States Navy, and upon verification of the legal description and compliance with the intent of this chapter, the commissioner is authorized to lease bedlands in Port Gardner Bay for a term of thirty years so the United States Navy can utilize a dredge spoil site solely for purposes related to construction of the United States Navy base at Everett.

(2) The lease shall reserve for the state uses of the property and associated waters which are not inconsistent with the use of the bed by the Navy as a disposal site. The lease shall include conditions under which the Navy:

(a) Will agree to hold the state of Washington harmless for any damage and liability relating to, or resulting from, the use of the property by the Navy; and

(b) Will agree to comply with all terms and conditions included in the applicable state of Washington section 401 water quality certification issued under the authority of the federal clean water act (33 U.S.C. Sec. 1251, et seq.), all terms and conditions of the army corps of engineers section 404 permit (33 U.S.C. Sec. 1344), and all requirements of statutes, regulations, and permits relating to water quality and aquatic life in Puget Sound and Port Gardner Bay, including all reasonable and appropriate terms and conditions of any permits issued under the authority of the Washington state shoreline management act (chapter 90.58 RCW) and any applicable shoreline master program.

(3) The ability of the state of Washington to enforce the terms and conditions specified in subsection (2)(b) of this section shall include, but not be limited to: (a) The terms and conditions of the lease; (b) the section 401 water quality certification under the clean water act, 33 U.S.C. Sec. 1251, et seq.; (c) the comprehensive environmental response, compensation, and liability act, 42 U.S.C. Sec. 9601, et seq.; (d) the resource conservation and recovery act, 42 U.S.C. Sec. 6901, et seq.; or (e) any other applicable federal or state law. [2005 c 155 § 606; 1987 c 271 § 3. Formerly RCW 79.95.060.]

Severability—1987 c 271: See note following RCW 79.130.050.

RCW 79.130.070 Exchange of bedlands—Cowlitz river. (1) The department is authorized to exchange bedlands abandoned through rechanneling of the Cowlitz river near the confluence of the Columbia river so that the state obtains clear title to the Cowlitz river as it now exists or where it may exist in the future through the processes of erosion and accretion.

(2) The department is also authorized to exchange bedlands and enter into boundary line agreements to resolve any disputes that may arise over the location of state-owned lands now comprising the dike that was created in the 1920s.

(3) For purposes of chapter 150, Laws of 2001, "Cowlitz river near the confluence of the Columbia river" means those tidelands and bedlands of the Cowlitz river fronting and abutting sections 10, 11, and 14, township 7 north, range 2 west, Willamette Meridian and fronting and abutting the Huntington Donation Land Claim No. 47 and the Blakeny Donation Land Claim No. 43, township 7 north, range 2 west, Willamette Meridian.

(4) Nothing in chapter 150, Laws of 2001 shall be deemed to convey to the department the power of eminent domain. [2003 c 334 § 454; 2001 c 150 § 2. Formerly RCW 79.90.458, 79.08.260.]

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—2001 c 150: "(1) The legislature finds that in the 1920s the Cowlitz river near the confluence of the Columbia river in Longview, Washington was diverted from its original course by dredging and construction of a dike. As a result, a portion of the original bed of the Cowlitz river became a nonnavigable body of shallow water. Another portion of the original bed of the Cowlitz river became part of a dike and is indistinguishable from existing islands. The main channel of the Cowlitz river was diverted over uplands to the south of the original bed and has continued as a navigable channel.

(2) The legislature finds that continued ownership of the nonnavigable portion of the original bed of the Cowlitz river near the confluence of the Columbia river no longer serves the state's interest in navigation. Ownership of the existing navigable bed of the Cowlitz river would better serve the state's interest in navigation. It is also in the state's interest to resolve any disputes that have arisen because state-owned land is now indistinguishable from privately owned land within the dike." [2001 c 150 § 1.]

Severability—2001 c 150: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 150 § 3.]