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RCW 79.125.001 Intent—2005 c 155. See RCW 79.105.001.

PLAT/APPRAISAL/REPLAT

RCW 79.125.010 Location of line dividing tidelands from shorelands in tidal rivers. The department is authorized to locate in all navigable rivers in this state which are subject to tidal flow, the line dividing the tidelands in the river from the shorelands in the river, and the classification or the location of the dividing line shall be final and not subject to review, and the department shall enter the location of the line upon the plat of the tidelands and shorelands affected. [2005 c 155 § 532; 1982 1st ex.s. c 21 § 118. Formerly RCW 79.94.330.]

RCW 79.125.020 First-class tidelands and shorelands to be platted. It is the duty of the department simultaneously with the establishment of harbor lines and the determination of harbor areas in front of any city or town or as soon as practicable to survey and plat all first-class tidelands and shorelands not previously platted as provided in RCW 79.120.010. [2005 c 155 § 501; 1982 1st ex.s. c 21 § 87. Formerly RCW 79.94.020.]

RCW 79.125.030 Second-class tidelands and shorelands may be platted. The department may survey and plat any second-class tidelands and shorelands not previously platted. [2005 c 155 § 502; 1982 1st ex.s. c 21 § 88. Formerly RCW 79.94.030.]

RCW 79.125.040 Tidelands and shorelands—Plats—Record. The department shall prepare plats showing all tidelands and shorelands, surveyed, platted, and appraised by it in the respective counties, on which shall be marked the location of all tidelands and shorelands, with reference to the lines of the United States survey of the abutting upland, and shall prepare a record of its proceedings, including a list of the tidelands and shorelands surveyed, platted, or replatted, and appraised by it and its appraisal of the tidelands and shorelands, which plats and books shall be in triplicate and the department shall file one copy of the plats and records in the department's Olympia office, and file one copy in the office of the county auditor of the county where the lands platted, or replatted, and appraised are situated, and file one copy in the office of the city engineer of the city in which, or within two miles of which, the lands platted, or replatted, are situated. [2005 c 155 § 503; 1982 1st ex.s. c 21 § 89. Formerly RCW 79.94.040.]

RCW 79.125.050 Date of sale limited by time of appraisal. In no case shall any state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, be offered for sale unless the lands have been appraised by the department within ninety days prior to the date fixed for the sale. [2005 c 155 § 107; 1982 1st ex.s. c 21 § 17. Formerly RCW 79.90.110.]

RCW 79.125.060 First or second-class tidelands and shorelands—Appraisal—Record. In appraising tidelands or shorelands, the department shall appraise each lot, tract, or piece of land separately, and shall maintain a description of each lot, tract, or piece of first or second-class tidelands or shorelands, its full appraised value, the area and rate per acre at which it was appraised, and if any lot is covered in whole or in part by improvements in actual use for commerce, trade, residence, or business, on or prior to, the date of the plat or replat, the department shall enter the name of the owner, or reputed owner, the nature of the improvements, the area covered by the improvements, the portion of each lot, tract, or piece of land covered, and the appraised value of the land covered, with and exclusive of, the improvements. [2005 c 155 § 504; 1982 1st ex.s. c 21 § 90. Formerly RCW 79.94.050.]

RCW 79.125.070 Tidelands and shorelands—Notice of filing plat and record of appraisal—Appeal. (1) The department shall, before filing in the department's Olympia office the plat and record of appraisal of any tidelands or shorelands platted and appraised by it, publish a notice once each week for four consecutive weeks in a newspaper published and of general circulation in the county where the lands covered by the plat and record are situated, stating that the plat and record, describing it, is complete and subject to inspection at the department's Olympia office, and will be filed on a certain day to be named in the notice.

(2) Any person entitled to purchase under RCW 79.125.200 and claiming a preference right of purchase of any of the tidelands or shorelands platted and appraised by the department, and who feels aggrieved at the appraisement fixed by the department upon the lands, or any part thereof, may within sixty days after the filing of the plat and record in the department's Olympia office (which shall be done on the day fixed in the notice), appeal from the appraisement to the superior court of the county in which the tidelands or shorelands are situated, in the manner provided for taking appeals from orders or decisions under RCW 79.105.160.

(3) The prosecuting attorney of any county, or city attorney of any city, in which the aquatic lands are located, shall at the request of the governor, appeal on behalf of the state, or the county, or city, from any appraisal in the manner provided in this section. Notice of the appeal shall be served upon the commissioner, and the department must immediately notify all persons entitled to purchase under RCW 79.125.200 and claiming a preference right to purchase the lands subject to the appraisement.

(4) Any party, other than the state or the county or city appealing, shall execute a bond to the state with sufficient surety, to be approved by the department, in the sum of two hundred dollars conditioned for the payment of costs on appeal.

(5) The superior court to which an appeal is taken shall hear evidence as to the value of the lands appraised and enter an order confirming, or raising, or lowering the appraisal appealed from, and the clerk of the court shall file a certified copy in the department's Olympia office. The appraisal fixed by the court shall be final. [2005 c 155 § 505; 1982 1st ex.s. c 21 § 91. Formerly RCW 79.94.060.]

RCW 79.125.080 Tidelands and shorelands—Petition for replat—Replatting and reappraisal—Vacation by replat. Whenever all of the owners and other persons having a vested interest in those tidelands or shorelands embraced within any plat of tidelands or shorelands or within any portion of any plat in which there are unsold state-owned tidelands or shorelands, shall file a petition with the department accompanied by proof of service of the petition upon the city council, or other governing body, of the city or town in which the tidelands or shorelands described in the petition are situated, or upon the legislative body of the county in which the tidelands or shorelands outside of any incorporated city or town are situated, asking for a replat of the tidelands or shorelands, the department is authorized and empowered to replat the tidelands or shorelands described in the petition, and all unsold tidelands or shorelands situated within the replat shall be reappraised as provided for the original appraisal of tidelands or shorelands. However, any streets or alleys embraced within the plat or portion of plat, vacated by the replat shall vest in the owner or owners of the abutting lands. [2005 c 155 § 509; 1982 1st ex.s. c 21 § 95. Formerly RCW 79.94.100.]

RCW 79.125.090 Tidelands and shorelands—Dedication of replat—All interests must join. If in the preparation of a replat provided for in RCW 79.125.080 by the department, it becomes desirable to appropriate any tidelands or shorelands previously sold for use as streets, alleys, waterways, or other public places, all persons interested in the title to the tidelands or shorelands desired for public places shall join in the dedication of the replat before it shall become effective. [2005 c 155 § 510; 1982 1st ex.s. c 21 § 96. Formerly RCW 79.94.110.]

RCW 79.125.100 Tidelands and shorelands—Vacation procedure cumulative. RCW 79.125.080, 79.125.090, and 79.125.420 are intended to afford a method of procedure, in addition to other methods provided in this title for the vacation of streets, alleys, waterways, and other public places platted on tidelands or shorelands. [2005 c 155 § 512; 1982 1st ex.s. c 21 § 98. Formerly RCW 79.94.130.]

