

Chapter 79.115 RCW
AQUATIC LANDS—HARBOR AREAS

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RCW 79.115.001 Intent—2005 c 155. See RCW 79.105.001.

HARBOR LINE ESTABLISHMENT AND RELOCATION

RCW 79.115.010 Harbor lines and areas to be established. (1) It is the duty of the board acting as the harbor line commission to locate and establish harbor lines and determine harbor areas, as required by Article XV, section 1 of the state Constitution, where harbor lines and harbor areas have not previously been located and established.

(2) The board shall locate and establish outer harbor lines beyond which the state shall never sell or lease any rights whatever to private persons, and to locate and establish the inner harbor line, thereby defining the width of the harbor area between such harbor lines. The harbor area shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. [2005 c 155 § 301; 1982 1st ex.s. c 21 § 69. Formerly RCW 79.92.010.]

RCW 79.115.020 Relocation of harbor lines by the harbor line commission. Whenever it appears that the inner harbor line of any harbor area has been so established as to overlap or fall inside the government meander line, or for any other good cause, the board acting as the harbor line commission is empowered to relocate and reestablish said inner harbor line so erroneously established, outside of the meander line. All tidelands or shorelands within the inner harbor line so reestablished and relocated, shall belong to the state and may be sold or leased as other first-class tidelands or shorelands in accordance with the provisions of RCW 79.125.200. However, in all

other cases, authority to relocate the inner harbor line or outer harbor line, or both, shall first be obtained from the legislature. [2005 c 155 § 302; 1982 1st ex.s. c 21 § 70. Formerly RCW 79.92.020.]

RCW 79.115.030 Commission on harbor lines may change, relocate, or reestablish harbor lines. The commission on harbor lines is authorized to change, relocate, or reestablish harbor lines. [2010 c 45 § 1; 2005 c 155 § 303; 2004 c 219 § 1; 1989 c 79 § 1; 1982 1st ex.s. c 21 § 71. Formerly RCW 79.92.030.]

RCW 79.115.040 Modification of harbor lines in Port Gardner Bay. The harbor line commission shall modify harbor lines in Port Gardner Bay as necessary to facilitate the conveyance through exchange authorized in RCW 79.125.800. [2005 c 155 § 304; 1987 c 271 § 5. Formerly RCW 79.92.035.]

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

RCW 79.115.050 Seizure or sale of improvements for taxes. Whenever improvements have been made on state-owned tidelands, shorelands, or beds of navigable waters, in front of cities or towns, prior to the location of harbor lines in front of the cities or towns, and the reserved harbor area as located include the improvements, no seizure or sale of the improvements for taxes shall be had until six months after the lands have been leased or offered for lease. However, this section shall not affect or impair the lien for taxes on the improvements. [2005 c 155 § 136; 1982 1st ex.s. c 21 § 45. Formerly RCW 79.90.390.]

HARBOR AREA LEASES

RCW 79.115.100 Terms of harbor area leases. Applications, leases, and bonds of lessees shall be in such a form as the department shall prescribe. Every lease shall provide that the rental shall be payable to the department, and for cancellation by the department upon sixty days' written notice for any breach of the conditions. Every lessee shall furnish a bond, with surety satisfactory to the department, with such penalty as the department may prescribe, but not less than five hundred dollars, conditioned upon the faithful performance of the terms of the lease and the payment of the rent when due. If the department at any time deems any bond insufficient, it may require the lessee to file a new and sufficient bond within thirty days after receiving notice to do so.

Applications for leases of harbor areas upon tidal waters shall be accompanied by plans and drawings and other data concerning the proposed wharves, docks, or other structures or improvements as the department shall require. Every lease of harbor areas shall provide that, wharves, docks, or other conveniences of navigation and commerce adequate for the public needs, to be specified in the lease, shall be constructed within the time as may be fixed in each case by the department. In no case shall the construction be commenced more than

two years from the date of the lease and shall be completed within such reasonable time as the department shall fix, any of which times may be extended by the department either before or after their expiration, and the character of the improvements may be changed either before or after completion with the approval of the department. However, if in its opinion improvements existing upon such harbor area or the tidelands adjacent thereto are adequate for public needs of commerce and navigation, the department shall require the maintenance of existing improvements and need not require further improvements. [2005 c 155 § 305; 1982 1st ex.s. c 21 § 74. Formerly RCW 79.92.060.]

