

CERTIFICATION OF ENROLLMENT

SENATE BILL 5045

62nd Legislature
2011 Regular Session

Passed by the Senate March 1, 2011
YEAS 45 NAYS 0

President of the Senate

Passed by the House April 6, 2011
YEAS 76 NAYS 21

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5045** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5045

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senators Kohl-Welles, Conway, Holmquist Newbry, Keiser, Kline, King, and Chase; by request of Statute Law Committee

Read first time 01/12/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to making technical corrections to gender-based
2 terms; amending RCW 1.08.007, 1.08.016, 1.08.026, 1.08.028, 1.08.033,
3 1.08.037, 1.20.010, 2.04.010, 2.04.031, 2.04.150, 2.06.050, 2.06.090,
4 2.08.080, 2.08.115, 2.08.140, 2.08.150, 2.08.170, 2.08.190, 2.08.200,
5 2.08.220, 2.08.240, 2.10.070, 2.10.090, 2.10.110, 2.10.120, 2.10.130,
6 2.10.140, 2.10.220, 2.12.010, 2.12.012, 2.12.015, 2.12.020, 2.12.035,
7 2.12.037, 2.12.040, 2.12.060, 2.12.100, 2.24.020, 2.28.030, 2.28.060,
8 2.28.090, 2.28.100, 2.28.120, 2.28.160, 2.32.050, 2.32.090, 2.32.110,
9 2.32.130, 2.32.140, 2.32.160, 2.32.200, 2.32.210, 2.32.220, 2.32.240,
10 2.32.260, 2.40.030, 2.44.010, 2.44.020, 2.44.030, 2.44.040, 2.44.050,
11 2.44.060, 2.48.080, 2.48.090, 2.48.150, 2.48.160, 2.48.170, 2.48.220,
12 2.50.070, 2.50.080, 2.56.070, 3.20.100, 3.30.090, 3.58.010, 4.08.150,
13 4.08.160, 4.08.170, 4.08.180, 4.12.030, 4.12.070, 4.14.020, 4.16.070,
14 4.16.080, 4.16.180, 4.16.200, 4.16.240, 4.16.250, 4.16.350, 4.20.010,
15 4.20.020, 4.20.050, 4.22.050, 4.24.060, 4.24.080, 4.24.115, 4.24.220,
16 4.28.100, 4.28.110, 4.28.140, 4.28.185, 4.28.200, 4.28.210, 4.28.325,
17 4.32.150, 4.36.080, 4.36.130, 4.36.140, 4.36.210, 4.56.060, 4.56.120,
18 4.60.010, 4.60.020, 4.60.060, 4.68.020, 4.68.030, 4.68.040, 4.68.050,
19 4.68.060, 4.72.020, 4.84.040, 4.84.050, 4.84.060, 4.84.090, 4.84.110,
20 4.84.120, 4.84.140, 4.84.150, 4.84.160, 4.84.220, 4.84.240, 4.84.330,
21 5.28.020, 5.28.030, 5.28.040, 5.28.050, 5.40.020, 5.40.040, 5.48.060,

1 5.52.010, 5.52.020, 5.56.010, 5.56.050, 5.56.060, 5.56.090, 6.23.040,
2 6.23.110, 6.25.030, 6.25.040, 6.32.030, 6.32.040, 6.32.050, 6.32.060,
3 6.32.070, 6.32.080, 6.32.090, 6.32.110, 6.32.140, 6.32.160, 6.32.170,
4 6.32.180, 6.32.190, 6.32.200, 6.36.160, 7.06.050, 7.16.180, 7.16.210,
5 7.16.260, 7.16.310, 7.25.020, 7.28.010, 7.28.110, 7.28.120, 7.28.130,
6 7.28.140, 7.28.150, 7.28.160, 7.28.180, 7.28.210, 7.28.230, 7.28.240,
7 7.28.250, 7.28.260, 7.28.270, 7.28.280, 7.36.010, 7.36.030, 7.36.050,
8 7.36.060, 7.36.070, 7.36.080, 7.36.090, 7.36.100, 7.36.190, 7.40.020,
9 7.40.090, 7.40.100, 7.40.110, 7.40.120, 7.40.130, 7.40.150, 7.40.160,
10 7.40.170, 7.42.020, 7.42.060, 7.44.010, 7.44.020, 7.44.021, 7.44.030,
11 7.44.031, 7.48.030, 7.48.040, 7.48.058, 7.48.076, 7.48.078, 7.48.085,
12 7.48.100, 7.48.110, 7.48.210, 7.48.230, 7.48.270, 7.52.030, 7.52.060,
13 7.52.120, 7.52.160, 7.52.180, 7.52.190, 7.52.200, 7.52.290, 7.52.390,
14 7.52.410, 7.52.430, 7.52.440, 7.52.450, 7.52.460, 7.52.470, 7.56.010,
15 7.56.020, 7.56.040, 7.56.060, 7.56.070, 7.56.090, 7.56.100, 7.56.130,
16 7.56.140, 7.56.150, 7.68.035, 7.68.050, 7.68.200, 7.68.240, 7.70.030,
17 7.70.040, 7.70.050, 8.04.090, 8.04.094, 8.04.140, 8.04.150, 8.04.170,
18 8.08.060, 8.08.080, 8.12.120, 8.12.200, 8.12.260, 8.12.270, 8.12.360,
19 8.12.370, 8.12.380, 8.12.430, 8.12.440, 8.12.450, 8.12.490, 8.12.500,
20 8.16.020, 8.16.060, 8.16.110, 8.16.130, 8.16.150, 8.20.010, 8.20.110,
21 8.20.120, 8.26.020, 8.26.085, 8.26.180, 8.26.190, 8.28.010, 9.01.110,
22 9.03.020, 9.03.040, 9.04.080, 9.16.060, 9.16.100, 9.16.110, 9.16.120,
23 9.16.130, 9.16.140, 9.18.080, 9.38.010, 9.44.080, 9.45.060, 9.45.080,
24 9.45.090, 9.45.100, 9.46.050, 9.46.130, 9.46.200, 9.46.250, 9.47.100,
25 9.47A.040, 9.51.020, 9.51.040, 9.51.050, 9.51.060, 9.54.130, 9.55.020,
26 9.61.190, 9.61.200, 9.61.240, 9.62.020, 9.68.070, 9.68.080, 9.68.090,
27 9.68.110, 9.68.130, 9.73.010, 9.73.060, 9.73.090, 9.73.130, 9.73.140,
28 9.81.090, 9.91.010, 9.92.062, 9.92.080, 9.92.110, 9.92.120, 9.94A.010,
29 9.94A.880, 9.95.003, 9.95.007, 9.95.030, 9.95.063, 9.95.200, 9.95.330,
30 9.96.010, 9.96.020, 9.96.030, 9.98.010, 9.100.070, 9A.04.050,
31 9A.04.070, 9A.04.100, 9A.04.110, 9A.08.020, 9A.08.030, 9A.12.010,
32 9A.16.050, 9A.16.090, 9A.28.030, 9A.32.060, 9A.32.070, 9A.36.031,
33 9A.36.060, 9A.36.070, 9A.36.090, 9A.40.010, 9A.40.020, 9A.40.040,
34 9A.48.030, 9A.48.040, 9A.48.050, 9A.52.010, 9A.52.030, 9A.52.060,
35 9A.52.070, 9A.52.080, 9A.52.090, 9A.52.095, 9A.52.100, 9A.56.120,
36 9A.56.180, 9A.56.190, 9A.56.210, 9A.60.010, 9A.60.020, 9A.60.030,
37 9A.60.050, 9A.64.010, 9A.68.010, 9A.68.020, 9A.68.030, 9A.68.040,
38 9A.68.050, 9A.72.020, 9A.72.040, 9A.72.060, 9A.72.080, 9A.72.130,

