

4 ADOPTED AS AMENDED 3/5/92

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. The definitions set forth in this
8 section apply throughout this chapter.

9 (1) "Conducts a financial transaction" includes initiating,
10 concluding, or participating in a financial transaction.

11 (2) "Financial institution" means a bank, savings bank, credit
12 union, or savings and loan institution.

13 (3) "Financial transaction" means a purchase, sale, loan, pledge,
14 gift, transfer, transmission, delivery, trade, deposit, withdrawal,
15 payment, transfer between accounts, exchange of currency, extension of
16 credit, or any other acquisition or disposition of property, by
17 whatever means effected.

18 (4) "Knows the property is proceeds of specified unlawful activity"
19 means believing based upon the representation of a law enforcement
20 officer or his or her agent, or knowing that the property is proceeds
21 from some form, though not necessarily which form, of specified
22 unlawful activity.

23 (5) "Proceeds" means any interest in property directly or
24 indirectly acquired through or derived from an act or omission, and any
25 fruits of this interest, in whatever form.

26 (6) "Property" means anything of value, whether real or personal,
27 tangible or intangible.

1 (7) "Specified unlawful activity" means an offense committed in
2 this state that is a class A or B felony under Washington law or that
3 is listed in RCW 9A.82.010(14), or an offense committed in any other
4 state that is punishable under the laws of that state by more than one
5 year in prison, or an offense that is punishable under federal law by
6 more than one year in prison."

7 "NEW SECTION. Sec. 2. (1) A person is guilty of money
8 laundering when that person conducts or attempts to conduct a financial
9 transaction involving the proceeds of specified unlawful activity and:

10 (a) Knows the property is proceeds of specified unlawful activity;
11 or

12 (b) Knows that the transaction is designed in whole or in part to
13 conceal or disguise the nature, location, source, ownership, or control
14 of the proceeds, and acts recklessly as to whether the property is
15 proceeds of specified unlawful activity; or

16 (c) Knows that the transaction is designed in whole or in part to
17 avoid a transaction reporting requirement under federal law.

18 (2) In consideration of the constitutional right to counsel
19 afforded by the Fifth and Sixth amendments to the United States
20 Constitution and Article 1, Section 22 of the Constitution of
21 Washington, an additional proof requirement is imposed when a case
22 involves a licensed attorney who accepts a fee for representing a
23 client in an actual criminal investigation or proceeding. In these
24 situations, the prosecution is required to prove that the attorney
25 accepted proceeds of specified unlawful activity with intent:

26 (a) To conceal or disguise the nature, location, source, ownership,
27 or control of the proceeds, knowing the property is proceeds of
28 specified unlawful activity; or

29 (b) To avoid a transaction reporting requirement under federal law.

1 The proof required by this subsection is in addition to the
2 requirements contained in subsection (1) of this section.

3 (3) An additional proof requirement is imposed when a case involves
4 a financial institution and one or more of its employees. In these
5 situations, the prosecution is required to prove that proceeds of
6 specified unlawful activity were accepted with intent:

7 (a) To conceal or disguised the nature, location, source,
8 ownership, or control of the proceeds, knowing the property is proceeds
9 of specified unlawful activity; or

10 (b) To avoid a transaction reporting requirement under federal law.

11 The proof required by this subsection is in addition to the
12 requirements contained in subsection (1) of this section.

13 (4) Money laundering is a class B felony.

14 (5) A person who violates this section is also liable for a civil
15 penalty of twice the value of the proceeds involved in the financial
16 transaction and for the costs of the suit, including reasonable
17 investigative and attorneys' fees.

18 (6) Proceedings under this chapter shall be in addition to any
19 other criminal penalties, civil penalties, or forfeitures authorized
20 under state law."

21 "NEW SECTION. Sec. 3. (1) Proceeds traceable to or derived
22 from specified unlawful activity or a violation of section 2 of this
23 act are subject to seizure and forfeiture. The attorney general or
24 county prosecuting attorney may file a civil action for the forfeiture
25 of proceeds. Unless otherwise provided for under this section, no
26 property rights exist in these proceeds. All right, title, and
27 interest in the proceeds shall vest in the governmental entity of which
28 the seizing law enforcement agency is a part upon commission of the act
29 or omission giving rise to forfeiture under this section.