RCW 79.125.110 Tidelands and shorelands—Effect of replat. A replat of tidelands or shorelands platted shall be in full force and effect and shall constitute a vacation of streets, alleys, waterways, and other dedicated public places, when otherwise permitted by RCW 79.125.200, and the dedication of new streets, alleys, waterways, and other public places appearing upon the replat, when the replat is recorded and filed as in the case of original plats. [2005 c 155 § 513; 1982 1st ex.s. c 21 § 99. Formerly RCW 79.94.140.]

EXCHANGE, SALE, LEASE LIMITATIONS/TERMS

RCW 79.125.200 State-owned tidelands, shorelands, and waterways—Sold only to public entities—Leasing—Limitation. (1) This section applies to:

(a) First-class tidelands as defined in RCW 79.105.060;
(b) Second-class tidelands as defined in RCW 79.105.060;
(c) First-class shorelands as defined in RCW 79.105.060;
(d) Second-class shorelands as defined in RCW 79.105.060, except as included within RCW 79.125.450;

(e) Waterways as described in RCW 79.120.010.

(2) Notwithstanding any other provision of law, from and after August 9, 1971, all state-owned tidelands and shorelands enumerated in subsection (1) of this section shall not be sold except to public entities as may be authorized by law and they shall not be given away.

(3) Tidelands and shorelands enumerated in subsection (1) of this section may be leased for a period not to exceed fifty-five years. However, nothing in this section shall be construed as modifying or canceling any outstanding lease during its present term.

(4) Nothing in this section shall:

(a) Be construed to cancel an existing sale contract;
(b) Prohibit sale or exchange of beds and shorelands where the water course has changed and the area now has the characteristics of uplands;

(c) Prevent exchange involving state-owned tidelands and shorelands;

(d) Be construed to prevent the assertion of public ownership rights in any publicly owned aquatic lands, or the leasing of such aquatic lands when such leasing is not contrary to the statewide public interest. [2005 c 155 § 514. FORMERLY PART OF RCW 79.94.170; 1982 1st ex.s. c 21 § 100. Formerly RCW 79.94.150.]

RCW 79.125.210 Sale of second-class tidelands. All second-class tidelands shall be offered for sale, when otherwise permitted under RCW 79.125.200 to be sold, and sold in the same manner as state lands, other than capitol building lands, but for not less than five dollars per lineal chain, measured on the United States meander line bounding the inner shore limit of the tidelands, and shall pay one-tenth of the purchase price on the date of sale. [2005 c 155 § 508; 1982 1st ex.s. c 21 § 94. Formerly RCW 79.94.090.]

RCW 79.125.220 Second-class tidelands or shorelands—Lease for booming purposes. (1) The department is authorized to lease any second-class tidelands or shorelands, whether reserved from sale, or from lease for other purposes, by or under authority of law, or not, except any oyster reserve containing oysters in merchantable quantities, to any person, for booming purposes, for any term not exceeding ten years from the date of the lease, for annual rental and upon terms and conditions as the department may fix and determine, and may also provide for forfeiture and termination of any lease at any

time for failure to pay the fixed rental or for any violation of the terms or conditions.

(2) The lessee of any lands for booming purposes shall receive, hold, and sort the logs and other timber products of all persons requesting the service and upon the same terms and without discrimination, and may charge and collect tolls for the service not to exceed seventy-five cents per thousand feet scale measure on all logs, spars, or other large timber and reasonable rates on all other timber products, and shall be subject to the same duties and liabilities, so far as the duties and liabilities are applicable, as are imposed upon boom companies organized under the laws of the state. However, failure to use any lands leased under the provisions of this section for booming purposes for a period of one year shall work a forfeiture of the lease, and the lands shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

(3) At the expiration of any lease issued under the provisions of this section, the lessee shall have the preference right to re-lease the lands covered by the lessee's original lease for a further term, not exceeding ten years, at the rental and upon the terms and conditions as may be prescribed by the department. [2005 c 155 § 528; 1982 1st ex.s. c 21 § 114. Formerly RCW 79.94.290.]

RCW 79.125.230 Second-class tidelands or shorelands separated from uplands by navigable water—Sale. Second-class tidelands and shorelands that are separated from the upland by navigable waters shall be sold, when otherwise permitted under RCW 79.125.200 to be sold, but in no case at less than five dollars per acre. An applicant to purchase the tidelands or shorelands shall, at the applicant's own expense, survey and file with the application a plat of the surveys of the land applied for, which survey shall be connected with, and the plat shall show, two or more connections with the United States survey of the uplands, and the applicant shall file the field notes of the survey of the land with the application. The department shall examine and test the plat and field notes of the survey, and if found incorrect or indefinite, it shall cause the survey to be corrected or may reject the survey and cause a new survey to be made. [2005 c 155 § 526; 1982 1st ex.s. c 21 § 112. Formerly RCW 79.94.270.]

RCW 79.125.240 Sale procedure—Terms of payment—Deferred payments, rate of interest. All state-owned tidelands and shorelands, otherwise permitted under RCW 79.125.200 to be sold, shall be sold on the following terms: One-tenth to be paid on the date of sale; one-tenth to be paid one year from the date of the issuance of the contract of sale; and one-tenth annually thereafter until the full purchase price has been made; but any purchaser may make full payment at any time. All deferred payments shall draw interest at the rate as may be fixed by rule adopted by the board, and the rate of interest, as so fixed at the date of each sale, shall be stated in all advertising for and notice of the sale and in the contract of sale. The first installment of interest shall become due and payable one year after the date of the contract of sale and all interest shall become due and payable annually on that date, and all remittances for payment of either principal or interest shall be forwarded to the

department. [2005 c 155 § 122; 1982 1st ex.s. c 21 § 31. Formerly RCW 79.90.250.]

RCW 79.125.250 Sale procedure—Certificate to governor of payment in full—Deed. When the entire purchase price of any state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, shall have been fully paid, the department shall certify the fact to the governor, and shall cause a deed signed by the governor and attested by the secretary of state, with the seal of the state attached, to be issued to the purchaser and to be recorded in the department, and no fee shall be required for any deed issued by the governor other than the fee provided for in this chapter. [2005 c 155 § 123; 1982 1st ex.s. c 21 § 32. Formerly RCW 79.90.260.]

RCW 79.125.260 Sale procedure—Reservation in contract. Each and every contract for the sale of, and each deed to, state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, shall contain the reservation contained in RCW 79.11.210. [2005 c 155 § 124; 2003 c 334 § 601; 1982 1st ex.s. c 21 § 33. Formerly RCW 79.90.270.]

