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

16 (3) "Knows the property is proceeds of specified unlawful activity"
17 means believing based upon the representation of a law enforcement
18 officer or his or her agent, or having actual knowledge that the
19 property is proceeds from some form, though not necessarily which form,
20 of specified unlawful activity.

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

24 (5) "Property" means anything of value, whether real or personal,
25 tangible or intangible.

26 (6) "Specified unlawful activity" means an offense committed in
27 this state that is a class A or B felony under Washington law or that
28 is listed in RCW 9A.82.010(14), or an offense committed in any other

1 state that is punishable under the laws of that state by more than one
2 year in prison, or an offense that is punishable under federal law by
3 more than one year in prison."

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

7 (a) Knows the property is proceeds of specified unlawful activity;
8 or

9 (b) Has actual knowledge that the transaction is designed in whole
10 or in part to conceal or disguise the nature, location, source,
11 ownership, or control of the proceeds, and acts recklessly as to
12 whether the property is proceeds of specified unlawful activity; or

13 (c) Has actual knowledge that the transaction is designed in whole
14 or in part to avoid a transaction reporting requirement under federal
15 law.

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

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

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

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

1 (3) Money laundering is a class B felony.

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

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

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

18 (2) Real or personal property subject to forfeiture under this
19 chapter may be seized by any law enforcement officer of this state upon
20 process issued by a superior court that has jurisdiction over the
21 property. Any agency seizing real property shall file a lis pendens
22 concerning the property. Real property seized under this section shall
23 not be transferred or otherwise conveyed until ninety days after
24 seizure or until a judgment of forfeiture is entered, whichever is
25 later. Real property seized under this section may be transferred or
26 conveyed to any person or entity who acquires title by foreclosure or
27 deed in lieu of foreclosure of a security interest. Seizure of
28 personal property without process may be made if:

1 (a) The seizure is incident to an arrest or a search under a search
2 warrant or an inspection under an administrative inspection warrant
3 issued pursuant to RCW 69.50.502; or

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

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

25 (4) If no person notifies the seizing law enforcement agency in
26 writing of the person's claim of ownership or right to possession of
27 the property within forty-five days of the seizure in the case of
28 personal property and ninety days in the case of real property, the
29 property seized shall be deemed forfeited. The community property
30 interest in real property of a person whose spouse committed a

1 violation giving rise to seizure of the real property may not be
2 forfeited if the person did not participate in the violation.

3 (5) If a person notifies the seizing law enforcement agency in
4 writing of the person's claim of ownership or right to possession of
5 property within forty-five days of the seizure in the case of personal
6 property and ninety days in the case of real property, the person or
7 persons shall be afforded a reasonable opportunity to be heard as to
8 the claim or right. The provisions of RCW 69.50.505(e) shall apply to
9 any such hearing. The seizing law enforcement agency shall promptly
10 return property to the claimant upon the direction of the
11 administrative law judge or court.

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

14 "NEW SECTION. **Sec. 4.** No liability is imposed by this chapter
15 upon any authorized state, county, or municipal officer engaged in the
16 lawful performance of his duties, or upon any person who reasonably
17 believes that he is acting at the direction of such officer and that
18 the officer is acting in the lawful performance of his duties."

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

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

23 (1) All controlled substances which have been manufactured,
24 distributed, dispensed, acquired, or possessed in violation of this
25 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as
26 defined in RCW 64.44.010, used or intended to be used in the
27 manufacture of controlled substances;

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

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

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

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

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

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

22 (iv) A forfeiture of a conveyance encumbered by a bona fide
23 security interest is subject to the interest of the secured party if
24 the secured party neither had knowledge of nor consented to the act or
25 omission; and

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

1 (5) All books, records, and research products and materials,
2 including formulas, microfilm, tapes, and data which are used, or
3 intended for use, in violation of this chapter or chapter 69.41 or
4 69.52 RCW;

5 (6) All drug paraphernalia;

