

Chapter 79.13 RCW
LAND LEASES

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PART 1
GENERAL PROVISIONS

RCW 79.13.010 Lease of state lands—General. (1) Subject to other provisions of this chapter and subject to rules adopted by the board, the department may lease state lands for purposes it deems advisable, including, but not limited to, commercial, industrial, residential, agricultural, and recreational purposes in order to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust, and if the lease is in the best interest of the state or affected trust.

(2) Notwithstanding any provision in this chapter to the contrary, in leases for residential purposes, the board may waive or modify any conditions of the lease if the waiver or modification is necessary to enable any federal agency or lending institution authorized to do business in this state or elsewhere in the United States to participate in any loan secured by a security interest in a leasehold interest.

(3) Any land granted to the state by the United States may be leased for any lawful purpose in such minimum acreage as may be fixed by the department.

(4) The department shall exercise general supervision and control over the lease of state lands for any lawful purpose.

(5) State lands leased or for which permits are issued or contracts are entered into for the prospecting and extraction of valuable materials, coal, oil, gas, or other hydrocarbons are subject to the provisions of chapter 79.14 RCW.

(6) The department may also lease or lease development rights on state lands held for the benefit of the common schools to public agencies, as defined in RCW 79.17.200. [2007 c 504 s 1; 2003 c 334 s 366; 1984 c 222 s 12; 1979 ex.s. c 109 s 10. Formerly RCW 79.01.242.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

Savings—2007 c 504: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2007 c 504 s 4.]

Severability—2007 c 504: "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." [2007 c 504 s 5.]

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

Effective date—1984 c 222: See RCW 79.19.901.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

RCW 79.13.020 Who may lease. Any person desiring to lease any state lands for any purpose not prohibited by law may make application to the department on forms provided by the department and accompanied by the fee provided under RCW 79.02.250. [2003 c 334 s 370.]

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

RCW 79.13.030 Lease contents. Every lease issued by the department must contain:

- (1) The specific use or uses to which the land is to be employed;
- (2) The improvements required, if any;
- (3) Provisions providing that the rent is payable in advance in quarterly, semiannual, or annual payments as determined by the department, or as agreed upon by the lessee and the department;
- (4) Other terms and conditions as the department deems advisable, subject to review by the board, to achieve the purposes of the state Constitution and this chapter. [2003 c 334 s 367.]

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

RCW 79.13.040 Inspections—Surveys. (1) When in the judgment of the department there is sufficient interest for the lease of state lands, it must inspect each tract of land as to its topography, development potential, forestry, agricultural, and grazing qualities; the presence of coal, mineral, stone, gravel, or other valuable materials; the distance from any city or town, railroad, river, irrigation canal, ditch, or other waterway; and location of utilities.

(2) The department may survey any state lands to determine the area subject to lease.

(3) It is the duty of the department to prepare all reports, data, and information in its records pertaining to any proposed lease.

(4) The department may order that any particular application for a lease be held in abeyance pending further inspection and report by the department. Based on the further inspection and report, the department must determine whether or not, and the terms upon which, the proposed lease is consummated. [2003 c 334 s 316.]

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

RCW 79.13.050 Improvements. (1) Only improvements authorized in writing by the department or consistent with the approved plan of development may be placed on the state lands under lease. Improvements are subject to the following conditions:

(a) A minimum reasonable time must be allowed for completion of the improvements;

(b) Improvements become the property of the state at the expiration or termination of the lease unless otherwise agreed upon under the terms of the lease; and

(c) The department may require improvements to be removed at the end of the lease term at the lessee's expense.

(2) Any improvements placed upon any state lands without the written authority of the department become the property of the state and are considered part of the land, unless required to be removed by the lessee under subsection (1)(c) of this section. [2003 c 334 s 315.]

