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**SUBSTITUTE SENATE BILL 5935**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Constantine, Hargrove, Stevens, Oke, Thibaudeau, Kline, Swecker, Prentice, McCaslin, Roach and Kohl-Welles)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to civil forfeitures of property; and amending RCW  
2 69.50.505, 9A.83.030, and 69.50.520.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 69.50.505 and 1993 c 487 s 1 are each amended to read  
5 as follows:

6 (a) No judgment of forfeiture of property in a civil forfeiture  
7 proceeding under this section by the state or any of its political  
8 subdivisions shall be allowed or entered until and unless the owner of  
9 the property is convicted of a criminal violation of this chapter or an  
10 equivalent crime in another jurisdiction and the state demonstrates by  
11 clear and convincing evidence that the property was instrumental in  
12 committing or facilitating the crime or the property is proceeds of  
13 that crime. The value of the property forfeited under the provisions  
14 of this subsection shall be substantially proportional to the specific  
15 conduct for which the owner of the property has been convicted.

16 (b) In a civil forfeiture proceeding if a financial institution  
17 claiming an interest in the property demonstrates that it holds an  
18 interest, its interest shall not be subject to forfeiture. In a civil  
19 forfeiture proceeding if a person claiming an interest in the property,

1 other than a financial institution or a defendant who has been charged  
2 with or convicted of a crime involving that property, demonstrates that  
3 the person has an interest in the property, that person's interest  
4 shall not be subject to forfeiture unless:

5 (1) The forfeiting agency proves by clear and convincing evidence  
6 that the person took the property or the interest with the intent to  
7 defeat the forfeiture; or

8 (2) A conviction under subsection (a) of this section is later  
9 obtained against the person.

10 (c) Notwithstanding the provisions of subsection (a) of this  
11 section, if, following notice as required in this section, no person  
12 claims an interest in the seized property or if the property is  
13 contraband, a judgment of forfeiture may be allowed and entered without  
14 a criminal conviction as provided in subsection (i) of this section.

15 (d) Nothing in this section may be construed to affect the  
16 temporary seizure of property for evidentiary, forfeiture, or  
17 protective purposes, or to alter the power of the governor to remit  
18 finances or forfeitures under Article III, section 11 of the Washington  
19 Constitution.

20 (e) The following are subject to seizure and forfeiture ((and no  
21 property right exists in them)) in accordance with subsections (a),  
22 (b), (c), and (d) of this section:

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;

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

32 (3) All property which is used, or intended for use, as a container  
33 for property described in ((paragraphs)) (1) or (2) of this subsection;

34 (4) All conveyances, including aircraft, vehicles, or vessels,  
35 which are used, or intended for use, in any manner to facilitate the  
36 sale, delivery, or receipt of property described in ((paragraphs)) (1)  
37 or (2) of this subsection, except that((+)

38 (i) No conveyance used by any person as a common carrier in the  
39 transaction of business as a common carrier is subject to forfeiture

1 under this section unless it appears that the owner or other person in  
2 charge of the conveyance is a consenting party or privy to a violation  
3 of this chapter or chapter 69.41 or 69.52 RCW;

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

7 (iii)) no conveyance is subject to forfeiture under this section  
8 if used in the receipt of only an amount of marijuana for which  
9 possession constitutes a misdemeanor under RCW 69.50.401(e)((;

10 (iv) A forfeiture of a conveyance encumbered by a bona fide  
11 security interest is subject to the interest of the secured party if  
12 the secured party neither had knowledge of nor consented to the act or  
13 omission; and

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

19 (5) All books, records, and research products and materials,  
20 including formulas, microfilm, tapes, and data which are used, or  
21 intended for use, in violation of this chapter or chapter 69.41 or  
22 69.52 RCW;

23 (6) All drug paraphernalia;

24 (7) All moneys, negotiable instruments, securities, or other  
25 tangible or intangible property of value furnished or intended to be  
26 furnished by any person in exchange for a controlled substance in  
27 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
28 or intangible personal property, proceeds, or assets acquired in whole  
29 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,  
31 and all moneys, negotiable instruments, and securities used or intended  
32 to be used to facilitate any violation of this chapter or chapter 69.41  
33 or 69.52 RCW((.— A forfeiture of money, negotiable instruments,  
34 securities, or other tangible or intangible property encumbered by a  
35 bona fide security interest is subject to the interest of the secured  
36 party if, at the time the security interest was created, the secured  
37 party neither had knowledge of nor consented to the act or omission.  
38 No personal property may be forfeited under this paragraph, to the  
39 extent of the interest of an owner, by reason of any act or omission

