

Chapter 79.02 RCW
PUBLIC LANDS MANAGEMENT—GENERAL

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PART 1
GENERAL PROVISIONS

RCW 79.02.010 Definitions. The definitions in this section apply throughout this title unless the context clearly requires otherwise.

- (1) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters as defined in RCW 79.105.060 that are administered by the department.
- (2) "Board" means the board of natural resources.
- (3) "Commissioner" means the commissioner of public lands.
- (4) "Community and technical college forest reserve lands" means lands managed under RCW 79.02.420.
- (5) "Community forest trust lands" means those lands acquired and managed under the provisions of chapter 79.155 RCW.
- (6) "Department" means the department of natural resources.
- (7) (a) "Forest biomass" means the by-products of: Current forest management activities; current forest protection treatments prescribed or permitted under chapter 76.04 RCW; or the by-products of forest health treatment prescribed or permitted under chapter 76.06 RCW.
- (b) "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from existing old growth forests; wood required to be left on-site under chapter 76.09 RCW, the state forest practices act; and implementing rules, and other legal and contractual requirements; or municipal solid waste.
- (8) "Good neighbor agreement" means an agreement entered into between the state and the United States forest service or United States bureau of land management to conduct forestland, watershed, and rangeland restoration activities on federal lands, as originally authorized by the 2014 farm bill (P.L. 113-79).
- (9) "Improvements" means anything considered a fixture in law placed upon or attached to lands administered by the department that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.
- (10) "Land bank lands" means lands acquired under RCW 79.19.020.
- (11) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of a federal, state, or local governmental unit, however designated.
- (12) "Public lands" means lands of the state of Washington administered by the department including but not limited to state lands, state forestlands, lands included in a state forestland pool, and aquatic lands.
- (13) "State forestland pool" or "land pool" means state forestlands acquired and managed under RCW 79.22.140.
- (14) "State forestlands" means lands acquired under RCW 79.22.010, 79.22.040, and 79.22.020.
- (15) "State lands" includes:

(a) School lands, that is, lands held in trust for the support of the common schools;

(b) University lands, that is, lands held in trust for university purposes;

(c) Agricultural college lands, that is, lands held in trust for the use and support of agricultural colleges;

(d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;

(e) Normal school lands, that is, lands held in trust for state normal schools;

(f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the state capital for legislative, executive, and judicial purposes;

(g) Institutional lands, that is, lands held in trust for state charitable, educational, penal, and reformatory institutions; and

(h) Land bank, escheat, donations, and all other lands, except aquatic lands, administered by the department that are not devoted to or reserved for a particular use by law.

(16) "Valuable materials" means any product or material on the lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except: (a) Mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW; and (b) forest biomass as provided for under chapter 79.150 RCW. [2018 c 258 s 1. Prior: 2012 c 166 s 2; 2011 c 216 s 17; prior: 2010 c 126 s 6; 2004 c 199 s 201; 2003 c 334 s 301; 1927 c 255 s 1; RRS s 7797-1; prior: 1911 c 36 s 1; 1907 c 256 s 1; 1897 c 89 ss 4, 5; 1895 c 178 ss 1, 2. Formerly RCW 79.01.004, 79.04.010.]

Effective date—2018 c 258: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 2018]." [2018 c 258 s 5.]

Findings—Intent—2012 c 166: "(1) The legislature finds:

(a) Compliance with the federal endangered species act on state forestlands within small, timber-dependent counties in southwest Washington is disproportionately burdensome when compared to the total budget in these counties;

(b) When compared to other forested parts of the state, there is a relatively small federal land base in these counties, which has resulted in substantial responsibility for endangered species act-related habitat conservation being borne by state forestlands;

(c) Within these counties, there is limited availability of private working forestland available for use as a replacement for encumbered state forestlands;

(d) Currently, county beneficiaries may not receive revenue derived from state forestlands located in any counties other than their own;

(e) Through the passing of chapter 354, Laws of 2009, the legislature established the need to relieve the impact of long-term endangered species-related encumbrances on state forestlands in small, timber-dependent counties in Washington;

(f) As a result of the implementation of chapter 354, Laws of 2009, replacement lands are to be purchased to maintain the land base and productivity of state forestlands in these counties;

(g) There is a need for timely reinvestment in the land base of state forestlands by replacing those transferred encumbered lands with new, productive, unencumbered forestland;

(h) The maintenance of a productive state forestland base in these counties is vital to maintaining a stable, viable natural resource economy that supports rural communities and creates local natural resource-based jobs; and

(i) These counties have articulated the need to reestablish sustainable long-term revenue from state forestlands through the acquisition of productive timberland beyond what will be funded by the land value of transferred encumbered lands under chapter 354, Laws of 2009.