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

RCW 79.13.060 Lease terms. (1) State lands may be leased not to exceed ten years with the following exceptions:

(a) The lands may be leased for agricultural purposes not to exceed twenty-five years, except:

(i) Leases that authorize tree fruit or grape production may be for up to fifty-five years;

(ii) Share crop leases may not exceed ten years;

(b) The lands may be leased for commercial, industrial, business, or recreational purposes not to exceed fifty-five years, except:

(i) Leases for commercial, industrial, or business purposes may extend to 99 years;

(ii) All leases for commercial, industrial, or business purposes that extend beyond 55 years must provide for periodic rental reevaluation and adjustment, except leases with rentals based on a percentage of income;

(iii) All leases for commercial, industrial, or business purposes that extend terms beyond 55 years must be reported to the office of financial management and the appropriate committees of the legislature within 30 days of the date of execution of the lease. The report must include a financial analysis that justifies the financial benefit for the added term and the schedule for periodic rental adjustments;

(c) The lands may be leased for public school, college, or university purposes not to exceed seventy-five years;

(d) The lands may be leased for residential purposes not to exceed ninety-nine years; and

(e) The lands and development rights on state lands held for the benefit of the common schools may be leased to public agencies, as defined in RCW 79.17.200, not to exceed ninety-nine years. The leases may include provisions for renewal of lease terms.

(2) No lessee of state lands may remain in possession of the land after the termination or expiration of the lease without the written consent of the department.

(a) The department may authorize a lease extension for a specific period beyond the term of the lease for cropping improvements for the purpose of crop rotation. These improvements shall be deemed authorized improvements under RCW 79.13.030.

(b) Upon expiration of the lease term, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe, if the leased land is not otherwise utilized.

(c) Upon expiration of the one-year lease extension, the department may issue a temporary permit to the lessee upon terms and

conditions it prescribes if the department has not yet determined the disposition of the land for other purposes.

(d) The temporary permit shall not extend beyond a five-year period.

(3) If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of the lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided in this section.

(4) The department must include in the text of any grazing leases language that explains the right of access, and associated assumption of liability, created in RCW 76.04.021. [2022 c 194 s 1; 2016 c 109 s 3; 2007 c 504 s 2; 2003 c 334 s 323.]

Savings—Severability—2007 c 504: See notes following RCW 79.13.010.

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

RCW 79.13.070 Forfeiture. If any rental is not paid on or before its due date according to the terms of the lease, the department must declare a forfeiture, cancel the lease, and eject the lessee from the land. The department may extend the time for payment of annual rental when in its judgment the interests of the state will not be prejudiced by the extension. [2003 c 334 s 375.]

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

RCW 79.13.080 Disposition of crops on forfeited land. Whenever the state of Washington shall become the owner of any growing crop, or crop grown upon, any state lands, by reason of the forfeiture, cancellation, or termination of any contract or lease of state lands, or from any other cause, the department is authorized to arrange for the harvesting, sale, or other disposition of such crop in such manner as the department deems for the best interest of the state, and shall pay the proceeds of any such sale into the state treasury to be credited to the same fund as the rental of the lands upon which the crop was grown would be credited. [2003 c 334 s 342; 1927 c 255 s 43; RRS s 7797-43. Prior: 1915 c 89 ss 1, 2. Formerly RCW 79.01.172, 79.12.240.]

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

RCW 79.13.090 Leases to United States for national defense. State lands may be leased to the United States for national defense purposes at the fair rental value thereof as determined by the department, for a period of five years or less. Such leases may be made without competitive bidding at public auction and without payment in advance by the United States government of the first year's rental. Such leases otherwise shall be negotiated and arranged in the same

manner as other leases of state lands. [2003 c 334 s 450; 1941 c 66 s 1; Rem. Supp. 1941 s 8122-1. Formerly RCW 79.08.120.]

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

RCW 79.13.100 Battery charging, battery exchange, and rapid charging stations. (1) The state and any local government, including any housing authority, is authorized to lease land owned by such an entity to any person for purposes of installing, maintaining, and operating a battery charging station, a battery exchange station, or a rapid charging station, for a term not in excess of fifty years, for rent of not less than one dollar per year, and with such other terms as the public entity's governing body determines in its sole discretion.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2009 c 459 s 6.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

PART 2
LEASE PROCEDURE

RCW 79.13.110 Types of lease authorization. (1) The department may authorize the use of state land by lease at state auction for initial leases or by negotiation for existing leases.

