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**SENATE BILL 5542**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senator Darneille

AN ACT Relating to overwater residences within a historic district listed in the Washington heritage register; and amending RCW 90.58.270.

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

**Sec.**  RCW 90.58.270 and 2014 c 56 s 2 are each amended to read as follows:

(1) Nothing in this section shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) of this section.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single‑family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

(6)(a) A floating on-water residence legally established prior to July 1, 2014, must be considered a conforming use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

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

(7)(a) A historic overwater residence permitted or legally established prior to January 1, 2017, must be classified as a conforming preferred use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing overwater residences by rendering these actions impracticable.

(b) For the purposes of this subsection, "historic overwater residence" means a single-family dwelling unit constructed on pilings, located at least partially over saltwaters at high tide, and located in a historic district on the Washington heritage register that includes more than ten overwater residences.

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