(2) It is the intent of the legislature to authorize the board of natural resources to establish a state forestland pool for small, timber-dependent southwest Washington counties. This action allows the board of natural resources, if deemed appropriate after a required analysis, to use revenue designated for replacement of encumbered state forestland in one county to be pooled with other counties' land replacement funds to purchase forestland within any of the participating counties. This forestland would be managed as state forestland for the benefit of all counties participating in the pool, proportionate to their contribution of asset value to the land pool, according to a set of policy, administrative, and financial structures developed by the department of natural resources and adopted by the board of natural resources.

(3) It is the further intent of the legislature that the replacement forestlands purchased to be part of the land pool are to be maintained as working forestlands. For purposes of the land pool, the department of natural resources should seek out land threatened by encroaching development and land not likely to become further encumbered in an effort to preserve working forestland to the maximum extent possible." [2012 c 166 s 1.]

Part headings not law—2004 c 199: "Part headings used in this act are not any part of the law." [2004 c 199 s 302.]

Intent—2003 c 334: "This act is intended to make technical amendments to certain codified statutes that deal with the department of natural resources. Any statutory changes made by this act should be interpreted as technical in nature and not be interpreted to have any substantive, policy implications." [2003 c 334 s 616.]

RCW 79.02.020 Witnesses—Compelling attendance. (1) The board or the commissioner has the power to compel through subpoena the attendance of witnesses and production of records for:

(a) Hearings pertaining to public lands as provided by this title;

(b) Determining the value and character of land, valuable materials, or improvements; and

(c) Determining waste or damage to the land.

(2) A subpoena may be served by any person authorized by law to serve process.

(3) Each witness subpoenaed is allowed the same fees and mileage as paid witnesses in courts of records in this state. The department shall pay these fees and mileage from its general fund appropriation.

(4) Any witness failing to comply with a subpoena, without legal excuse, is considered in contempt.

(a) The board or commissioner shall certify the facts to the court of the county in which the witness resides for contempt of court proceedings as provided in chapter 7.21 RCW.

(b) The certificate of the board or commissioner must be considered by the court as prima facie evidence of the guilt of the witness.

(c) Upon legal proof of the facts, the witness is subject to the same penalties as provided in like cases for contempt of court. [2003 c 334 s 302.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.030 Court review of actions. Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling aggrieved by any order or decision of the board, or the commissioner, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against the appellant on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the appellant, the costs shall be taxed against the appellant and the appellant's sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling aggrieved by the judgment of the superior court may seek appellate review as in other civil cases. Unless appellate review of the judgment of the superior court is sought, the clerk of said court shall, on demand, certify, under the clerk's hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board,

or the commissioner. In all cases of appeals from orders or decisions of the commissioner involving the prior right to purchase tidelands of the first class, if the appeal is not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of the attorney general's intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law. [2003 c 334 s 397. Prior: 1988 c 202 s 59; 1988 c 128 s 56; 1971 c 81 s 139; 1927 c 255 s 125; RRS s 7797-125; prior: 1901 c 62 ss 1 through 7; 1897 c 89 s 52; 1895 c 178 s 82. Formerly RCW 79.01.500, 79.08.030.]

Intent—2003 c 334: See note following RCW 79.02.010.

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 79.02.040 Reconsideration of official acts. The department may review and reconsider any of its official acts relating to public lands until such time as a lease, contract, or deed shall have been made, executed, and finally issued, and the department may recall any lease, contract, or deed issued for the purpose of correcting mistakes or errors, or supplying omissions. [2004 c 199 s 202; 2003 c 334 s 432; 1982 1st ex.s. c 21 s 177; 1927 c 255 s 195; RRS s 7797-195. Formerly RCW 79.01.740, 43.65.080.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW 79.02.050 Effect of mistake or fraud. (1) Any sale, transfer, or lease in which the purchaser, transfer recipient, or lessee obtains the sale or lease by fraud or misrepresentation is void, and the contract of purchase or lease shall be of no effect. In the event of fraud, the contract, transferred property, or lease must be surrendered to the department, but the purchaser, transfer recipient, or lessee may not be refunded any money paid on account of the surrendered contract, transfer, or lease.