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

RCW 79.125.270 Sale procedure—Form of contract—Forfeiture—Extension of time. The purchaser of state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, except in cases where the full purchase price is paid at the time of the purchase, shall enter into and sign a contract with the state to be signed by the commissioner on behalf of the state, with the seal of the commissioner's office attached, and in a form to be prescribed by the attorney general, and under those terms and conditions provided in RCW 79.11.200. [2005 c 155 § 125; 1982 1st ex.s. c 21 § 34. Formerly RCW 79.90.280.]

RCW 79.125.280 Subdivision of leases—Fee. Whenever the holder of any contract to purchase any state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, or the holder of any lease of any lands, except for mining of valuable minerals, or coal, or extraction of petroleum or gas, shall surrender the contract or lease to the department with the request to have it divided into two or more contracts or leases, the department may divide the contract or lease and issue new contracts or leases. However, no new contract or lease shall issue while there is due and unpaid any rental, taxes, or assessments on the land held under the contract or lease, nor in any case where the department is of the opinion that the state's security would be impaired or endangered by the proposed division. For all new contracts or leases a fee as determined by the board for each new contract or lease issued, shall be paid by the applicant and the fee shall be paid into the state treasury to the resource management cost account in the general fund, pursuant to RCW

79.64.020. [2005 c 155 § 133; 1982 1st ex.s. c 21 § 41. Formerly RCW 79.90.350.]

RCW 79.125.290 First-class tidelands and shorelands—Sale of remaining lands. Any first-class tidelands or shorelands remaining unsold, and where there is no pending application for purchase under claim of any preference right, when otherwise permitted under RCW 79.125.200 to be sold, shall be sold on the same terms and in the same manner as provided for the sale of state lands for not less than the appraised value fixed at the time of the application to purchase, and the department whenever it deems it advisable and for the best interest of the state may reappraise the lands in the same manner as provided for the appraisal of state lands. [2005 c 155 § 507; 1982 1st ex.s. c 21 § 93. Formerly RCW 79.94.080.]

RCW 79.125.300 Tidelands or shorelands—Failure to re-lease tidelands or shorelands—Appraisal of improvements. (1) In case any lessee of tidelands or shorelands, for any purpose except mining of valuable minerals or coal, or extraction of petroleum or gas, or the lessee's successor in interest, shall after the expiration of any lease, fail to purchase, when otherwise permitted under RCW 79.125.200 to be purchased, or re-lease from the state the tidelands or shorelands formerly covered by the lease, when the lands are offered for sale or re-lease, then and in that event the department shall appraise and determine the value of all improvements existing upon the tidelands or shorelands at the expiration of the lease which are not capable of removal without damage to the land, including the cost of filling and raising the property above high tide, or high water, whether filled or raised by the lessee or the lessee's successors in interest, or by virtue of any contract made with the state, and also including the then value to the land of all existing local improvements paid for by the lessee or the lessee's successors in interest. In case the lessee or the lessee's successor in interest is dissatisfied with the appraised value of the improvements as determined by the department, the lessee shall have the right of appeal to the superior court of the county where the tidelands or shorelands are situated, within the time and according to the method prescribed in RCW 79.105.160 for taking appeals from decisions of the department.

(2) In case the tidelands or shorelands are leased, or sold, to any person other than such lessee or the lessee's successor in interest, within three years from the expiration of the former lease, the bid of the subsequent lessee or purchaser shall not be accepted until payment is made by the subsequent lessee or purchaser of the appraised value of the improvements as determined by the department, or as may be determined on appeal, to the former lessee or the former lessee's successor in interest.

(3) In case the tidelands or shorelands are not leased, or sold, within three years after the expiration of the former lease, then in that event, the improvements existing on the lands at the time of any subsequent lease, shall belong to the state and be considered a part of the land, and shall be taken into consideration in appraising the value, or rental value, of the land and sold or leased with the land. [2005 c 155 § 531; 1982 1st ex.s. c 21 § 117. Formerly RCW 79.94.320.]

RCW 79.125.310 Effect of mistake or fraud. Any sale or lease of state-owned tidelands or shorelands, otherwise permitted under RCW 79.125.200 to be sold, made by mistake, or not in accordance with law, or obtained by fraud or misrepresentation, shall be void, and the contract of purchase or lease, issued shall be of no effect, and the holder of the contract or lease, shall be required to surrender the contract or lease to the department, which, except in the case of fraud on the part of the purchaser, or lessee, shall cause the money paid on account of the surrendered contract or lease to be refunded to the holder, provided the money has not been paid into the state treasury. [2005 c 155 § 134; 1982 1st ex.s. c 21 § 42. Formerly RCW 79.90.360.]

SALE OR LEASING PREFERENCE

RCW 79.125.400 First-class tidelands and shorelands—Lease—Preference right of upland owner—How exercised. (1) Upon platting and appraisal of first-class tidelands or shorelands as provided in this chapter, if the department deems it for the best public interest to offer the first-class tidelands or shorelands for lease, the department shall notify the owner of record of uplands fronting upon the tidelands or shorelands to be offered for lease if the upland owner is a resident of the state, or the upland owner is a nonresident of the state, shall mail to the upland owner's last known post office address, as reflected in the county records, a copy of the notice notifying the owner that the state is offering the tidelands or shorelands for lease, giving a description of those lands and the department's appraised fair market value of the tidelands or shorelands for lease, and notifying the owner that the upland owner has a preference right to apply to lease the tidelands or shorelands at the appraised value for the lease for a period of sixty days from the date of service of mailing of the notice.

(2) If at the expiration of sixty days from the service or mailing of the notice, as provided in subsection (1) of this section, there being no conflicting applications filed, and the owner of the uplands fronting upon the tidelands or shorelands offered for lease, has failed to avail themselves of their preference right to apply to lease or to pay to the department the appraised value for lease of the tidelands or shorelands described in the notice, the tidelands or shorelands may be offered for lease to any person and may be leased in the manner provided for in the case of lease of state lands.

(3) If at the expiration of sixty days two or more claimants asserting a preference right to lease have filed applications to lease any tract, conflicting with each other, the conflict between the claimants shall be equitably resolved by the department as the best interests of the state require in accord with the procedures prescribed by chapter 34.05 RCW. However, any contract purchaser of lands or rights therein, which upland qualifies the owner for a preference right under this section, shall have first priority for the preference right. [2005 c 155 § 506; 2000 c 11 § 29; 1982 1st ex.s. c 21 § 92. Formerly RCW 79.94.070.]

RCW 79.125.410 First-class unplatted tidelands and shorelands—Lease preference right to upland owners—Lease for booming purposes.
(1) The department is authorized to lease to the abutting upland owner any unplatted first-class tidelands or shorelands.

