

SHB 2581 - H AMD 711

By Representative Tarleton

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that all
4 Washington residents benefit from the unique aesthetic, recreational,
5 and economic opportunities that are derived from the state's aquatic
6 resources, including its navigable waters and shoreline areas. The
7 legislature also recognizes that, as affirmed in chapter 212, Laws of
8 2011, existing floating homes are an important cultural amenity and an
9 element of the state's maritime history and economy. The 2011
10 legislation, which clarified the legal status of floating homes, was
11 intended to ensure the vitality and long-term survival of existing
12 floating single-family home communities.

13 (2) The legislature finds that further clarification of the status
14 of other residential uses on water that meet specific requirements and
15 share important cultural, historical, and economic commonalities with
16 floating homes, is necessary.

17 (3) The legislature, therefore, intends to: Preserve the existence
18 and vitality of current, floating on-water residential uses; establish
19 greater clarity and regulatory uniformity for these uses; and respect
20 the well-established authority of local governments to determine
21 compliance with regulatory requirements applicable to their
22 jurisdiction.

23 **Sec. 2.** RCW 90.58.270 and 2011 c 212 s 2 are each amended to read
24 as follows:

25 (1) Nothing in this (~~statute~~) section shall constitute authority
26 for requiring or ordering the removal of any structures, improvements,
27 docks, fills, or developments placed in navigable waters prior to
28 December 4, 1969, and the consent and authorization of the state of
29 Washington to the impairment of public rights of navigation, and

1 corollary rights incidental thereto, caused by the retention and
2 maintenance of said structures, improvements, docks, fills or
3 developments are hereby granted: PROVIDED, That the consent herein
4 given shall not relate to any structures, improvements, docks, fills,
5 or developments placed on tidelands, shorelands, or beds underlying
6 said waters which are in trespass or in violation of state statutes.

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

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

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

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

20 (b) For the purposes of this subsection:

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

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

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

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

8 NEW SECTION. Sec. 3. This act does not affect the application of
9 any other applicable permits, authorizations, or authorities."

EFFECT: Requires local governments to consider all on-water floating residences legally established prior to July 1, 2014, to be a conforming use and accommodate the residences through reasonable regulations; defines on-water floating residences as floating structures that are primarily used as a residence and whose owner or occupant has held an ownership interest or marina lease before July 1, 2014.

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