

Chapter 79.160 RCW
DERELICT AQUATIC STRUCTURES

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RCW 79.160.005 Findings. (1) The legislature finds that nearshore habitat is amongst the most important for threatened and endangered species of salmon, yet nearshore habitat in populated areas is often negatively impacted by man-made structures. There is a growing problem where aquatic or overwater structures become derelict or fall into disrepair. These derelict aquatic structures are public nuisances and safety hazards as they can pose risks to navigation, harm nearshore habitat for threatened and endangered species, detract from the aesthetics of Washington's waterfronts, and threaten the environment with the potential release of hazardous materials.

(2) The legislature further finds that the costs associated with the proper removal or repair of derelict aquatic structures are substantial and that in many cases owners of these structures lack the financial means to address the safety and environmental hazards the structures pose. As a result, the costs associated with the removal or repair of derelict structures becomes a burden on public entities and the taxpaying public.

(3) The legislature also finds that removal of derelict aquatic structures and restoration of surrounding habitat improves nearshore habitat quality. [2023 c 227 § 1.]

RCW 79.160.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(2) "Department" means the department of natural resources.

(3) "Derelict aquatic structure" means overwater and in-water structures where, as a result of catastrophic damage or disuse or neglect, conditions exist that make the structure unsafe for use, pose a hazard, or pose risks to public health or safety or the surrounding environment. Factors that indicate an aquatic structure is derelict include, but are not limited to, structures that:

(a) Are unsecured;

(b) Are abandoned and partially constructed;

(c) Are at risk of partial or full collapse;

(d) Are dilapidated by being in a state of disrepair due to catastrophic damage or disuse or neglect;

(e) Have received a notice from a building or safety authority with jurisdiction that identified structural defects that prohibit the structure from being used;

(f) Increase the risk of fire, accident, or environmental harm;
or

(g) Otherwise represent a risk to public or environmental health or safety.

(4) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a structure by purchase, exchange, gift, lease, inheritance, or legal action whether or not the structure is subject to a security interest. [2023 c 227 § 2.]

RCW 79.160.020 Department's authority to acquire lands and facilities. (1) To the extent not granted under other statutes, the department is granted authority to purchase, or acquire through gift, exchange, or other transfer, lands and facilities to carry out the purposes of this title. Following purchase or acquisition, the department also has the authority, subject to the processes and limitations of this chapter, to remove, salvage, scrap, dispose of, refurbish, or repurpose a derelict aquatic structure found on or above aquatic lands within the jurisdiction of the department. Any removal and disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal provisions provided for in chapter 70A.205 RCW.

(2) The primary responsibility to remove a derelict aquatic structure belongs to the owner or lessee of the structure, and secondarily to the department when it has jurisdiction over the aquatic lands on which the structure lies. [2023 c 227 § 3.]

RCW 79.160.030 Disposal of derelict aquatic structures. (1) Derelict aquatic structures will be disposed of by the department or an approved contractor in any appropriate and environmentally sound manner.

(2) Preference must be given to the least costly, environmentally sound, reasonable disposal option. Any disposal operations must be consistent with the requirements of all permitting authorities and state solid waste disposal provisions provided for in chapter 70A.205 RCW. [2023 c 227 § 4.]

RCW 79.160.040 Conservation credits—Deposit of payments or revenues. (1) The department shall submit all qualifying derelict aquatic structure removal projects or project elements on aquatic lands not managed by a port district under RCW 79.105.420 to the Puget Sound partnership nearshore credits program or other similar mitigation credit programs to generate conservation credits to help federal permit applicants meet obligations to offset impacts from their aquatic projects.

(2) Any payments or revenues the department receives from the sale of credits in the nearshore credits program or other similar

mitigation credit program must be directed to the derelict structure removal account. [2023 c 227 § 5.]

RCW 79.160.050 Derelict structure removal account. (1) (a) The derelict structure removal account is created in the state treasury. All receipts from mitigation credit programs and those moneys specified must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of projects associated with this chapter.

(b) Funds in the account resulting from transfers from the general fund should be prioritized for the removal of large structures.

(c) Moneys in the account may only be spent after appropriation.

(2) Priority for use of this account is for the removal, remediation, and revitalization of derelict aquatic structures that are in danger of collapsing, breaking up, or blocking navigation channels, or that present environmental risks or significant habitat impacts. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing by January 1, 2024. [2023 c 227 § 6.]

RCW 79.160.060 Department authorized to enter into contracts. The department may enter into a contract with a private company, individuals, tribal nation, or state and local government agencies to carry out the authority granted in this chapter. [2023 c 227 § 7.]

RCW 79.160.070 Establishment of a grant program. The department shall establish a grant program for lessees of state-owned aquatic land who need financial assistance to comply with the department's habitat stewardship measures for the protection of nearshore habitat. The department shall establish grant eligibility criteria and amounts by July 1, 2024. [2023 c 227 § 8.]

RCW 79.160.080 Department authorized to acquire certain structures or facilities to be refurbished or repurposed. The department may also acquire aquatic structures and facilities that do not meet the definition of derelict aquatic structures, but which could provide habitat benefits or amenities for the local community if either refurbished or repurposed, or both. The department may partner with a local government, government agency, tribal nation or corporation, or nonprofit group to refurbish or repurpose an aquatic structure or facility. [2023 c 227 § 9.]

RCW 79.160.090 Limitations of chapter's authority. (1) This chapter is not intended to limit or constrain the ability and

authority of any entity to enact and enforce ordinances or other regulations relating to derelict aquatic structures, or to take any actions authorized by federal or state law in responding to derelict or abandoned structures. This chapter is also not intended to be the sole remedy available to the department against the owners of derelict aquatic structures.

(2) The rights granted by this chapter are in addition to any other legal rights the department may have to obtain title to, remove, recover, sell, or dispose of a derelict aquatic structure, and in no way does this chapter alter those rights, or affect the priority of other liens on a structure. [2023 c 227 § 10.]