(2) The department shall, prior to the issuance of any lease under the provisions of this section, fix the annual rent for the tidelands or shorelands and prescribe the terms and conditions of the lease. No lease issued under the provisions of this section shall be for a longer term than fifty-five years, and every lease shall be subject to termination upon ninety days' notice to the lessee in the event that the department shall decide that it is in the best interest of the state that the tidelands or shorelands be surveyed and platted. At the expiration of any lease issued under the provisions of this section, the lessee or the lessee's successors or assigns shall have a preference right to re-lease the lands covered by the original lease or any portion of the lease, if the department deems it to be in the best interests of the state to re-lease the lands, for succeeding periods not exceeding fifty-five years each at the rent and upon the terms and conditions as may be prescribed by the department. The department may not lease or re-lease any first-class tidelands or shorelands where the sole basis of the state's title is adverse possession of the tidelands or shorelands to be leased.

(3) In case the abutting uplands are not improved and occupied for residential purposes and the abutting upland owner has not filed an application for the lease of the lands, the department may lease the lands to any person for booming purposes under the terms and conditions of this section. However, failure to use for booming purposes any lands leased under this section for such purposes for a period of three years shall work a forfeiture of the lease and the land shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department. [2019 c 131 § 1; 2005 c 155 § 527; 1982 1st ex.s. c 21 § 113. Formerly RCW 79.94.280.]

RCW 79.125.420 Tidelands and shorelands—Vacation by replat—Preference right of tideland or shoreland owner. If any platted street, alley, waterway, or other public place is vacated by a replat as provided for in RCW 79.125.080 and 79.125.090, or any new street, alley, waterway, or other public place is so laid out as to leave unsold tidelands or shorelands between a new street, alley, waterway, or other public place, and tidelands or shorelands previously sold, the owner of the adjacent tidelands or shorelands shall have the preference right for sixty days after the final approval of the plat to purchase the unsold tidelands or shorelands so intervening at the appraised value, if otherwise permitted under RCW 79.125.200 to be sold. [2005 c 155 § 511; 1982 1st ex.s. c 21 § 97. Formerly RCW 79.94.120.]

RCW 79.125.430 Tidelands or shorelands—Preference rights, time limit on exercise. All preference rights to purchase tidelands or shorelands, when otherwise permitted by RCW 79.125.200 to be purchased, awarded by the department, or by the superior court in case of appeal from the award of the department, shall be exercised by the parties to whom the award is made within thirty days from the date of

the service of notice of the award by registered mail, by the payment to the department of the sums required by law to be paid for a contract, or deed, as in the case of the sale of state lands, other than capitol building lands, and upon failure to make the payment the preference rights shall expire. [2005 c 155 § 529; 1982 1st ex.s. c 21 § 115. Formerly RCW 79.94.300.]

RCW 79.125.440 Tidelands or shorelands—Accretions—Lease. Any accretions that may be added to any tract or tracts of tidelands or shorelands previously sold, or that may be sold, by the state, shall belong to the state and shall not be sold, or offered for sale, unless otherwise permitted by this chapter to be sold, and unless the accretions are surveyed under the direction of the department. However, the owner of the adjacent tidelands or shorelands shall have the preference right to purchase the lands produced by accretion, when otherwise permitted by RCW 79.125.200 to be sold, for thirty days after the owner of the adjacent tidelands or shorelands shall have been notified by registered mail of the owner's preference right to purchase the accreted lands. [2005 c 155 § 530; 1982 1st ex.s. c 21 § 116. Formerly RCW 79.94.310.]

RCW 79.125.450 Second-class shorelands on navigable lakes—Sale. (1) The legislature finds that maintaining public lands in public ownership is often in the public interest. However, when second-class shorelands on navigable lakes have minimal public value, the sale of those shorelands to the abutting upland owner may not be contrary to the public interest. However, the purpose of this section is to remove the prohibition contained in RCW 79.125.200 regarding the sale of second-class shorelands to abutting owners, whose uplands front on the shorelands. Nothing contained in this section shall be construed to otherwise affect the rights of interested parties relating to public or private ownership of shorelands within the state.

(2) Notwithstanding the provisions of RCW 79.125.200, the department may sell second-class shorelands on navigable lakes to abutting owners whose uplands front upon the shorelands in cases where the board has determined that these sales would not be contrary to the public interest. These shorelands shall be sold at fair market value, but not less than five percent of the fair market value of the abutting upland, less improvements, to a maximum distance of one hundred and fifty feet landward from the line of ordinary high water.

(3) Review of the decision of the department regarding the sale price established for a shoreland to be sold pursuant to this section may be obtained by the upland owner by filing a petition with the board of tax appeals created in accordance with chapter 82.03 RCW within thirty days after the mailing of notification by the department to the owner regarding the price. The board of tax appeals shall review the cases in an adjudicative proceeding as described in chapter 34.05 RCW, the administrative procedure act, and the board's review shall be de novo. Decisions of the board of tax appeals regarding fair market values determined pursuant to this section shall be final unless appealed to the superior court pursuant to RCW 34.05.510 through 34.05.598. [2005 c 155 § 520. Prior: 1989 c 378 § 3; 1989 c 175 § 171; 1982 1st ex.s. c 21 § 106. Formerly RCW 79.94.210.]

Effective date—1989 c 175: See note following RCW 34.05.010.

RCW 79.125.460 Second-class shorelands—Sale or lease when in best public interest—Preference right of upland owner—Procedure upon determining sale or lease not in best public interest or where transfer made for public use—Platting. (1) If application is made to purchase or lease any second-class shorelands and the department deems it for the best public interest to offer second-class shorelands for sale or lease, the department shall cause a notice to be served upon the abutting upland owner if the owner is a resident of the state, or if the upland owner is a nonresident of the state, shall mail to the owner's last known post office address, as reflected in the county records a copy of a notice notifying the owner that the state is offering the shorelands for sale or lease, giving a description of the department's appraised fair market value of the shorelands for sale or lease, and notifying the upland owner that he or she has a preference right to purchase, if the purchase is otherwise permitted under RCW 79.125.200, or lease the shorelands at the appraised value for a period of thirty days from the date of the service or mailing of the notice. If at the expiration of the thirty days from the service or mailing of the notice, as provided in this section, the abutting upland owner has failed to exercise the preference right to purchase, as otherwise permitted under RCW 79.125.200, or lease, or to pay to the department the appraised value for sale or lease of the shorelands described in the notice, then in that event, except as otherwise provided in this section, the shorelands may be offered for sale, when otherwise permitted under RCW 79.125.200, or offered for lease, and sold or leased in the manner provided for the sale or lease of state lands, as otherwise permitted under this chapter.

(2) The department shall authorize the sale or lease, whether to abutting upland owners or others, only if the sale or lease would be in the best public interest and is otherwise permitted under RCW 79.125.200. It is the intent of the legislature that whenever it is in the best public interest, the second-class shorelands managed by the department shall not be sold but shall be maintained in public ownership for the use and benefit of the people of the state.

(3) In all cases where application is made for the lease of any second-class shorelands adjacent to upland, under the provisions of this section, the shorelands shall be leased per lineal chain frontage.