(2) In the event that a mistake is discovered in the sale or lease, or in the sale of valuable materials, the department may take action to correct the mistake in accordance with RCW 79.02.040 if maintaining the corrected contract, transfer, or lease is in the best interests of the affected trust or trusts. [2004 c 199 s 203; 2003 c 334 s 365; 2001 c 250 s 11; 1982 1st ex.s. c 21 s 164; 1959 c 257 s 28; 1927 c 255 s 60; RRS s 7797-60. Prior: 1903 c 79 s 3. Formerly RCW 79.01.240, 79.12.280.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

RCW 79.02.060 Scope of provisions of chapter 199, Laws of 2004.

The provisions of chapter 199, Laws of 2004 are not intended to affect the trust responsibilities or trust management by the department for any trust lands granted by the federal government or legislatively created trusts. The trust obligations relating to federally granted lands, state forestlands, community and technical college forest reserve lands, and university repayment lands shall not be altered by the definition clarifications contained in chapter 199, Laws of 2004. The rights, privileges, and prerogatives of the public shall not be altered in any way by chapter 199, Laws of 2004, and no additional or changed authority or power is granted to any person, corporation, or entity. [2004 c 199 s 301.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

RCW 79.02.080 Rewards for information regarding violations. The department is authorized to offer and pay a reward not to exceed ten thousand dollars in each case for information regarding violations of any statute or rule relating to the state's public lands and natural resources on those lands, except forest practices under chapter 76.09 RCW. No reward may be paid to any federal, state, or local government or agency employees for information obtained by them in the normal course of their employment. The department is authorized to adopt rules in pursuit of its authority under this section to determine the appropriate account or fund from which to pay the reward. The department is also authorized to adopt rules establishing the criteria for paying a reward and the amount to be paid. No appropriation shall be required for disbursement. [2003 c 334 s 436; 1994 c 56 s 1; 1990 c 163 s 8. Formerly RCW 79.01.765.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.090 Transfer of county auditor's duties. The duties of the county auditor in each county with a population of two hundred ten thousand or more, with regard to sales and leases dealt with under this title except RCW 79.11.250, 79.11.260, and *79.94.040, are transferred to the county treasurer. [2003 c 334 s 451; 1991 c 363 s 152; 1983 c 3 s 201; 1955 c 184 s 1. Formerly RCW 79.08.170.]

***Reviser's note:** RCW 79.94.040 was recodified as RCW 79.125.040 pursuant to 2005 c 155 s 1008.

Intent—2003 c 334: See note following RCW 79.02.010.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

RCW 79.02.095 Statutes not applicable to state tidelands, shorelands, harbor areas, and the beds of navigable waters. RCW 79.11.080, 79.11.010, 79.11.110, *79.01.140, 79.11.160, 79.10.125, 79.13.130, *79.01.252, *79.01.256, *79.01.260, *79.01.264, 79.13.180, 79.02.260, 79.13.320, 79.13.410, 79.13.010, and *79.01.277 do not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. [2003 c 334 s 317; 1979 ex.s. c 109 s 22. Formerly RCW 79.01.093.]

***Reviser's note:** RCW 79.01.140, 79.01.252, 79.01.256, 79.01.260, 79.01.264, and 79.01.277 were repealed by 2003 c 334 s 551.

Intent—2003 c 334: See note following RCW 79.02.010.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

PART 2 FEDERAL LAND GRANTS

RCW 79.02.100 Appearance by commissioner before United States land offices. The commissioner of public lands is authorized and directed to appear before the United States land offices in all cases involving the validity of the selections of any lands granted to the state, and to summon witnesses and pay necessary witness fees and stenographer fees in such contested cases. [1927 c 255 s 193; RRS s 7797-193. Formerly RCW 79.01.732, 43.12.070.]

RCW 79.02.110 Applications for federal certification that lands are nonmineral. The commissioner of public lands is authorized and directed to make applications, and to cause publication of notices of applications, to the interior department of the United States for certification that any land granted to the state is nonmineral in character, in accordance with the rules of the general land office of the United States. [1927 c 255 s 77; RRS s 7797-77. Prior: 1897 c 89 s 33. Formerly RCW 79.01.308, 79.08.130.]