1 (2) Real or personal property subject to forfeiture under this
2 chapter may be seized by any law enforcement officer of this state upon
3 process issued by a superior court that has jurisdiction over the
4 property. Any agency seizing real property shall file a lis pendens
5 concerning the property. Real property seized under this section shall
6 not be transferred or otherwise conveyed until ninety days after
7 seizure or until a judgment of forfeiture is entered, whichever is
8 later. Real property seized under this section may be transferred or
9 conveyed to any person or entity who acquires title by foreclosure or
10 deed in lieu of foreclosure of a security interest. Seizure of
11 personal property without process may be made if:

12 (a) The seizure is incident to an arrest or a search under a search
13 warrant or an inspection under an administrative inspection warrant
14 issued pursuant to RCW 69.50.502; or

15 (b) The property subject to seizure has been the subject of a prior
16 judgment in favor of the state in a criminal injunction or forfeiture
17 proceeding based upon this chapter.

18 (3) A seizure under subsection (2) of this section commences
19 proceedings for forfeiture. The law enforcement agency under whose
20 authority the seizure was made shall cause notice of the seizure and
21 intended forfeiture of the seized proceeds to be served within fifteen
22 days after the seizure on the owner of the property seized and the
23 person in charge thereof and any person who has a known right or
24 interest therein, including a community property interest. Service of
25 notice of seizure of real property shall be made according to the rules
26 of civil procedure. However, the state may not obtain a default
27 judgment with respect to real property against a party who is served by
28 substituted service absent an affidavit stating that a good faith
29 effort has been made to ascertain if the defaulted party is
30 incarcerated within the state, and that there is no present basis to

1 believe that the party is incarcerated within the state. The notice of
2 seizure in other cases may be served by any method authorized by law or
3 court rule including but not limited to service by certified mail with
4 return receipt requested. Service by mail is complete upon mailing
5 within the fifteen-day period after the seizure.

6 (4) If no person notifies the seizing law enforcement agency in
7 writing of the person's claim of ownership or right to possession of
8 the property within forty-five days of the seizure in the case of
9 personal property and ninety days in the case of real property, the
10 property seized shall be deemed forfeited. The community property
11 interest in real property of a person whose spouse committed a
12 violation giving rise to seizure of the real property may not be
13 forfeited if the person did not participate in the violation.

14 (5) If a person notifies the seizing law enforcement agency in
15 writing of the person's claim of ownership or right to possession of
16 property within forty-five days of the seizure in the case of personal
17 property and ninety days in the case of real property, the person or
18 persons shall be afforded a reasonable opportunity to be heard as to
19 the claim or right. The provisions of RCW 69.50.505(e) shall apply to
20 any such hearing. The seizing law enforcement agency shall promptly
21 return property to the claimant upon the direction of the
22 administrative law judge or court.

23 (6) Disposition of forfeited property shall be made in the manner
24 provided for in RCW 69.50.505(g) through (i) and (m)."

25 "NEW SECTION. Sec. 4. No liability is imposed by this chapter
26 upon any authorized state, county, or municipal officer engaged in the
27 lawful performance of his duties, or upon any person who reasonably
28 believes that he is acting at the direction of such officer and that
29 the officer is acting in the lawful performance of his duties."

1 **"Sec. 5.** RCW 69.50.505 and 1990 c 248 s 2 and 1990 c 213 s 12 are
2 each reenacted and amended to read as follows:

3 (a) The following are subject to seizure and forfeiture and no
4 property right exists in them:

5 (1) All controlled substances which have been manufactured,
6 distributed, dispensed, acquired, or possessed in violation of this
7 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as
8 defined in RCW 64.44.010, used or intended to be used in the
9 manufacture of controlled substances;

10 (2) All raw materials, products, and equipment of any kind which
11 are used, or intended for use, in manufacturing, compounding,
12 processing, delivering, importing, or exporting any controlled
13 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