1 ~~which that owner establishes was committed or omitted without the~~  
2 ~~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. However:

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,  
17 or imitation controlled substance shall not result in the forfeiture of  
18 real property;

19 ~~((iii)))~~ (ii) 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 and

30 ~~((iv)))~~ (iii) The unlawful sale of marijuana or a legend drug  
31 shall not result in the forfeiture of real property unless the sale was  
32 forty grams or more in the case of marijuana or one hundred dollars or  
33 more in the case of a legend drug, and a substantial nexus exists  
34 between the unlawful sale and the real property(~~;~~ and

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

1       (~~(b)~~) (f) Real or personal property subject to forfeiture under  
2 this chapter may be seized by any board inspector or law enforcement  
3 officer of this state upon process issued by any superior court having  
4 jurisdiction over the property. Seizure of real property shall include  
5 the filing of a lis pendens by the seizing agency. Real property  
6 seized under this section shall not be transferred or otherwise  
7 conveyed (~~until ninety days after seizure or~~) until a judgment of  
8 forfeiture is entered(~~(, whichever is later:— PROVIDED, That)~~).  
9 However, real property seized under this section may be transferred or  
10 conveyed to any person or entity who acquires title by foreclosure or  
11 deed in lieu of foreclosure of a security interest.

12       The board or law enforcement agency is not liable for damages for  
13 loss of or injury to the seized personal or real property unless the  
14 damage could have been avoided by the exercise of such care in regard  
15 to the personal or real property as a reasonably careful person would  
16 exercise under like circumstances.

17       (g) Seizure of personal property without process may be made if:

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

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

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

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

29       (~~(e)~~) (h) In the event of seizure pursuant to subsection (~~(b)~~)  
30 (f) or (g) of this section, proceedings for forfeiture shall be deemed  
31 commenced by the seizure. The law enforcement agency under whose  
32 authority the seizure was made shall cause notice to be served within  
33 fifteen days following the seizure on the owner of the property seized  
34 and the person in charge thereof and any person having any known right  
35 or interest therein, including any community property interest, of the  
36 seizure and intended forfeiture of the seized property. Service of  
37 notice of seizure of real property shall be made according to the rules  
38 of civil procedure. However, the state may not obtain a default  
39 judgment with respect to real property against a party who is served by

1 substituted service absent an affidavit stating that a good faith  
2 effort has been made to ascertain if the defaulted party is  
3 incarcerated within the state, and that there is no present basis to  
4 believe that the party is incarcerated within the state. Notice of  
5 seizure in the case of property subject to a security interest that has  
6 been perfected by filing a financing statement in accordance with  
7 chapter ~~((62A.9))~~ 62A.9A RCW, or a certificate of title, shall be made  
8 by service upon the secured party or the secured party's assignee at  
9 the address shown on the financing statement or the certificate of  
10 title. The notice of seizure in other cases may be served by any  
11 method authorized by law or court rule including but not limited to  
12 service by certified mail with return receipt requested. Service by  
13 mail shall be deemed complete upon mailing within the fifteen day  
14 period following the seizure.

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

24 ~~((e))~~ (j) If any person notifies the seizing law enforcement  
25 agency in writing of the person's claim of ownership or right to  
26 possession of items specified in subsection ~~((a))~~ (e)(2), ~~((a))~~(3),  
27 ~~((a))~~(4), ~~((a))~~(5), ~~((a))~~(6), ~~((a))~~(7), or ~~((a))~~(8) of this  
28 section within forty-five days of the seizure in the case of personal  
29 property and ninety days in the case of real property, the person or  
30 persons shall be afforded a reasonable opportunity to be heard as to  
31 the claim or right. The hearing shall be before the chief law  
32 enforcement officer of the seizing agency or the chief law enforcement  
33 officer's designee, except where the seizing agency is a state agency  
34 as defined in RCW 34.12.020(4), the hearing shall be before the chief  
35 law enforcement officer of the seizing agency or an administrative law  
36 judge appointed under chapter 34.12 RCW, except that any person  
37 asserting a claim or right may remove the matter to a court of  
38 competent jurisdiction. Removal of any matter involving personal  
39 property may only be accomplished according to the rules of civil