(4) If, following an application by the abutting upland owner to either purchase as otherwise permitted under RCW 79.125.200 or to obtain an exclusive lease at appraised full market value or rental, the department deems that the sale or lease is not in the best public interest, or if property rights in state-owned second-class shorelands are at any time withdrawn, sold, or assigned in any manner authorized by law to a public agency for a use by the general public, the department shall within one hundred and eighty days from receipt of the application to purchase or lease, or on reaching a decision to withdraw, sell, or assign such shorelands to a public agency, and: (a) Make a formal finding that the body of water adjacent to the shorelands is navigable; (b) find that the state or the public has an overriding interest inconsistent with a sale or exclusive lease to a private person, and specifically identify the interest and the factor or factors amounting to the inconsistency; and (c) provide for the

review of the decision in accordance with the procedures prescribed by chapter 34.05 RCW.

(5) Notwithstanding subsections (1) through (4) of this section, the department may cause any of the shorelands to be platted as is provided for the platting of first-class shorelands, and when so platted the lands shall be sold, when otherwise permitted under RCW 79.125.200 to be sold, or leased in the manner provided for the sale or lease of first-class shorelands. [2005 c 155 § 525; 1982 1st ex.s. c 21 § 111. Formerly RCW 79.94.260.]

SECOND-CLASS SHORELANDS—SPECIAL PLATTING AND SELECTION PROVISIONS

RCW 79.125.500 Second-class shorelands—Boundary of shorelands when water lowered—Certain shorelands granted to city of Seattle. In every case where the state of Washington had prior to June 13, 1913, sold to any purchaser from the state any second-class shorelands bordering upon navigable waters of this state by description where the water boundary of the purchased shorelands is not defined, the water boundary shall be the line of ordinary navigation in the water; and whenever the waters have been or shall be lowered by any action done or authorized either by the state of Washington or the United States, the water boundary shall be the line of ordinary navigation as the water boundary shall be found in the waters after the lowering, and there is granted and confirmed to every purchaser, the purchaser's heirs and assigns, all the lands. However, this section and RCW 79.125.510 shall not apply to the portions of the second-class shorelands which shall, as provided by RCW 79.125.510, be selected by the department for harbor areas, slips, docks, wharves, warehouses, streets, avenues, parkways and boulevards, alleys, or other public purposes. Further, all shorelands and the bed of Lake Washington from the southerly margin of the plat of Lake Washington shorelands southerly along the westerly shore of the lake to a line three hundred feet south of and parallel with the east and west center line of section 35, township 24 north, range 4 east, W.M., are reserved for public uses and are granted and donated to the city of Seattle for public park, parkway, and boulevard purposes, and as a part of its public park, parkway, and boulevard system and any diversion or attempted diversion of the lands so donated from such purposes shall cause the title to the lands to revert to the state. [2005 c 155 § 521; 1982 1st ex.s. c 21 § 107. Formerly RCW 79.94.220.]

RCW 79.125.510 Second-class shorelands—Survey/platting—Selection for slips, docks, wharves, etc.—Filing of plat. It is the duty of the department to survey the second-class shorelands and in platting the survey to designate for public use all of the shorelands as in the opinion of the department is available, convenient, or necessary to be selected for the use of the public as harbor areas, sites for slips, docks, wharves, warehouses, streets, avenues, parkways and boulevards, alleys, and other public purposes.

Upon the filing of the plat in the department's Olympia office, the title to all harbor areas so selected shall remain in the state, the title to all selections for streets, avenues, and alleys shall vest in any city or town within the corporate limits of which they are

situated, otherwise in the county in which they are situated, the title to and control of any lands so selected and designated upon the plat for parkways and boulevard purposes shall, if the lands lie outside of the corporate limits of any city or town and if the lands form a part of the general parkway and boulevard system of a first-class city lie in the city, and the title to all selections for slips, docks, wharves, warehouses, and other public purposes shall vest in the port district if they are situated in a port district, otherwise in the county in which they are situated. [2005 c 155 § 522; 1982 1st ex.s. c 21 § 108. Formerly RCW 79.94.230.]

RCW 79.125.520 Second-class shorelands—Platting of certain shorelands of Lake Washington for use as harbor area—Effect. It is the duty of the department to plat for the public use harbor area in front of the portions of the shorelands of Lake Washington sold as second-class shorelands by the state of Washington as in the opinion of the department are necessary for the use of the public as harbor area. However, this section and RCW 79.125.530 shall not be construed to authorize the department to change the location of any inner or outer harbor line or the boundaries or location of, or to replat any harbor area platted under and by virtue of sections 1 and 2, chapter 183, Laws of 1913, and the title to all shorelands purchased from the state as second-class shorelands is confirmed to the purchaser, the purchaser's heirs and assigns, out to the inner harbor line established and platted under sections 1 and 2, chapter 183, Laws of 1913, or which shall be established and platted under RCW 79.125.510 and 79.125.530, and all reservations shown upon the plat made and filed pursuant to sections 1 and 2, chapter 183, Laws of 1913, are declared null and void, except reservations shown for harbor area, and reservations in the harbor area, and reservations across shorelands for traversed streets which were extensions of streets existing across shorelands at the time of filing of such plat. The department shall in platting the harbor area make a new plat showing all the harbor area on Lake Washington already platted under sections 1 and 2, chapter 183, Laws of 1913, and under sections 1 and 2, chapter 150, Laws of 1917, and upon the adoption of any new plat by the board acting as the harbor line commission, and the filing of the plat in the department's Olympia office, the title to all the harbor areas so selected shall remain in the state of Washington, and the harbor areas shall not be sold, but may be leased as provided for by law relating to the leasing of the harbor area. [2005 c 155 § 523; 1982 1st ex.s. c 21 § 109. Formerly RCW 79.94.240.]

RCW 79.125.530 Platting of certain shorelands of Lake Washington for use as harbor area—Selection for slips, docks, wharves, etc.—Vesting of title. Immediately after establishing the harbor area provided for in RCW 79.125.520, it is the duty of the department to make a plat designating all first and second-class shorelands, not sold by the state of Washington, and to select for the use of the public out of the shorelands, or out of harbor areas, sites for slips, docks, wharves, warehouses, streets, avenues, parkways, boulevards, alleys, commercial waterways, and other public purposes, insofar as the shorelands may be available for any or all public purposes.

Upon the filing of the plat of shorelands with the reservations and selections in the department's Olympia office, the title to all selections for streets, avenues, and alleys shall vest in any city or town within the corporate limits of which they are situated, otherwise in the county in which they are situated. The title to and control of any land so selected and designated upon the plat for parkway and boulevard purposes shall, if the lands lie outside the corporate limits of any city or town, and if the lands form a part of the general parkway and boulevard system of the first-class city, be in the city. The title to all selections for commercial waterway purposes shall vest in the commercial waterway district in which they are situated, or for which selected, and the title to all selections for slips, docks, wharves, warehouses, and other purposes shall vest in the port district if they are situated in a port district, otherwise in the county in which they are situated, and any sales of the shorelands when otherwise permitted by law shall be made subject to the selection and reservation for public use. [2005 c 155 § 524; 1982 1st ex.s. c 21 § 110. Formerly RCW 79.94.250.]