14 (3) All property which is used, or intended for use, as a container
15 for property described in paragraphs (1) or (2);

16 (4) All conveyances, including aircraft, vehicles, or vessels,
17 which are used, or intended for use, in any manner to facilitate the
18 sale, delivery, or receipt of property described in paragraphs (1) or
19 (2), except that:

20 (i) No conveyance used by any person as a common carrier in the
21 transaction of business as a common carrier is subject to forfeiture
22 under this section unless it appears that the owner or other person in
23 charge of the conveyance is a consenting party or privy to a violation
24 of this chapter or chapter 69.41 or 69.52 RCW;

25 (ii) No conveyance is subject to forfeiture under this section by
26 reason of any act or omission established by the owner thereof to have
27 been committed or omitted without the owner's knowledge or consent;

28 (iii) No conveyance is subject to forfeiture under this section if
29 used in the receipt of only an amount of marijuana for which possession
30 constitutes a misdemeanor under RCW 69.50.401(e);

1 (iv) A forfeiture of a conveyance encumbered by a bona fide
2 security interest is subject to the interest of the secured party if
3 the secured party neither had knowledge of nor consented to the act or
4 omission; and

5 (v) When the owner of a conveyance has been arrested under this
6 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
7 person is arrested may not be subject to forfeiture unless it is seized
8 or process is issued for its seizure within ten days of the owner's
9 arrest;

10 (5) All books, records, and research products and materials,
11 including formulas, microfilm, tapes, and data which are used, or
12 intended for use, in violation of this chapter or chapter 69.41 or
13 69.52 RCW;

14 (6) All drug paraphernalia;

15 (7) All moneys, negotiable instruments, securities, or other
16 tangible or intangible property of value furnished or intended to be
17 furnished by any person in exchange for a controlled substance in
18 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
19 or intangible personal property, proceeds, or assets acquired in whole
20 or in part with proceeds traceable to an exchange or series of
21 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
22 and all moneys, negotiable instruments, and securities used or intended
23 to be used to facilitate any violation of this chapter or chapter 69.41
24 or 69.52 RCW: PROVIDED, That a forfeiture of money, negotiable
25 instruments, securities, or other tangible or intangible property
26 encumbered by a bona fide security interest is subject to the interest
27 of the secured party if, at the time the security interest was created,
28 the secured party neither had knowledge of nor consented to the act or
29 omission: PROVIDED FURTHER, That no personal property may be forfeited
30 under this paragraph, to the extent of the interest of an owner, by

1 reason of any act or omission which that owner establishes was
2 committed or omitted without the owner's knowledge or consent; and

3 (8) All real property, including any right, title, and interest in
4 the whole of any lot or tract of land, and any appurtenances or
5 improvements which are being used with the knowledge of the owner for
6 the manufacturing, compounding, processing, delivery, importing, or
7 exporting of any controlled substance, or which have been acquired in
8 whole or in part with proceeds traceable to an exchange or series of
9 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
10 if such activity is not less than a class C felony and a substantial
11 nexus exists between the commercial production or sale of the
12 controlled substance and the real property: PROVIDED, That:

13 (i) No property may be forfeited pursuant to this subsection, to
14 the extent of the interest of an owner, by reason of any act or
15 omission committed or omitted without the owner's knowledge or consent;

16 (ii) The bona fide gift of a controlled substance, legend drug, or
17 imitation controlled substance shall not result in the forfeiture of
18 real property;

19 (iii) The possession of marijuana shall not result in the
20 forfeiture of real property unless the marijuana is possessed for
21 commercial purposes, the amount possessed is five or more plants or one
22 pound or more of marijuana, and a substantial nexus exists between the
23 possession of marijuana and the real property. In such a case, the
24 intent of the offender shall be determined by the preponderance of the
25 evidence, including the offender's prior criminal history, the amount
26 of marijuana possessed by the offender, the sophistication of the
27 activity or equipment used by the offender, and other evidence which
28 demonstrates the offender's intent to engage in commercial activity;

29 (iv) The unlawful sale of marijuana or a legend drug shall not
30 result in the forfeiture of real property unless the sale was forty

1 grams or more in the case of marijuana or one hundred dollars or more
2 in the case of a legend drug, and a substantial nexus exists between
3 the unlawful sale and the real property; and

4 (v) A forfeiture of real property encumbered by a bona fide
5 security interest is subject to the interest of the secured party if
6 the secured party, at the time the security interest was created,
7 neither had knowledge of nor consented to the act or omission.