(2) Leases that authorize commercial, industrial, or residential uses may be entered into by public auction or negotiations at the option of the department. Negotiations are subject to rules approved by the board.

(3) Leases to public agencies, as defined in RCW 79.17.200, may be entered into by negotiations. Property subject to lease agreements under this section must be appraised at fair market value. The leases may allow for a lump sum payment for the entire term of the lease at the beginning of the lease. The department shall calculate lump sum payments using professional appraisal standards. Renewal terms for the leases must include provisions for calculating appropriate payments upon renewal. [2007 c 504 s 3; 2003 c 334 s 368.]

Savings—Severability—2007 c 504: See notes following RCW 79.13.010.

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

RCW 79.13.120 Notice of leasing. (1) The department must give thirty days' notice of leasing by public auction. The notice must:

(a) Specify the place and time of auction, bid deposit if any, the appraised value, describe each parcel to be leased, and the terms and conditions of the lease;

(b) Be posted in some conspicuous place in the county auditor's office and the department's regional headquarters administering the lease; and

(c) Be published in at least two newspapers of general circulation in the area where the state land subject to public auction leasing is located.

(2) Notice of intent to lease by negotiation must be published in at least two newspapers of general circulation in the area where the state land subject to lease negotiation is located. The notice must be published within the ninety days preceding commencement of negotiations.

(3) The department is authorized to conduct any additional advertising that it determines to be in the best interest of the state. [2003 c 334 s 369.]

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

RCW 79.13.130 Lease procedure—Scheduling auctions. (1) When the department decides to lease any state lands at public auction it is the duty of the department to fix the date, place, and time when such lands shall be offered for lease.

(2) The auction must be conducted between the hours of 10:00 a.m. and 4:00 p.m.

(3) The auction must take place:

(a) At the department's regional office administering the lease; or

(b) When leases are auctioned by the county auditor, in the county where the state land to be leased is situated at such place as specified in the notice. [2003 c 334 s 372; 1979 ex.s. c 109 s 11; 1927 c 255 s 62; RRS s 7797-62. Prior: 1897 c 89 s 20. Formerly RCW 79.01.248, 79.12.440.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

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

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

RCW 79.13.140 Public auction procedure. (1) All leasing by public auction shall be by oral or by sealed bid. Leases will be awarded to the highest bidder on the terms prescribed by law and as specified in the notice of leasing described in RCW 79.13.120. No lease may be awarded for less than the appraised value.

(2) The public auction must be conducted under the direction of the department or by the auditor for the county in which the land to be leased is located. The person conducting the auction is called the auctioneer.

(3) The person to whom a lease of state lands is awarded shall pay the rental in accordance with that person's bid to the auctioneer in cash or by certified check or accepted draft on any bank in this state.

(4) The auctioneer shall send to the department such cash, certified check, draft, or money order received from the successful bidder, together with any additional report of the auction proceeding as may be required by the department.

(5) The department may reject any and all bids when the interests of the state justify it. If the department rejects a bid, it must refund any rental and bid deposit to the bidder upon return of the receipts issued.

(6) If the department approves any leasing made by the auctioneer, it must proceed to issue a lease to the successful bidder upon a form approved by the attorney general.

(a) All leases must be in duplicate and both copies signed by the lessee and the department.

(b) One signed copy must be forwarded to the lessee and one signed copy must be kept in the office of the department. [2003 c 334 s 373.]

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

RCW 79.13.150 Lease/rent of acquired lands. (1) Except as provided in RCW 79.10.030(2), the department shall manage and control all lands acquired by the state through escheat, deed of sale, gift, devise, or under RCW 79.19.010 through 79.19.110, except lands that are conveyed or devised to the state for a particular purpose.

(2) The department shall lease the lands in the same manner as school lands.

(3) The department may employ agents to rent any escheated, deeded, or devised lands, or lands acquired under RCW 79.19.010 through 79.19.110 for such rental, time, and manner as the department directs.

(a) The agent shall not rent the property for a period longer than one year.