1 procedure. The person seeking removal of the matter must serve process  
2 against the state, county, political subdivision, or municipality that  
3 operates the seizing agency, and any other party of interest, in  
4 accordance with RCW 4.28.080 or 4.92.020, within forty-five days after  
5 the person seeking removal has notified the seizing law enforcement  
6 agency of the person's claim of ownership or right to possession. The  
7 court to which the matter is to be removed shall be the district court  
8 when the aggregate value of personal property is within the  
9 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
10 seizing agency and any appeal therefrom shall be under Title 34 RCW.  
11 In a court hearing between two or more claimants to the article or  
12 articles involved, the prevailing party shall be entitled to a judgment  
13 for costs and reasonable attorney's fees. ~~((In cases involving  
14 personal property, the burden of producing evidence shall be upon the  
15 person claiming to be the lawful owner or the person claiming to have  
16 the lawful right to possession of the property. In cases involving  
17 real property, the burden of producing evidence shall be upon the law  
18 enforcement agency. The burden of proof))~~ If the seizing agency fails  
19 to show by clear and convincing evidence that the seized ((real))  
20 property is subject to forfeiture ((shall be upon the law enforcement  
21 agency.)), the seizing law enforcement agency shall promptly return the  
22 article or articles to the claimant ~~((upon a determination by the  
23 administrative law judge or court that the claimant is the present  
24 lawful owner or is lawfully entitled to possession thereof of items  
25 specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7),  
26 or (a)(8) of this section)).~~

27 ~~((f))~~ (k) When property is forfeited under this chapter the board  
28 or seizing law enforcement agency ~~((may))~~ shall:

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

32 ~~(2))~~ Sell that which is not required to be destroyed by law and  
33 which is not harmful to the public;

34 ~~((3) Request the appropriate sheriff or director of public safety  
35 to take custody of the property and remove it for disposition in  
36 accordance with law; or~~

37 ~~(4) Forward it to the drug enforcement administration for  
38 disposition.~~

1       ~~(g)(1) When property is forfeited, the seizing agency shall~~) (2)  
2   Keep a record indicating the identity of the prior owner, if known, a  
3   description of the property, the disposition of the property, the value  
4   of the property at the time of seizure, and the amount of proceeds  
5   realized from disposition of the property~~((-))~~*i*

6       ~~((2) Each seizing agency shall~~) (3) Retain records of forfeited  
7   property for at least seven years~~((-))~~*i*

8       ~~((3) Each seizing agency shall~~) (4) File a report including a  
9   copy of the records of forfeited property with the state treasurer each  
10  calendar quarter. ~~((4))~~ The quarterly report need not include a  
11  record of forfeited property that is still being held for use as  
12  evidence during the investigation or prosecution of a case or during  
13  the appeal from a conviction*i*

14       (5) Destroy any property that is harmful to the public, required to  
15 be destroyed by law, or otherwise not appropriate for sale to the  
16 public*i*

17       (6) Report the nature and disposition of all property and proceeds  
18 seized for forfeiture or forfeited to the state auditor. The state  
19 auditor shall annually perform a statewide audit of seizures and  
20 forfeitures as authorized under this section. The audit shall be  
21 performed in conjunction with routine audits of local governments as  
22 provided under RCW 43.09.260. The state auditor shall annually publish  
23 a statewide report on the amount of federal and state seizure and  
24 forfeiture funds received and expended in the violence reduction and  
25 drug enforcement account in total and by each local government for the  
26 current year and the previous three years. The report shall also  
27 disclose the beginning and ending balances in the violence reduction  
28 and drug enforcement account attributable to seizures and forfeitures.  
29 The state auditor's report shall include a report on statewide  
30 compliance with this section and RCW 69.50.520, including an  
31 identification of best practices, instances of noncompliance, and  
32 recommendations to the legislature.