8 (b) Real or personal property subject to forfeiture under this
9 chapter may be seized by any board inspector or law enforcement officer
10 of this state upon process issued by any superior court having
11 jurisdiction over the property. Seizure of real property shall include
12 the filing of a lis pendens by the seizing agency. Real property
13 seized under this section shall not be transferred or otherwise
14 conveyed until ninety days after seizure or until a judgment of
15 forfeiture is entered, whichever is later: PROVIDED, That real
16 property seized under this section may be transferred or conveyed to
17 any person or entity who acquires title by foreclosure or deed in lieu
18 of foreclosure of a security interest. Seizure of personal property
19 without process may be made if:

20 (1) The seizure is incident to an arrest or a search under a search
21 warrant or an inspection under an administrative inspection warrant;

22 (2) The property subject to seizure has been the subject of a prior
23 judgment in favor of the state in a criminal injunction or forfeiture
24 proceeding based upon this chapter;

25 (3) A board inspector or law enforcement officer has probable cause
26 to believe that the property is directly or indirectly dangerous to
27 health or safety; or

28 (4) The board inspector or law enforcement officer has probable
29 cause to believe that the property was used or is intended to be used
30 in violation of this chapter.

1 (c) In the event of seizure pursuant to subsection (b), proceedings
2 for forfeiture shall be deemed commenced by the seizure. The law
3 enforcement agency under whose authority the seizure was made shall
4 cause notice to be served within fifteen days following the seizure on
5 the owner of the property seized and the person in charge thereof and
6 any person having any known right or interest therein, including any
7 community property interest, of the seizure and intended forfeiture of
8 the seized property. Service of notice of seizure of real property
9 shall be made according to the rules of civil procedure. However, the
10 state may not obtain a default judgment with respect to real property
11 against a party who is served by substituted service absent an
12 affidavit stating that a good faith effort has been made to ascertain
13 if the defaulted party is incarcerated within the state, and that there
14 is no present basis to believe that the party is incarcerated within
15 the state. The notice of seizure in other cases may be served by any
16 method authorized by law or court rule including but not limited to
17 service by certified mail with return receipt requested. Service by
18 mail shall be deemed complete upon mailing within the fifteen day
19 period following the seizure.

20 (d) If no person notifies the seizing law enforcement agency in
21 writing of the person's claim of ownership or right to possession of
22 items specified in subsection (a)(4), (a)(7), or (a)(8) of this section
23 within forty-five days of the seizure in the case of personal property
24 and ninety days in the case of real property, the item seized shall be
25 deemed forfeited. The community property interest in real property of
26 a person whose spouse committed a violation giving rise to seizure of
27 the real property may not be forfeited if the person did not
28 participate in the violation.

29 (e) If any person notifies the seizing law enforcement agency in
30 writing of the person's claim of ownership or right to possession of

1 items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6),
2 (a)(7), or (a)(8) of this section within forty-five days of the seizure
3 in the case of personal property and ninety days in the case of real
4 property, the person or persons shall be afforded a reasonable
5 opportunity to be heard as to the claim or right. The hearing shall be
6 before the chief law enforcement officer of the seizing agency or the
7 chief law enforcement officer's designee, except where the seizing
8 agency is a state agency as defined in RCW 34.12.020(4), the hearing
9 shall be before the chief law enforcement officer of the seizing agency
10 or an administrative law judge appointed under chapter 34.12 RCW,
11 except that any person asserting a claim or right may remove the matter
12 to a court of competent jurisdiction if the aggregate value of the
13 article or articles involved is more than five hundred dollars. The
14 court to which the matter is to be removed shall be the district court
15 when ~~((such))~~ the aggregate value ~~((is ten thousand dollars or less))~~
16 of personal property is within the jurisdictional limit set forth in
17 RCW 3.66.020. A hearing before the seizing agency and any appeal
18 therefrom shall be under Title 34 RCW. In a court hearing between two
19 or more claimants to the article or articles involved, the prevailing
20 party shall be entitled to a judgment for costs and reasonable
21 attorney's fees. In cases involving personal property, the burden of
22 producing evidence shall be upon the person claiming to be the lawful
23 owner or the person claiming to have the lawful right to possession of
24 the property. In cases involving real property, the burden of
25 producing evidence shall be upon the law enforcement agency. The
26 burden of proof that the seized real property is subject to forfeiture
27 shall be upon the law enforcement agency. The seizing law enforcement
28 agency shall promptly return the article or articles to the claimant
29 upon a determination by the administrative law judge or court that the
30 claimant is the present lawful owner or is lawfully entitled to