(b) No tenant is entitled to compensation for any improvement that he or she makes on the property.

(c) The agent shall cause repairs to be made to the property as the department directs.

(d) Rental shall be transmitted monthly to the department. The agent shall deduct the cost of any repairs made under (c) of this subsection, together with such compensation and commission as the department authorizes from the rental.

(4) Proceeds of any lease or rental shall be deposited into the appropriate fund in the state treasury. If the grantor in any deed or the testator in case of a devise specifies that the proceeds be devoted to a particular purpose, such proceeds shall be so applied. [2003 c 334 s 400.]

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

RCW 79.13.160 Appraisalment of improvement before lease. Before any state lands are offered for lease, or are assigned, the department may establish the fair market value of those authorized improvements not owned by the state. In the event that agreement cannot be reached between the state and the lessee on the fair market value, such valuation shall be submitted to a review board of appraisers. The board is comprised of the following members: One member to be selected by the lessee and that person's expenses shall be borne by the lessee; one member selected by the state and that person's expenses shall be borne by the state; these members so selected shall mutually select a third member and that person's expenses shall be shared equally by the lessee and the state. The majority decision of this appraisal review board shall be binding on both parties. For this purpose, "fair market value" is defined as: The highest price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller, each prudently knowledgeable and assuming the price is not affected by undue stimulus. All damages and wastes committed upon such lands and other obligations due from the lessee shall be deducted from the appraised value of the improvements. However, the department on behalf of the respective trust may purchase at fair market value those improvements if it appears to be in the best interest of the state from the resource management cost account created in RCW 79.64.020. [2003 c 334 s 337.]

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

RCW 79.13.170 Water right for irrigation as improvement. At any time during the existence of any lease of state lands, except lands leased for the purpose of mining of valuable minerals, or coal, or extraction of petroleum or gas, the lessee with the consent of the department, first obtained, by written application, showing the cost and benefits to be derived thereby, may purchase or acquire a water right appurtenant to and in order to irrigate the land leased. If such water right shall become a valuable and permanent improvement to the lands, then, in case of the sale or lease of such lands to other parties, the lessee acquiring such water right shall be entitled to receive the value thereof as in case of other improvements which have been placed upon the land by the lessee. [2003 c 334 s 376; 1959 c 257 s 32; 1927 c 255 s 71; RRS s 7797-71. Prior: 1903 c 79 s 7; 1897 c 89 s 31; 1895 c 178 s 41. Formerly RCW 79.01.284, 79.12.530.]

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

RCW 79.13.180 Record of leases. The department shall keep a full and complete record of all leases issued under the provisions of the preceding sections and the payments made thereon. [2003 c 334 s 374; 1979 ex.s. c 109 s 16; 1933 c 139 s 1; 1927 c 255 s 67; RRS s 7797-67. Prior: 1915 c 147 s 6; 1909 c 223 s 5; 1897 c 89 s 25. Formerly RCW 79.01.268, 79.12.490.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

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

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

PART 3 AGRICULTURAL/GRAZING LEASES

RCW 79.13.320 Share crop leases authorized. The department may lease state lands on a share crop basis. Upon receipt of a written application to lease state lands, the department shall make such investigations as it deems necessary. If the department finds that such a lease would be advantageous to the state, it may proceed with the leasing of such lands on such terms and conditions as other state lands are leased. [2003 c 334 s 466; 1979 ex.s. c 109 s 20; 1961 c 73 s 10; 1949 c 203 s 1; Rem. Supp. 1949 s 7895-1. Formerly RCW 79.12.570.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

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

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

RCW 79.13.330 Harvest, storage of crop—Notice—Warehouse receipt. When crops that are covered by a share crop lease are harvested, the lessee shall give written notice to the department that the crop is being harvested, and shall also give to the department the name and address of the warehouse or elevator to which such crops are sold or in which such crops will be stored. The lessee shall also serve on the owner of such warehouse or elevator a written copy of so much of the lease as shall show the percentage of division of the proceeds of such crop as between lessee and lessor. The owner of such warehouse or elevator shall make out a warehouse receipt, which receipt may be negotiable or nonnegotiable as directed by the state, showing the percentage of crops belonging to the state, and the respective gross and net amounts, grade, and location thereof, and

shall deliver to the department the receipt for the state's percentage of such crops within ten days after the owner has received such instructions. [2003 c 334 s 467; 2000 c 18 s 1; 1949 c 203 s 4; Rem. Supp. 1949 s 7895-4. Formerly RCW 79.12.600.]