RCW 79.02.120 Lieu lands—Selection agreements authorized. For the purpose of obtaining from the United States indemnity or lieu lands for such lands granted to the state for common schools, educational, penal, reformatory, charitable, capitol building, or other purposes, as have been or may be lost to the state, or the title to or use or possession of which is claimed by the United States or by others claiming by, through or under the United States, by reason of any of the causes entitling the state to select other lands in lieu thereof, the inclusion of the same in any reservation by or under authority of the United States, or any other appropriation or disposition of the same by the United States, whether such lands are now surveyed or unsurveyed, the department, with the advice and approval of the attorney general, is authorized and empowered to enter into an agreement or agreements, on behalf of the state, with the proper officer or officers of the United States for the relinquishment of any such lands and the selection in lieu thereof, under the

provisions of RCW 79.02.120 through 79.02.140, of lands of the United States of equal area and value. [2003 c 334 s 488; 1988 c 128 s 63; 1913 c 102 s 1; RRS s 7824. Formerly RCW 79.28.010.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.130 Lieu lands—Examination and appraisal. Upon the making of any such agreement, the board shall be empowered and it shall be its duty to cause such examination and appraisal to be made as will determine the area and value, as nearly as may be, of the lands lost to the state, or the title to, use or possession of which is claimed by the United States by reason of the causes mentioned in RCW 79.02.120, and proposed to be relinquished to the United States, and shall cause an examination and appraisal to be made of any lands which may be designated by the officers of the United States as subject to selection by the state in lieu of the lands aforesaid, to the end that the state shall obtain lands in lieu thereof of equal area and value. [2003 c 334 s 489; 1988 c 128 s 64; 1913 c 102 s 2; RRS s 7825. Formerly RCW 79.28.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.140 Lieu lands—Transfer of title to lands relinquished. Whenever the title to any lands selected under the provisions of RCW 79.02.120 through 79.02.140 shall become vested in the state of Washington by the acceptance and approval of the lists of lands so selected, or other proper action of the United States, the governor, on behalf of the state of Washington, shall execute and deliver to the United States a deed of conveyance of the lands of the state relinquished under the provisions of RCW 79.02.120 through 79.02.140, which deed shall convey to and vest in the United States all the right, title and interest of the state of Washington therein. [2003 c 334 s 490; 1913 c 102 s 3; RRS s 7826. Formerly RCW 79.28.030.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.150 Selection to complete uncompleted grants. So long as any grant of lands by the United States to the state of Washington, for any purpose, or as lieu or indemnity lands therefor, remains incomplete, the commissioner of public lands shall, from time to time, cause the records in his or her office and in the United States land offices, to be examined for the purpose of ascertaining what of the unappropriated lands of the United States are open to selection, and whether any thereof may be of sufficient value and so situated as to warrant their selection as state lands, and in that case may cause the same to be inspected and appraised by one or more state land inspectors, and a full report made thereon by the smallest legal subdivisions of forty acres each, classifying such lands into grazing, farming, and timbered lands, and estimating the value of each tract inspected and the quantity and value of all valuable material thereon, and in the case of timbered lands the amount and value of the standing timber thereon, and the estimated value of such lands after the timber

is removed, which report shall be made as amply and expeditiously as possible on blanks to be furnished by the commissioner of public lands for that purpose, under the oath of the inspector to the effect that he or she has personally examined the tracts mentioned in each forty acres thereof, and that said report and appraisalment is made from such personal examination, and is, to the best of affiant's knowledge and belief, true and correct, and that the lands are not occupied by any bona fide settler.

The commissioner of public lands shall select such unappropriated lands as he or she shall deem advisable, and do all things necessary under the laws of the United States to vest title thereto in the state, and shall assign lands of equal value, as near as may be, to the various uncompleted grants. [2013 c 23 s 257; 1927 c 255 s 19; RRS s 7797-19. Prior: 1897 c 89 ss 5, 7, 9, 10. Formerly RCW 79.01.076, 79.08.050.]

Lieu lands: Chapter 79.02 RCW.