33       ~~((h))~~ (1)(1)(i) By January 31st of each year, each seizing agency  
34  shall remit to the state treasurer an amount equal to ten percent of  
35  the net proceeds of any property forfeited during the preceding  
36  calendar year. Money remitted shall be deposited in the violence  
37 reduction and drug enforcement ~~((and education))~~ account under RCW  
38  69.50.520.



1        (ii) By January 31st of each year, each seizing agency shall remit  
2 to the state treasurer an amount equal to forty-five percent of the net  
3 proceeds of any property forfeited during the preceding calendar year.  
4 Money remitted shall be deposited in the violence reduction and drug  
5 enforcement account under RCW 69.50.520 to be used by the state or any  
6 of its political subdivisions exclusively for drug treatment, unless  
7 another disposition is specially provided by law.

8        (iii) By January 31st of each year, each seizing agency shall remit  
9 to the state treasurer an amount equal to forty-five percent of the net  
10 proceeds of any property forfeited during the preceding calendar year.  
11 Money remitted shall be deposited in the public safety and education  
12 account under RCW 43.08.250 to be used by the state exclusively for the  
13 state crime laboratory, unless another disposition is specifically  
14 provided by law.

15        (2) The net proceeds of forfeited property is the value of the  
16 forfeitable interest in the property after deducting: (i) The cost of  
17 satisfying any bona fide security interest to which the property is  
18 subject at the time of seizure; and in the case of sold property, after  
19 deducting the cost of sale, including reasonable fees or commissions  
20 paid to independent selling agents, and the cost of any valid  
21 landlord's claim for damages under subsection ((n)) (r) of this  
22 section; (ii) any foreclosed liens, security interest, and contracts in  
23 the order of their priority; and (iii) actual and reasonable expenses  
24 related to the costs of the forfeiture proceeding, including attorneys'  
25 fees, storage, maintenance, management, and disposition of the property  
26 incurred in connection with the sale of any forfeited property in an  
27 amount not to exceed twenty-five percent of the total proceeds in any  
28 single forfeiture.

29        (3) The value of sold forfeited property is the sale price. The  
30 value of retained forfeited property is the fair market value of the  
31 property at the time of seizure, determined when possible by reference  
32 to an applicable commonly used index, such as the index used by the  
33 department of licensing for valuation of motor vehicles. A seizing  
34 agency may use, but need not use, an independent qualified appraiser to  
35 determine the value of retained property. If an appraiser is used, the  
36 value of the property appraised is net of the cost of the appraisal.  
37 The value of destroyed ~~((property and retained firearms or))~~ illegal  
38 property is zero.

1       ~~((i))~~ (m) Forfeited property and net proceeds ~~((not required to~~  
2 ~~be paid to the state treasurer shall be retained by the seizing law~~  
3 ~~enforcement agency exclusively for the expansion and improvement of~~  
4 ~~controlled substances related law enforcement activity. Money retained~~  
5 ~~under this section may not be used to supplant preexisting funding~~  
6 ~~sources)), including shared property or proceeds obtained from the~~  
7 ~~federal government, shall be disposed of or distributed according to~~  
8 ~~the following:~~

9       (1) Any sale of forfeited property shall be conducted in a  
10 commercially reasonable manner. Property or proceeds forfeited under  
11 this section shall be distributed or applied as required by subsection  
12 (1) of this section.

13       (2) The state of Washington or any of its political subdivisions  
14 shall take all necessary steps to obtain shared property or proceeds  
15 from the United States department of justice resulting from a  
16 forfeiture. Any property or proceeds received from the United States  
17 department of justice by the state of Washington or any of its  
18 political subdivisions shall be applied as provided in (1) of this  
19 subsection.

20       (3) Neither the state of Washington, its political subdivisions,  
21 nor any forfeiting agency shall transfer forfeiture proceedings to the  
22 federal government unless a state court has affirmatively found that:

23       (i) The activity giving rise to the forfeiture is interstate in  
24 nature and sufficiently complex to justify the transfer;

25       (ii) The seized property may only be forfeited under federal law;  
26 or

27       (iii) Pursuing forfeiture under state law would unduly burden the  
28 state forfeiting agencies.

