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**SECOND SUBSTITUTE SENATE BILL 6027**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

**State of Washington                      66th Legislature                      2020 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Pedersen, Carlyle, Warnick, Van De Wege, Hunt, Rolfes, Short, and Honeyford)

READ FIRST TIME 02/07/20.

1            AN ACT Relating to floating residences; and amending RCW  
2 90.58.270 and 79.105.060.

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

4            **Sec. 1.** RCW 90.58.270 and 2014 c 56 s 2 are each amended to read  
5 as follows:

6            (1) Nothing in this section shall constitute authority for  
7 requiring or ordering the removal of any structures, improvements,  
8 docks, fills, or developments placed in navigable waters prior to  
9 December 4, 1969, and the consent and authorization of the state of  
10 Washington to the impairment of public rights of navigation, and  
11 corollary rights incidental thereto, caused by the retention and  
12 maintenance of said structures, improvements, docks, fills or  
13 developments are hereby granted: PROVIDED, That the consent herein  
14 given shall not relate to any structures, improvements, docks, fills,  
15 or developments placed on tidelands, shorelands, or beds underlying  
16 said waters which are in trespass or in violation of state statutes.

17            (2) Nothing in this section shall be construed as altering or  
18 abridging any private right of action, other than a private right  
19 which is based upon the impairment of public rights consented to in  
20 subsection (1) of this section.

1 (3) Nothing in this section shall be construed as altering or  
2 abridging the authority of the state or local governments to suppress  
3 or abate nuisances or to abate pollution.

4 (4) Subsection (1) of this section shall apply to any case  
5 pending in the courts of this state on June 1, 1971 relating to the  
6 removal of structures, improvements, docks, fills, or developments  
7 based on the impairment of public navigational rights.

8 (5)(a) A floating home permitted or legally established prior to  
9 January 1, 2011, must be classified as a conforming preferred use.

10 (b) For the purposes of this subsection:

11 (i) "Conforming preferred use" means that applicable development  
12 and shoreline master program regulations may only impose reasonable  
13 conditions and mitigation that will not effectively preclude  
14 maintenance, repair, replacement, and remodeling of existing floating  
15 homes and floating home moorages by rendering these actions  
16 impracticable.

17 (ii) "Floating home" means a single-family dwelling unit  
18 constructed on a float, that is moored, anchored, or otherwise  
19 secured in waters, and is not a vessel, even though it may be capable  
20 of being towed.

21 (6)(a) A floating on-water residence legally established prior to  
22 July 1, 2014, must be considered a conforming use and accommodated  
23 through reasonable shoreline master program regulations, permit  
24 conditions, or mitigation that will not effectively preclude  
25 maintenance, repair, replacement, and remodeling of existing floating  
26 on-water residences and their moorages by rendering these actions  
27 impracticable. A substantial development permit is not required when  
28 replacing or remodeling a floating on-water residence if the size of  
29 the existing residence is not materially exceeded. A substantial  
30 development permit is required if the replacement or remodel of a  
31 floating on-water residence materially exceeds the size of the  
32 existing residence. All replacements and remodels which add one  
33 hundred twenty square feet or more to the living space must require  
34 on-board gray-water containment or a waste-water connection that  
35 disposes of the gray water to a waste-water disposal system.

36 (b) For the purpose of this subsection, "floating on-water  
37 residence" means a vessel or any other floating structure other than  
38 a floating home, as defined under subsection (5) of this section(~~(7~~  
39 ~~that~~)): (i) That is designed or used primarily as a residence on the  
40 water and has detachable utilities; and (ii) whose owner or primary

1 occupant has held an ownership interest in space in a marina, or has  
2 held a lease or sublease to use space in a marina, since a date prior  
3 to July 1, 2014.

4 **Sec. 2.** RCW 79.105.060 and 2005 c 155 s 102 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout chapters 79.105  
7 through 79.145 RCW unless the context clearly requires otherwise.

8 (1) "Aquatic lands" means all tidelands, shorelands, harbor  
9 areas, and the beds of navigable waters.

10 (2) "Beds of navigable waters" means those lands lying waterward  
11 of and below the line of navigability on rivers and lakes not subject  
12 to tidal flow, or extreme low tide mark in navigable tidal waters, or  
13 the outer harbor line where harbor area has been created.

14 (3) "First-class shorelands" means the shores of a navigable lake  
15 or river belonging to the state, not subject to tidal flow, lying  
16 between the line of ordinary high water and the line of navigability,  
17 or inner harbor line where established and within or in front of the  
18 corporate limits of any city or within two miles of either side.

19 (4) "First-class tidelands" means the shores of navigable tidal  
20 waters belonging to the state, lying within or in front of the  
21 corporate limits of any city, or within one mile of either side and  
22 between the line of ordinary high tide and the inner harbor line; and  
23 within two miles of the corporate limits on either side and between  
24 the line of ordinary high tide and the line of extreme low tide.

25 (5) "Harbor area" means the area of navigable waters determined  
26 as provided in Article XV, section 1 of the state Constitution, which  
27 shall be forever reserved for landings, wharves, streets, and other  
28 conveniences of navigation and commerce.

29 (6) "Improvements" when referring to state-owned aquatic lands  
30 means anything considered a fixture in law placed within, upon, or  
31 attached to aquatic lands that has changed the value of those lands,  
32 or any changes in the previous condition of the fixtures that changes  
33 the value of the land.

34 (7) "Inflation rate" means for a given year the percentage rate  
35 of change in the previous calendar year's all commodity producer  
36 price index of the bureau of labor statistics of the United States  
37 department of commerce. If the index ceases to be published, the  
38 department shall designate by rule a comparable substitute index.