RCW 79.02.160 Relinquishment on failure or rejection of selection. In case any person interested in any tract of land heretofore selected by the territory of Washington or any officer, board, or agent thereof or by the state of Washington or any officer, board, or agent thereof or which may be hereafter selected by the state of Washington or the department, in pursuance to any grant of lands made by the United States to the territory or state of Washington for any purpose or upon any trust whatever, the selection of which has failed or been rejected or shall fail or shall be rejected for any reason, shall request it, the department shall have the authority and power on behalf of the state to relinquish to the United States such tract of land. [2004 c 199 s 204; 2003 c 334 s 308; 1927 c 255 s 20; RRS s 7797-20. Prior: 1899 c 63 s 1. Formerly RCW 79.01.080, 79.08.060.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

PART 3 CONTRACTS/RECORDS/FEEES/APPLICATIONS

RCW 79.02.200 Abstracts of public lands. The department shall cause full and correct abstracts of all the public lands to be made and kept in suitable and well bound books, and other suitable records. Such abstracts shall show in proper columns and pages the section or part of section, lot or block, township and range in which each tract is situated, whether timber or prairie, improved or unimproved, the appraised value per acre, the value of improvements and the value of damages, and the total value, the several values of timber, stone, gravel, or other valuable materials thereon, the date of sale, the name of purchaser, sale price per acre, the date of lease, the name of lessee, the term of the lease, the annual rental, amount of cash paid, amount unpaid and when due, amount of annual interest, and in proper

columns such other facts as may be necessary to show a full and complete abstract of the conditions and circumstances of each tract or parcel of land from the time the title was acquired by the state until the issuance of a deed or other disposition of the land by the state. [2003 c 334 s 382; 1982 1st ex.s. c 21 s 166; 1927 c 255 s 76; RRS s 7797-76. Prior: (i) 1897 c 89 s 32; RRS s 7823. (ii) 1911 c 59 s 9; RRS s 7899. Formerly RCW 79.01.304, 43.12.080.]

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

RCW 79.02.210 Maps and plats—Record and index—Public inspection. All maps, plats, and field notes of surveys, required to be made by this title shall, after approval by the department, be deposited and filed in the office of the department, which shall keep a careful and complete record and index of all maps, plats, and field notes of surveys in its possession, in well bound books, which shall at all times be open to public inspection. [2003 c 334 s 426; 1988 c 128 s 57; 1927 c 255 s 187; RRS s 7797-187. Formerly RCW 79.01.708, 43.12.110.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.220 Seal. All notices, orders, contracts, certificates, rules and regulations, or other documents or papers made and issued by or on behalf of the department, or the commissioner, as provided in this title, shall be authenticated by a seal whereon shall be the vignette of George Washington, with the words "Seal of the commissioner of public lands, State of Washington." [2003 c 334 s 427; 1988 c 128 s 58; 1927 c 255 s 188; RRS s 7797-188. Formerly RCW 79.01.712, 43.65.070.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.230 Blank forms of applications for appraisal, transfer, sale, and lease of state lands, valuable materials. The department shall cause to be prepared, and furnish to applicants, blank forms of applications for the appraisal, transfer, and purchase of any state lands and the purchase of valuable materials situated thereon, and for the lease of state lands. These forms shall contain instructions to inform and aid applicants. [2003 c 334 s 310; 2001 c 250 s 1; 1982 1st ex.s. c 21 s 150; 1959 c 257 s 2; 1927 c 255 s 21; RRS s 7797-21. Prior: 1909 c 223 s 2; 1907 c 256 s 5; 1903 c 74 s 1; 1897 c 89 s 11; 1895 c 178 ss 17, 18. Formerly RCW 79.01.084, 79.08.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

RCW 79.02.240 Fees. The department may charge and collect fees as determined by the board for each category of services performed based on costs incurred. [2003 c 334 s 428; 1979 ex.s. c 109 s 18; 1959 c 153 s 1; 1927 c 255 s 190; RRS s 7797-190. Formerly RCW 79.01.720, 43.12.120.]

Intent—2003 c 334: See note following RCW 79.02.010.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

RCW 79.02.250 Reasonable fees—Disposition. (1) Applications for the purchase or use of lands and the sale of valuable materials by the department shall be accompanied by reasonable fees to be prescribed by the board in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed.

