

# Enrolled House Bill 2461

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of State Lands)

CHAPTER .....

AN ACT

Relating to exemption from leasing requirements for submersible lands; amending ORS 274.043; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 274.043 is amended to read:

274.043. (1) A privately owned float or dock occupying an area of 200 square feet or less is exempt from the leasing requirements of ORS 274.040 if:

(a) The structure belongs to the immediately adjacent riparian landowner; and

(b) The float or dock is uncovered, unenclosed and open on all sides.

(2) A privately owned float or dock constructed prior to September 29, 1991, and exempted under ORS 274.042 (1989 Edition) is exempt from the provisions of ORS 274.040.

**(3) The Department of State Lands by rule may provide for additional exemptions to the leasing requirements of ORS 274.040.**

~~[(3)]~~ (4) Any float or dock described in subsections ~~[(1) and (2)]~~ (1) to (3) of this section shall be registered with the ~~[Department of State Lands]~~ department.

~~[(4)]~~ (5) The department may authorize the following uses of state-owned submerged and submersible lands without charge:

(a) Structures on state-owned submerged and submersible lands maintained by a drainage district organized under the provisions of ORS chapter 547.

(b) Riprap, as defined in ORS 196.815, used to stabilize the banks along state-owned submerged and submersible lands.

(c) Rights of way established prior to November 1, 1981, for any county road over state-owned submerged and submersible lands, and rights of way established prior to November 1, 1981, for any city street over state-owned submerged and submersible lands.

(d) Voluntary habitat restoration work on state-owned submerged and submersible lands. For purposes of this paragraph, voluntary habitat restoration work does not include:

(A) Activities undertaken to satisfy any actual or potential legal obligation, or for which the entity completing the habitat restoration work receives compensation of any kind.

(B) Habitat restoration work completed by an entity to satisfy an environmental mitigation obligation, or to generate, sell or obtain credit as an offset against actual or potential natural resource damages liability.

~~[(5)]~~ (6) The department is entitled to charge, in accordance with rules adopted by the department, for the use of state-owned submerged and submersible lands for any environmental mitigation

credit, or settlement of or credit obtained as an offset against natural resource damages liability, acquired by any party for habitat restoration work on state-owned land.

[(6)] (7) The uses described in subsections [(4) and (5)] (5) and (6) of this section must be registered in accordance with rules adopted by the department. Any person issued a registration to use or occupy state-owned submerged and submersible lands under subsections [(4) and (5)] (5) and (6) of this section shall indemnify and hold harmless the state from all liability and claims arising from or attributable to the use or occupation.

[(7)] (8) The department by rule may authorize the use of specific state-owned submerged or submersible lands without charge if the department determines that the use is minimally intrusive to any public rights of navigation, fishery or recreation.

**SECTION 2. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**

**Passed by House February 16, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 20, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2015

**Approved:**

.....M.,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State