29       ~~((j))~~ (n) Controlled substances listed in Schedule I, II, III,  
30 IV, and V that are possessed, transferred, sold, or offered for sale in  
31 violation of this chapter are contraband and shall be seized and  
32 summarily forfeited to the state. Controlled substances listed in  
33 Schedule I, II, III, IV, and V, which are seized or come into the  
34 possession of the board, the owners of which are unknown, are  
35 contraband and shall be summarily forfeited to the board.

36       ~~((k))~~ (o) Species of plants from which controlled substances in  
37 Schedules I and II may be derived which have been planted or cultivated  
38 in violation of this chapter, or of which the owners or cultivators are

1 unknown, or which are wild growths, may be seized and summarily  
2 forfeited to the board.

3 ~~((l))~~ (p) The failure, upon demand by a board inspector or law  
4 enforcement officer, of the person in occupancy or in control of land  
5 or premises upon which the species of plants are growing or being  
6 stored to produce an appropriate registration or proof that he or she  
7 is the holder thereof constitutes authority for the seizure and  
8 forfeiture of the plants.

9 ~~((m))~~ (q) Upon the entry of an order of forfeiture of real  
10 property, the court shall forward a copy of the order to the assessor  
11 of the county in which the property is located. Orders for the  
12 forfeiture of real property shall be entered by the superior court,  
13 subject to court rules. Such an order shall be filed by the seizing  
14 agency in the county auditor's records in the county in which the real  
15 property is located.

16 ~~((n))~~ (r) A landlord may assert a claim against proceeds from the  
17 sale of assets ~~((seized and forfeited))~~ under subsection ~~((f)(2))~~ (m)  
18 of this section, only if:

19 (1) A law enforcement officer, while acting in his or her official  
20 capacity, directly caused damage to the complaining landlord's property  
21 while executing a search of a tenant's residence; and

22 (2) The landlord has applied any funds remaining in the tenant's  
23 deposit, to which the landlord has a right under chapter 59.18 RCW, to  
24 cover the damage directly caused by a law enforcement officer prior to  
25 asserting a claim under the provisions of this section;

26 (i) Only if the funds applied under (2) of this subsection are  
27 insufficient to satisfy the damage directly caused by a law enforcement  
28 officer, may the landlord seek compensation for the damage by filing a  
29 claim against the governmental entity under whose authority the law  
30 enforcement agency operates within thirty days after the search;

31 (ii) Only if the governmental entity denies or fails to respond to  
32 the landlord's claim within sixty days of the date of filing, may the  
33 landlord collect damages under this subsection by filing within thirty  
34 days of denial or the expiration of the sixty-day period, whichever  
35 occurs first, a claim with the seizing law enforcement agency. The  
36 seizing law enforcement agency must notify the landlord of the status  
37 of the claim by the end of the thirty-day period. Nothing in this  
38 section requires the claim to be paid by the end of the sixty-day or  
39 thirty-day period.

1 (3) For any claim filed under (2) of this subsection, the law  
2 enforcement agency shall pay the claim unless the agency provides  
3 substantial proof that the landlord either:

4 (i) Knew or consented to actions of the tenant in violation of this  
5 chapter or chapter 69.41 or 69.52 RCW; or

6 (ii) Failed to respond to a notification of the illegal activity,  
7 provided by a law enforcement agency under RCW 59.18.075, within seven  
8 days of receipt of notification of the illegal activity.

9 ~~((+o))~~ (s) The landlord's claim for damages under subsection  
10 ~~((+n))~~ (r) of this section may not include a claim for loss of  
11 business and is limited to:

12 (1) Damage to tangible property and clean-up costs;

13 (2) The lesser of the cost of repair or fair market value of the  
14 damage directly caused by a law enforcement officer;

15 (3) The proceeds from the sale of the specific tenant's property  
16 ~~((seized and forfeited))~~ under subsection ~~((+f)(2))~~ (m) of this  
17 section; and

18 (4) The proceeds available after the seizing law enforcement agency  
19 satisfies any bona fide security interest in the tenant's property and  
20 costs related to sale of the tenant's property as provided by  
21 subsection ~~((+h)(2))~~ (m) of this section.