SALES OF TIDELANDS AND SHORELANDS

RCW 79.125.600 Sale procedure—Fixing date, place, and time of sale—Notice—Publication and posting. (1) When the department decides to sell any state-owned tidelands or shorelands, otherwise permitted by RCW 79.125.200 to be sold, it shall be the duty of the department to fix the date, place, and the time of sale, and no sale shall be had on any day which is a legal holiday.

(2) The department shall give notice of the sale by advertisement published once a week for four consecutive weeks immediately preceding the date fixed for sale in the notice, in at least one newspaper published and of general circulation in the county in which the whole or any part of any lot, block, or tract of land to be sold is situated, and by causing a copy of the notice to be posted in a conspicuous place in the department's Olympia office and the region headquarters administering the sale.

(3) The notice shall: (a) Specify the place and time of sale; (b) specify the appraised value; (c) describe with particularity each parcel of land to be sold; and (d) specify that the terms of sale will be posted in the region headquarters and the department's Olympia office. [2005 c 155 § 112; 1982 1st ex.s. c 21 § 23. Formerly RCW 79.90.170.]

RCW 79.125.610 List of state-owned tidelands and shorelands permitted to be sold. The department shall print a list of all state-owned tidelands and shorelands otherwise permitted by RCW 79.125.200 to be sold, giving appraised value, character of the land, and other information as may be of interest to prospective buyers. The lists must be issued at least four weeks prior to the date of any sale. The department shall retain for free distribution in its office in Olympia and the regional offices sufficient copies of the lists, to be kept in a conspicuous place or receptacle on the counter of the general and regional office of the department, and, when requested to do so, shall

mail copies of the list as issued to any applicant. [2005 c 155 § 113; 1982 1st ex.s. c 21 § 24. Formerly RCW 79.90.180.]

RCW 79.125.620 Sale procedure—Additional advertising expense.

The department is authorized to expend any sum in additional advertising of the sale as shall be determined to be in the best interests of the state. [2005 c 155 § 114; 1982 1st ex.s. c 21 § 25. Formerly RCW 79.90.190.]

RCW 79.125.630 Reoffer—Continuance.

Any sale that has been offered, and for which there are no bids received shall not be reoffered until it has been readvertised as specified in RCW 79.125.600, 79.125.610, and 79.125.620. If all sales cannot be offered within the specified time on the advertised date, the sale shall continue on the following day between the hours of ten o'clock a.m. and four o'clock p.m. [2005 c 155 § 115; 1982 1st ex.s. c 21 § 26. Formerly RCW 79.90.200.]

RCW 79.125.640 Sale at public auction—Minimum price—Sales by leaseholder. All sales of state-owned tidelands and shorelands otherwise permitted by RCW 79.125.200 to be sold, shall be sold at public auction to the highest responsible bidder, on the terms prescribed by law and as specified in the notice provided, and no land shall be sold for less than the appraised value. Sales of aquaculture products by a leaseholder shall be as specified in RCW 79.135.040. [2005 c 155 § 116; 2005 c 113 § 2; 1990 c 163 § 1; 1982 1st ex.s. c 21 § 27. Formerly RCW 79.90.210.]

Reviser's note: This section was amended by 2005 c 113 § 2 and by 2005 c 155 § 116, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 79.125.650 Highest responsible bidder—Determination. (1)

To determine the "highest responsible bidder" under RCW 79.125.640, the department shall be entitled to consider, in addition to price, the following:

- (a) The financial and technical ability of the bidder to perform the contract;
- (b) Whether the bid contains material defects;
- (c) Whether the bidder has previously or is currently complying with terms and conditions of any other contracts with the state or relevant contracts with entities other than the state;
- (d) Whether the bidder was the "highest responsible bidder" for a sale within the previous five years but failed to complete the sale, such as by not entering into a resulting contract or by not paying the difference between the deposit and the total amount due. However, sales that were bid prior to January 1, 2003, may not be considered for the purposes of this subsection (1)(d);
- (e) Whether the bidder has been convicted of a crime relating to the public lands or natural resources of the state of Washington, the United States, or any other state, tribe, or country, where

"conviction" shall include a guilty plea, or unvacated forfeiture of bail;

(f) Whether the bidder is owned, controlled, or managed by any person, partnership, or corporation that is not responsible under this statute; and

(g) Whether the subcontractors of the bidder, if any, are responsible under this statute.

(2) Whenever the department has reason to believe that the apparent high bidder is not a responsible bidder, the department may award the sale to the next responsible bidder or the department may reject all bids pursuant to RCW 79.125.680. [2005 c 155 § 117; 2003 c 28 § 1; 1990 c 163 § 2. Formerly RCW 79.90.215.]

RCW 79.125.660 Sale procedure—Conduct of sales—Deposits—Bid bonds—Memorandum of purchase. (1) Sales by public auction under this chapter shall be conducted under the direction of the department or by its authorized representative. The department's representatives are referred to as auctioneers.

(2) On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer, in cash or by certified check, cashier's check, or postal money order payable to the order of the department, or by bid guarantee in the form of bid bond acceptable to the department, an amount equal to the deposit specified in the notice of sale. The deposit shall include a specified amount of the appraised price for the valuable materials offered for sale, together with any fee required by law for the issuance of contracts or bills of sale. The deposit may, when prescribed in the notice of sale, be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale. The successful bidder's deposit will be retained by the auctioneer and the difference, if any, between the deposit and the total amount due shall on the day of the sale be paid in cash, certified check, cashier's check, draft, postal money order, or by personal check made payable to the department. If a bid bond is used, the share of the total deposit due guaranteed by the bid bond shall, within ten days of the day of sale, be paid in cash, certified check, cashier's check, draft, or postal money order payable to the department. Other deposits, if any, shall be returned to the respective bidders at the conclusion of each sale.

(3) The auctioneer shall deliver to the purchaser a memorandum of the purchase containing a description of the land or materials purchased, the price bid, and the terms of the sale.

(4) The auctioneer shall at once send to the department the cash, certified check, cashier's check, draft, postal money order, or bid guarantee received from the purchaser, and a copy of the memorandum delivered to the purchaser, together with such additional report of the auctioneer's proceedings with reference to the sales as may be required by the department. [2005 c 155 § 118; 1982 1st ex.s. c 21 § 28. Formerly RCW 79.90.220.]