1 possession thereof of items specified in subsection (a)(2), (a)(3),
2 (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section.

3 (f) When property is forfeited under this chapter the board or
4 seizing law enforcement agency may:

5 (1) Retain it for official use or upon application by any law
6 enforcement agency of this state release such property to such agency
7 for the exclusive use of enforcing the provisions of this chapter;

8 (2) ~~((i))~~ Sell that which is not required to be destroyed by law
9 and which is not harmful to the public ~~((.~~—The proceeds and all moneys
10 forfeited under this title shall be used for payment of all proper
11 expenses of the investigation leading to the seizure, including any
12 money delivered to the subject of the investigation by the law
13 enforcement agency, and of the proceedings for forfeiture and sale,
14 including expenses of seizure, maintenance of custody, advertising,
15 actual costs of the prosecuting or city attorney, and court costs.
16 Money remaining after the payment of all expenses shall be distributed
17 as follows:

18 ~~(A) Twenty five percent of the money derived from the forfeiture of~~
19 ~~real property and seventy five percent of the money derived from the~~
20 ~~forfeiture of personal property shall be deposited in the general fund~~
21 ~~of the state, county, and/or city of the seizing law enforcement agency~~
22 ~~and shall be used exclusively for the expansion or improvement of law~~
23 ~~enforcement services. These services may include the creation of~~
24 ~~reward funds for the purpose of rewarding informants who supply~~
25 ~~information leading to the arrest, prosecution and conviction of~~
26 ~~persons who violate laws relating to controlled substances. Such~~
27 ~~moneys shall not supplant preexisting funding sources;~~

28 ~~(B) Twenty five percent of money derived from the forfeiture of~~
29 ~~real property and twenty five percent of money derived from the~~
30 ~~forfeiture of personal property shall be remitted to the state~~

1 ~~treasurer for deposit in the public safety and education account~~
2 ~~established in RCW 43.08.250;~~

3 ~~(C) Until July 1, 1995, fifty percent of money derived from the~~
4 ~~forfeiture of real property shall be remitted to the state treasurer~~
5 ~~for deposit in the drug enforcement and education account under RCW~~
6 ~~69.50.520, on and after July 1, 1995, the fifty percent of the money~~
7 ~~shall be remitted in the same manner as the twenty-five percent of the~~
8 ~~money remitted under (2)(i)(A) of this subsection; and~~

9 ~~(D) If an investigation involves a seizure of moneys and proceeds~~
10 ~~having an aggregate value of less than five thousand dollars, the~~
11 ~~moneys and proceeds may be deposited in total in the general fund of~~
12 ~~the governmental unit of the seizing law enforcement agency and shall~~
13 ~~be appropriated exclusively for the expansion of narcotics enforcement~~
14 ~~services. Such moneys shall not supplant preexisting funding sources.~~

15 ~~(ii) Money deposited according to this section must be deposited~~
16 ~~within ninety days of the date of final disposition of either the~~
17 ~~administrative seizure or the judicial seizure));~~

18 (3) Request the appropriate sheriff or director of public safety to
19 take custody of the property and remove it for disposition in
20 accordance with law; or

21 (4) Forward it to the drug enforcement administration for
22 disposition.

