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SENATE BILL 5170

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State of Washington

58th Legislature

2003 Regular Session

By Senators Esser, Kline, Johnson and Roach; by request of Office of the Code Reviser

Read first time 01/17/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to correction of outdated internal references in  
2 the Revised Code of Washington; and amending RCW 8.26.020, 9.94A.731,  
3 11.68.090, 11.97.010, 11.97.900, and 29.81.310.

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

5 **Sec. 1.** RCW 8.26.020 and 1988 c 90 s 2 are each amended to read as  
6 follows:

7 As used in this chapter:

8 (1) The term "state" means any department, commission, agency, or  
9 instrumentality of the state of Washington.

10 (2) The term "local public agency" applies to any county, city or  
11 town, or other municipal corporation or political subdivision of the  
12 state and any person who has the authority to acquire property by  
13 eminent domain under state law, or any instrumentality of any of the  
14 foregoing.

15 (3) The term "person" means any individual, partnership,  
16 corporation, or association.

17 (4)(a) The term "displaced person" means, except as provided in  
18 (~~(b)~~) (c) of this subsection, any person who moves from real  
19 property, or moves his personal property from real property:

1 (i) As a direct result of a written notice of intent to acquire, or  
2 the acquisition of, such real property in whole or in part for a  
3 program or project undertaken by a displacing agency; or

4 (ii) On which the person is a residential tenant or conducts a  
5 small business, a farm operation, or a business defined in this  
6 section, as a direct result of rehabilitation, demolition, or such  
7 other displacing activity as the lead agency may prescribe, under a  
8 program or project undertaken by a displacing agency in any case in  
9 which the displacing agency determines that the displacement is  
10 permanent.

11 (b) Solely for the purposes of RCW 8.26.035 (1) and (2) and  
12 8.26.065, the term "displaced person" includes any person who moves  
13 from real property, or moves his personal property from real property:

14 (i) As a direct result of a written notice of intent to acquire, or  
15 the acquisition of, other real property in whole or in part on which  
16 the person conducts a business or farm operation, for a program or  
17 project undertaken by a displacing agency; or

18 (ii) As a direct result of rehabilitation, demolition, or such  
19 other displacing activity as the lead agency may prescribe, of other  
20 real property on which the person conducts a business or a farm  
21 operation, under a program or project undertaken by a displacing agency  
22 where the displacing agency determines that the displacement is  
23 permanent.

24 ~~((b))~~ (c) The term "displaced person" does not include:

25 (i) A person who has been determined, according to criteria  
26 established by the lead agency, to be either unlawfully occupying the  
27 displacement dwelling or to have occupied the dwelling for the purpose  
28 of obtaining assistance under this chapter; or

29 (ii) In any case in which the displacing agency acquires property  
30 for a program or project, any person (other than a person who was an  
31 occupant of the property at the time it was acquired) who occupies the  
32 property on a rental basis for a short term or a period subject to  
33 termination when the property is needed for the program or project.

34 (5) The term "business" means any lawful activity, excepting a farm  
35 operation, conducted primarily:

36 (a) For the purchase, sale, lease, and rental of personal and real  
37 property, and for the manufacture, processing, or marketing of  
38 products, commodities, or other personal property;

1 (b) For the sale of services to the public;

2 (c) By a nonprofit organization; or

3 (d) Solely for the purposes of RCW 8.26.035, for assisting in the  
4 purchase, sale, resale, manufacture, processing, or marketing of  
5 products, commodities, personal property, or services by the erection  
6 and maintenance of an outdoor advertising display or displays, whether  
7 or not such display or displays are located on the premises on which  
8 any of the above activities are conducted.

9 (6) The term "farm operation" means any activity conducted solely  
10 or primarily for the production of one or more agricultural products or  
11 commodities, including timber, for sale or for home use, and  
12 customarily producing such products or commodities in sufficient  
13 quantity to be capable of contributing materially to the operator's  
14 support.

15 (7) The term "comparable replacement dwelling" means any dwelling  
16 that is (a) decent, safe, and sanitary; (b) adequate in size to  
17 accommodate the occupants; (c) within the financial means of the  
18 displaced person; (d) functionally equivalent; (e) in an area not  
19 subject to unreasonably adverse environmental conditions; and (f) in a  
20 location generally not less desirable than the location of the  
21 displaced person's dwelling with respect to public utilities,  
22 facilities, services, and the displaced person's place of employment.

