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**SENATE BILL 6027**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Pedersen, Carlyle, Warnick, Van De Wege, Hunt, Rolfes, Short, and Honeyford

Prefiled 12/02/19.

1 AN ACT Relating to floating residences; amending RCW 90.58.270  
2 and 79.105.060; and creating a new section.

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.

28 (b) For the purpose of this subsection, "floating on-water  
29 residence" means a vessel or any other floating structure other than  
30 a floating home, as defined under subsection (5) of this section(~~(7~~  
31 ~~that~~)): (i) That is designed or used primarily as a residence on the  
32 water and has detachable utilities; and (ii) whose owner or primary  
33 occupant has held an ownership interest in space in a marina, or has  
34 held a lease or sublease to use space in a marina, since a date prior  
35 to July 1, 2014.

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

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

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

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

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

12 (4) "First-class tidelands" means the shores of navigable tidal  
13 waters belonging to the state, lying within or in front of the  
14 corporate limits of any city, or within one mile of either side and  
15 between the line of ordinary high tide and the inner harbor line; and  
16 within two miles of the corporate limits on either side and between  
17 the line of ordinary high tide and the line of extreme low tide.

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

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

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

32 (8) "Inner harbor line" means a line located and established in  
33 navigable waters between the line of ordinary high tide or ordinary  
34 high water and the outer harbor line, constituting the inner boundary  
35 of the harbor area.

36 (9) "Log booming" means placing logs into and taking them out of  
37 the water, assembling and disassembling log rafts before or after  
38 their movement in waterborne commerce, related handling and sorting  
39 activities taking place in the water, and the temporary holding of  
40 logs to be taken directly into a processing facility. "Log booming"

1 does not include the temporary holding of logs to be taken directly  
2 into a vessel.

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

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

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

16 (13) "Person" means any private individual, partnership,  
17 association, organization, cooperative, firm, corporation, the state  
18 or any agency or political subdivision thereof, any public or  
19 municipal corporation, or any unit of government, however designated.

20 (14) "Port district" means a port district created under Title 53  
21 RCW.

22 (15) "Public utility lines" means pipes, conduits, and similar  
23 facilities for distribution of water, electricity, natural gas,  
24 telephone, other electronic communication, and sewers, including  
25 sewer outfall lines.

26 (16) "Real rate of return" means the average for the most recent  
27 ten calendar years of the average rate of return on conventional real  
28 property mortgages as reported by the federal home loan bank board or  
29 any successor agency, minus the average inflation rate for the most  
30 recent ten calendar years.

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

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

1 (19) "Shorelands," where not preceded by "first-class" or  
2 "second-class," means both first-class shorelands and second-class  
3 shorelands.

4 (20) "State-owned aquatic lands" means all tidelands, shorelands,  
5 harbor areas, the beds of navigable waters, and waterways owned by  
6 the state and administered by the department or managed under RCW  
7 79.105.420 by a port district. "State-owned aquatic lands" does not  
8 include aquatic lands owned in fee by, or withdrawn for the use of,  
9 state agencies other than the department.

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

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

16 (23) "Valuable materials" when referring to state-owned aquatic  
17 lands means any product or material within or upon lands, such as  
18 forest products, forage, stone, gravel, sand, peat, agricultural  
19 crops, and all other materials of value except mineral, coal,  
20 petroleum, and gas as provided for under chapter 79.14 RCW. However,  
21 RCW 79.140.190 and 79.140.200 also apply to materials provided for  
22 under chapter 79.14 RCW.

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

30 (b) "Water-dependent use" includes a vessel or any other floating  
31 structure, other than a floating home as defined in RCW 90.58.270(5):  
32 (a) That is designed or used primarily as a residence on the water  
33 and has detachable utilities; and (b) whose owner or primary occupant  
34 has held an ownership interest in a marina, or has held a lease or  
35 sublease to use space in a marina, since a date prior to July 1,  
36 2014.

37 (25) "Water-oriented use" means a use that historically has been  
38 dependent on a waterfront location, but with existing technology  
39 could be located away from the waterfront. Examples include, but are  
40 not limited to, wood products manufacturing, watercraft sales, fish

1 processing, petroleum refining, sand and gravel processing, log  
2 storage, and ((houseboats)) a floating home as defined in RCW  
3 90.58.270(5)(b)(ii). For the purposes of determining rent under this  
4 chapter, water-oriented uses shall be classified as water-dependent  
5 uses if the activity either is conducted on state-owned aquatic lands  
6 leased on October 1, 1984, or was actually conducted on the state-  
7 owned aquatic lands for at least three years before October 1, 1984.  
8 If, after October 1, 1984, the activity is changed to a use other  
9 than a water-dependent use, the activity shall be classified as a  
10 nonwater-dependent use. If continuation of the existing use requires  
11 leasing additional state-owned aquatic lands and is permitted under  
12 the shoreline management act of 1971, chapter 90.58 RCW, the  
13 department may allow reasonable expansion of the water-oriented use.

14 NEW SECTION. **Sec. 3.** This act applies retroactively to July 1,  
15 2014.

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