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

RCW 79.13.340 Sale, storage, or other disposition of crops. The department shall sell the crops covered by the warehouse receipt required in RCW 79.13.330 and may comply with the provisions of any federal act or the regulation of any federal agency with relation to the storage or disposition of the crop. [2003 c 334 s 468; 1977 c 20 s 1; 1949 c 203 s 5; Rem. Supp. 1949 s 7895-5. Formerly RCW 79.12.610.]

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

RCW 79.13.350 Insurance of crop—Division of cost. The lessee under any share crop lease issued by the department shall notify the department as soon as an estimated yield of the crop can be obtained. The estimate must be immediately submitted to the department, which is hereby authorized to insure the crop from loss by fire or hail. The cost of such insurance shall be paid by the state and lessee on the same basis as the crop returns to which each is entitled. [2003 c 334 s 469; 1949 c 203 s 6; Rem. Supp. 1949 s 7895-6. Formerly RCW 79.12.620.]

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

RCW 79.13.360 Application of other provisions to share crop leases. RCW 79.13.320 through 79.13.360 shall not repeal the provisions of the general leasing statutes of the state of Washington and all of the general provisions of such statutes with reference to filing of applications, deposits required therewith, forfeiture of deposits, cancellation of leases for noncompliance and general procedures shall apply to all leases issued under the provisions of RCW 79.13.320 through 79.13.360. [2003 c 334 s 470; 1949 c 203 s 7; Rem. Supp. 1949 s 7895-7. Formerly RCW 79.12.630.]

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

RCW 79.13.370 Grazing leases—Restrictions. The lessee, or assignee of any lease leased for grazing purposes, shall not use the land for any other purpose than that expressed in the lease. However, the lessee, or assignee, may surrender the lease to the department and request the department to issue an agricultural lease in lieu of the original lease. The department is authorized to issue a new lieu lease for the unexpired portion of the term of the lease surrendered upon payment of the fixed rental based on an appraisal of the land for agricultural purposes. Under the lieu lease the lessee shall be permitted to clear, plow, and cultivate the lands as in the case of an original lease for agricultural purposes. [2003 c 334 s 379; 1959 c

257 s 34; 1927 c 255 s 74; RRS s 7797-74. Prior: 1903 c 79 s 8.
Formerly RCW 79.01.296, 79.12.550.]

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

RCW 79.13.380 Livestock grazing on lieu lands. The department has the power, and it is its duty, to adopt, from time to time, reasonable rules for the grazing of livestock on such tracts and areas of the indemnity or lieu lands of the state contiguous to national forests and suitable for grazing purposes, as have been, or shall be, obtained from the United States under the provisions of RCW 79.02.120. [2004 c 199 s 212; 2003 c 334 s 491; 1923 c 85 s 1; RRS s 7826-1. Formerly RCW 79.28.040.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

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

RCW 79.13.390 Grazing permits—United States government. The department may issue permits for the grazing of livestock on the lands described in RCW 79.13.380 in such manner and upon such terms, as near as may be, as permits are, or shall be, issued by the United States for the grazing of livestock on national forestlands. The department may charge such fees as it deems adequate and advisable. The department may cooperate with the United States for the protection and preservation of the grazing areas on the state lands contiguous to national forests and for the administration of the provisions of RCW 79.13.380 and 79.13.390. [2003 c 334 s 492; 1983 c 3 s 202; 1923 c 85 s 2; RRS s 7826-2. Formerly RCW 79.28.050.]