1	9A.72.140,	9A.72.150,	9A.76.030,	9A.76.040,	9A.76.050,	9A.76.090,
2	9A.76.100,	9A.76.130,	9A.76.140,	9A.76.150,	9A.76.160,	9A.76.180,
3	9A.80.010,	9A.83.040,	9A.84.020,	9A.84.040,	9A.88.060,	9A.88.080,
4	9A.88.090,	15.66.150,	15.80.420,	15.115.270,	16.04.020,	16.24.120,
5	16.24.180,	16.50.110,	16.50.120,	16.50.130,	16.52.110,	16.54.020,
6	16.60.020,	16.60.050,	16.60.060,	16.60.075,	16.60.080,	16.60.085,
7	16.60.090,	16.65.130,	16.65.330,	16.65.410,	16.67.090,	16.67.160,
8	16.68.010,	16.68.030,	16.68.080,	16.68.100,	16.68.110,	16.68.130,
9	16.68.140,	16.70.030,	17.04.070,	17.04.150,	17.04.190,	17.04.200,
10	17.04.210,	17.04.230,	17.04.280,	17.06.040,	17.06.050,	17.06.060,
11	17.10.280,	17.10.290,	17.12.060,	17.12.080,	17.21.170,	17.24.210,
12	17.28.030,	17.28.070,	17.28.090,	17.28.120,	17.28.130,	17.28.250,
13	17.28.258,	17.28.310,	17.28.430,	17.34.040,	17.34.050,	17.34.060,
14	18.27.080,	18.27.100,	18.28.210,	18.32.020,	18.32.735,	18.34.010,
15	18.43.010,	18.43.030,	18.43.070,	18.43.120,	18.44.500,	18.44.901,
16	18.51.060,	18.51.200,	18.52.040,	18.54.030,	18.54.040,	18.54.050,
17	18.59.120,	18.64.001,	18.64.050,	18.64.255,	18.71.011,	18.71.220,
18	18.74.125,	18.92.115,	18.92.150,	18.96.040,	18.100.070,	18.100.140,
19	18.106.030,	18.106.080,	18.106.130,	18.106.140,	19.09.230,	19.16.140,
20	19.16.150,	19.16.160,	19.16.170,	19.16.180,	19.16.190,	19.16.200,
21	19.16.210,	19.16.220,	19.16.230,	19.16.245,	19.16.260,	19.16.270,
22	19.16.280,	19.16.290,	19.16.300,	19.16.340,	19.16.430,	19.16.470,
23	19.28.311,	19.29.010,	19.31.020,	19.31.080,	19.31.090,	19.31.170,
24	19.31.180,	19.31.190,	19.31.210,	19.31.220,	19.31.240,	19.36.010,
25	19.48.070,	19.52.010,	19.64.010,	19.64.020,	19.68.030,	19.72.070,
26	19.72.090,	19.72.101,	19.72.130,	19.72.160,	19.77.030,	19.77.130,
27	19.83.020,	19.83.040,	19.84.030,	19.86.100,	19.86.110,	19.100.050,
28	19.100.120,	19.100.130,	19.100.160,	19.100.180,	19.100.190,	19.100.230,
29	19.100.250,	19.105.490,	19.120.090,	20.01.010,	20.01.020,	20.01.030,
30	20.01.100,	20.01.110,	20.01.120,	20.01.150,	20.01.170,	20.01.180,
31	20.01.190,	20.01.212,	20.01.240,	20.01.250,	20.01.260,	20.01.280,
32	20.01.310,	20.01.330,	20.01.340,	20.01.350,	20.01.390,	20.01.440,
33	20.01.510,	20.01.520,	20.01.530,	20.01.540,	20.01.550,	21.20.005,
34	21.20.050,	21.20.520,	21.30.090,	22.09.011,	22.09.020,	22.09.040,
35	22.09.045,	22.09.050,	22.09.055,	22.09.090,	22.09.100,	22.09.110,
36	22.09.130,	22.09.140,	22.09.150,	22.09.160,	22.09.170,	22.09.175,
37	22.09.180,	22.09.190,	22.09.230,	22.09.240,	22.09.250,	22.09.260,
38	22.09.290,	22.09.300,	22.09.320,	22.09.340,	22.09.345,	22.09.350,

1 22.09.361, 22.09.371, 22.09.381, 22.09.391, 22.09.416, 22.09.436,
2 22.09.441, 22.09.446, 22.09.451, 22.09.466, 22.09.471, 22.09.570,
3 22.09.580, 22.09.590, 22.09.600, 22.09.610, 22.09.615, 22.09.620,
4 22.09.660, 22.09.780, 22.09.790, 22.09.800, 22.09.810, 22.09.820,
5 22.09.860, 22.28.020, 22.28.040, 22.32.020, 22.32.030, 23.86.085,
6 24.03.105, 24.03.115, 24.03.230, 24.03.350, 24.03.415, 24.06.025,
7 24.06.055, 24.06.070, 24.06.080, 24.06.085, 24.06.130, 24.06.135,
8 24.06.145, 24.06.160, 24.06.470, 24.06.475, 24.12.010, 24.12.030,
9 24.28.040, 24.34.010, 24.34.020, 24.36.160, 24.36.170, 24.36.260,
10 24.36.270, 24.36.290, 24.36.440, 24.36.460, 25.12.060, 26.04.100,
11 26.04.150, 26.04.190, 26.04.220, 26.04.240, 26.04.250, 26.09.140,
12 26.09.270, 26.12.040, 26.26.134, 26.28.030, 26.28.040, 26.28.050,
13 26.28.070, 26.30.020, 26.40.080, 27.12.080, 27.12.160, 27.12.180,
14 27.12.210, 27.12.240, 27.18.030, 27.24.020, 27.40.034, 28A.320.430,
15 28B.10.310, 28B.10.510, 28B.10.520, 28B.10.528, 28B.10.567, 28B.10.844,
16 28B.14D.090, 28B.14G.080, 28B.20.105, 28B.20.110, 28B.20.328,
17 28B.20.456, 28B.30.125, 28B.30.130, 28B.30.135, 28B.30.325, 28B.31.090,
18 28B.35.105, 28B.35.110, 28B.35.120, 28B.35.230, 28B.35.310, 28B.35.730,
19 28B.40.105, 28B.40.110, 28B.40.120, 28B.40.195, 28B.40.230, 28B.40.310,
20 28B.50.060, 28B.50.100, 28B.50.350, 28B.50.856, 28B.50.860, 28B.50.863,
21 30.04.140, 30.04.300, 30.08.150, 30.22.040, 30.22.150, 30.49.050,
22 31.20.050, 32.12.120, 32.16.010, 32.16.012, 32.16.130, 32.32.025,
23 32.32.045, 33.16.020, 33.16.050, 33.16.090, 33.20.010, 33.20.040,
24 34.05.010, 34.12.060, 34.12.140, 37.12.021, 37.16.180, 38.24.050,
25 38.32.030, 38.38.328, 38.38.548, 38.38.552, 38.38.556, 38.38.580,
26 38.38.628, 38.38.632, 38.38.648, 38.38.664, 38.38.668, 38.38.676,
27 38.38.680, 38.38.692, 38.38.696, 38.38.704, 38.38.724, 38.38.732,
28 38.38.740, 38.38.764, 38.38.880, 38.52.040, 38.52.140, 38.52.180,
29 38.52.190, 38.52.195, 38.52.200, 38.52.220, 38.52.230, 38.52.260,
30 38.52.350, 38.52.380, 38.52.400, 38.52.920, 39.04.080, 39.04.120,
31 39.08.065, 39.34.150, 39.40.030, 39.44.102, 39.44.110, 39.44.120,
32 39.56.030, 39.62.020, 39.64.080, 39.72.020, 39.84.100, 39.88.020,
33 40.10.010, 40.14.030, 40.14.040, 40.14.110, 40.14.130, 40.14.140,
34 60.60.010, 62A.2-705, 62A.2A-526, 62A.7-102, 62A.7-201, 62A.7-202,
35 62A.7-204, 62A.7-205, 62A.7-206, 62A.7-207, 62A.7-209, 62A.7-210,
36 62A.7-401, 62A.7-403, 69.25.150, 69.41.030, 69.43.135, 69.50.302, and
37 70.74.300; and reenacting and amending RCW 19.16.250.

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

2 **Sec. 1.** RCW 1.08.007 and 2005 c 409 s 3 are each amended to read
3 as follows:

4 The committee shall from time to time elect a ((~~chairman~~)) chair
5 from among its members and adopt rules to govern its procedures. Four
6 members of the committee shall constitute a quorum for the transaction
7 of any business but no proceeding of the committee shall be valid
8 unless carried by the vote of a majority of the members present. The
9 code reviser or a member of his or her staff shall act as secretary of
10 the committee.

11 **Sec. 2.** RCW 1.08.016 and 1953 c 257 s 5 are each amended to read
12 as follows:

13 The committee may at any time by order correct any section or
14 portion of the code in any of the respects enumerated in RCW 1.08.015.
15 Orders shall be numbered consecutively and signed by the committee
16 ((~~chairman~~)) chair and each order shall be followed by an explanatory
17 note reciting the reason therefor.

18 Unless otherwise prescribed in the orders, each shall become
19 effective ninety days after:

- 20 (1) Signing of the order; and
- 21 (2) Filing a summary thereof with the board of governors of the
22 state bar association; and
- 23 (3) The filing thereof with the secretary of state.

24 **Sec. 3.** RCW 1.08.026 and 1959 c 95 s 4 are each amended to read as
25 follows:

26 The committee also shall examine the revised code and from time to
27 time submit to the legislature proposals for enactment of the several
28 titles, chapters and sections thereof, to the end that, as
29 expeditiously as possible, the revised code, and each part thereof,
30 shall constitute conclusive, rather than prima facie evidence of the
31 law. Each such proposal shall be accompanied by explanatory matter.
32 The committee may hold hearings concerning any such proposal or
33 concerning recommendations formulated or to be formulated in accordance
34 with RCW 1.08.025. Proposals or recommendations approved by the

1 committee shall be submitted to the ((~~chairman~~)) chair of the house or
2 senate judiciary committee at the commencement of the next succeeding
3 session of the legislature.

4 **Sec. 4.** RCW 1.08.028 and 1955 c 235 s 4 are each amended to read
5 as follows:

6 Neither the reviser nor any member of his or her staff shall be
7 required to furnish any written opinion as to the validity or
8 constitutionality of any proposed legislation, which he or she may be
9 requested to draft or prepare, nor shall any member of the committee be
10 required to pass upon the constitutionality of any matter submitted to
11 it for consideration.

12 **Sec. 5.** RCW 1.08.033 and 1955 c 235 s 5 are each amended to read
13 as follows:

14 The department of public institutions shall provide suitable office
15 and storage space and facilities for the reviser and his or her staff
16 at Olympia, at a location convenient to the legislature and to the
17 state law library.

18 **Sec. 6.** RCW 1.08.037 and 1955 c 235 s 6 are each amended to read
19 as follows:

20 The committee shall from time to time formulate specifications
21 relative to the format, size and style of type, paper stock, number of
22 volumes, method and quality of binding, contents, indexing, and general
23 scope and character of footnotes, and annotations, if any, for any
24 publication for general use of the revised code and supplements
25 thereto. No such publication or the contents thereof, other than such
26 temporary edition as may expressly be authorized by the legislature,
27 shall be received as evidence of the laws of this state unless it
28 complies with such specifications of the committee as are current at
29 the time of publication, including compliance with the section
30 numbering adopted by the reviser under supervision of the statute law
31 committee. If a publication complies with such specifications, the
32 committee shall furnish a certificate of such compliance, executed on
33 behalf of the committee by its ((~~chairman~~)) chair, to the publisher,
34 and the certificate shall be reproduced at the beginning of each such
35 volume or supplement.

