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HOUSE BILL 1849

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State of Washington

66th Legislature

2019 Regular Session

**By** Representatives Lekanoff, Chapman, Fitzgibbon, and Doglio; by request of Department of Natural Resources

Read first time 02/01/19. Referred to Committee on Environment & Energy.

1 AN ACT Relating to revising the lease terms for managing first-  
2 class unplatted tidelands and shorelands; amending RCW 79.125.400,  
3 79.130.020, and 79.125.030; and repealing RCW 79.125.020 and  
4 79.125.410.

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

6 **Sec. 1.** RCW 79.125.400 and 2005 c 155 s 506 are each amended to  
7 read as follows:

8 (1) (~~Upon platting and appraisal of first-class tidelands or~~  
9 ~~shorelands as provided in this chapter~~) Except when the department  
10 is re-leasing first-class tidelands or shorelands under subsection  
11 (4) of this section, if the department deems it for the best public  
12 interest to offer ((the)) first-class tidelands or shorelands for  
13 lease, the department shall notify the owner of record of ((uplands))  
14 the lands fronting upon the tidelands or shorelands to be offered for  
15 lease ((if the upland owner is a resident of the state, or the upland  
16 owner is a nonresident of the state, shall mail to the upland  
17 owner's)) by mailing to the landowner's last known post office  
18 address, as reflected in the county records, a copy of the notice  
19 notifying the owner that the state is offering the tidelands or  
20 shorelands for lease, giving a description of those lands ((and the  
21 department's appraised fair market value of the tidelands or

1 ~~shorelands for lease)), and notifying the owner that the ((upland))~~  
2 owner has a preference right to apply to lease the tidelands or  
3 shorelands ~~((at the appraised value for the lease for))~~. The owner  
4 has a period of sixty days from the date of service of mailing of the  
5 notice to exercise the preference by applying to lease the tidelands  
6 or shorelands.

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

17 (3) If at the expiration of sixty days two or more claimants  
18 asserting a preference right to lease have filed applications to  
19 lease any tract, conflicting with each other, the conflict between  
20 the claimants shall be equitably resolved by the department as the  
21 best interests of the state require ~~((in accord with the procedures~~  
22 ~~prescribed by chapter 34.05 RCW))~~. However, any contract purchaser of  
23 lands or rights therein, which ~~((upland))~~ land qualifies the owner  
24 for a preference right under this section, shall have first priority  
25 for the preference right.

26 (4) At the expiration of any lease of first-class tidelands or  
27 shorelands, the lessee or the lessee's successors or assigns have the  
28 preference right to re-lease all or part of the area covered by the  
29 original lease or any portion of the lease, if the department deems  
30 it to be in the best interests of the state to re-lease the area.  
31 Such a re-lease must be upon the terms and conditions as may be  
32 prescribed by the department. This preference right to re-lease is  
33 superior to any preference right given to the landowner fronting the  
34 tidelands and shorelands under subsection (1) of this section.

35 (5) In case the fronting uplands are not improved and occupied  
36 for residential purposes and the fronting landowner has not filed an  
37 application for the lease of the lands, the department may lease the  
38 lands to any person for booming purposes. However, failure to use  
39 lands leased under this section for booming purposes for a period of  
40 one year shall result in a forfeiture of the lease and the land shall

1 revert to the state without any notice to the lessee upon the entry  
2 of a declaration of forfeiture in the records of the department.

3 **Sec. 2.** RCW 79.130.020 and 2005 c 155 s 602 are each amended to  
4 read as follows:

5 (1) The department shall, prior to the issuance of any lease  
6 under the provisions of this chapter, fix the annual ~~((rental))~~ rent  
7 and prescribe the terms and conditions of the lease. However, in  
8 fixing the ~~((rental))~~ rent, the department shall not take into  
9 account the value of any improvements placed upon the lands by the  
10 lessee.

11 (2) No lease issued under the provisions of this chapter shall be  
12 for a term longer than thirty years ~~((from the date thereof if in~~  
13 ~~front of second-class tidelands or shorelands; or a term longer than~~  
14 ~~ten years if in front of unplatted first-class tidelands or~~  
15 ~~shorelands leased under the provisions of RCW 79.125.410, in which~~  
16 ~~case the lease shall be subject to the same terms and conditions as~~  
17 ~~provided for in the lease of the unplatted first-class tidelands or~~  
18 ~~shorelands))~~. Failure to use those beds leased under the provisions  
19 of this chapter for booming purposes, for a period of two years shall  
20 work a forfeiture of the lease and the land shall revert to the state  
21 without notice to the lessee upon the entry of a declaration of  
22 forfeiture in the records of the department.

23 **Sec. 3.** RCW 79.125.030 and 2005 c 155 s 502 are each amended to  
24 read as follows:

25 The department may survey and plat any ~~((second-class))~~ tidelands  
26 and shorelands not previously platted.

27 NEW SECTION. **Sec. 4.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 79.125.020 (First-class tidelands and shorelands to be  
30 platted) and 2005 c 155 s 501 & 1982 1st ex.s. c 21 s 87; and

31 (2) RCW 79.125.410 (First-class unplatted tidelands and  
32 shorelands—Lease preference right to upland owners—Lease for booming  
33 purposes) and 2005 c 155 s 527 & 1982 1st ex.s. c 21 s 113.

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