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

RCW 79.13.400 Improvement of grazing ranges—Agreements. The department is hereby authorized on behalf of the state of Washington to enter into cooperative agreements with any person as defined in RCW 1.16.080 for the improvement of the state's grazing ranges by the clearing of debris, maintenance of trails and water holes, and other requirements for the general improvement of the grazing ranges. [2003 c 334 s 493; 1963 c 99 s 1; 1955 c 324 s 1. Formerly RCW 79.28.070.]

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

RCW 79.13.410 Improvement of grazing ranges—Extension of permit. In order to encourage the improvement of grazing ranges by holders of grazing permits, the department shall consider (1) extension of grazing permit periods to a maximum of ten years; and (2) reduction of grazing fees, in situations where the permittee contributes or agrees to contribute to the improvement of the range, financially, by labor, or otherwise. [2003 c 334 s 494; 1985 c 197 s 3; 1979 ex.s. c 109 s 21; 1955 c 324 s 2. Formerly RCW 79.28.080.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

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

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

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.]

PART 4 OTHER LEASES

RCW 79.13.500 Amateur radio repeater stations—Legislative intent. The department leases state lands and space on towers located on state lands to amateur radio operators for their repeater stations. These sites are necessary to maintain emergency communications for public safety and for use in disaster relief and search and rescue support.

The licensed amateur radio operators of the state provide thousands of hours of public communications service to the state every year. Their communication network spans the entire state, based in individual residences and linked across the state through a series of mountain-top repeater stations. The amateur radio operators install and maintain their radios and the electronic repeater stations at

their own expense. The amateur radio operators who use their equipment to perform public services should not bear the sole responsibility for supporting the electronic repeater stations.

In recognition of the essential role performed by the amateur radio operators in emergency communications, the legislature intends to reduce the rental fee paid by the amateur radio operators while assuring the department full market rental for the use of state-owned property. [2003 c 334 s 461; 1988 c 209 s 1. Formerly RCW 79.12.015.]

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

RCW 79.13.510 Amateur radio electronic repeater sites and units—Reduced rental rates—Frequencies. The department shall determine the lease rate for amateur radio electronic repeater sites and units available for public service communication. For the amateur operator to qualify for a rent of one hundred dollars per year per site, the amateur operator shall do one of the following: (1) Register and remain in good standing with the state's radio amateur civil emergency services and amateur radio emergency services organizations, or (2) if an amateur group, sign a statement of public service developed by the department.

The legislature's biennial appropriations shall account for the estimated difference between the one hundred dollar per year, per site, per lessee paid by the qualified amateur operators and the fair market amateur rent, as established by the department.

The amateur radio regulatory authority approved by the federal communication commission shall assign the radio frequencies used by amateur radio lessees. The department shall develop guidelines to determine which lessees are to receive reduced rental fees as moneys are available by legislative appropriation to pay a portion of the rent for electronic repeaters operated by amateur radio operators. [2003 c 334 s 462; 1995 c 105 s 1; 1988 c 209 s 2. Formerly RCW 79.12.025.]

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

RCW 79.13.520 Nonprofit television reception improvements districts—Rental of public lands—Intent. The department shall determine the fair market rental rate for leases to nonprofit television reception improvement districts. It is the intent of the legislature to appropriate general funds to pay a portion of the rent charged to nonprofit television reception improvement districts. It is the further intent of the legislature that such a lessee pay an annual lease rent of fifty percent of the fair market rental rate, as long as there is a general fund appropriation to compensate the trusts for the remainder of the fair market rental rate. [2003 c 334 s 464; 1994 c 294 s 1. Formerly RCW 79.12.055.]

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

Effective date—1994 c 294: "This act shall take effect July 1, 1994." [1994 c 294 s 3.]

RCW 79.13.530 Geothermal resources—Guidelines for development—Lease rates. (1) In an effort to increase potential revenue to the geothermal account, the department shall, by December 1, 1991, adopt rules providing guidelines and procedures for leasing state-owned land for the development of geothermal resources.

(2) (a) By September 30, 2024, the department must commence rule making to update its geothermal resources lease rates. The updated geothermal resources lease rates must comply with the terms established in this section.

(b) Geothermal resources lease rates must be competitive with geothermal resources lease rates adopted by the federal government and by other states in the western portion of the United States.