1 Upon request of any publisher in good faith interested in
2 publishing said code, the committee shall furnish a copy of its current
3 specifications and shall not during the process of any bona fide
4 publication of said code or supplements modify any such specifications,
5 if such modification would result in added expense or material
6 inconvenience to the publisher, without written concurrence therein by
7 such publisher.

8 **Sec. 7.** RCW 1.20.010 and 1967 ex.s. c 65 s 2 are each amended to
9 read as follows:

10 The official flag of the state of Washington shall be of dark green
11 silk or bunting and shall bear in its center a reproduction of the seal
12 of the state of Washington embroidered, printed, painted or stamped
13 thereon. The edges of the flag may, or may not, be fringed. If a
14 fringe is used the same shall be of gold or yellow color of the same
15 shade as the seal. The dimensions of the flag may vary.

16 The secretary of state is authorized to provide the state flag to
17 units of the armed forces, without charge therefor, as in his or her
18 discretion he or she deems entitled thereto. The secretary of state is
19 further authorized to sell the state flag to any citizen at a price to
20 be determined by the secretary of state.

21 **Sec. 8.** RCW 2.04.010 and 1890 p 322 s 6 are each amended to read
22 as follows:

23 The supreme court shall have original jurisdiction in habeas corpus
24 and quo warranto and mandamus as to all state officers, and appellate
25 jurisdiction in all actions and proceedings excepting that its
26 appellate jurisdiction shall not extend to civil actions at law for the
27 recovery of money or personal property when the original amount in
28 controversy or the value of the property does not exceed the sum of two
29 hundred dollars, unless the action involves the legality of a tax,
30 impost, assessment, toll, municipal fine, or the validity of a statute.
31 The supreme court shall also have power to issue writs of mandamus,
32 review, prohibition, habeas corpus, certiorari, and all other writs
33 necessary and proper to the complete exercise of its appellate and
34 revisory jurisdiction. Each of the judges shall have power to issue
35 writs of habeas corpus to any part of the state, upon petition by or on

1 behalf of any person held in actual custody, and may make such writs
2 returnable before himself or herself, or before the supreme court, or
3 before any superior court of the state, or any judge thereof.

4 **Sec. 9.** RCW 2.04.031 and 1973 c 106 s 1 are each amended to read
5 as follows:

6 If proper rooms in which to hold the court, and for the
7 accommodation of the officers thereof, are not provided by the state,
8 together with attendants, furniture, fuel, lights, record books and
9 stationery, suitable and sufficient for the transaction of business,
10 the court, or any three justices thereof, may direct the clerk of the
11 supreme court to provide the same; and the expense thereof, certified
12 by any three justices to be correct, shall be paid out of the state
13 treasury out of any funds therein not otherwise appropriated. Such
14 moneys shall be subject to the order of the clerk of the supreme court,
15 and be by him or her disbursed on proper vouchers, and accounted for by
16 him or her in annual settlements with the governor.

17 **Sec. 10.** RCW 2.04.150 and 1909 c 24 s 4 are each amended to read
18 as follows:

19 The chief justice shall from time to time apportion the business to
20 the departments, and may, in his or her discretion, before a decision
21 is pronounced, order any cause pending before the court to be heard and
22 determined by the court en banc. When a cause has been allotted to one
23 of the departments and a decision pronounced therein, the chief
24 justice, together with any two associate judges, may order such cause
25 to be heard and decided by the court en banc. Any four judges may,
26 either before or after decision by a department, order a cause to be
27 heard en banc.

28 **Sec. 11.** RCW 2.06.050 and 1969 ex.s. c 221 s 5 are each amended to
29 read as follows:

30 A judge of the court shall be:

31 (1) Admitted to the practice of law in the courts of this state not
32 less than five years prior to taking office.

33 (2) A resident for not less than one year at the time of
34 appointment or initial election in the district for which his or her
35 position was created.

1 **Sec. 12.** RCW 2.06.090 and 1969 ex.s. c 221 s 9 are each amended to
2 read as follows:

3 No judge, while in office, shall engage in the practice of law. No
4 judge shall run for elective office other than a judicial office during
5 the term for which he or she was elected.

6 **Sec. 13.** RCW 2.08.080 and 1971 c 81 s 5 are each amended to read
7 as follows:

8 Every judge of a superior court shall, before entering upon the
9 duties of his or her office, take and subscribe an oath that he or she
10 will support the Constitution of the United States and the Constitution
11 of the state of Washington, and will faithfully and impartially
12 discharge the duties of judge to the best of his or her ability, which
13 oath shall be filed in the office of the secretary of state. Such oath
14 or affirmation to be in form substantially the same as prescribed for
15 justices of the supreme court.

16 **Sec. 14.** RCW 2.08.115 and 1975-'76 2nd ex.s. c 34 s 1 are each
17 amended to read as follows:

18 Whenever a judge of the superior court shall serve a district
19 comprising more than one county, such judge shall be reimbursed for
20 travel expenses in connection with business of the court in accordance
21 with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended
22 for travel from his or her residence to the other county or counties in
23 his or her district and return.

24 **Sec. 15.** RCW 2.08.140 and 1893 c 43 s 1 are each amended to read
25 as follows:

26 Whenever a judge of the superior court of any county in this state,
27 or a majority of such judges in any county in which there is more than
28 one judge of said court, shall request the governor of the state to
29 direct a judge of the superior court of any other county to hold a
30 session of the superior court of any such county as is first herein
31 above mentioned, the governor shall thereupon request and direct a
32 judge of the superior court of some other county, making such selection
33 as the governor shall deem to be most consistent with the state of
34 judicial business in other counties, to hold a session of the superior
35 court in the county the judge shall have requested the governor as

1 aforesaid. Such request and direction by the governor shall be made in
2 writing, and shall specify the county in which he or she directs the
3 superior judge to whom the same is addressed to hold such session of
4 the superior court, and the period during which he or she is to hold
5 such session. Thereupon it shall be the duty of the superior judge so
6 requested, and he or she is hereby empowered to hold a session of the
7 superior court of the county specified by the governor, at the seat of
8 judicial business thereof, during the period specified by the governor,
9 and in such quarters as the county commissioners of said county may
10 provide for the holding of such session.

11 **Sec. 16.** RCW 2.08.150 and 1893 c 43 s 2 are each amended to read
12 as follows:

13 Whenever a like request shall be addressed by the judge, or by a
14 majority of the judges (if there be more than one) of the superior
15 court of any county to the superior judge of any other county, he or
16 she is hereby empowered, if he or she deem it consistent with the state
17 of judicial business in the county or counties whereof he or she is a
18 superior judge (and in such case it shall be his or her duty to comply
19 with such request), to hold a session of the superior court of the
20 county the judge or judges whereof shall have made such request, at the
21 seat of judicial business of such county, in such quarters as shall be
22 provided for such session by the board of county commissioners, and
23 during such period as shall have been specified in the request, or such
24 shorter period as he or she may deem necessary by the state of judicial
25 business in the county or counties whereof he or she is a superior
26 judge.

27 **Sec. 17.** RCW 2.08.170 and 1981 c 186 s 3 are each amended to read
28 as follows:

29 Any judge of the superior court of any county in this state who
30 shall hold a session of the superior court of any other county, in
31 pursuance of the provisions of RCW 2.08.140 through 2.08.170 shall be
32 entitled to receive from the county in which he or she shall hold such
33 sessions reimbursement for subsistence, lodging, and travel expenses in
34 accordance with the rates applicable to state officers under RCW
35 43.03.050 and 43.03.060 as now or hereafter amended. The county clerk
36 of such county shall, upon the presentation to him or her by such judge

1 of a statement of such expenses, verified by his or her affidavit,
2 issue to such judge a certificate that he or she is entitled to the
3 amount thereof; and upon presentation of such certificate to the
4 auditor of such county he or she shall draw a warrant on the current
5 expense fund of such county for the amount in favor of such judge.

6 **Sec. 18.** RCW 2.08.190 and 1901 c 57 s 1 are each amended to read
7 as follows:

8 Any judge of the superior court of the state of Washington shall
9 have power, in any county within his or her district: (1) To sign all
10 necessary orders and papers in probate matters pending in any other
11 county in his or her district; (2) to issue restraining orders, and to
12 sign the necessary orders of continuance in actions or proceedings
13 pending in any other county in his or her district; (3) to decide and
14 rule upon all motions, demurrers, issues of fact, or other matters that
15 may have been submitted to him or her in any other county. All such
16 rulings and decisions shall be in writing and shall be filed
17 immediately with the clerk of the proper county: PROVIDED, That
18 nothing herein contained shall authorize the judge to hear any matter
19 outside of the county wherein the cause or proceeding is pending,
20 except by consent of the parties.

21 **Sec. 19.** RCW 2.08.200 and 1901 c 57 s 2 are each amended to read
22 as follows:

23 Any judge of the superior court of the state of Washington who
24 shall have heard any cause, either upon motion, demurrer, issue of
25 fact, or other matter in any county out of his or her district, may
26 decide, rule upon, and determine the same in any county in this state,
27 which decision, ruling, and determination shall be in writing and shall
28 be filed immediately with the clerk of the county where such cause is
29 pending.

30 **Sec. 20.** RCW 2.08.220 and 1891 c 45 s 5 are each amended to read
31 as follows:

32 Unless otherwise provided by statute, all process issuing out of
33 the court shall be directed to the sheriff of the county in which it is
34 to be served, and be by him or her executed according to law.

1 **Sec. 21.** RCW 2.08.240 and 1890 p 344 s 12 are each amended to read
2 as follows:

3 Every case submitted to a judge of a superior court for his or her
4 decision shall be decided by him or her within ninety days from the
5 submission thereof: PROVIDED, That if within said period of ninety
6 days a rehearing shall have been ordered, then the period within which
7 he or she is to decide shall commence at the time the cause is
8 submitted upon such rehearing, and upon (~~willful~~) willful failure of
9 any such judge so to do, he or she shall be deemed to have forfeited
10 his or her office.

