

CHAPTER 186
[House Bill No. 1181]
TIDE AND SHORELANDS

AN ACT Relating to tide and shorelands; amending section 2, chapter 217, Laws of 1971 ex. sess. RCW 79.01.470; adding new sections to chapter 79.01 RCW; and repealing section 121, chapter 255, Laws of 1927, section 1, chapter 54, Laws of 1969 ex. sess. and RCW 79.01.484; and declaring an emergency.

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

Section 1. Section 2, chapter 217, Laws of 1971 ex. sess. and RCW 79.01.470 are each amended to read as follows:

(1) This section shall only apply to:

- (a) First class tidelands as defined in RCW 79.01.020;
- (b) Second class tidelands as defined in RCW 79.01.024;
- (c) First class shorelands as defined in RCW 79.01.028; and
- (d) Second class shorelands as defined in RCW 79.01.032.

(e) Waterways as described in RCW 79.01.428.

(2) Notwithstanding any other provision of law, from and after August 9, 1971, all tidelands and shorelands enumerated in subsection (1) owned by the state of Washington shall not be sold except to public entities as may be authorized by law or except as provided in section 2 of this 1974 amendatory act, and shall not be given away.

(3) Tidelands and shorelands enumerated in subsection (1) may be leased for a period not to exceed fifty-five years: PROVIDED, That nothing herein shall be construed as modifying or canceling any outstanding lease during its present term.

(4) Nothing herein shall:

- (a) be construed to cancel an existing sale contract;
- (b) prohibit sale or exchange of beds and shorelands where the water course has changed and the area now has the characteristics of uplands;
- (c) prevent exchange involving state-owned tide and shorelands.

V NEW SECTION. Sec. 2. There is added to chapter 79.01 RCW a new section to read as follows:

An owner of property fronting upon publicly owned second class shorelands on freshwater navigable lakes who has constructed on the abutting shorelands an improvement having a replacement value of more than four hundred dollars prior to January 1, 1974 may apply for and shall upon such application be afforded the opportunity, prior to June 30, 1975, to purchase at the fair market value the abutting second class shoreland or so much as may be sufficient for the

maintenance and use of such improvements unless the public interest is best served by maintaining such shoreland in state ownership for the benefit of the people of the state. It is recognized that the best public interest may be served by offering the second class shoreland for sale. If the board determines that it is not in the best public interest to offer one or more parcels of such second class shorelands for sale, the board shall state, in the notice to such applicant denying the sale, the specific reasons for so determining and shall provide for an opportunity for a "contested case" hearing of the decision in accordance with chapter 34.04 RCW if a hearing is requested within thirty days from the receipt of the notice.

NEW SECTION. Sec. 3. There is added to chapter 79.01 RCW a new section to read as follows:

Nothing in this 1974 act shall be construed to prevent the assertion of public ownership rights in publicly owned aquatic lands or the leasing of such lands when such leasing is not contrary to the state-wide public interest.

The department of natural resources may require the payment of a use and occupancy fee in lieu of a lease where improvements have been placed without authorization on publicly owned aquatic lands.

NEW SECTION. Sec. 4. Section 121, chapter 255, Laws of 1927, section 1, chapter 54, Laws of 1969 ex. sess. and RCW 79.01.484 are each hereby repealed.

NEW SECTION. Sec. 5. This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1974.
Passed the Senate April 23, 1974.
Approved by the Governor May 6, 1974, with the exception of certain items which are vetoed.
Filed in Office of Secretary of State May 6, 1974.
Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to certain sections House Bill No. 1181 entitled:

"AN ACT Relating to tide and shorelands."

Veto Message

Section 2 provides for the sale of publicly owned second class shorelands in accordance with the legislative declaration that the public interest may be best served by such sale. The language of this section, however, is so drafted as to place the burden on the state, through the Board of State Land Commissioners, to prove that the sale of second class shoreland to a particular applicant is not in the public interest. This burden must further be sustained through the "contested case" procedure set forth in RCW chapter 34.04. The preservation of publicly owned property for the benefit and use of all the citizens of this state is a basic policy of the highest priority, and it should be incumbent on any individual seeking to purchase publicly owned property to prove that the public would be best served by such purchase. For these reasons, I have determined to veto section 2.

Section 4 repeals RCW 79.01.484, which provides for the sale or lease, when the public interest is best served, of second class shorelands, and grants a preference in case of such sale or lease to the abutting upland owner. Repeal of this section would take away the desired flexibility presently within the Department of Natural Resources to lease second class shorelands to abutting owners while still preserving the property ultimately for the public benefit. Accordingly, I have determined to veto section 4.

Veto
Message

With the foregoing exceptions, the remainder of House Bill 1181 is approved."

CHAPTER 187

[Substitute House Bill No. 1185]

REVENUE AND TAXATION OF
TIMBER AND FOREST LANDS

AN ACT Relating to revenue and taxation of timber and forest lands; amending section 7, chapter 294, Laws of 1971 ex. sess. as amended by section 1, chapter 148, Laws of 1972 ex. sess. and RCW 82.04.291; amending section 5, chapter 294, Laws of 1971 ex. sess. as last amended by section 90, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.33.050; amending section 8, chapter 294, Laws of 1971 ex. sess. as last amended by section 92, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.33.080; amending section 11, chapter 294, Laws of 1971 ex. sess. and RCW 84.33.110; amending section 12, chapter 294, Laws of 1971 ex. sess. as amended by section 5, chapter 148, Laws of 1972 ex. sess. and RCW 84.33.120; amending section 13, chapter 294, Laws of 1971 ex. sess. and RCW 84.33.130; amending section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 93, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.33.140; amending section 10, chapter 146, Laws of 1967 ex. sess. as last amended by section 1, chapter 125, Laws of 1972 ex. sess. and RCW 84.40.045; adding new sections to chapter 294, Laws of 1971 ex. sess. and to chapter 84.33 RCW; repealing section 18, chapter 294, Laws of 1971 ex. sess., section 7, chapter 148, Laws of 1972 ex. sess. and RCW 84.33.180; and declaring an emergency.

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

Section 1. Section 7, chapter 294, Laws of 1971 ex. sess. as amended by section 1, chapter 148, Laws of 1972 ex. sess. and RCW 82.04.291 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a harvester of timber; as to such persons the amount of tax with respect to such business shall be equal to the stumpage value of