(2) Fees shall be credited to the resource management cost account fund as established under RCW 79.64.020, the forest development account fund as established under RCW 79.64.100, or the agricultural college trust management account fund as established under RCW 79.64.090, as applicable. [2003 c 334 s 313.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.260 Fee book. The department shall keep a fee book, in which shall be entered all fees received, with the date paid and the name of the person paying the same, and the nature of the services rendered for which the fee is charged, which book shall be verified monthly by affidavit entered therein. All fees collected by the department shall be paid into the state treasury, as applicable, to the resource management cost account created in RCW 79.64.020, the forest development account created in RCW 79.64.100, or the agricultural college trust management account fund as established under RCW 79.64.090, and the receipt of the state treasurer taken and retained in the department's Olympia office as a voucher. [2003 c 334 s 429; 1979 ex.s. c 109 s 19; 1927 c 255 s 191; RRS s 7797-191. Formerly RCW 79.01.724, 43.12.130.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.02.095.

Intent—2003 c 334: See note following RCW 79.02.010.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

RCW 79.02.270 Deed. When the entire purchase price of any state lands shall have been fully paid, the commissioner shall certify such fact to the governor, and shall cause a quitclaim deed signed by the governor and attested by the secretary of state, with the seal of the state attached thereto, to be issued to the purchaser and to be

recorded in the department's Olympia office. No fee is required for any deed of land issued by the governor other than the fee provided for in this title. [2003 c 334 s 360; 1982 1st ex.s. c 21 s 160; 1959 c 257 s 25; 1927 c 255 s 55; RRS s 7797-55. Prior: 1917 c 149 s 1; 1915 c 147 s 3; 1907 c 256 s 3; 1897 c 89 s 16; 1895 c 178 ss 25, 29. Formerly RCW 79.01.220, 79.12.390.]

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

RCW 79.02.280 Assignment of contracts or leases. All contracts of purchase or leases issued by the department shall be assignable in writing by the contract holder or lessee and the assignee shall be subject to and governed by the provisions of law applicable to the assignor and shall have the same rights in all respects as the original purchaser, or lessee, of the lands, provided the assignment is approved by the department and entered of record in its office. [2004 c 199 s 205; 2003 c 334 s 377; 1982 1st ex.s. c 21 s 165; 1927 c 255 s 73; RRS s 7797-73. Prior: 1903 c 79 s 8. Formerly RCW 79.01.292, 79.12.270.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

RCW 79.02.290 Subdivision of contracts or leases—Fee. Whenever the holder of a contract of purchase or the holder of any lease, except for mining of valuable minerals or coal, or extraction of petroleum or gas, shall surrender the same to the department with the request to have it divided into two or more contracts, or leases, the department may divide the same and issue new contracts, or leases, but no new contract, or lease, shall issue while there is due and unpaid any interest, rental, or taxes or assessments on the land held under such contract or lease, nor in any case where the department is of the opinion that the state's security would be impaired or endangered by the proposed division. For all such new contracts, or leases, a fee as provided under this chapter, shall be paid by the applicant. [2004 c 199 s 206; 2003 c 334 s 363; 1982 1st ex.s. c 21 s 163; 1979 ex.s. c 109 s 8; 1959 c 257 s 27; 1955 c 394 s 2; 1927 c 255 s 59; RRS s 7797-59. Prior: 1903 c 79 s 3. Formerly RCW 79.01.236, 79.12.260.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.135.900 through 79.135.904.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.11.040.

PART 4
TRESPASS/REGULATIONS/PENALTIES

RCW 79.02.300 Trespass, waste, damages—Prosecutions. (1) Every person who, without authorization, uses or occupies public lands, removes any valuable material as defined in RCW 79.02.010 from public lands, or causes waste or damage to public lands, or injures publicly owned personal property or publicly owned improvements to real property on public lands, is liable to the state for treble the amount of the damages. However, liability shall be for single damages if the department determines, or the person proves upon trial, that the person, at time of the unauthorized act or acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, publicly owned personal property or publicly owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the state for its reasonable costs including, but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 4.24.630, 64.12.030, or 79.02.320.

(3) The department is authorized and directed to investigate all trespasses and wastes upon, and damages to, public lands of the state, and to cause prosecutions for, and/or actions for the recovery of the same, to be commenced as provided by law. [2009 c 349 s 1; 2004 c 199 s 207; 2003 c 334 s 435; 1994 c 280 s 2; 1993 c 266 s 1; 1927 c 255 s 200; RRS s 7797-200. Prior: 1897 c 89 s 64; 1895 c 178 s 99. Formerly RCW 79.01.760, 79.40.040.]