11 **Sec. 22.** RCW 2.10.070 and 1971 ex.s. c 267 s 7 are each amended to
12 read as follows:

13 The retirement board shall perform the following duties:

14 (1) Keep in convenient form such data as shall be deemed necessary
15 for actuarial evaluation purposes;

16 (2) As of July 1st of every even-numbered year have an actuarial
17 evaluation made as to the mortality and service experience of the
18 beneficiaries under this chapter and the various accounts created for
19 the purpose of showing the financial status of the retirement fund;

20 (3) Adopt for the retirement system the mortality tables and such
21 other tables as shall be deemed necessary;

22 (4) Keep a record of its proceedings, which shall be open to
23 inspection by the public;

24 (5) Serve without compensation but shall be reimbursed for expense
25 incident to service as individual members thereof;

26 (6) From time to time adopt such rules and regulations not
27 inconsistent with this chapter for the administration of this chapter
28 and for the transaction of the business of the board.

29 No member of the board shall be liable for the negligence, default,
30 or failure of any employee or of any member of the board to perform the
31 duties of his or her office and no member of the board shall be
32 considered or held to be an insurer of the funds or assets of the
33 retirement system, but shall be liable only for his or her own personal
34 default or individual failure to perform his or her duties as such
35 member and to exercise reasonable diligence in providing for
36 safeguarding of the funds and assets of the system.

1 **Sec. 23.** RCW 2.10.090 and 1971 ex.s. c 267 s 9 are each amended to
2 read as follows:

3 The total liability, as determined by the actuary, of this system
4 shall be funded as follows:

5 (1) Every judge shall have deducted from his or her monthly salary
6 an amount equal to seven and one-half percent of said salary.

7 (2) The state as employer shall contribute an equal amount on a
8 quarterly basis.

9 (3) The state shall in addition guarantee the solvency of said fund
10 and the legislature shall make biennial appropriations from the general
11 fund of amounts sufficient to guarantee the making of retirement
12 payments as herein provided for if the money in the judicial retirement
13 fund shall become insufficient for that purpose, but such biennial
14 appropriation may be conditioned that sums appropriated may not be
15 expended unless the money in the judicial retirement fund shall become
16 insufficient to meet the retirement payments.

17 **Sec. 24.** RCW 2.10.110 and 1971 ex.s. c 267 s 11 are each amended
18 to read as follows:

19 A member upon retirement for service shall receive a monthly
20 retirement allowance computed according to his or her completed years
21 of service, as follows: Ten years, but less than fifteen years, three
22 percent of his or her final average salary for each year of service;
23 fifteen years and over, three and one-half percent of his or her final
24 average salary for each year of service: PROVIDED, That in no case
25 shall any retired member receive more than seventy-five percent of his
26 or her final salary except as increased as a result of the cost of
27 living increases as provided by this chapter.

28 **Sec. 25.** RCW 2.10.120 and 1982 c 18 s 1 are each amended to read
29 as follows:

30 (1) Any judge who has served as a judge for a period of ten or more
31 years, and who shall believe he or she has become physically or
32 otherwise permanently incapacitated for the full and efficient
33 performance of the duties of his or her office, may file with the
34 retirement board an application in writing, asking for retirement.
35 Upon receipt of such application the retirement board shall appoint one
36 or more physicians of skill and repute, duly licensed to practice their

1 professions in the state of Washington, who shall, within fifteen days
2 thereafter, for such compensation as may be fixed by the board, to be
3 paid out of the fund herein created, examine said judge and report in
4 writing to the board their findings in the matter. If the physicians
5 appointed by the board find the judge to be so disabled and the
6 retirement board concurs in this finding the judge shall be retired.

7 (2) The retirement for disability of a judge, who has served as a
8 judge for a period of ten or more years, by the supreme court under
9 Article IV, section 31 of the Constitution of the state of Washington
10 (House Joint Resolution No. 37, approved by the voters November 4,
11 1980), with the concurrence of the retirement board, shall be
12 considered a retirement under subsection (1) of this section.

13 **Sec. 26.** RCW 2.10.130 and 1971 ex.s. c 267 s 13 are each amended
14 to read as follows:

15 Upon a judge being retired for disability as provided in RCW
16 2.10.120, he or she shall receive from the fund an amount equal to one-
17 half of his or her final average salary.

18 **Sec. 27.** RCW 2.10.140 and 1988 c 109 s 7 are each amended to read
19 as follows:

20 (1) A surviving spouse of any judge holding such office, or if he
21 or she dies after having retired and who, at the time of his or her
22 death, has served ten or more years in the aggregate, shall receive a
23 monthly allowance equal to fifty percent of the retirement allowance
24 the retired judge was receiving, or fifty percent of the retirement
25 allowance the active judge would have received had he or she been
26 retired on the date of his or her death, but in no event less than
27 twenty-five percent of the final average salary that the deceased judge
28 was receiving: PROVIDED, That said surviving spouse had been married
29 to the judge for a minimum of two years at time of death.

30 (2) A judge holding office on July 1, 1988, may make an irrevocable
31 choice to relinquish the survivor benefits provided by this section in
32 exchange for the survivor benefits provided by RCW 2.10.144 and
33 2.10.146 by indicating the choice in a written declaration submitted to
34 the department of retirement systems by December 31, 1988.

35 (3) The surviving spouse of any judge who died in office after

1 January 1, 1986, but before July 1, 1988, may elect to receive the
2 survivor benefit provided in RCW 2.10.144(1).

3 **Sec. 28.** RCW 2.10.220 and 1980 c 7 s 1 are each amended to read as
4 follows:

5 (1) Any member of the Washington public employees' retirement
6 system who is eligible to participate in the judicial retirement system
7 may, by written request filed with the retirement boards of the two
8 systems respectively, transfer such membership to the judicial
9 retirement system. Upon the receipt of such request, the board of the
10 Washington public employees' retirement system shall transfer to the
11 board of the Washington judicial retirement system (a) all employee's
12 contributions and interest thereon belonging to such member in the
13 employees' savings fund and all employer's contributions credited or
14 attributed to such member in the benefit account fund and (b) a record
15 of service credited to such member. One-half of such service shall be
16 computed and not more than nine years shall be credited to such member
17 as though such service was performed as a member of the judicial
18 retirement system. Upon such transfer being made the state treasurer
19 shall deposit such moneys in the judicial retirement fund. In the
20 event that any such member should terminate judicial service prior to
21 his or her entitlement to retirement benefits under any of the
22 provisions of this chapter, he or she shall upon request therefor be
23 repaid from the judicial retirement fund an amount equal to the amount
24 of his or her employee's contributions to the Washington public
25 employees' retirement system and interest plus interest thereon from
26 the date of the transfer of such moneys.

27 (2) Any member of the judicial retirement system who was formerly
28 a member of the Washington public employees' retirement system with
29 membership service credit of not less than six years but who has
30 terminated his or her membership therein under the provisions of
31 chapter 41.40 RCW, may reinstate his or her membership in the
32 Washington public employees' retirement system, for the sole purpose of
33 qualifying for a transfer of membership in the judicial retirement
34 system in accordance with subsection (1) (~~above~~) of this section by
35 making full restoration of all withdrawn funds to the employees'
36 savings fund prior to July 1, 1980. Upon reinstatement in accordance
37 with this subsection, the provisions of subsection (1) of this section

1 and the provisions of RCW 41.40.023(3) shall then be applicable to the
2 reinstated member in the same manner and to the same extent as they are
3 to the present members of the Washington public employees' retirement
4 system who are eligible to participate in the judicial retirement
5 system.

6 (3) Any member of the judicial retirement system who has served as
7 a judge for one or more years and who has rendered service for the
8 state of Washington, or any political subdivision thereof, prior to
9 October 1, 1947, or the time of the admission of the employer into the
10 Washington public employees' retirement system, may--upon his or her
11 payment into the judicial retirement fund of a sum equal to five
12 percent of his or her compensation earned for such prior public
13 service--request and shall be entitled to have one-half of such service
14 computed and not more than six years immediately credited to such
15 member as though such service had been performed as a member of the
16 judicial retirement system, provided that any such prior service so
17 credited shall not be claimed for any pension system other than a
18 judicial retirement system.

19 **Sec. 29.** RCW 2.12.010 and 1982 1st ex.s. c 52 s 2 are each amended
20 to read as follows:

21 Any judge of the supreme court, court of appeals, or superior court
22 of the state of Washington who heretofore and/or hereafter shall have
23 served as a judge of any such courts for eighteen years in the
24 aggregate or who shall have served ten years in the aggregate and shall
25 have attained the age of seventy years or more may, during or at the
26 expiration of his or her term of office, in accordance with the
27 provisions of this chapter, be retired and receive the retirement pay
28 herein provided for. In computing such term of service, there shall be
29 counted the time spent by such judge in active service in the armed
30 forces of the United States of America, under leave of absence from his
31 or her judicial duties as provided for under chapter 201, Laws of 1941:
32 PROVIDED, HOWEVER, That in computing such credit for such service in
33 the armed forces of the United States of America no allowance shall be
34 made for service beyond the date of the expiration of the term for
35 which such judge was elected. Any judge desiring to retire under the
36 provisions of this section shall file with the director of retirement
37 systems, a notice in duplicate in writing, verified by his or her

1 affidavit, fixing a date when he or she desires his or her retirement
2 to commence, one copy of which the director shall forthwith file with
3 the administrator for the courts. The notice shall state his or her
4 name, the court or courts of which he or she has served as judge, the
5 period of service thereon and the dates of such service.