RCW 79.125.670 Sale procedure—Readvertisement of lands not sold. If any tideland or shoreland, when otherwise permitted under RCW 79.125.200, offered for sale is not sold, it may again be advertised for sale, as provided in this chapter, whenever in the

opinion of the department it is expedient to do so. Whenever any person applies to the department in writing to have the land offered for sale and agrees to pay at least the appraised value of the land and deposits with the department at the time of making the application a sufficient sum of money to pay the cost of advertising the sale, the land may be advertised again and offered for sale as provided in this chapter. [2005 c 155 § 119; 1982 1st ex.s. c 21 § 29. Formerly RCW 79.90.230.]

RCW 79.125.680 Sale procedure—Confirmation of sale. (1) A sale of tidelands or shorelands otherwise permitted by RCW 79.125.200 to be sold shall be confirmed if:

(a) No affidavit showing that the interest of the state in such sale was injuriously affected by fraud or collusion, is filed with the department's Olympia office within ten days from the receipt of the report of the auctioneer conducting the sale;

(b) It appears from the report that the sale was fairly conducted, that the purchaser was the highest responsible bidder at the sale, and that the sale price is not less than the appraised value of the property sold;

(c) The department is satisfied that the lands sold would not, upon being readvertised and offered for sale, sell for a substantially higher price; and

(d) The payment required by law to be made at the time of making the sale has been made, and that the best interests of the state are being served.

(2) Upon confirming a sale, the department shall enter upon its records the confirmation of sale and issue to the purchaser a contract of sale or bill of sale as the case may be, as is provided for in this chapter. [2005 c 155 § 120; 1990 c 163 § 3; 1982 1st ex.s. c 21 § 30. Formerly RCW 79.90.240.]

CONVEYANCE TO PUBLIC ENTITIES/PUBLIC USE

RCW 79.125.700 Sale of state-owned tidelands or shorelands to municipal corporation or state agency—Authority to execute agreements, deeds, etc. The department may with the advice and approval of the board sell state-owned tidelands or shorelands at the appraised market value to any municipal corporation or agency of the state of Washington when the land is to be used solely for municipal or state purposes. However, the department shall with the advice and approval of the attorney general, execute agreements, writings, or relinquishments and certify to the governor such deeds as are necessary or proper to affect the sale or exchange. [2005 c 155 § 515; 1982 1st ex.s. c 21 § 101. Formerly RCW 79.94.160.]

RCW 79.125.710 Grant of lands for city park or playground purposes. Whenever application is made to the department by any incorporated city or town or metropolitan park district for the use of any state-owned tidelands or shorelands within the corporate limits of the city or town or metropolitan park district for municipal park and/or playground purposes, the department shall cause the application

to be entered in the records of its office, and shall then forward the application to the governor, who shall appoint a committee of five representative citizens of the city or town, in addition to the commissioner and the director of ecology, both of whom shall be ex officio members of the committee, to investigate the lands and determine whether they are suitable and needed for park or playground purposes; and, if they so find, the commissioner shall certify to the governor that the property shall be deeded, when in accordance with RCW 79.125.200 and 79.125.700, to the city or town or metropolitan park district and the governor shall then execute a deed in the name of the state of Washington, attested by the secretary of state, conveying the use of the lands to the city or town or metropolitan park district for park or playground purposes for so long as it shall continue to hold, use, and maintain the lands for park or playground purposes. [2005 c 155 § 517; 2003 c 334 § 447; 1988 c 127 § 33; 1939 c 157 § 1; RRS § 7993-1. Formerly RCW 79.94.175, 79.08.080.]

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

RCW 79.125.720 Exchange of lands to secure city parks and playgrounds. In the event there are no state-owned tidelands or shorelands in any city or town or metropolitan park district suitable for the purposes of RCW 79.125.710 and the committee finds other lands which are suitable and needed for parks or playgrounds, the department is authorized to secure the lands by exchanging state-owned tidelands or shorelands of equal value in the same county, and the use of the lands so secured shall be conveyed to any city or town or metropolitan park district as provided for in RCW 79.125.710. In all exchanges the department is authorized and directed, with the assistance of the attorney general, to execute agreements, writings, relinquishments, and deeds as are necessary or proper for the purpose of carrying the exchanges into effect. Upland owners shall be notified of the state-owned tidelands or shorelands to be exchanged. [2005 c 155 § 518; 2003 c 334 § 448; 1939 c 157 § 2; RRS § 7993-2. Formerly RCW 79.94.181, 79.08.090.]

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

RCW 79.125.730 Director of ecology to assist city parks. The director of ecology, in addition to serving as an ex officio member of the committee, is authorized and directed to assist the city or town or metropolitan park district in the development and decoration of any lands so conveyed and to furnish trees, grass, flowers, and shrubs therefor. [2005 c 155 § 519; 1988 c 127 § 34; 1939 c 157 § 3; RRS § 7993-3. Formerly RCW 79.94.185, 79.08.100.]

RCW 79.125.740 Certain tidelands reserved for recreational use and taking of fish and shellfish. The following described tidelands, being public lands of the state, are withdrawn from sale or lease and reserved as public areas for recreational use and for the taking of fish and shellfish for personal use as defined in RCW 77.08.010:

Parcel No. 1. (Point Whitney) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to or

abutting upon lots 3, 4, and 5, section 7, township 26 north, range 1 west, W.M., with a frontage of 72.45 lineal chains, more or less.

Excepting, however, those portions of the above-described second-class tidelands conveyed to the state of Washington, department of fish and wildlife through deed issued May 14, 1925, under application No. 8136, records of department of public lands.

Parcel No. 2. (Point Whitney) The second-class tidelands lying below the line of mean low tide, owned by the state of Washington, situate in front of lot 1, section 6, township 26 north, range 1 west, W.M., with a frontage of 21.00 lineal chains, more or less; also

The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 6 and 7, and that portion of lot 5, section 1, township 26 north, range 1 west, W.M., lying south of a line running due west from a point on the government meander line which is S 22° E 1.69 chains from an angle point in said meander line which is S 15° W 1.20 chains, more or less, from the point of intersection of the north line of said lot 5 and the meander line, with a frontage of 40.31 lineal chains, more or less.

Parcel No. 3. (Toandos Peninsula) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 4. (Shine) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right-of-way for county road granted to Jefferson county December 8, 1941, under application No. 1731, records of department of public lands.

Parcel No. 5. (Lilliwaup) The second-class tidelands, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to, or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less.

Subject to easements for rights-of-way for state road granted through the filing of state road plats No. 374 December 15, 1930, No. 661, March 29, 1949, and No. 666 August 25, 1949, records of department of public lands.

Parcel No. 6. (Nemah) Those portions of the second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 5, 6, and 7, section 3 and lots 1, 2, and 3, section 4, township 12 north, range 10 west, W.M., lots 1, 2, 3, and 4, section 34, section 27 and lots 1, 2, 3 and 4, section 28, township 13 north, range 10 west, W.M., lying easterly of the easterly line of the Nemah Oyster reserve and easterly of the easterly line of a tract of second-class tidelands conveyed through deed issued July 28, 1938, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 9731, with a frontage of 326.22 lineal chains, more or less.