23 (8) For purposes of RCW 8.26.180 through 8.26.200, the term  
24 "acquiring agency" means:

25 (a) A state agency or local public agency that has the authority to  
26 acquire property by eminent domain under state law; or

27 (b) Any state agency, local public agency, or person that (i) does  
28 not have the authority to acquire property by eminent domain under  
29 state law and (ii) has been designated an "acquiring agency" under  
30 rules adopted by the lead agency. However, the lead agency may only  
31 designate a state agency, local public agency, or a person as an  
32 "acquiring agency" to the extent that it is necessary in order to  
33 qualify for federal financial assistance.

34 (9) The term "displacing agency" means the state agency, local  
35 public agency, or any person carrying out a program or project, with  
36 federal or state financial assistance, that causes a person to be a  
37 displaced person.

1 (10) The term "federal financial assistance" means a grant, loan,  
2 or contribution provided by the United States, except any federal  
3 guarantee or insurance and any interest reduction payment to an  
4 individual in connection with the purchase and occupancy of a residence  
5 by that individual.

6 (11) The term "mortgage" means such classes of liens as are  
7 commonly given to secure advances on, or the unpaid purchase price of,  
8 real property, under the laws of this state, together with the credit  
9 instruments, if any, secured thereby.

10 (12) The term "lead agency" means the Washington state department  
11 of transportation.

12 (13) The term "appraisal" means a written statement independently  
13 and impartially prepared by a qualified appraiser setting forth an  
14 opinion of defined value of an adequately described property as of a  
15 specific date, supported by the presentation and analysis of relevant  
16 market information.

17 EXPLANATORY NOTE

18 Corrects subparagraph lettering. As it exists now, RCW  
19 8.26.020 has two versions of subparagraphs (4)(a)(i) and (ii).  
20 To correct this, the second version of subparagraphs (4)(a)(i)  
21 and (ii) have been relettered as subparagraphs (4)(b)(i) and  
22 (ii).

23 **Sec. 2.** RCW 9.94A.731 and 2000 c 28 s 29 are each amended to read  
24 as follows:

25 (1) An offender sentenced to a term of partial confinement shall be  
26 confined in the facility for at least eight hours per day or, if  
27 serving a work crew sentence shall comply with the conditions of that  
28 sentence as set forth in RCW 9.94A.030(~~(+30+)~~) (31) and 9.94A.725. The  
29 offender shall be required as a condition of partial confinement to  
30 report to the facility at designated times. During the period of  
31 partial confinement, an offender may be required to comply with crime-  
32 related prohibitions and affirmative conditions imposed by the court or  
33 the department pursuant to this chapter.

34 (2) An offender in a county jail ordered to serve all or part of a  
35 term of less than one year in work release, work crew, or a program of

1 home detention who violates the rules of the work release facility,  
2 work crew, or program of home detention or fails to remain employed or  
3 enrolled in school may be transferred to the appropriate county  
4 detention facility without further court order but shall, upon request,  
5 be notified of the right to request an administrative hearing on the  
6 issue of whether or not the offender failed to comply with the order  
7 and relevant conditions. Pending such hearing, or in the absence of a  
8 request for the hearing, the offender shall serve the remainder of the  
9 term of confinement as total confinement. This subsection shall not  
10 affect transfer or placement of offenders committed to the department.

11 (3) Participation in work release shall be conditioned upon the  
12 offender attending work or school at regularly defined hours and  
13 abiding by the rules of the work release facility.

14 EXPLANATORY NOTE

15 RCW 9.94A.030 was amended by 2001 2nd sp.s. c 12 s 301,  
16 changing subsection (30) to subsection (31).

17 **Sec. 3.** RCW 11.68.090 and 1997 c 252 s 66 are each amended to read  
18 as follows:

19 (1) Any personal representative acting under nonintervention powers  
20 may borrow money on the general credit of the estate and may mortgage,  
21 encumber, lease, sell, exchange, convey, and otherwise have the same  
22 powers, and be subject to the same limitations of liability, that a  
23 trustee has under RCW 11.98.070 and chapters 11.100 and 11.102 RCW with  
24 regard to the assets of the estate, both real and personal, all without  
25 an order of court and without notice, approval, or confirmation, and in  
26 all other respects administer and settle the estate of the decedent  
27 without intervention of court. Except as otherwise specifically  
28 provided in this title or by order of court, a personal representative  
29 acting under nonintervention powers may exercise the powers granted to  
30 a personal representative under chapter 11.76 RCW but is not obligated  
31 to comply with the duties imposed on personal representatives by that  
32 chapter. A party to such a transaction and the party's successors in  
33 interest are entitled to have it conclusively presumed that the  
34 transaction is necessary for the administration of the decedent's  
35 estate.