6 **Sec. 30.** RCW 2.12.012 and 1971 c 30 s 2 are each amended to read
7 as follows:

8 Any judge of the supreme court, court of appeals, or superior court
9 of this state who shall leave judicial service at any time after having
10 served as a judge of any of such courts for an aggregate of twelve
11 years shall be eligible to a partial retirement pension in a percentage
12 of the pension provided in this chapter as determined by the proportion
13 his or her years of judicial service bears to eighteen and shall
14 receive the same upon attainment of age seventy, or eighteen years
15 after the commencement of such judicial service, whichever shall occur
16 first.

17 **Sec. 31.** RCW 2.12.015 and 1971 c 30 s 3 are each amended to read
18 as follows:

19 In the event any judge of the supreme court, court of appeals, or
20 superior court of the state serves more than eighteen years in the
21 aggregate as computed under RCW 2.12.010, he or she shall receive in
22 addition to any other pension benefits to which he or she may be
23 entitled under this chapter, an additional pension benefit based upon
24 one-eighteenth of his or her salary for each year of full service after
25 eighteen years, provided his or her total pension shall not exceed
26 seventy-five percent of the monthly salary he or she was receiving as
27 a judge at the time of his or her retirement.

28 **Sec. 32.** RCW 2.12.020 and 1982 1st ex.s. c 52 s 3 are each amended
29 to read as follows:

30 (1) Any judge of the supreme court, court of appeals, or superior
31 court of the state of Washington, who heretofore and/or hereafter shall
32 have served as a judge of any such courts for a period of ten years in
33 the aggregate, and who shall believe he or she has become physically or
34 otherwise permanently incapacitated for the full and efficient
35 performance of the duties of his or her office, may file with the

1 director of retirement systems an application in duplicate in writing,
2 asking for retirement, which application shall be signed and verified
3 by the affidavit of the applicant or by someone in his or her behalf
4 and which shall set forth his or her name, the office then held, the
5 court or courts of which he or she has served as judge, the period of
6 service thereon, the dates of such service and the reasons why he or
7 she believes himself or herself to be, or why they believe him or her
8 to be incapacitated. Upon filing of such application the director
9 shall forthwith transmit a copy thereof to the governor who shall
10 appoint three physicians of skill and repute, duly licensed to practice
11 their professions in the state of Washington, who shall, within fifteen
12 days thereafter, for such compensation as may be fixed by the governor,
13 to be paid out of the fund hereinafter created, examine said judge and
14 report, in writing, to the governor their findings in the matter. If
15 a majority of such physicians shall report that in their opinion said
16 judge has become permanently incapacitated for the full and efficient
17 performance of the duties of his or her office, and if the governor
18 shall approve such report, he or she shall file the report, with his or
19 her approval endorsed thereon, in the office of the director and a
20 duplicate copy thereof with the administrator for the courts, and from
21 the date of such filing the applicant shall be deemed to have retired
22 from office and be entitled to the benefits of this chapter to the same
23 extent as if he or she had retired under the provisions of RCW
24 2.12.010.

25 (2) The retirement for disability of a judge, who has served as a
26 judge of the supreme court, court of appeals, or superior court of the
27 state of Washington for a period of ten years in the aggregate, by the
28 supreme court under Article IV, section 31 of the Constitution of the
29 state of Washington (House Joint Resolution No. 37, approved by the
30 voters November 4, 1980), with the concurrence of the retirement board,
31 shall be considered a retirement under subsection (1) of this section.

32 **Sec. 33.** RCW 2.12.035 and 1971 c 81 s 7 are each amended to read
33 as follows:

34 The retirement pay or pension of any justice of the supreme or
35 judge of any superior court of the state who was in office on August 6,
36 1965, and who retired prior to December 1, 1968, or who would have been
37 eligible to retire at the time of death prior to December 1, 1968,

1 shall be based, effective December 1, 1968, upon the annual salary
2 which was being prescribed by the statute in effect for the office of
3 justice of the supreme court or for the office of judge of the superior
4 court, respectively, at the time of his or her retirement or at the end
5 of the term immediately prior to his or her retirement if his or her
6 retirement was made after expiration of his or her term or at the time
7 of his or her death if he or she died prior to retirement. The widow's
8 benefit for the widow of any such justice or judge as provided for in
9 RCW 2.12.030 shall be based, effective December 1, 1968, upon such
10 retirement pay.

11 **Sec. 34.** RCW 2.12.037 and 1970 ex.s. c 96 s 1 are each amended to
12 read as follows:

13 (1) "Index" for the purposes of this section, shall mean, for any
14 calendar year, that year's annual average consumer price index for
15 urban wage earners and clerical workers, all items (1957-1959 equal one
16 hundred) compiled by the bureau of labor statistics, United States
17 department of labor;

18 (2) Effective July 1, 1970, every pension computed and payable
19 under the provisions of RCW 2.12.030 to any retired judge or to his or
20 her widow which does not exceed four hundred fifty dollars per month
21 shall be adjusted to that dollar amount which bears the ratio of its
22 original dollar amount which is found to exist between the index for
23 1969 and the index for the calendar year prior to the effective
24 retirement date of the person to whom, or on behalf of whom, such
25 retirement allowance is being paid.

26 **Sec. 35.** RCW 2.12.040 and 1955 c 38 s 6 are each amended to read
27 as follows:

28 If any retired judge shall accept an appointment or an election to
29 a judicial office, he or she shall be entitled to receive the full
30 salary pertaining thereto, and his or her retirement pay under this
31 chapter shall be suspended during such term of office and his or her
32 salary then received shall be subject to contribution to the judges'
33 retirement fund as provided in this chapter.

34 **Sec. 36.** RCW 2.12.060 and 1973 c 106 s 6 are each amended to read
35 as follows:

1 For the purpose of providing moneys in said judges' retirement
2 fund, concurrent monthly deductions from judges' salaries and portions
3 thereof payable from the state treasury and withdrawals from the
4 general fund of the state treasury shall be made as follows: Six and
5 one-half percent shall be deducted from the monthly salary of each
6 justice of the supreme court, six and one-half percent shall be
7 deducted from the monthly salary of each judge of the court of appeals,
8 and six and one-half percent of the total salaries of each judge of the
9 superior court shall be deducted from that portion of the salary of
10 such justices or judges payable from the state treasury; and a sum
11 equal to six and one-half percent of the combined salaries of the
12 justices of the supreme court, the judges of the court of appeals, and
13 the judges of the superior court shall be withdrawn from the general
14 fund of the state treasury. In consideration of the contributions made
15 by the judges and justices to the judges' retirement fund, the state
16 hereby undertakes to guarantee the solvency of said fund and the
17 legislature shall make biennial appropriations from the general fund of
18 amounts sufficient to guarantee the making of retirement payments as
19 herein provided for if the money in the judges' retirement fund shall
20 become insufficient for that purpose, but such biennial appropriation
21 may be conditioned that sums appropriated may not be expended unless
22 the money in the judges' retirement fund shall become insufficient to
23 meet the retirement payments. The deductions and withdrawals herein
24 directed shall be made on or before the tenth day of each month and
25 shall be based on the salaries of the next preceding calendar month.
26 The administrator for the courts shall issue warrants payable to the
27 treasurer to accomplish the deductions and withdrawals herein directed,
28 and shall issue the monthly salary warrants of the judges and justices
29 for the amount of salary payable from the state treasury after such
30 deductions have been made. The treasurer shall cash the warrants made
31 payable to him or her hereunder and place the proceeds thereof in the
32 judges' retirement fund for disbursement as authorized in this chapter.

33 **Sec. 37.** RCW 2.12.100 and 1970 ex.s. c 96 s 2 are each amended to
34 read as follows:

35 Any member of the Washington public employees' retirement system
36 who is eligible to participate in the judges' retirement system, may by
37 written request filed with the director and custodian of the two

1 systems respectively, transfer such membership to the judges'
2 retirement system. Upon the receipt of such request, the director of
3 the Washington public employees' retirement system shall transfer to
4 the state treasurer (1) all employees' contributions and interest
5 thereon belonging to such member in the employees' savings fund and all
6 employers' contributions credited or attributed to such member in the
7 benefit account fund and (2) a record of service credited to such
8 member. One-half of such service but not in excess of twelve years
9 shall be computed and credited to such member as though such service
10 was performed as a member of the judges' retirement system. Upon such
11 transfer being made the state treasurer shall deposit such moneys in
12 the judges' retirement fund. In the event that any such member should
13 terminate judicial service prior to his or her entitlement to
14 retirement benefits under any of the provisions of chapter 2.12 RCW, he
15 or she shall upon request therefor be repaid from the judges'
16 retirement fund an amount equal to the amount of his or her employees'
17 contributions to the Washington public employees' retirement system and
18 interest plus interest thereon from the date of the transfer of such
19 moneys: PROVIDED, HOWEVER, That this section shall not apply to any
20 person who is retired as a judge as of February 20, 1970.

21 **Sec. 38.** RCW 2.24.020 and 1909 c 124 s 5 are each amended to read
22 as follows:

23 Court commissioners appointed hereunder shall, before entering upon
24 the duties of such office, take and subscribe an oath to support the
25 Constitution of the United States, the Constitution of the state of
26 Washington, and to perform the duties of such office fairly and
27 impartially and to the best of his or her ability.

28 **Sec. 39.** RCW 2.28.030 and 1971 c 81 s 11 are each amended to read
29 as follows:

30 A judicial officer is a person authorized to act as a judge in a
31 court of justice. Such officer shall not act as such in a court of
32 which he or she is a member in any of the following cases:

33 (1) In an action, suit, or proceeding to which he or she is a
34 party, or in which he or she is directly interested.

35 (2) When he or she was not present and sitting as a member of the
36 court at the hearing of a matter submitted for its decision.