(c) The goal of the updated geothermal resources lease rates must be to optimize the state's competitiveness at attracting geothermal exploration and development projects while balancing the state's obligation to trust beneficiaries and not adversely impacting federally reserved tribal rights and resources including, but not limited to, those protected by treaty, executive order, or federal law. [2024 c 350 s 2; 2003 c 334 s 465; 1991 c 76 s 3. Formerly RCW 79.12.095.]

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

PART 5
ECOSYSTEM STANDARDS

RCW 79.13.600 Findings—Salmon stocks—Grazing lands—Coordinated resource management plans. The legislature finds that many wild stocks of salmonids in the state of Washington are in a state of decline. Stocks of salmon on the Columbia and Snake rivers have been listed under the federal endangered species act, and the bull trout has been petitioned for listing. Some scientists believe that numerous other stocks of salmonids in the Pacific Northwest are in decline or possibly extinct. The legislature declares that to lose wild stocks is detrimental to the genetic diversity of the fisheries resource and the economy, and will represent the loss of a vital component of Washington's aquatic ecosystems. The legislature further finds that there is a continuing loss of habitat for fish and wildlife. The legislature declares that steps must be taken in the areas of wildlife and fish habitat management, water conservation, wild salmonid stock protection, and education to prevent further losses of Washington's fish and wildlife heritage from a number of causes including urban and rural subdivisions, shopping centers, industrial park, and other land use activities.

The legislature finds that the maintenance and restoration of Washington's rangelands and shrub-steppe vegetation is vital to the long-term benefit of the people of the state. The legislature finds that approximately one-fourth of the state is open range or open-canopied grazable woodland. The legislature finds that these lands provide forage for livestock, habitat for wildlife, and innumerable recreational opportunities including hunting, hiking, and fishing.

The legislature finds that the development of coordinated resource management plans, that take into consideration the needs of wildlife, fish, livestock, timber production, water quality

protection, and rangeland conservation on all state-owned grazing lands will improve the stewardship of these lands and allow for the increased development and maintenance of fish and wildlife habitat and other multipurpose benefits the public derives from these lands.

The legislature finds that the state currently provides insufficient technical support for coordinated resource management plans to be developed for all state-owned lands and for many of the private lands desiring to develop such plans. As a consequence of this lack of technical assistance, our state grazing lands, including fish and wildlife habitat and other resources provided by these lands, are not achieving their potential. The legislature also finds that with many state lands being intermixed with private grazing lands, development of coordinated resource management plans on state-owned and managed lands provides an opportunity to improve the management and enhance the conditions of adjacent private lands.

A purpose of chapter 4, Laws of 1993 sp. sess. is to establish state grazing lands as the model in the state for the development and implementation of standards that can be used in coordinated resource management plans and to thereby assist the timely development of coordinated resource management plans for all state-owned grazing lands. Every lessee of state lands who wishes to participate in the development and implementation of a coordinated resource management plan shall have the opportunity to do so. [1996 c 163 s 2. Prior: 1993 sp.s. c 4 s 1. Formerly RCW 79.01.2951.]

RCW 79.13.610 Grazing lands—Fish and wildlife goals—Technical advisory committee—Implementation. (1) By December 31, 1993, the department of fish and wildlife shall develop goals for the wildlife and fish that this agency manages, to preserve, protect, and perpetuate wildlife and fish on shrub steppe habitat or on lands that are presently agricultural lands, rangelands, or grazable woodlands. These goals shall be consistent with the maintenance of a healthy ecosystem.

(2) By July 31, 1993, the conservation commission shall appoint a technical advisory committee to develop standards that achieve the goals developed in subsection (1) of this section. The committee members shall include but not be limited to technical experts representing the following interests: Agriculture, academia, range management, utilities, environmental groups, commercial and recreational fishing interests, the Washington rangelands committee, Indian tribes, the department of fish and wildlife, the department of natural resources, the department of ecology, conservation districts, and the department of agriculture. A member of the conservation commission shall chair the committee.