Parcels No. 7 and 8. (Penn Cove) The unplatted first and second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1 and 2, section 33, lots 1, 2,

3, and 4, section 32, lots 2 and 3 and the B.P. Barstow D.L.C. No. 49, sections 30 and 31 and that portion of the R.H. Lansdale D.L.C. No. 54 in section 30, lying west of the east 3.00 chains thereof as measured along the government meander line, all in township 32 north, range 1 east, W.M., with a frontage of 260.34 lineal chains, more or less.

Excepting, however, the tidelands above the line of mean low tide in front of said lot 1, section 32 which were conveyed as second-class tidelands through deed issued December 29, 1908, application No. 4957, records of department of public lands.

Subject to an easement for right-of-way for transmission cable line granted to the United States of America Army Engineers June 7, 1943, under application No. 17511, records of department of public lands.

Parcel No. 9. (South of Penn Cove) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 2, 3 and 4, section 17 and lots 1, 2 and 3, section 20, township 31 north, range 2 east, W.M., with a frontage of 129.97 lineal chains, more or less.

Parcel No. 10. (Mud Bay—Lopez Island) The second-class tidelands, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any second-class tideland in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 4985, records of department of public lands.

Parcel No. 11. (Cattle Point) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lot 1, section 6, lots 1, 3, 4, 5, 6, 7, 8, 9, and 10, section 7, lots 1, 2, 3, 4, 5, 6 and 7, section 8 and lot 1, section 5, all in township 34 north, range 2 west, W.M., with a frontage of 463.88 lineal chains, more or less.

Excepting, however, any second-class tidelands in front of said lot 10, section 7 conveyed through deed issued June 1, 1912, under application No. 6906, records of department of public lands.

Parcel No. 12. (Spencer Spit) The second-class tidelands, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less. [2005 c 155 § 533; 2003 c 39 § 42; 1994 c 264 § 66; 1983 1st ex.s. c 46 § 181; 1982 1st ex.s. c 21 § 124. Formerly RCW 79.94.390.]

Tidelands—Upland owner use: "The state department of fisheries is authorized to permit designated portions of the following described tidelands to be used by the upland owners thereof for the purpose of building and maintaining docks: Tidelands of the second class owned by the state of Washington situated in front of, adjacent to, or abutting upon, the entire west side of lot 1, section 5, Township 34 North, Range 2 West, W.M., to the northernmost tip of said lot, and lots 2 and 3, section 8, Township 34 North, Range 2 West, W.M. (Cattle Point)." [1967 ex.s. c 128 § 1.]

RCW 79.125.750 Access to and from tidelands reserved for recreational use and taking of fish and shellfish. The director of fish and wildlife may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 79.125.740. [2005 c 155 § 534; 1994 c 264 § 67; 1982 1st ex.s. c 21 § 125. Formerly RCW 79.94.400.]

RCW 79.125.760 Use of certain tidelands, shorelands, and abutting bedlands—Grant to the United States—Purposes—Limitations. The use of any tidelands, shorelands, and abutting bedlands covered with less than four fathoms of water at ordinary low tide belonging to the state, and adjoining and bordering on any tract, piece, or parcel of land, which may have been reserved or acquired, or which may be reserved or acquired, by the government of the United States, for the purposes of erecting and maintaining forts, magazines, arsenals, dockyards, navy yards, prisons, penitentiaries, lighthouses, fog signal stations, aviation fields, or other aids to navigation, may be granted to the United States, upon payment for the rights, so long as the upland adjoining the tidelands or shorelands shall continue to be held by the government of the United States for any of the public purposes above mentioned. However, this grant shall not extend to or include any aquatic lands covered by more than four fathoms of water at ordinary low tide; and shall not be construed to prevent any citizen of the state from using the lands for the taking of food fishes so long as the fishing does not interfere with the public use of them by the United States. [2005 c 155 § 535; 1982 1st ex.s. c 21 § 126. Formerly RCW 79.94.410.]

RCW 79.125.770 Tidelands and shorelands—Use of lands granted to United States—Application—Proof of upland use—Conveyance. Whenever application is made to the department by any department of the United States government for the use of any state-owned tidelands or shorelands and adjoining and bordering on any upland held by the United States for any of the purposes mentioned in RCW 79.125.760, upon proof being made to the department, that the uplands are so held by the United States for such purposes, and upon payment for the land, it shall cause the fact to be entered in the records of the department and the department shall certify the fact to the governor who will execute a deed in the name of the state, attested by the secretary of state, conveying the use of the lands, for such purposes, to the United States, so long as it shall continue to hold for the public purposes the uplands adjoining the tidelands and shorelands. [2005 c 155 § 536; 1982 1st ex.s. c 21 § 127. Formerly RCW 79.94.420.]

RCW 79.125.780 Tidelands and shorelands—Use of lands granted to United States—Easements over tidelands or shorelands to United States. Whenever application is made to the department, by any department of the United States government, for the use of any state-owned tidelands or shorelands, for any public purpose, and the department shall be satisfied that the United States requires or may require the use of the tidelands or shorelands for the public purposes, the department may reserve the tidelands or shorelands from public sale and grant the use of them to the United States, upon

payment for the land, so long as it may require the use of them for the public purposes. In such a case, the department shall execute an easement to the United States, which grants the use of the tidelands or shorelands to the United States, so long as it shall require the use of them for the public purpose. [2005 c 155 § 537; 1982 1st ex.s. c 21 § 128. Formerly RCW 79.94.430.]

RCW 79.125.790 Tidelands and shorelands—Use of lands granted to United States—Reversion on cessation of use. Whenever the United States shall cease to hold and use any uplands for the use and purposes mentioned in RCW 79.125.760, or shall cease to use any tidelands or shorelands for the purpose mentioned in RCW 79.125.780, the grant or easement of the tidelands or shorelands shall be terminated, and the tidelands or shorelands shall revert to the state without resort to any court or tribunal. [2005 c 155 § 538; 1982 1st ex.s. c 21 § 129. Formerly RCW 79.94.440.]

RCW 79.125.800 United States Navy base—Exchange of property—Procedure. The department is authorized to deed, by exchanges of property, to the United States Navy those tidelands necessary to facilitate the location of the United States Navy base in Everett. In carrying out this authority, the department shall request that the governor execute the deed in the name of the state attested to by the secretary of state. The department will follow the requirements outlined in RCW 79.17.050 in making the exchange. The department must exchange the state's tidelands for lands of equal value, and the land received in the exchange must be suitable for natural preserves, recreational purposes, or have commercial value. The lands must not have been previously used as a waste disposal site. Choice of the site must be made with the advice and approval of the board. [2003 c 334 § 615; 1987 c 271 § 4. Formerly RCW 79.94.450.]

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

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