1 (3) When he or she is related to either party by consanguinity or
2 affinity within the third degree. The degree shall be ascertained and
3 computed by ascending from the judge to the common ancestor and
4 descending to the party, counting a degree for each person in both
5 lines, including the judge and party and excluding the common ancestor.

6 (4) When he or she has been attorney in the action, suit, or
7 proceeding in question for either party; but this section does not
8 apply to an application to change the place of trial, or the regulation
9 of the order of business in court.

10 In the cases specified in (~~subdivisions~~) subsections (3) and (4)
11 of this section, the disqualification may be waived by the parties, and
12 except in the supreme court and the court of appeals shall be deemed to
13 be waived unless an application for a change of the place of trial be
14 made as provided by law.

15 **Sec. 40.** RCW 2.28.060 and 1955 c 38 s 13 are each amended to read
16 as follows:

17 Every judicial officer has power(~~(—)~~):

18 (1) To preserve and enforce order in his or her immediate presence
19 and in the proceedings before him or her, when he or she is engaged in
20 the performance of a duty imposed upon him or her by law(~~(—)~~);

21 (2) To compel obedience to his or her lawful orders as provided by
22 law(~~(—)~~);

23 (3) To compel the attendance of persons to testify in a proceeding
24 pending before him or her, in the cases and manner provided by
25 law(~~(—)~~);

26 (4) To administer oaths to persons in a proceeding pending before
27 him or her, and in all other cases where it may be necessary in the
28 exercise of his or her powers and the performance of his or her duties.

29 **Sec. 41.** RCW 2.28.090 and 1891 c 54 s 9 are each amended to read
30 as follows:

31 Every other judicial officer may, within the county, city,
32 district, or precinct in which he or she is chosen(~~(—)~~):

33 (1) Exercise the powers mentioned in RCW 2.28.080 (1)(~~(—)(2) and~~)
34 through (3)(~~(—)~~);

35 (2) Exercise any other power and perform any other duty conferred
36 or imposed upon him or her by other statute.

1 **Sec. 42.** RCW 2.28.100 and 1986 c 219 s 1 are each amended to read
2 as follows:

3 No court shall be open, nor shall any judicial business be
4 transacted, on a legal holiday, except:

5 (1) To give, upon their request, instructions to a jury when
6 deliberating on their verdict;

7 (2) To receive the verdict of a jury;

8 (3) For the exercise of the powers of a magistrate in a criminal
9 action, or in a proceeding of a criminal nature;

10 (4) For hearing applications for and issuing writs of habeas
11 corpus, injunction, prohibition, and attachment;

12 (5) For the issuance of any process or subpoena not requiring
13 immediate judicial or court action, and the service thereof.

14 The governor, in declaring any legal holiday, in his or her
15 discretion, may provide in his or her proclamation that such holiday
16 shall not be applicable to the courts of or within the state.

17 **Sec. 43.** RCW 2.28.120 and 1891 c 54 s 10 are each amended to read
18 as follows:

19 A court or judicial officer has power to adjourn any proceeding
20 before it or him or her from time to time, as may be necessary, unless
21 otherwise expressly provided by law.

22 **Sec. 44.** RCW 2.28.160 and 1975-'76 2nd ex.s. c 34 s 2 are each
23 amended to read as follows:

24 Whenever a judge serves as a judge pro tempore the payments for
25 subsistence, lodging, and compensation pursuant to RCW 2.04.250 and
26 2.06.160 as now or hereafter amended shall be paid only for time
27 actually spent away from the usual residence and abode of such pro
28 tempore judge and only for time actually devoted to sitting on cases
29 heard by such pro tempore judge and for time actually spent in research
30 and preparation of a written opinion prepared and delivered by such pro
31 tempore judge; which time spent shall be evidenced by an affidavit of
32 such judge to be submitted by him or her to the court from which he or
33 she is entitled to receive subsistence, lodging, and compensation for
34 his or her services pursuant to RCW 2.04.250 and 2.06.160 as now or
35 hereafter amended.

1 **Sec. 45.** RCW 2.32.050 and 1981 c 277 s 1 are each amended to read
2 as follows:

3 The clerk of the supreme court, each clerk of the court of appeals,
4 and each clerk of a superior court, has power to take and certify the
5 proof and acknowledgment of a conveyance of real property, or any other
6 written instrument authorized or required to be proved or acknowledged,
7 and to administer oaths in every case when authorized by law; and it is
8 the duty of the clerk of the supreme court, each clerk of the court of
9 appeals, and of each county clerk for each of the courts for which he
10 or she is clerk((—)):

11 (1) To keep the seal of the court and affix it in all cases where
12 he or she is required by law((−)):

13 (2) To record the proceedings of the court((−)):

14 (3) To keep the records, files, and other books and papers
15 appertaining to the court((−)):

16 (4) To file all papers delivered to him or her for that purpose in
17 any action or proceeding in the court as directed by court rule or
18 statute((−)):

19 (5) To attend the court of which he or she is clerk, to administer
20 oaths, and receive the verdict of a jury in any action or proceeding
21 therein, in the presence and under the direction of the court((−)):

22 (6) To keep the journal of the proceedings of the court, and, under
23 the direction of the court, to enter its orders, judgments, and
24 decrees((−)):

25 (7) To authenticate by certificate or transcript, as may be
26 required, the records, files, or proceedings of the court, or any other
27 paper appertaining thereto and filed with him((−)) or her;

28 (8) To exercise the powers and perform the duties conferred and
29 imposed upon him or her elsewhere by statute((−)):

30 (9) In the performance of his or her duties to conform to the
31 direction of the court((−)):

32 (10) To publish notice of the procedures for inspection of the
33 public records of the court.

34 **Sec. 46.** RCW 2.32.090 and 1891 c 57 s 5 are each amended to read
35 as follows:

36 Each clerk of a court is prohibited during his or her continuance

1 in office from acting, or having a partner who acts, as an attorney of
2 the court of which he or she is clerk.

3 **Sec. 47.** RCW 2.32.110 and 1890 p 320 s 2 are each amended to read
4 as follows:

5 He or she shall prepare such decisions for publication by giving
6 the title of each case, a syllabus of the points decided, a brief
7 statement of the facts bearing on the points decided, the names of the
8 counsel, and a reference to such authorities as are cited from standard
9 reports and textbooks that have a special bearing on the case, and he
10 or she shall prepare a full and comprehensive index to each volume, and
11 prefix a table of cases reported.

12 **Sec. 48.** RCW 2.32.130 and 1890 p 320 s 4 are each amended to read
13 as follows:

14 Within thirty days after such proof sheets are furnished, the
15 judges must return the same to the reporter, with corrections or
16 alterations, and he or she must make the corrections or alterations
17 accordingly.

18 **Sec. 49.** RCW 2.32.140 and 1890 p 320 s 5 are each amended to read
19 as follows:

20 The reporter may take the original opinions and papers in each case
21 from the clerk's office and retain them in his or her possession not
22 exceeding sixty days.

23 **Sec. 50.** RCW 2.32.160 and 2005 c 190 s 1 are each amended to read
24 as follows:

25 There is hereby created a commission advisory to the supreme court
26 regarding the publication of the decisions of the supreme court and
27 court of appeals of this state in both the form of advance sheets for
28 temporary use and in permanent form, to be known as the Washington
29 court reports commission, and to include the reporter of decisions, the
30 state law librarian, and such other members, including a judge of the
31 court of appeals and a member in good standing of the Washington state
32 bar association, as determined by the chief justice of the supreme
33 court, who shall be (~~chairman~~) chair of the commission. Members of

1 the commission shall serve as such without additional or any
2 compensation: PROVIDED, That members shall be compensated in
3 accordance with RCW 43.03.240.

4 **Sec. 51.** RCW 2.32.200 and 1983 c 3 s 1 are each amended to read as
5 follows:

6 It shall be the duty of each official reporter appointed under RCW
7 2.32.180 through 2.32.310 to attend every term of the superior court in
8 the county or judicial district for which he or she is appointed, at
9 such times as the judge presiding may direct; and upon the trial of any
10 cause in any court, if either party to the suit or action, or his or
11 her attorney, request the services of the official reporter, the
12 presiding judge shall grant such request, or upon his or her own motion
13 such presiding judge may order a full report of the testimony,
14 exceptions taken, and all other oral proceedings; in which case the
15 official reporter shall cause accurate shorthand notes of the oral
16 testimony, exceptions taken, and other oral proceedings had, to be
17 taken, except when the judge and attorneys dispense with his or her
18 services with respect to any portion of the proceedings therein, which
19 notes shall be filed in the office of the clerk of the superior court
20 where such trial is had.

21 **Sec. 52.** RCW 2.32.210 and 1975 1st ex.s. c 128 s 1 are each
22 amended to read as follows:

23 Each official reporter shall be paid such compensation as shall be
24 fixed, after recommendation by the judges of the judicial district
25 involved, by the legislative authority of the county comprising said
26 judicial district, or by the legislative authorities acting jointly
27 where the judicial district is comprised of more than one county:
28 PROVIDED, That in judicial districts having a total population of forty
29 thousand or more, the salary of an official court reporter shall not be
30 less than sixteen thousand five hundred dollars per annum: PROVIDED
31 FURTHER, That in judicial districts having a total population of
32 twenty-five thousand and under forty thousand, such salary shall not be
33 less than eleven thousand one hundred dollars per annum.