22 ~~((+p))~~ (t) Subsections ~~((+n))~~ (r) and ~~((+o))~~ (s) of this section  
23 do not limit any other rights a landlord may have against a tenant to  
24 collect for damages. However, if a law enforcement agency satisfies a  
25 landlord's claim under subsection ~~((+n))~~ (r) of this section, the  
26 rights the landlord has against the tenant for damages directly caused  
27 by a law enforcement officer under the terms of the landlord and  
28 tenant's contract are subrogated to the law enforcement agency.

29 (u) For the purposes of this section:

30 (1) "Contraband" means personal property, articles, or things,  
31 including but not limited to controlled substances or drug  
32 paraphernalia and illegal firearms, that a person is prohibited by  
33 Washington statute or local ordinance from producing, obtaining, or  
34 possessing; and

35 (2) "Property" means any interest in anything of value, including  
36 the whole of any lot or tract of land and tangible and intangible  
37 personal property, including currency, instruments or securities or any  
38 other kind of privilege, interest, claim, or right whether due or to  
39 become due.

1       **Sec. 2.** RCW 9A.83.030 and 1992 c 210 s 3 are each amended to read  
2 as follows:

3       (1) Proceeds traceable to or derived from specified unlawful  
4 activity or a violation of RCW 9A.83.020 are subject to seizure and  
5 forfeiture. The attorney general or county prosecuting attorney may  
6 file a civil action for the forfeiture of proceeds. Unless otherwise  
7 provided for under this section, no property rights exist in these  
8 proceeds. All right, title, and interest in the proceeds shall vest in  
9 the governmental entity of which the seizing law enforcement agency is  
10 a part upon commission of the act or omission giving rise to forfeiture  
11 under this section.

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

23       (a) The seizure is incident to an arrest or a search under a search  
24 warrant or an inspection under an administrative inspection warrant  
25 issued pursuant to RCW 69.50.502; or

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

29       (3) A seizure under subsection (2) of this section commences  
30 proceedings for forfeiture. The law enforcement agency under whose  
31 authority the seizure was made shall cause notice of the seizure and  
32 intended forfeiture of the seized proceeds to be served within fifteen  
33 days after the seizure on the owner of the property seized and the  
34 person in charge thereof and any person who has a known right or  
35 interest therein, including a community property interest. Service of  
36 notice of seizure of real property shall be made according to the rules  
37 of civil procedure. However, the state may not obtain a default  
38 judgment with respect to real property against a party who is served by  
39 substituted service absent an affidavit stating that a good faith

1 effort has been made to ascertain if the defaulted party is  
2 incarcerated within the state, and that there is no present basis to  
3 believe that the party is incarcerated within the state. The notice of  
4 seizure in other cases may be served by any method authorized by law or  
5 court rule including but not limited to service by certified mail with  
6 return receipt requested. Service by mail is complete upon mailing  
7 within the fifteen-day period after the seizure.

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

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

25 (6) Disposition of forfeited property shall be made in the manner  
26 provided for in RCW 69.50.505 (~~(g)~~) (k) through (~~(i)~~) (m) and  
27 (~~(m)~~) (q).

28 **Sec. 3.** RCW 69.50.520 and 2000 2nd sp.s. c 1 s 917 are each  
29 amended to read as follows:

30 The violence reduction and drug enforcement account is created in  
31 the state treasury. All designated receipts from RCW 9.41.110(8),  
32 66.24.210(4), 66.24.290(2), 69.50.505(~~(h)~~) (l)(1), 82.08.150(5),  
33 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989  
34 shall be deposited into the account. Expenditures from the account may  
35 be used only for funding services and programs under chapter 271, Laws  
36 of 1989 and chapter 7, Laws of 1994 sp. sess., including state  
37 incarceration costs. Funds from the account may also be appropriated  
38 to reimburse local governments for costs associated with implementing

1 criminal justice legislation including chapter 338, Laws of 1997.  
2 During the 1999-2001 biennium, funds from the account may also be used  
3 for costs associated with providing grants to local governments in  
4 accordance with chapter 338, Laws of 1997, the design, sitework, and  
5 construction of the special commitment center, the replacement of the  
6 department of corrections' offender-based tracking system, and for  
7 multijurisdictional narcotics task forces. After July 1, 2001, at  
8 least seven and one-half percent of expenditures from the account shall  
9 be used for providing grants to community networks under chapter 70.190  
10 RCW by the family policy council.

11 NEW SECTION. **Sec. 4.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

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