6 (7) All moneys, negotiable instruments, securities, or other
7 tangible or intangible property of value furnished or intended to be
8 furnished by any person in exchange for a controlled substance in
9 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
10 or intangible personal property, proceeds, or assets acquired in whole
11 or in part with proceeds traceable to an exchange or series of
12 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
13 and all moneys, negotiable instruments, and securities used or intended
14 to be used to facilitate any violation of this chapter or chapter 69.41
15 or 69.52 RCW: PROVIDED, That a forfeiture of money, negotiable
16 instruments, securities, or other tangible or intangible property
17 encumbered by a bona fide security interest is subject to the interest
18 of the secured party if, at the time the security interest was created,
19 the secured party neither had knowledge of nor consented to the act or
20 omission: PROVIDED FURTHER, That no personal property may be forfeited
21 under this paragraph, to the extent of the interest of an owner, by
22 reason of any act or omission which that owner establishes was
23 committed or omitted without the owner's knowledge or consent; and

24 (8) All real property, including any right, title, and interest in
25 the whole of any lot or tract of land, and any appurtenances or
26 improvements which are being used with the knowledge of the owner for
27 the manufacturing, compounding, processing, delivery, importing, or
28 exporting of any controlled substance, or which have been acquired in
29 whole or in part with proceeds traceable to an exchange or series of
30 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,

1 if such activity is not less than a class C felony and a substantial
2 nexus exists between the commercial production or sale of the
3 controlled substance and the real property: PROVIDED, That:

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

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

10 (iii) The possession of marijuana shall not result in the
11 forfeiture of real property unless the marijuana is possessed for
12 commercial purposes, the amount possessed is five or more plants or one
13 pound or more of marijuana, and a substantial nexus exists between the
14 possession of marijuana and the real property. In such a case, the
15 intent of the offender shall be determined by the preponderance of the
16 evidence, including the offender's prior criminal history, the amount
17 of marijuana possessed by the offender, the sophistication of the
18 activity or equipment used by the offender, and other evidence which
19 demonstrates the offender's intent to engage in commercial activity;

20 (iv) The unlawful sale of marijuana or a legend drug shall not
21 result in the forfeiture of real property unless the sale was forty
22 grams or more in the case of marijuana or one hundred dollars or more
23 in the case of a legend drug, and a substantial nexus exists between
24 the unlawful sale and the real property; and

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

29 (b) Real or personal property subject to forfeiture under this
30 chapter may be seized by any board inspector or law enforcement officer

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

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

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

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

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

22 (c) In the event of seizure pursuant to subsection (b), proceedings
23 for forfeiture shall be deemed commenced by the seizure. The law
24 enforcement agency under whose authority the seizure was made shall
25 cause notice to be served within fifteen days following the seizure on
26 the owner of the property seized and the person in charge thereof and
27 any person having any known right or interest therein, including any
28 community property interest, of the seizure and intended forfeiture of
29 the seized property. Service of notice of seizure of real property
30 shall be made according to the rules of civil procedure. However, the

1 state may not obtain a default judgment with respect to real property
2 against a party who is served by substituted service absent an
3 affidavit stating that a good faith effort has been made to ascertain
4 if the defaulted party is incarcerated within the state, and that there
5 is no present basis to believe that the party is incarcerated within
6 the state. The notice of seizure in other cases may be served by any
7 method authorized by law or court rule including but not limited to
8 service by certified mail with return receipt requested. Service by
9 mail shall be deemed complete upon mailing within the fifteen day
10 period following the seizure.

11 (d) If no person notifies the seizing law enforcement agency in
12 writing of the person's claim of ownership or right to possession of
13 items specified in subsection (a)(4), (a)(7), or (a)(8) of this section
14 within forty-five days of the seizure in the case of personal property
15 and ninety days in the case of real property, the item seized shall be
16 deemed forfeited. The community property interest in real property of
17 a person whose spouse committed a violation giving rise to seizure of
18 the real property may not be forfeited if the person did not
19 participate in the violation.