34 Said compensation shall be paid out of the current expense fund of
35 the county or counties where court is held.

1 In judicial districts comprising more than one county the council
2 or commissioners thereof shall, on the first day of January of each
3 year, or as soon thereafter as may be convenient, apportion the amount
4 of the salary to be paid to the reporter by each county according and
5 in proportion to the number of criminal and civil actions entered and
6 commenced in superior court of the constituent counties in the
7 preceding year. In addition to the salary above provided, in judicial
8 districts comprising more than one county, the reporter shall receive
9 his or her actual and necessary expenses of transportation and living
10 expenses when he or she goes on official business to a county of his or
11 her judicial district other than the county in which he or she resides,
12 from the time he or she leaves his or her place of residence until he
13 or she returns thereto, said expense to be paid by the county to which
14 he or she travels. If one trip includes two or more counties, the
15 expense may be apportioned between the counties visited in proportion
16 to the amount of time spent in each county on the trip. If an official
17 reporter uses his or her own automobile for the purpose of such
18 transportation, he or she shall be paid therefor at the same rate per
19 mile as county officials are paid for use of their private automobiles.
20 The sworn statement of the official reporter, when certified to as
21 correct by the judge presiding, shall be a sufficient voucher upon
22 which the county auditor shall draw his or her warrant upon the
23 treasurer of the county in favor of the official reporter.

24 The salaries of official court reporters shall be paid upon sworn
25 statements, when certified as correct by the judge presiding, as state
26 and county officers are paid.

27 **Sec. 53.** RCW 2.32.220 and 1957 c 244 s 3 are each amended to read
28 as follows:

29 If the judge of the superior court in any judicial district having
30 a total population of less than twenty-five thousand finds that the
31 work in such district requires the services of an official court
32 reporter he or she may appoint a person qualified under RCW 2.32.180.

33 **Sec. 54.** RCW 2.32.240 and 1983 c 3 s 2 are each amended to read as
34 follows:

35 ((+1)) When a record has been taken in any cause as provided in
36 RCW 2.32.180 through 2.32.310, if the court, or either party to the

1 suit or action, or his or her attorney, request a transcript, the
2 official reporter and clerk of the court shall make, or cause to be
3 made, with reasonable diligence, full and accurate transcript of the
4 testimony and other proceedings, which shall, when certified to as
5 hereinafter provided, be filed with the clerk of the court where such
6 trial is had for the use of the court or parties to the action. The
7 fees of the reporter and clerk of the court for making such transcript
8 shall be fixed in accordance with costs as allowed in cost bills in
9 civil cases by the supreme court of the state of Washington, and when
10 such transcript is ordered by any party to any suit or action, said fee
11 shall be paid forthwith by the party ordering the same, and in all
12 cases where a transcript is made as provided for under the provisions
13 of RCW 2.32.180 through 2.32.310 the cost thereof shall be taxable as
14 costs in the case, and shall be so taxed as other costs in the case are
15 taxed: PROVIDED, That when, from and after December 20, 1973, a party
16 has been judicially determined to have a constitutional right to a
17 transcript and to be unable by reason of poverty to pay for such
18 transcript, the court may order said transcript to be made by the
19 official reporter, which transcript fee therefor shall be paid by the
20 state upon submission of appropriate vouchers to the clerk of the
21 supreme court.

22 **Sec. 55.** RCW 2.32.260 and 1913 c 126 s 7 are each amended to read
23 as follows:

24 When the official reporter who has taken notes in any cause, shall
25 thereafter cease to be such official reporter, any transcript
26 thereafter made by him or her therefrom, or made by any competent
27 person under the direction of the court, and duly certified to by the
28 person making the same, under oath, as a full, true and correct
29 transcript of said notes, the same shall have full force and effect the
30 same as though certified by an official reporter of said court.

31 **Sec. 56.** RCW 2.40.030 and Code 1881 s 2109 are each amended to
32 read as follows:

33 Whenever a juror, witness, or officer is required to attend a
34 court, or travel on official business out of the limits of his or her
35 own county, and entitled to mileage, in lieu thereof he or she may at
36 his or her option receive his or her actual and necessary traveling

1 expenses by the usually traveled route in going to and returning from
2 the place where the court is held, or where the business is discharged.
3 At the close of each term of the district court, the clerk shall
4 ascertain the amount due each juror for his or her mileage and per
5 diem; and he or she shall also certify the amount of fees that may be
6 due to the sheriff of any other county than that in which the court is
7 held, who may have attended the term, having a prisoner in custody
8 charged with or convicted of a crime, or for the purpose of conveying
9 such prisoner to or from the county, which, when approved by the court
10 or judge, shall be a charge upon the county to which the prisoner
11 belongs; and he or she shall also certify the amount which may be due
12 witnesses attending from another county in a criminal case for their
13 fees, which, when approved by the court or judge, shall be a charge
14 upon the county to which the case belongs.

15 **Sec. 57.** RCW 2.44.010 and Code 1881 s 3280 are each amended to
16 read as follows:

17 An attorney and counselor has authority:

18 (1) To bind his or her client in any of the proceedings in an
19 action or special proceeding by his or her agreement duly made, or
20 entered upon the minutes of the court; but the court shall disregard
21 all agreements and stipulations in relation to the conduct of, or any
22 of the proceedings in, an action or special proceeding unless such
23 agreement or stipulation be made in open court, or in presence of the
24 clerk, and entered in the minutes by him or her, or signed by the party
25 against whom the same is alleged, or his or her attorney;

26 (2) To receive money claimed by his or her client in an action or
27 special proceeding, during the pendency thereof, or after judgment upon
28 the payment thereof, and not otherwise, to discharge the same or
29 acknowledge satisfaction of the judgment;

30 (3) This section shall not prevent a party (~~{from}~~) from
31 employing a new attorney or from issuing an execution upon a judgment,
32 or from taking other proceedings prescribed by statute for its
33 enforcement.

34 **Sec. 58.** RCW 2.44.020 and Code 1881 s 3281 are each amended to
35 read as follows:

36 If it be alleged by a party for whom an attorney appears, that he

1 or she does so without authority, the court may, at any stage of the
2 proceedings, relieve the party for whom the attorney has assumed to
3 appear from the consequences of his or her act; it may also summarily,
4 upon motion, compel the attorney to repair the injury to either party
5 consequent upon his or her assumption of authority.

6 **Sec. 59.** RCW 2.44.030 and Code 1881 s 3282 are each amended to
7 read as follows:

8 The court, or a judge, may, on motion of either party, and on
9 showing reasonable grounds therefor, require the attorney for the
10 adverse party, or for any one of several adverse parties, to produce or
11 prove the authority under which he or she appears, and until he or she
12 does so, may stay all proceedings by him or her on behalf of the party
13 for whom he or she assumes to appear.

14 **Sec. 60.** RCW 2.44.040 and Code 1881 s 3283 are each amended to
15 read as follows:

16 The attorney in an action or special proceeding, may be changed at
17 any time before judgment or final determination as follows:

18 (1) Upon his or her own consent, filed with the clerk or entered
19 upon the minutes; or

20 (2) Upon the order of the court, or a judge thereof, on the
21 application of the client, or for other sufficient cause; but no such
22 change can be made until the charges of such attorney have been paid by
23 the party asking such change to be made.

24 **Sec. 61.** RCW 2.44.050 and Code 1881 s 3284 are each amended to
25 read as follows:

26 When an attorney is changed, as provided in RCW 2.44.040, written
27 notice of the change, and of the substitution of a new attorney, or of
28 the appearance of the party in person, must be given to the adverse
29 party; until then, he or she shall be bound to recognize the former
30 attorney.

31 **Sec. 62.** RCW 2.44.060 and Code 1881 s 3285 are each amended to
32 read as follows:

33 When an attorney dies, or is removed, or suspended, or ceases to
34 act as such, a party to an action for whom he or she was acting as

1 attorney, must, at least twenty days before any further proceedings
2 against him or her, be required by the adverse party, by written
3 notice, to appoint another attorney, or to appear in person.

4 **Sec. 63.** RCW 2.48.080 and 1945 c 181 s 2 are each amended to read
5 as follows:

6 If an applicant under RCW 2.48.070 through 2.48.110 is, at the time
7 he or she applies for admission to practice law in the state of
8 Washington, still in the armed forces of the United States, he or she
9 may establish the requirements of the proviso in RCW 2.48.070 by a
10 letter or certificate from his or her commanding officer and by the
11 certificates of at least two active members of the Washington state bar
12 association.

13 **Sec. 64.** RCW 2.48.090 and 1945 c 181 s 3 are each amended to read
14 as follows:

15 If an applicant under RCW 2.48.070 through 2.48.110 is, at the time
16 he or she applies for admission to practice law in the state of
17 Washington, no longer in the armed forces of the United States, he or
18 she may establish the requirements of the proviso in RCW 2.48.070 as
19 follows:

20 (1) If he or she shall have been an enlisted person, by producing
21 an honorable discharge, and by the certificates of at least two active
22 members of the Washington state bar association.

23 (2) If he or she shall have been an officer, by an affidavit
24 showing that he or she has been relieved from active duty under
25 circumstances other than dishonorable, and by the certificates of at
26 least two active members of the Washington state bar association.

27 **Sec. 65.** RCW 2.48.150 and 1933 c 94 s 11 are each amended to read
28 as follows:

29 Applicants for admission to the bar upon accredited certificates or
30 upon examination, not having been admitted to the bar in another state
31 or territory, shall pay a fee of twenty-five dollars and all other
32 applicants a fee of fifty dollars. Said admission fees shall be used
33 to pay the expenses incurred in connection with examining and admitting
34 applicants to the bar, including salaries of examiners, and any balance

1 remaining at the close of each biennium shall be paid to the state
2 treasurer and be by him or her credited to the general fund.

3 **Sec. 66.** RCW 2.48.160 and 1933 c 94 s 12 are each amended to read
4 as follows:

5 Any member failing to pay any fees after the same become due, and
6 after two months' written notice of his or her delinquency, must be
7 suspended from membership in the state bar, but may be reinstated upon
8 payment of accrued fees and such penalties as may be imposed by the
9 board of governors, not exceeding double the amount of the delinquent
10 fee.