Part headings not law—2004 c 199: See note following RCW 79.02.010.

Intent—2003 c 334: See note following RCW 79.02.010.

Waste and trespass: Chapter 64.12 RCW.

RCW 79.02.310 Trespasser guilty of theft, when. Every person who willfully commits any trespass upon any public lands of the state and cuts down, destroys, or injures any timber, or any tree, including a Christmas tree as defined in *RCW 76.48.020, standing or growing thereon, or takes, or removes, or causes to be taken, or removed, therefrom any wood or timber lying thereon, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes or removes therefrom any earth, soil, stone, mineral, clay, sand, gravel, or any valuable materials, is guilty of theft under chapter 9A.56 RCW. [2009 c 349 s 2; 2003 c 53 s 379; 1927

c 255 s 197; RRS s 7797-197. Prior: 1889-90 pp 124-125 ss 1, 4. Formerly RCW 79.01.748, 79.40.010.]

***Reviser's note:** RCW 76.48.020 was recodified as RCW 76.48.021 pursuant to 2009 c 245 s 29.

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

RCW 79.02.320 Removal of timber—Treble damages. Every person who shall cut or remove, or cause to be cut or removed, any timber growing or being upon any public lands of the state, including a Christmas tree as defined in *RCW 76.48.020, or who shall manufacture the same into logs, bolts, shingles, lumber or other articles of use or commerce, unless expressly authorized so to do by a bill of sale from the state, or by a lease or contract from the state under which he or she holds possession of such lands, or by provisions of law under which the bill of sale, lease or contract was issued, shall be liable to the state for treble the value of the timber or other articles cut, removed, or manufactured, to be recovered in a civil action, and shall forfeit to the state all interest in any article into which the timber is manufactured. [2009 c 349 s 3; 1927 c 255 s 199; RRS s 7797-199. Prior: 1897 c 89 s 66; 1895 c 178 s 101. Formerly RCW 79.01.756, 79.40.030.]

***Reviser's note:** RCW 76.48.020 was recodified as RCW 76.48.021 pursuant to 2009 c 245 s 29.

Firewood on state lands: Chapter 79.15 RCW.

Injunction to prevent waste on public land: RCW 64.12.050.

Injury to or removing trees, etc.—Damages: RCW 64.12.030.

Penalty for destroying native flora: RCW 47.40.080.

RCW 79.02.330 Lessee or contract holder guilty of misdemeanor. Every person being in lawful possession of any public lands of the state, under and by virtue of any lease or contract of purchase from the state, cuts down, destroys, or injures, or causes to be cut down, destroyed, or injured, any timber standing or growing thereon, or takes or removes, or causes to be taken or removed, therefrom, any wood or timber lying thereon, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes, or removes therefrom, any earth, soil, clay, sand, gravel, stone, mineral, or other valuable material, or causes the same to be done, or otherwise injures, defaces, or damages, or causes to be injured, defaced, or damaged, any such lands unless expressly authorized so to do by the lease or contract under which possession of such lands is held, or by the provisions of law under and by virtue of which such lease or contract was issued, shall be guilty of a misdemeanor. [2003 c 334 s 434; 1927 c 255 s 198; RRS s 7797-198. Prior: 1899 c 34 ss 1 through 3. Formerly RCW 79.01.752, 79.40.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.370 Protection against cedar theft. The board must establish procedures to protect against cedar theft and to ensure adequate notice is given for persons interested in purchasing cedar. [2003 c 334 s 333.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 5
OTHER TRUST/GRANT/FOREST RESERVE LANDS

RCW 79.02.400 Charitable, educational, penal, and reformatory real property—Inventory—Transfer. (1) Every five years the department of social and health services and other state agencies that operate institutions shall conduct an inventory of all real property subject to the charitable, educational, penal, and reformatory institution account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled. The inventory shall identify which of those real properties are not needed for state-provided residential care, custody, or treatment. By December 1, 1992, and every five years thereafter the department shall report the results of the inventory to the house of representatives committee on capital facilities and financing, the senate committee on ways and means, and the joint legislative audit and review committee.

(2) Real property identified as not needed for state-provided residential care, custody, or treatment shall be transferred to the corpus of the charitable, educational, penal, and reformatory institution account. This subsection shall not apply to leases of real property to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults or to real property subject to binding conditions that conflict with the other provisions of this subsection.