23 (g)(1) When property is forfeited, the seizing agency shall keep a
24 record indicating the identity of the prior owner, if known, a
25 description of the property, the disposition of the property, the value
26 of the property at the time of seizure, and the amount of proceeds
27 realized from disposition of the property.

28 (2) Each seizing agency shall retain records of forfeited property
29 for at least seven years.

1 (3) Each seizing agency shall file a report including a copy of the
2 records of forfeited property with the state treasurer each calendar
3 quarter.

4 (4) The quarterly report need not include a record of forfeited
5 property that is still being held for use as evidence during the
6 investigation or prosecution of a case or during the appeal from a
7 conviction.

8 (h)(1) By January 31st of each year, each seizing agency shall
9 remit to the state treasurer an amount equal to ten percent of the net
10 proceeds of any property forfeited during the preceding calendar year.
11 Money remitted shall be deposited in the drug enforcement and education
12 account under RCW 69.50.520.

13 (2) The net proceeds of forfeited property is the value of the
14 forfeitable interest in the property after deducting the cost of
15 satisfying any bona fide security interest to which the property is
16 subject at the time of seizure, and in the case of sold property, after
17 deducting the cost of sale, including reasonable fees or commissions
18 paid to independent selling agents.

19 (3) The value of sold forfeited property is the sale price. The
20 value of retained forfeited property is the fair market value of the
21 property at the time of seizure, determined when possible by reference
22 to an applicable commonly used index, such as the index used by the
23 department of licensing for valuation of motor vehicles. A seizing
24 agency may use, but need not use, an independent qualified appraiser to
25 determine the value of retained property. If an appraiser is used, the
26 value of the property appraised is net of the cost of the appraisal.
27 The value of destroyed property and retained firearms or illegal
28 property is zero.

29 (i) Forfeited property and net proceeds not required to be paid to
30 the state treasurer shall be retained by the seizing law enforcement

1 agency exclusively for the expansion and improvement of controlled
2 substances related law enforcement activity. Money retained under this
3 section may not be used to supplant pre-existing funding sources.

4 (j) Controlled substances listed in Schedule I, II, III, IV, and V
5 that are possessed, transferred, sold, or offered for sale in violation
6 of this chapter are contraband and shall be seized and summarily
7 forfeited to the state. Controlled substances listed in Schedule I,
8 II, III, IV, and V, which are seized or come into the possession of the
9 board, the owners of which are unknown, are contraband and shall be
10 summarily forfeited to the board.

11 ~~((h))~~ (k) Species of plants from which controlled substances in
12 Schedules I and II may be derived which have been planted or cultivated
13 in violation of this chapter, or of which the owners or cultivators are
14 unknown, or which are wild growths, may be seized and summarily
15 forfeited to the board.

16 ~~((i))~~ (l) The failure, upon demand by a board inspector or law
17 enforcement officer, of the person in occupancy or in control of land
18 or premises upon which the species of plants are growing or being
19 stored to produce an appropriate registration or proof that he is the
20 holder thereof constitutes authority for the seizure and forfeiture of
21 the plants.

22 ~~((j))~~ (m) Upon the entry of an order of forfeiture of real
23 property, the court shall forward a copy of the order to the assessor
24 of the county in which the property is located. Orders for the
25 forfeiture of real property shall be entered by the superior court,
26 subject to court rules. Such an order shall be filed by the seizing
27 agency in the county auditor's records in the county in which the real
28 property is located."

1 **"Sec. 6.** RCW 9A.82.010 and 1989 c 20 s 17 are each amended to read
2 as follows:

3 Unless the context requires the contrary, the definitions in this
4 section apply throughout this chapter.

5 (1) "Creditor" means a person making an extension of credit or a
6 person claiming by, under, or through a person making an extension of
7 credit.

8 (2) "Debtor" means a person to whom an extension of credit is made
9 or a person who guarantees the repayment of an extension of credit or
10 in any manner undertakes to indemnify the creditor against loss
11 resulting from the failure of a person to whom an extension is made to
12 repay the same.