1 (8) "Inner harbor line" means a line located and established in  
2 navigable waters between the line of ordinary high tide or ordinary  
3 high water and the outer harbor line, constituting the inner boundary  
4 of the harbor area.

5 (9) "Log booming" means placing logs into and taking them out of  
6 the water, assembling and disassembling log rafts before or after  
7 their movement in waterborne commerce, related handling and sorting  
8 activities taking place in the water, and the temporary holding of  
9 logs to be taken directly into a processing facility. "Log booming"  
10 does not include the temporary holding of logs to be taken directly  
11 into a vessel.

12 (10) "Log storage" means the water storage of logs in rafts or  
13 otherwise prepared for shipment in waterborne commerce, but does not  
14 include the temporary holding of logs to be taken directly into a  
15 vessel or processing facility.

16 (11) "Nonwater-dependent use" means a use that can operate in a  
17 location other than on the waterfront. Examples include, but are not  
18 limited to, hotels, condominiums, apartments, restaurants, retail  
19 stores, and warehouses not part of a marine terminal or transfer  
20 facility.

21 (12) "Outer harbor line" means a line located and established in  
22 navigable waters as provided in Article XV, section 1 of the state  
23 Constitution, beyond which the state shall never sell or lease any  
24 rights whatever to private persons.

25 (13) "Person" means any private individual, partnership,  
26 association, organization, cooperative, firm, corporation, the state  
27 or any agency or political subdivision thereof, any public or  
28 municipal corporation, or any unit of government, however designated.

29 (14) "Port district" means a port district created under Title 53  
30 RCW.

31 (15) "Public utility lines" means pipes, conduits, and similar  
32 facilities for distribution of water, electricity, natural gas,  
33 telephone, other electronic communication, and sewers, including  
34 sewer outfall lines.

35 (16) "Real rate of return" means the average for the most recent  
36 ten calendar years of the average rate of return on conventional real  
37 property mortgages as reported by the federal home loan bank board or  
38 any successor agency, minus the average inflation rate for the most  
39 recent ten calendar years.

1 (17) "Second-class shorelands" means the shores of a navigable  
2 lake or river belonging to the state, not subject to tidal flow,  
3 lying between the line of ordinary high water and the line of  
4 navigability, and more than two miles from the corporate limits of  
5 any city.

6 (18) "Second-class tidelands" means the shores of navigable tidal  
7 waters belonging to the state, lying outside of and more than two  
8 miles from the corporate limits of any city, and between the line of  
9 ordinary high tide and the line of extreme low tide.

10 (19) "Shorelands," where not preceded by "first-class" or  
11 "second-class," means both first-class shorelands and second-class  
12 shorelands.

13 (20) "State-owned aquatic lands" means all tidelands, shorelands,  
14 harbor areas, the beds of navigable waters, and waterways owned by  
15 the state and administered by the department or managed under RCW  
16 79.105.420 by a port district. "State-owned aquatic lands" does not  
17 include aquatic lands owned in fee by, or withdrawn for the use of,  
18 state agencies other than the department.

19 (21) "Terminal" means a point of interchange between land and  
20 water carriers, such as a pier, wharf, or group of such, equipped  
21 with facilities for care and handling of either cargo or passengers,  
22 or both.

23 (22) "Tidelands," where not preceded by "first-class" or "second-  
24 class," means both first-class tidelands and second-class tidelands.

25 (23) "Valuable materials" when referring to state-owned aquatic  
26 lands means any product or material within or upon lands, such as  
27 forest products, forage, stone, gravel, sand, peat, agricultural  
28 crops, and all other materials of value except mineral, coal,  
29 petroleum, and gas as provided for under chapter 79.14 RCW. However,  
30 RCW 79.140.190 and 79.140.200 also apply to materials provided for  
31 under chapter 79.14 RCW.

32 (24) (a) "Water-dependent use" means a use that cannot logically  
33 exist in any location but on the water. Examples include, but are not  
34 limited to: Waterborne commerce; terminal and transfer facilities;  
35 ferry terminals; watercraft sales in conjunction with other water-  
36 dependent uses; watercraft construction, repair, and maintenance;  
37 moorage and launching facilities; aquaculture; log booming; and  
38 public fishing piers and parks.

39 (b) "Water-dependent use" includes a vessel or any other floating  
40 structure, other than a floating home as defined in RCW 90.58.270(5):

1 (a) That is designed or used primarily as a residence on the water  
2 and has detachable utilities; and (b) whose owner or primary occupant  
3 has held an ownership interest in a marina, or has held a lease or  
4 sublease to use space in a marina, since a date prior to July 1,  
5 2014. Any rule making necessary under this subsection (24)(b) is not  
6 subject to the requirements of RCW 43.21C.030(2)(c).

7 (25) "Water-oriented use" means a use that historically has been  
8 dependent on a waterfront location, but with existing technology  
9 could be located away from the waterfront. Examples include, but are  
10 not limited to, wood products manufacturing, watercraft sales, fish  
11 processing, petroleum refining, sand and gravel processing, log  
12 storage, and ~~((houseboats))~~ a floating home as defined in RCW  
13 90.58.270(5)(b)(ii). For the purposes of determining rent under this  
14 chapter, water-oriented uses shall be classified as water-dependent  
15 uses if the activity either is conducted on state-owned aquatic lands  
16 leased on October 1, 1984, or was actually conducted on the state-  
17 owned aquatic lands for at least three years before October 1, 1984.  
18 If, after October 1, 1984, the activity is changed to a use other  
19 than a water-dependent use, the activity shall be classified as a  
20 nonwater-dependent use. If continuation of the existing use requires  
21 leasing additional state-owned aquatic lands and is permitted under  
22 the shoreline management act of 1971, chapter 90.58 RCW, the  
23 department may allow reasonable expansion of the water-oriented use.

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