20 (e) If any 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)(2), (a)(3), (a)(4), (a)(5), (a)(6),
23 (a)(7), or (a)(8) of this section within forty-five days of the seizure
24 in the case of personal property and ninety days in the case of real
25 property, the person or persons shall be afforded a reasonable
26 opportunity to be heard as to the claim or right. The hearing shall be
27 before the chief law enforcement officer of the seizing agency or the
28 chief law enforcement officer's designee, except where the seizing
29 agency is a state agency as defined in RCW 34.12.020(4), the hearing
30 shall be before the chief law enforcement officer of the seizing agency

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

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

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

29 (2) ~~((i))~~ Sell that which is not required to be destroyed by law
30 and which is not harmful to the public ~~((The proceeds and all moneys~~

1 forfeited under this title shall be used for payment of all proper
2 expenses of the investigation leading to the seizure, including any
3 money delivered to the subject of the investigation by the law
4 enforcement agency, and of the proceedings for forfeiture and sale,
5 including expenses of seizure, maintenance of custody, advertising,
6 actual costs of the prosecuting or city attorney, and court costs.
7 Money remaining after the payment of all expenses shall be distributed
8 as follows:

9 (A) Twenty five percent of the money derived from the forfeiture of
10 real property and seventy five percent of the money derived from the
11 forfeiture of personal property shall be deposited in the general fund
12 of the state, county, and/or city of the seizing law enforcement agency
13 and shall be used exclusively for the expansion or improvement of law
14 enforcement services. — These services may include the creation of
15 reward funds for the purpose of rewarding informants who supply
16 information leading to the arrest, prosecution and conviction of
17 persons who violate laws relating to controlled substances. — Such
18 moneys shall not supplant preexisting funding sources;

19 (B) Twenty five percent of money derived from the forfeiture of
20 real property and twenty five percent of money derived from the
21 forfeiture of personal property shall be remitted to the state
22 treasurer for deposit in the public safety and education account
23 established in RCW 43.08.250;

24 (C) Until July 1, 1995, fifty percent of money derived from the
25 forfeiture of real property shall be remitted to the state treasurer
26 for deposit in the drug enforcement and education account under RCW
27 69.50.520, on and after July 1, 1995, the fifty percent of the money
28 shall be remitted in the same manner as the twenty five percent of the
29 money remitted under (2)(i)(A) of this subsection; and

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

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

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

13 (4) Forward it to the drug enforcement administration for
14 disposition.

15 (g)(1) When property is forfeited, the seizing agency shall keep a
16 record indicating the identity of the prior owner, if known, a
17 description of the property, the disposition of the property, the value
18 of the property at the time of seizure, and the amount of proceeds
19 realized from disposition of the property.

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

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

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

29 (h)(1) By January 31st of each year, each seizing agency shall
30 remit to the state treasurer an amount equal to ten percent of the net

1 proceeds of any property forfeited during the preceding calendar year.
2 Money remitted shall be deposited in the drug enforcement and education
3 account under RCW 69.50.520.

4 (2) The net proceeds of forfeited property is the value of the
5 forfeitable interest in the property after deducting the cost of
6 satisfying any bona fide security interest to which the property is
7 subject at the time of seizure, and in the case of sold property, after
8 deducting the cost of sale, including reasonable fees or commissions
9 paid to independent selling agents.

10 (3) The value of sold forfeited property is the sale price. The
11 value of retained forfeited property is the fair market value of the
12 property at the time of seizure, determined when possible by reference
13 to an applicable commonly used index, such as the index used by the
14 department of licensing for valuation of motor vehicles. A seizing
15 agency may use, but need not use, an independent qualified appraiser to
16 determine the value of retained property. If an appraiser is used, the
17 value of the property appraised is net of the cost of the appraisal.
18 The value of destroyed property and retained firearms or illegal
19 property is zero.

20 (i) Forfeited property and net proceeds not required to be paid to
21 the state treasurer shall be retained by the seizing law enforcement
22 agency exclusively for the expansion and improvement of controlled
23 substances related law enforcement activity. Money retained under this
24 section may not be used to supplant pre-existing funding sources.

25 (j) Controlled substances listed in Schedule I, II, III, IV, and V
26 that are possessed, transferred, sold, or offered for sale in violation
27 of this chapter are contraband and shall be seized and summarily
28 forfeited to the state. Controlled substances listed in Schedule I,
29 II, III, IV, and V, which are seized or come into the possession of the

1 board, the owners of which are unknown, are contraband and shall be
2 summarily forfeited to the board.