13 (3) "Extortionate extension of credit" means an extension of credit
14 with respect to which it is the understanding of the creditor and the
15 debtor at the time the extension is made that delay in making repayment
16 or failure to make repayment could result in the use of violence or
17 other criminal means to cause harm to the person, reputation, or
18 property of any person.

19 (4) "Extortionate means" means the use, or an express or implicit
20 threat of use, of violence or other criminal means to cause harm to the
21 person, reputation, or property of any person.

22 (5) "To collect an extension of credit" means to induce in any way
23 a person to make repayment thereof.

24 (6) "To extend credit" means to make or renew a loan or to enter
25 into an agreement, tacit or express, whereby the repayment or
26 satisfaction of a debt or claim, whether acknowledged or disputed,
27 valid or invalid, and however arising, may or shall be deferred.

28 (7) "Repayment of an extension of credit" means the repayment,
29 satisfaction, or discharge in whole or in part of a debt or claim,

1 acknowledged or disputed, valid or invalid, resulting from or in
2 connection with that extension of credit.

3 (8) "Dealer in property" means a person who buys and sells property
4 as a business.

5 (9) "Stolen property" means property that has been obtained by
6 theft, robbery, or extortion.

7 (10) "Traffic" means to sell, transfer, distribute, dispense, or
8 otherwise dispose of stolen property to another person, or to buy,
9 receive, possess, or obtain control of stolen property, with intent to
10 sell, transfer, distribute, dispense, or otherwise dispose of the
11 property to another person.

12 (11) "Control" means the possession of a sufficient interest to
13 permit substantial direction over the affairs of an enterprise.

14 (12) "Enterprise" includes any individual, sole proprietorship,
15 partnership, corporation, business trust, or other profit or nonprofit
16 legal entity, and includes any union, association, or group of
17 individuals associated in fact although not a legal entity, and both
18 illicit and licit enterprises and governmental and nongovernmental
19 entities.

20 (13) "Financial institution" means any bank, trust company, savings
21 and loan association, savings bank, mutual savings bank, credit union,
22 or loan company under the jurisdiction of the state or an agency of the
23 United States.

24 (14) "Criminal profiteering" means any act, including any
25 anticipatory or completed offense, committed for financial gain, that
26 is chargeable or indictable under the laws of the state in which the
27 act occurred and, if the act occurred in a state other than this state,
28 would be chargeable or indictable under the laws of this state had the
29 act occurred in this state and punishable as a felony and by

1 imprisonment for more than one year, regardless of whether the act is
2 charged or indicted, as any of the following:

3 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

4 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

5 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

6 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

7 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
8 9A.56.080;

9 (f) Child selling or child buying, as defined in RCW 9A.64.030;

10 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
11 9A.68.050;

12 (h) Gambling, as defined in RCW 9.46.220 and 9.46.230;

13 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

14 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;

15 (k) Advancing money for use in an extortionate extension of credit,
16 as defined in RCW 9A.82.030;

17 (l) Collection of an extortionate extension of credit, as defined
18 in RCW 9A.82.040;

19 (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;

20 (n) Delivery or manufacture of controlled substances or possession
21 with intent to deliver or manufacture controlled substances under
22 chapter 69.50 RCW;

23 (o) Trafficking in stolen property, as defined in RCW 9A.82.050;

24 (p) Leading organized crime, as defined in RCW 9A.82.060;

25 (q) Money laundering, as defined in section 2 of this act;

26 (r) Obstructing criminal investigations or prosecutions in
27 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
28 9A.76.070, or 9A.76.180;

29 ~~((+r))~~ (s) Fraud in the purchase or sale of securities, as
30 defined in RCW 21.20.010;

1 (~~(s)~~) (t) Promoting pornography, as defined in RCW 9.68.140;

2 (~~(t)~~) (u) Sexual exploitation of children, as defined in RCW
3 9.68A.040, 9.68A.050, and 9.68A.060;

4 (~~(u)~~) (v) Promoting prostitution, as defined in RCW 9A.88.070 and
5 9A.88.080;

6 (~~(v)~~) (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

7 (~~(w)~~) (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

8 (~~(x)~~) (y) A pattern of equity skimming, as defined in RCW
9 61.34.020; or

10 (~~(y)~~) (z) Commercial telephone solicitation in violation of RCW
11 19.158.040(1).