(3) By December 31, 1994, the committee shall develop standards to meet the goals developed under subsection (1) of this section. These standards shall not conflict with the recovery of wildlife or fish species that are listed or proposed for listing under the federal endangered species act. These standards shall be utilized to the extent possible in development of coordinated resource management plans to provide a level of management that sustains and perpetuates renewable resources, including fish and wildlife, riparian areas, soil, water, timber, and forage for livestock and wildlife. Furthermore, the standards are recommended for application to model watersheds designated by the Northwest power planning council in

conjunction with the conservation commission. The maintenance and restoration of sufficient habitat to preserve, protect, and perpetuate wildlife and fish shall be a major component included in the standards and coordinated resource management plans. Application of standards to privately owned lands is voluntary and may be dependent on funds to provide technical assistance through conservation districts.

(4) The conservation commission shall approve the standards and shall provide them to the departments of natural resources and fish and wildlife, each of the conservation districts, and Washington State University cooperative extension service. The conservation districts shall make these standards available to the public and for coordinated resource management planning. Application to private lands is voluntary.

(5) The department of natural resources shall implement practices necessary to meet the standards developed pursuant to this section on department managed agricultural and grazing lands, consistent with the trust mandate of the Washington state Constitution and Title 79 RCW. The standards may be modified on a site-specific basis as needed to achieve the fish and wildlife goals, and as determined by the department of fish and wildlife, and the department of natural resources. Existing lessees shall be provided an opportunity to participate in any site-specific field review. Department agricultural and grazing leases issued after December 31, 1994, shall be subject to practices to achieve the standards that meet those developed pursuant to this section. [1998 c 245 s 162; 1993 sp.s. c 4 s 5. Formerly RCW 79.01.295.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

RCW 79.13.620 Purpose—Ecosystem standards. (1) It is the purpose of chapter 163, Laws of 1996 that all state agricultural lands, grazing lands, and grazeable woodlands shall be managed in keeping with the statutory and constitutional mandates under which each agency operates. Chapter 163, Laws of 1996 is consistent with section 1, chapter 4, Laws of 1993 sp. sess.

(2) The ecosystem standards developed under chapter 4, Laws of 1993 sp. sess. for state-owned agricultural and grazing lands are defined as desired ecological conditions. The standards are not intended to prescribe practices. For this reason, land managers are encouraged to use an adaptive management approach in selecting and implementing practices that work towards meeting the standards based on the best available science and evaluation tools.

(3) For as long as the chapter 4, Laws of 1993 sp. sess. ecosystem standards remain in effect, they shall be applied through a collaborative process that incorporates the following principles:

(a) The land manager and lessee or permittee shall look at the land together and make every effort to reach agreement on management and resource objectives for the land under consideration;

(b) They will then discuss management options and make every effort to reach agreement on which of the available options will be used to achieve the agreed-upon objectives;

(c) No land manager or owner ever gives up his or her management prerogative;

(d) Efforts will be made to make land management plans economically feasible for landowners, managers, and lessees and to

make the land management plan compatible with the lessee's entire operation;

(e) Coordinated resource management planning is encouraged where either multiple ownerships, or management practices, or both, are involved;

(f) The department of fish and wildlife shall consider multiple use, including grazing, on lands owned or managed by the department of fish and wildlife where it is compatible with the management objectives of the land; and

(g) The department shall allow multiple use on lands owned or managed by the department where multiple use can be demonstrated to be compatible with RCW 79.10.100, 79.10.110, and 79.10.120.

(4) The ecosystem standards are to be achieved by applying appropriate land management practices on riparian lands and on the uplands in order to reach the desired ecological conditions.

(5) The legislature urges that state agencies that manage grazing lands make planning and implementation of chapter 163, Laws of 1996, using the coordinated resource management and planning process, a high priority, especially where either multiple ownerships, or multiple use resources objectives, or both, are involved. In all cases, the choice of using the coordinated resource management planning process will be a voluntary decision by all concerned parties including agencies, private landowners, lessees, permittees, and other interests. [2003 c 334 s 378; 1996 c 163 s 1. Formerly RCW 79.01.2955.]

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