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

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

14 ~~((j))~~ (m) Upon the entry of an order of forfeiture of real
15 property, the court shall forward a copy of the order to the assessor
16 of the county in which the property is located. Orders for the
17 forfeiture of real property shall be entered by the superior court,
18 subject to court rules. Such an order shall be filed by the seizing
19 agency in the county auditor's records in the county in which the real
20 property is located."

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

23 Unless the context requires the contrary, the definitions in this
24 section apply throughout this chapter.

25 (1) "Creditor" means a person making an extension of credit or a
26 person claiming by, under, or through a person making an extension of
27 credit.

28 (2) "Debtor" means a person to whom an extension of credit is made
29 or a person who guarantees the repayment of an extension of credit or

1 in any manner undertakes to indemnify the creditor against loss
2 resulting from the failure of a person to whom an extension is made to
3 repay the same.

4 (3) "Extortionate extension of credit" means an extension of credit
5 with respect to which it is the understanding of the creditor and the
6 debtor at the time the extension is made that delay in making repayment
7 or failure to make repayment could result in the use of violence or
8 other criminal means to cause harm to the person, reputation, or
9 property of any person.

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

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

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

19 (7) "Repayment of an extension of credit" means the repayment,
20 satisfaction, or discharge in whole or in part of a debt or claim,
21 acknowledged or disputed, valid or invalid, resulting from or in
22 connection with that extension of credit.

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

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

27 (10) "Traffic" means to sell, transfer, distribute, dispense, or
28 otherwise dispose of stolen property to another person, or to buy,
29 receive, possess, or obtain control of stolen property, with intent to

1 sell, transfer, distribute, dispense, or otherwise dispose of the
2 property to another person.

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

5 (12) "Enterprise" includes any individual, sole proprietorship,
6 partnership, corporation, business trust, or other profit or nonprofit
7 legal entity, and includes any union, association, or group of
8 individuals associated in fact although not a legal entity, and both
9 illicit and licit enterprises and governmental and nongovernmental
10 entities.

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

15 (14) "Criminal profiteering" means any act, including any
16 anticipatory or completed offense, committed for financial gain, that
17 is chargeable or indictable under the laws of the state in which the
18 act occurred and, if the act occurred in a state other than this state,
19 would be chargeable or indictable under the laws of this state had the
20 act occurred in this state and punishable as a felony and by
21 imprisonment for more than one year, regardless of whether the act is
22 charged or indicted, as any of the following:

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

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

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

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

27 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
28 9A.56.080;

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

1 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
2 9A.68.050;

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

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

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

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

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

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

11 (n) Delivery or manufacture of controlled substances or possession
12 with intent to deliver or manufacture controlled substances under
13 chapter 69.50 RCW;

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

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

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

17 (r) Obstructing criminal investigations or prosecutions in
18 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
19 9A.76.070, or 9A.76.180;

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

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

23 ~~((+t))~~ (u) Sexual exploitation of children, as defined in RCW
24 9.68A.040, 9.68A.050, and 9.68A.060;

25 ~~((+u))~~ (v) Promoting prostitution, as defined in RCW 9A.88.070 and
26 9A.88.080;

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

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

29 ~~((+x))~~ (y) A pattern of equity skimming, as defined in RCW
30 61.34.020; or

1 (~~(y)~~) (z) Commercial telephone solicitation in violation of RCW
2 19.158.040(1).

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

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

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

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

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

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

7 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

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

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

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

22 (b) "Beneficial interest" does not include the interest of a
23 stockholder in a corporation or the interest of a partner in a general
24 partnership or limited partnership.

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

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

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

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

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

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

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

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

10 (ii) A trustee of any testamentary trust;

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

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

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

16 **2SSB 5318** - H COMM AMD
17 By Committee on Judiciary

18
19 In line 1 of the title, after "laundering;" strike the remainder of
20 the title and insert "amending RCW 9A.82.010; reenacting and amending
21 RCW 69.50.505; creating a new chapter in Title 9A RCW; and prescribing
22 penalties."