12 (15) "Pattern of criminal profiteering activity" means engaging in
13 at least three acts of criminal profiteering, one of which occurred
14 after July 1, 1985, and the last of which occurred within five years,
15 excluding any period of imprisonment, after the commission of the
16 earliest act of criminal profiteering. In order to constitute a
17 pattern, the three acts must have the same or similar intent, results,
18 accomplices, principals, victims, or methods of commission, or be
19 otherwise interrelated by distinguishing characteristics including a
20 nexus to the same enterprise, and must not be isolated events.
21 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
22 any person other than the attorney general or county prosecuting
23 attorney in which one or more acts of fraud in the purchase or sale of
24 securities are asserted as acts of criminal profiteering activity, it
25 is a condition to civil liability under RCW 9A.82.100 that the
26 defendant has been convicted in a criminal proceeding of fraud in the
27 purchase or sale of securities under RCW 21.20.400 or under the laws of
28 another state or of the United States requiring the same elements of
29 proof, but such conviction need not relate to any act or acts asserted

1 as acts of criminal profiteering activity in such civil action under
2 RCW 9A.82.100.

3 (16) "Records" means any book, paper, writing, record, computer
4 program, or other material.

5 (17) "Documentary material" means any book, paper, document,
6 writing, drawing, graph, chart, photograph, phonograph record, magnetic
7 tape, computer printout, other data compilation from which information
8 can be obtained or from which information can be translated into usable
9 form, or other tangible item.

10 (18) "Unlawful debt" means any money or other thing of value
11 constituting principal or interest of a debt that is legally
12 unenforceable in the state in full or in part because the debt was
13 incurred or contracted:

14 (a) In violation of any one of the following:

15 (i) Chapter 67.16 RCW relating to horse racing;

16 (ii) Chapter 9.46 RCW relating to gambling;

17 (b) In a gambling activity in violation of federal law; or

18 (c) In connection with the business of lending money or a thing of
19 value at a rate that is at least twice the permitted rate under the
20 applicable state or federal law relating to usury.

21 (19) (a) "Beneficial interest" means:

22 (i) The interest of a person as a beneficiary under a trust
23 established under Title 11 RCW in which the trustee for the trust holds
24 legal or record title to real property;

25 (ii) The interest of a person as a beneficiary under any other
26 trust arrangement under which a trustee holds legal or record title to
27 real property for the benefit of the beneficiary; or

28 (iii) The interest of a person under any other form of express
29 fiduciary arrangement under which one person holds legal or record
30 title to real property for the benefit of the other person.

1 (b) "Beneficial interest" does not include the interest of a
2 stockholder in a corporation or the interest of a partner in a general
3 partnership or limited partnership.

4 (c) A beneficial interest shall be considered to be located where
5 the real property owned by the trustee is located.

6 (20) "Real property" means any real property or interest in real
7 property, including but not limited to a land sale contract, lease, or
8 mortgage of real property.

9 (21) (a) "Trustee" means:

10 (i) A person acting as a trustee under a trust established under
11 Title 11 RCW in which the trustee holds legal or record title to real
12 property;

13 (ii) A person who holds legal or record title to real property in
14 which another person has a beneficial interest; or

15 (iii) A successor trustee to a person who is a trustee under
16 subsection (21)(a) (i) or (ii) of this section.

17 (b) "Trustee" does not mean a person appointed or acting as:

18 (i) A personal representative under Title 11 RCW;

19 (ii) A trustee of any testamentary trust;

20 (iii) A trustee of any indenture of trust under which a bond is
21 issued; or

22 (iv) A trustee under a deed of trust."

23 "NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act
24 constitute a new chapter in Title 9A RCW."

1 **2SSB 5318** - H COMM AMD
2 By Committee on Judiciary

3

4 In line 1 of the title, after "laundering;" strike the remainder of
5 the title and insert "amending RCW 9A.82.010; reenacting and amending
6 RCW 69.50.505; adding a new chapter to Title 9A RCW; and prescribing
7 penalties."