CERTIFICATION OF ENROLLMENT

HOUSE BILL 2199

Chapter 405, Laws of 2009

61st Legislature
2009 Regular Session

SHIFTS IN SHORELINE LOCATION--PROPERTY OWNER RELIEF

EFFECTIVE DATE: 07/26/09

Passed by the House April 20, 2009
Yeas 95  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 10, 2009
Yeas 44  Nays 0

BRAD OWEN
President of the Senate

Approved May 7, 2009, 2:54 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2199 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED
May 8, 2009

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to regulatory relief for properties impacted by shifts in shoreline location due to habitat restoration projects; adding a new section to chapter 90.58 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts shoreline management act regulations into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers. The legislature intends to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.

NEW SECTION. Sec. 2. A new section is added to chapter 90.58 RCW to read as follows:

(1) The local government may grant relief from shoreline master
program development standards and use regulations within urban growth areas when the following apply:

(a) A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
   (i)(A) Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or
   (B) Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable shoreline master program; and
   (ii) Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;

(b) The proposed relief meets the following criteria:
   (i) The proposed relief is the minimum necessary to relieve the hardship;
   (ii) After granting the proposed relief, there is net environmental benefit from the restoration project;
   (iii) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and
   (iv) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and

(c) The application for relief must be submitted to the department for written approval or disapproval. This review must occur during the department's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then the department shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review.

(i) Except as otherwise provided in subsection (2) of this section, the department shall provide at least twenty-days notice to parties that have indicated interest to the department in reviewing
applications for relief under this section, and post the notice on
their web site.

(ii) The department shall act within thirty calendar days of close
of the public notice period, or within thirty days of receipt of the
proposal from the local government if additional public notice is not
required.

(2) The public notice requirements of subsection (1)(c) of this
section do not apply if the relevant shoreline restoration project was
included in a shoreline master program or shoreline restoration plan as
defined in WAC 173-26-201, as follows:

(a) The restoration plan has been approved by the department under
applicable shoreline master program guidelines;

(b) The shoreline restoration project is specifically identified in
the shoreline master program or restoration plan or is located along a
shoreline reach identified in the shoreline master program or
restoration plan as appropriate for granting relief from shoreline
regulations; and

(c) The shoreline master program or restoration plan includes
policies addressing the nature of the relief and why, when, and how it
would be applied.

(3) A substantial development permit is not required on land within
urban growth areas as defined in RCW 36.70A.030 that is brought under
shoreline jurisdiction due to a shoreline restoration project creating
a landward shift in the ordinary high water mark.

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

(a) "Shoreline restoration project" means a project designed to
restore impaired ecological function of a shoreline.

(b) "Urban growth areas" has the same meaning as defined in RCW
36.70A.030.

Passed by the House April 20, 2009.
Passed by the Senate April 10, 2009.
Approved by the Governor May 7, 2009.
Filed in Office of Secretary of State May 8, 2009.