

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 6027

Chapter 148, Laws of 2021

67th Legislature
Veto Override 2021 Regular Session

FLOATING RESIDENCES—SHORELINE MANAGEMENT ACT—DEFINITIONS

EFFECTIVE DATE: July 25, 2021

Passed by the Senate March 9, 2020
Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House March 5, 2020
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Vetoed April 3, 2020

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6027** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

April 29, 2021

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6027

AS AMENDED BY THE HOUSE

Passed Legislature - Veto Override 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Pedersen, Carlyle, Warnick, Van De Wege, Hunt, Rolfes, Short, and Honeyford)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to floating residences; and amending RCW
2 90.58.270 and 79.105.060.

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. A substantial development permit is not required when
28 replacing or remodeling a floating on-water residence if the size of
29 the existing residence is not materially exceeded. A substantial
30 development permit is required if the replacement or remodel of a
31 floating on-water residence materially exceeds the size of the
32 existing residence. All replacements and remodels which add one
33 hundred twenty square feet or more to the living space must require
34 on-board gray-water containment or a waste-water connection that
35 disposes of the gray water to a waste-water disposal system.

36 (b) For the purpose of this subsection, "floating on-water
37 residence" means a vessel or any other floating structure other than
38 a floating home, as defined under subsection (5) of this section(~~(7~~
39 ~~that~~)): (i) That is designed or used primarily as a residence on the
40 water and has detachable utilities; and (ii) whose owner or primary

1 occupant has held an ownership interest in space in a marina, or has
2 held a lease or sublease to use space in a marina, since a date prior
3 to July 1, 2014.

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

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

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

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

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

19 (4) "First-class tidelands" means the shores of navigable tidal
20 waters belonging to the state, lying within or in front of the
21 corporate limits of any city, or within one mile of either side and
22 between the line of ordinary high tide and the inner harbor line; and
23 within two miles of the corporate limits on either side and between
24 the line of ordinary high tide and the line of extreme low tide.

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

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

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

1 (8) "Inner harbor line" means a line located and established in
2 navigable waters between the line of ordinary high tide or ordinary
3 high water and the outer harbor line, constituting the inner boundary
4 of the harbor area.

5 (9) "Log booming" means placing logs into and taking them out of
6 the water, assembling and disassembling log rafts before or after
7 their movement in waterborne commerce, related handling and sorting
8 activities taking place in the water, and the temporary holding of
9 logs to be taken directly into a processing facility. "Log booming"
10 does not include the temporary holding of logs to be taken directly
11 into a vessel.

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

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

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

25 (13) "Person" means any private individual, partnership,
26 association, organization, cooperative, firm, corporation, the state
27 or any agency or political subdivision thereof, any public or
28 municipal corporation, or any unit of government, however designated.

29 (14) "Port district" means a port district created under Title 53
30 RCW.

31 (15) "Public utility lines" means pipes, conduits, and similar
32 facilities for distribution of water, electricity, natural gas,
33 telephone, other electronic communication, and sewers, including
34 sewer outfall lines.

35 (16) "Real rate of return" means the average for the most recent
36 ten calendar years of the average rate of return on conventional real
37 property mortgages as reported by the federal home loan bank board or
38 any successor agency, minus the average inflation rate for the most
39 recent ten calendar years.

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

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

10 (19) "Shorelands," where not preceded by "first-class" or
11 "second-class," means both first-class shorelands and second-class
12 shorelands.

13 (20) "State-owned aquatic lands" means all tidelands, shorelands,
14 harbor areas, the beds of navigable waters, and waterways owned by
15 the state and administered by the department or managed under RCW
16 79.105.420 by a port district. "State-owned aquatic lands" does not
17 include aquatic lands owned in fee by, or withdrawn for the use of,
18 state agencies other than the department.

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

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

25 (23) "Valuable materials" when referring to state-owned aquatic
26 lands means any product or material within or upon lands, such as
27 forest products, forage, stone, gravel, sand, peat, agricultural
28 crops, and all other materials of value except mineral, coal,
29 petroleum, and gas as provided for under chapter 79.14 RCW. However,
30 RCW 79.140.190 and 79.140.200 also apply to materials provided for
31 under chapter 79.14 RCW.

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

39 (b) "Water-dependent use" includes a vessel or any other floating
40 structure, other than a floating home as defined in RCW 90.58.270(5):

1 (a) That is designed or used primarily as a residence on the water
2 and has detachable utilities; and (b) whose owner or primary occupant
3 has held an ownership interest in a marina, or has held a lease or
4 sublease to use space in a marina, since a date prior to July 1,
5 2014. Any rule making necessary under this subsection (24)(b) is not
6 subject to the requirements of RCW 43.21C.030(2)(c).

7 (25) "Water-oriented use" means a use that historically has been
8 dependent on a waterfront location, but with existing technology
9 could be located away from the waterfront. Examples include, but are
10 not limited to, wood products manufacturing, watercraft sales, fish
11 processing, petroleum refining, sand and gravel processing, log
12 storage, and ~~((houseboats))~~ a floating home as defined in RCW
13 90.58.270(5)(b)(ii). For the purposes of determining rent under this
14 chapter, water-oriented uses shall be classified as water-dependent
15 uses if the activity either is conducted on state-owned aquatic lands
16 leased on October 1, 1984, or was actually conducted on the state-
17 owned aquatic lands for at least three years before October 1, 1984.
18 If, after October 1, 1984, the activity is changed to a use other
19 than a water-dependent use, the activity shall be classified as a
20 nonwater-dependent use. If continuation of the existing use requires
21 leasing additional state-owned aquatic lands and is permitted under
22 the shoreline management act of 1971, chapter 90.58 RCW, the
23 department may allow reasonable expansion of the water-oriented use.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Vetoed by the Governor April 3, 2020.

Filed in Office of Secretary of State April 29, 2021.

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