

**Chapter 78.12 RCW**  
**ABANDONED SHAFTS AND EXCAVATIONS**

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**RCW 78.12.010 Shafts, excavations to be fenced.** Any person or persons, company, or corporation who shall hereafter dig, sink or excavate, or cause the same to be done, or being the owner or owners, or in the possession, under any lease or contract, of any shaft, excavation or hole, whether used for mining or otherwise, or whether dug, sunk or excavated for the purpose of mining, to obtain water, or for any other purpose, within this state, shall, during the time they may be employed in digging, sinking or excavating, or after they have ceased work upon or abandoned the same, erect, or cause to be erected, good and substantial fences or other safeguards, and keep the same in good repair around such works or shafts sufficient to securely guard against danger to persons and animals from falling into such shafts or excavations. [1890 p 121 § 1; RRS § 8857.]

**RCW 78.12.020 Complaint—Contents.** Three persons being residents of the county, and knowing or having reason to believe that the provisions of RCW 78.12.010 are being or have been violated within such county, may file a notice with any district or municipal court therein, which notice shall be in writing, and shall state—First, the location, as near as may be, of the hole, excavation or shaft. Second, that the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this chapter. Third, the name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth, if abandoned and no claimant; and Fifth, the estimated cost of fencing or otherwise securing the same against any avoidable accidents. [1987 c 202 § 231; 1987 c 3 § 19; 1890 p 121 § 2; RRS § 8858.]

**Severability—1987 c 3:** See note following RCW 3.70.010.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**RCW 78.12.030 Order to serve notice.** Upon the filing of the notice, as provided in RCW 78.12.020, the district or municipal court shall issue an order, directed to the sheriff of the county or to any constable or city marshal therein, directing such officer to serve a notice in manner and form as is prescribed by law for service of summons upon any person or persons or the authorized agent or agents

of any company or corporation named in the notice on file, as provided in RCW 78.12.020. [1984 c 258 § 139; 1890 p 121 § 3; RRS 8859.]

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Application—1984 c 258 §§ 101-139:** See note following RCW 3.50.005.

**RCW 78.12.040 Notice—Contents—Civil and criminal penalties.**

The notice thus served shall require the said persons to appear before the judge issuing the same, at a time to be stated therein, not more than ten nor less than three days from the service of said notice, and show to the satisfaction of the court that the provisions of this chapter have been complied with; or if said person or persons fail to appear, judgment will be entered against said person or persons for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine not exceeding the sum of one hundred dollars for each and every violation of the provisions of this chapter, which judgments and fines shall be adjudged and collected as provided for by law. [1987 c 202 § 232; 1890 p 122 § 4; RRS § 8860.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

**RCW 78.12.050 Suit in name of state—Disposition of proceeds.**

Suits commenced under the provisions of this chapter shall be in the name of the state of Washington, and all judgments and fines collected shall be paid into the county treasury for county purposes: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1987 c 202 § 233; 1969 ex.s. c 199 § 34; 1890 p 122 § 5; RRS § 8861.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

*Disposition of costs, fines, fees, penalties, and forfeitures: RCW 10.82.070.*

**RCW 78.12.060 Procedure when shaft unclaimed.**

If the notice filed with the district or municipal court, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, the court shall notify the county legislative authority of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses: PROVIDED, That nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole, unless in their discretion, the same

may be considered dangerous to persons or animals. [1987 c 202 § 234; 1987 c 3 § 20; 1890 p 122 § 6; RRS § 8862.]

**Severability—1987 c 3:** See note following RCW 3.70.010.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**RCW 78.12.061 Safety cage in mining shaft—Regulations.** (1) It shall be unlawful for any person or persons, company or companies, corporation or corporations, to sink or work through any vertical shaft at a greater depth than one hundred and fifty feet, unless the shaft shall be provided with an iron-bonneted safety cage, to be used in the lowering and hoisting of the employees of such person or persons, company or companies, corporation or corporations. The safety apparatus, whether consisting of eccentrics, springs or other device, shall be securely fastened to the cage, and shall be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk, provided the cable shall break. The iron bonnet shall be made of boiler sheet iron of a good quality, of at least three-sixteenths of an inch in thickness, and shall cover the top of the cage in such manner as to afford the greatest protection to life and limb from any matter falling down the shaft.

(2) Any person or persons, company or companies, or corporation or corporations, who shall neglect, fail, or refuse to comply with this section is guilty of a misdemeanor and shall be fined not less than five hundred dollars nor more than one thousand dollars. [2003 c 53 § 377; 1890 p 123 § 7; RRS § 8863. Formerly RCW 78.36.850, part.]

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**RCW 78.12.070 Damage actions preserved.** Nothing contained in this chapter shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his or her heirs or administrator or administratrix, or anyone else now competent to sue in an action of such character. [2013 c 23 § 250; 1890 p 123 § 9; RRS § 8865.]