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**SENATE BILL 5852**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Randall and Takko; by request of Department of Natural Resources

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

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

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

(1) ((~~Upon platting and appraisal of first-class tidelands or shorelands as provided in this chapter~~)) Except when the department is re-leasing first-class tidelands or shorelands under subsection (4) of this section, if the department deems it for the best public interest to offer ((~~the~~)) first-class tidelands or shorelands for lease, the department shall notify the owner of record of ((~~uplands~~)) the lands fronting upon the tidelands or shorelands to be offered for lease ((~~if the upland owner is a resident of the state, or the upland owner is a nonresident of the state, shall mail to the upland owner's~~)) by mailing to the landowner's last known post office address, as reflected in the county records, a copy of the notice notifying the owner that the state is offering the tidelands or shorelands for lease, giving a description of those lands ((~~and the department's appraised fair market value of the tidelands or shorelands for lease~~)), and notifying the owner that the ((~~upland~~)) owner has a preference right to apply to lease the tidelands or shorelands ((~~at the appraised value for the lease for~~)). The owner has a period of sixty days from the date of service of mailing of the notice to exercise the preference by applying to lease the tidelands or shorelands.

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

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

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

(5) In case the fronting uplands are not improved and occupied for residential purposes and the fronting landowner has not filed an application for the lease of the lands, the department may lease the lands to any person for booming purposes. However, failure to use lands leased under this section for booming purposes for a period of one year shall result in a forfeiture of the lease and the land shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

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

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

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

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

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

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

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

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

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