1 (2) Except as otherwise provided in chapter 11.108 RCW or elsewhere  
2 in order to preserve a marital deduction from estate taxes, a testator  
3 may by a will relieve the personal representative from any or all of  
4 the duties, restrictions, and liabilities imposed: Under common law;  
5 by chapters 11.54, 11.56, 11.100, 11.102, and (~~11.104~~) 11.104A RCW;  
6 or by RCW 11.28.270 and 11.28.280, 11.68.095, and 11.98.070. In  
7 addition, a testator may likewise alter or deny any or all of the  
8 privileges and powers conferred by this title, and may add duties,  
9 restrictions, liabilities, privileges, or powers to those imposed or  
10 granted by this title. If any common law or any statute referenced  
11 earlier in this subsection is in conflict with a will, the will  
12 controls whether or not specific reference is made in the will to this  
13 section. However, notwithstanding the rest of this subsection, a  
14 personal representative may not be relieved of the duty to act in good  
15 faith and with honest judgment.

16 EXPLANATORY NOTE

17 Changes a reference to chapter 11.104 RCW, which has been  
18 replaced by chapter 11.104A RCW.

19 **Sec. 4.** RCW 11.97.010 and 1993 c 339 s 1 are each amended to read  
20 as follows:

21 The trustor of a trust may by the provisions of the trust relieve  
22 the trustee from any or all of the duties, restrictions, and  
23 liabilities which would otherwise be imposed by chapters 11.95, 11.98,  
24 11.100, and (~~11.104~~) 11.104A RCW and RCW 11.106.020, or may alter or  
25 deny any or all of the privileges and powers conferred by those  
26 provisions; or may add duties, restrictions, liabilities, privileges,  
27 or powers to those imposed or granted by those provisions. If any  
28 specific provision of those chapters is in conflict with the provisions  
29 of a trust, the provisions of the trust control whether or not specific  
30 reference is made in the trust to any of those chapters, except as  
31 provided in RCW 11.98.200 through 11.98.240 and 11.95.100 through  
32 11.95.150. In no event may a trustee be relieved of the duty to act in  
33 good faith and with honest judgment.

1 EXPLANATORY NOTE

2 Changes a reference to chapter 11.104 RCW, which has been  
3 replaced by chapter 11.104A RCW.

4 **Sec. 5.** RCW 11.97.900 and 1985 c 30 s 39 are each amended to read  
5 as follows:

6 This chapter applies to the provisions of chapters 11.95, 11.98,  
7 11.100, and ((11.104)) 11.104A RCW and to RCW 11.106.020.

8 EXPLANATORY NOTE

9 Changes a reference to chapter 11.104 RCW, which has been  
10 replaced by chapter 11.104A RCW.

11 **Sec. 6.** RCW 29.81.310 and 1999 c 260 s 11 are each amended to read  
12 as follows:

13 (1) The maximum number of words for statements submitted by  
14 candidates is as follows: State representative, one hundred words;  
15 state senator, judge of the superior court, judge of the court of  
16 appeals, justice of the supreme court, and all state offices voted upon  
17 throughout the state, except that of governor, two hundred words;  
18 president and vice-president, United States senator, United States  
19 representative, and governor, three hundred words.

20 (2) Arguments written by committees under RCW ((29.81.230))  
21 29.81.240 may not exceed two hundred fifty words in length.

22 (3) Rebuttal arguments written by committees may not exceed  
23 seventy-five words in length.

24 (4) The secretary of state shall allocate space in the pamphlet  
25 based on the number of candidates or nominees for each office.

26 EXPLANATORY NOTE

27 RCW 29.81.240 covers arguments in the voters' pamphlet written  
28 by committees.

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