(3) The department of natural resources shall manage all property subject to the charitable, educational, penal, and reformatory institution account and, in consultation with the department of social and health services and other affected agencies, shall adopt a plan for the management of real property subject to the account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled.

(a) The plan shall be consistent with state trust land policies and shall be compatible with the needs of institutions adjacent to real property subject to the plan.

(b) The plan may be modified as necessary to ensure the quality of future management and to address the acquisition of additional real property. [1996 c 288 s 51; 1996 c 261 s 1; 1991 c 204 s 1. Formerly RCW 79.01.006.]

Reviser's note: This section was amended by 1996 c 261 s 1 and by 1996 c 288 s 51, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Department of social and health services duty: RCW 43.20A.035.

RCW 79.02.410 Charitable, educational, penal, and reformatory real property—High economic return potential—Income. Where charitable, educational, penal, and reformatory institutions land has the potential for lease for commercial, industrial, or residential uses or other uses with the potential for high economic return and is within urban or suburban areas, the department shall make every effort consistent with trust land management principles and all other provisions of law to lease the lands for such purposes, unless the land is subject to a lease to a state agency operating an existing state institution. The department is authorized, subject to approval by the board and only if a higher return can be realized, to exchange such lands for lands of at least equal value and to sell such lands and use the proceeds to acquire replacement lands. The department shall report to the appropriate legislative committees all charitable, educational, penal, and reformatory institutions land purchased, sold, or exchanged. Income from the leases shall be deposited in the charitable, educational, penal, and reformatory institutions account. The legislature shall give priority consideration to appropriating one-half of the money derived from lease income to providing community housing for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled. [2003 c 334 s 303; 1991 c 204 s 5. Formerly RCW 79.01.007.]

Intent—2003 c 334: See note following RCW 79.02.010.

RCW 79.02.420 Finding—Intent—Community and technical college forest reserve land base—Management—Disposition of revenue. (1) The legislature finds that the state's community and technical colleges need a dedicated source of revenue to augment other sources of capital improvement funding. The intent of this section is to ensure that the forestland purchased under section 310, chapter 16, Laws of 1990 1st ex. sess. and known as the community and technical college forest reserve land base, is managed in perpetuity and in the same manner as state forestlands for sustainable commercial forestry and multiple use of lands consistent with RCW 79.10.120. These lands will also be managed to provide an outdoor education and experience area for organized groups. The lands will provide a source of revenue for the long-term capital improvement needs of the state community and technical college system.

(2) There has been increasing pressure to convert forestlands within areas of the state subject to population growth. Loss of forestland in urbanizing areas reduces the production of forest products and the available supply of open space, watershed protection, habitat, and recreational opportunities. The land known as the community and technical college forest reserve land base is forever reserved from sale. However, the timber and other products on the land may be sold, or the land may be leased in the same manner and for the same purposes as authorized for state granted lands if the department finds the sale or lease to be in the best interest of this forest reserve land base and approves the terms and conditions of the sale or lease.

(3) The land exchange and acquisition powers provided in RCW 79.17.020 may be used by the department to reposition land within the community and technical college forest reserve land base consistent with subsection (1) of this section.

(4) By June 30, 2019, the department must exchange land within the community and technical college forest reserve for land of equal value held for the benefit of charitable, educational, penal, and reformatory institutions that is currently leased to certain community and technical colleges under section 1, chapter 168, Laws of 1985 and section 1, chapter 198, Laws of 2004. The department must transfer the community and technical college forest reserve land that the department acquires in the exchange out of the community and technical college forest reserve, and the department must transfer ownership of that land to the state board for community and technical colleges to be managed for educational purposes.

(5) Up to twenty-five percent of the revenue from these lands, as determined by the board, will be deposited in the forest development account to reimburse the forest development account for expenditures from the account for management of these lands.

(6) The community college forest reserve account, created under section 310, chapter 16, Laws of 1990 1st ex. sess., is renamed the community and technical college forest reserve account. The remainder of the revenue from these lands must be deposited in the community and technical college forest reserve account. Money in the account may be appropriated by the legislature for the capital improvement needs of the state community and technical college system or to acquire additional forest reserve lands. [2017 3rd sp.s. c 35 s 1; 2003 c 334 s 225; 1996 c 264 s 1. Formerly RCW 76.12.240.]

Intent—2003 c 334: See note following RCW 79.02.010.