RCW 79.115.110 Construction or extension of docks, wharves, etc., in harbor areas—New lease. If the owner of any harbor area lease upon tidal waters desires to construct any wharf, dock, or other convenience of navigation or commerce, or to extend, enlarge, or substantially improve any existing structure used in connection with the harbor area, and deems the required expenditure not warranted by the lessee's right to occupy the harbor area during the remainder of the term of their lease, the lease owner may make application to the department for a new lease of the harbor area for a period not exceeding thirty years. Upon the filing of an application accompanied by proper plans, drawings, or other data, the department shall investigate the application and if the department determines that the proposed work or improvement is in the public interest and reasonably adequate for the public needs, it shall by order fix the terms and conditions and the rate of rental for a new lease, the rate of rental shall be a fixed percentage, during the term of the lease, on the true and fair value in money of the harbor area determined by the department. The department may propose modifications of the proposed wharf, dock, or other convenience or extensions, enlargements, or improvements. The department shall, within ninety days from the filing of an application notify the applicant in writing of the terms and conditions upon which a new lease will be granted, and of the rental to be paid, and if the applicant shall within ninety days elect to accept a new lease of the harbor area upon the terms and conditions, and at the rental prescribed by the department, the department shall make a new lease for the harbor area for the term applied for and the existing lease shall be surrendered and canceled. [2005 c 155 § 306; 2000 c 11 § 27; 1982 1st ex.s. c 21 § 75. Formerly RCW 79.92.070.]

RCW 79.115.120 Re-leases of harbor areas. Upon the expiration of any harbor area lease upon tidal waters, the lessee may apply for a re-lease of the harbor area for a period not exceeding thirty years. The application shall be accompanied with maps showing the existing improvements upon the harbor area and the adjacent tidelands and with proper plans, drawings, and other data showing any proposed extensions or improvements of existing structures. Upon the filing of an application the department shall investigate the application and if it determines that the character of the wharves, docks, or other conveniences of commerce and navigation are reasonably adequate for the public needs and in the public interest, it shall by order fix and determine the terms and conditions upon which the re-lease shall be granted and the rate of rental to be paid, which rate shall be a fixed percentage during the term of the lease on the true and fair value in

money of the harbor area as determined by the department. [2005 c 155 § 307; 2000 c 11 § 28; 1982 1st ex.s. c 21 § 76. Formerly RCW 79.92.080.]

RCW 79.115.130 Procedure to re-lease harbor areas. Upon completion of the valuation of any tract of harbor area applied for under RCW 79.115.120, the department shall notify the applicant of the terms and conditions upon which the re-lease will be granted and of the rental fixed. The applicant or the applicant's successor in interest shall have the option for the period of sixty days from the date of the service of notice in which to accept a lease on the terms and conditions and at the rental so fixed and determined by the department. If the terms and conditions and rental are accepted a new lease shall be granted for the term applied for. If the terms and conditions are not accepted by the applicant within the period of time, or within such further time, not exceeding three months, as the department shall grant, the lease shall be deemed rejected by the applicant, and the department shall give eight weeks' notice by publication once a week in one or more newspapers of general circulation in the county in which the harbor area is located, that a lease of the harbor area will be sold on the terms and conditions and at the rental, at a time and place specified in the notice (which shall not be more than three months from the date of the first publication of the notice) to the person offering at the public sale to pay the highest sum as a cash bonus at the time of sale of the lease. Notice of the sale shall be served upon the applicant at least six weeks prior to the date of sale. The person paying the highest sum as a cash bonus shall be entitled to lease the harbor area. However, if the lease is not sold at the public sale the department may at any time or times again fix the terms, conditions, and rental, and again advertise the lease for sale as provided in this section and upon similar notice. Further, upon failure to secure any sale of the lease as prescribed in this section, the department may issue revocable leases without requirement of improvements for one year periods at a minimum rate of two percent. [2005 c 155 § 308; 1985 c 469 § 61; 1982 1st ex.s. c 21 § 77. Formerly RCW 79.92.090.]

RCW 79.115.140 Regulation of wharfage, dockage, and other tolls. The state of Washington retains and reserves the right to regulate the rates of wharfage, dockage, and other tolls to be imposed by the lessee or the lessee's assigns upon commerce for any of the purposes for which the leased area may be used and the right to prevent extortion and discrimination in such use. [2005 c 155 § 309; 1982 1st ex.s. c 21 § 78. Formerly RCW 79.92.100.]

**RCW 79.115.150 Harbor areas and tidelands within towns—
Distribution of rents to municipal authorities.** (1) Where any leased harbor area or tideland is situated within the limits of a town, whether or not the harbor area or tideland lies within a port district, the rents from the leases shall be paid by the state treasurer to the municipal authorities of the town to be expended for water-related improvements.

(2) The state treasurer is authorized and directed to make payments to the respective towns on the first days of July and January of each year, of all moneys payable under the terms of this section. [2005 c 155 § 310; 1984 c 221 § 25; 1983 c 153 § 1; 1982 2nd ex.s. c 8 § 2; 1982 1st ex.s. c 21 § 79. Formerly RCW 79.92.110.]

Effective date—1984 c 221: See RCW 79.105.902.

Effective date—1983 c 153: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 153 § 2.]

Effective date—1982 2nd ex.s. c 8 § 2: "Section 2 of this act shall take effect July 1, 1983." [1982 2nd ex.s. c 8 § 3.]