11 **Sec. 67.** RCW 2.48.170 and 1933 c 94 s 13 are each amended to read
12 as follows:

13 No person shall practice law in this state subsequent to the first
14 meeting of the state bar unless he or she shall be an active member
15 thereof as hereinbefore defined: PROVIDED, That a member of the bar in
16 good standing in any other state or jurisdiction shall be entitled to
17 appear in the courts of this state under such rules as the board of
18 governors may prescribe.

19 **Sec. 68.** RCW 2.48.220 and 1921 c 126 s 14 are each amended to read
20 as follows:

21 An attorney or counselor may be disbarred or suspended for any of
22 the following causes arising after his or her admission to practice:

23 (1) His or her conviction of a felony or misdemeanor involving
24 moral turpitude, in which case the record of conviction shall be
25 conclusive evidence.

26 (2) (~~Willful~~) Willful disobedience or violation of an order of the
27 court requiring him or her to do or forbear an act connected with, or
28 in the course of, his or her profession, which he or she ought in good
29 faith to do or forbear.

30 (3) Violation of his or her oath as an attorney, or of his or her
31 duties as an attorney and counselor.

32 (4) Corruptly or (~~wilfully~~) willfully, and without authority,
33 appearing as attorney for a party to an action or proceeding.

34 (5) Lending his or her name to be used as attorney and counselor by
35 another person who is not an attorney and counselor.

1 (6) For the commission of any act involving moral turpitude,
2 dishonesty, or corruption, whether the same be committed in the course
3 of his or her relations as an attorney or counselor at law, or
4 otherwise, and whether the same constitute a felony or misdemeanor or
5 not; and if the act constitute a felony or misdemeanor, conviction
6 thereof in a criminal proceeding shall not be a condition precedent to
7 disbarment or suspension from practice therefor.

8 (7) Misrepresentation or concealment of a material fact made in his
9 or her application for admission or in support thereof.

10 (8) Disbarment by a foreign court of competent jurisdiction.

11 (9) Practicing law with or in cooperation with a disbarred or
12 suspended attorney, or maintaining an office for the practice of law in
13 a room or office occupied or used in whole or in part by a disbarred or
14 suspended attorney, or permitting a disbarred or suspended attorney to
15 use his or her name for the practice of law, or practicing law for or
16 on behalf of a disbarred or suspended attorney, or practicing law under
17 any arrangement or understanding for division of fees or compensation
18 of any kind with a disbarred or suspended attorney or with any person
19 not a licensed attorney.

20 (10) Gross incompetency in the practice of the profession.

21 (11) Violation of the ethics of the profession.

22 **Sec. 69.** RCW 2.50.070 and 1939 c 93 s 7 are each amended to read
23 as follows:

24 The legal aid county committee (hereinafter called the committee),
25 if created and continued by resolution of the bar board, shall consist
26 of three members chosen by the bar board as follows: A member of the
27 bar board, who shall be (~~chairman~~) chair, a judge of the superior
28 court of the county, and an active member of the Washington state bar
29 association, resident in the county.

30 **Sec. 70.** RCW 2.50.080 and 1939 c 93 s 8 are each amended to read
31 as follows:

32 Among the powers to supervise the actual operation of any such
33 bureau, which shall be exercised either by the bar board itself or in
34 its discretion by the committee, are the following:

35 (1) To appoint and remove at will the director and to fix the

1 amount of his or her salary not in excess of two hundred dollars per
2 month;

3 (2) To engage and discharge all other employees of the bureau and
4 to fix their salaries or remuneration;

5 (3) To assist the director in supplying the free services of
6 attorneys for the bureau;

7 (4) To cooperate with the dean of any law school now or hereafter
8 established within this state respecting the participation of law
9 students in the rendition of services by the bureau under the guidance
10 of the director--however, by this provision, no law student shall be
11 deemed authorized to represent as an attorney in a court of record any
12 legal aid client;

13 (5) To require of the director periodically written statements of
14 account and written reports upon any and all subjects within the
15 operation of the bureau;

16 (6) To prescribe rules and regulations, always subject to the bar
17 board, for determination of the indigent persons who are entitled to
18 legal aid, for determination of the kinds of legal problems and cases
19 subject to legal aid, and for determination of all operative legal aid
20 policies not inconsistent with this chapter;

21 (7) To advise the county board, for its budget upon its written
22 request, as to the estimated amount of county funds reasonably required
23 to effectively operate the bureau for the ensuing fiscal year;

24 (8) To receive county funds allocated by the county board for the
25 bureau, and to render an account thereof at the times and in the manner
26 reasonably required by the county board;

27 (9) To disburse such county funds, after receipt thereof, solely
28 for the purposes contemplated by this chapter.

29 **Sec. 71.** RCW 2.56.070 and 1981 c 186 s 4 are each amended to read
30 as follows:

31 For attendance while holding court in another county or district
32 pursuant to the direction of the chief justice, a judge shall be
33 entitled to receive from the county to which he or she is sent
34 reimbursement for subsistence, lodging, and travel expenses in
35 accordance with the rates applicable to state officers under RCW
36 43.03.050 and 43.03.060 as now or hereafter amended.

1 **Sec. 72.** RCW 3.20.100 and 1943 c 126 s 1 are each amended to read
2 as follows:

3 If, previous to the commencement of any trial before a justice of
4 the peace, the defendant, his or her attorney or agent, shall make and
5 file with the justice an affidavit that the deponent believes that the
6 defendant cannot have an impartial trial before such justice, it shall
7 be the duty of the justice to forthwith transmit all papers and
8 documents belonging to the case to the next nearest justice of the
9 peace in the same county, who is not of kin to either party, sick,
10 absent from the county, or interested in the result of the action,
11 either as counsel or otherwise. The justice to whom such papers and
12 documents are so transmitted shall proceed as if the suit had been
13 instituted before him or her. Distance, as contemplated by this
14 section, shall mean to be by the nearest traveled route. The costs of
15 such change of venue shall abide the result of the suit. In precincts,
16 and incorporated cities and towns where there are two or more justices
17 of the peace, any one of them shall be considered the next nearest
18 justice of the peace.

19 **Sec. 73.** RCW 3.30.090 and 1979 ex.s. c 136 s 15 are each amended
20 to read as follows:

21 A violations bureau may be established by any city or district
22 court having jurisdiction of traffic cases to assist in processing
23 traffic cases. As designated by written order of the court having
24 jurisdiction of traffic cases, specific offenses under city ordinance,
25 county resolution, or state law may be processed by such bureau. Such
26 bureau may be authorized to receive the posting of bail for such
27 specified offenses, and, as authorized by the court order, to accept
28 forfeiture of bail and payment of monetary penalties. The court order
29 shall specify the amount of bail to be posted and shall also specify
30 the circumstances or conditions which will require an appearance before
31 the court. Such bureau, upon accepting the prescribed bail, shall
32 issue a receipt to the alleged violator, which receipt shall bear a
33 legend informing him or her of the legal consequences of bail
34 forfeiture. The bureau shall transfer daily to the clerk of the proper
35 department of the court all bail posted for offenses where forfeiture
36 is not authorized by the court order, as well as copies of all
37 receipts. All forfeitures or penalties paid to a violations bureau for

1 violations of municipal ordinances shall be placed in the city general
2 fund or such other fund as may be prescribed by ordinance. All
3 forfeitures or penalties paid to a violations bureau for violations of
4 state laws or county resolutions shall be remitted at least monthly to
5 the county treasurer for deposit in the current expense fund.
6 Employees of violations bureaus of a city shall be city employees under
7 any applicable municipal civil service system.

8 **Sec. 74.** RCW 3.58.010 and 1986 c 155 s 7 are each amended to read
9 as follows:

10 The annual salary of each full time district court judge shall be
11 established by the Washington citizen's commission on salaries for
12 elected officials. A member of the legislature whose term of office is
13 partly coextensive with or extends beyond the present term of office of
14 any of the officials whose salary is increased by virtue of the
15 provisions of RCW 43.03.010, 2.04.092, 2.06.062, 2.08.092, and 3.58.010
16 shall be eligible to be appointed or elected to any of the offices the
17 salary of which is increased hereby but he or she shall not be entitled
18 to receive such increased salary until after the expiration of his or
19 her present term of office and his or her subsequent election or
20 reelection to the office to which he or she was appointed or elected
21 respectively during his or her term of office as legislator.

22 **Sec. 75.** RCW 4.08.150 and Code 1881 s 22 are each amended to read
23 as follows:

24 A defendant against whom an action is pending upon a contract, or
25 for specific real or personal property, at any time before answer, upon
26 affidavit that a person not a party to the action, and without
27 collusion with him or her, makes against him or her a demand for the
28 same debt or property, upon due notice to such person and the adverse
29 party, may apply to the court for an order to substitute such person in
30 his or her place, and discharge him or her from liability to either
31 party on his or her depositing in court the amount of the debt, or
32 delivering the property or its value to such person as the court may
33 direct; and the court may make the order.

34 **Sec. 76.** RCW 4.08.160 and 1890 p 93 s 1 are each amended to read
35 as follows:

1 Anyone having in his or her possession, or under his or her
2 control, any property or money, or being indebted, where more than one
3 person claims to be the owner of, entitled to, interested in, or to
4 have a lien on, such property, money, or indebtedness, or any part
5 thereof, may commence an action in the superior court against all or
6 any of such persons, and have their rights, claims, interest, or liens
7 adjudged, determined, and adjusted in such action.

8 **Sec. 77.** RCW 4.08.170 and 1890 p 93 s 2 are each amended to read
9 as follows:

10 In any action commenced under RCW 4.08.160, the plaintiff may
11 disclaim any interest in the money, property, or indebtedness, and
12 deposit with the clerk of the court the full amount of such money or
13 indebtedness, or other property, and he or she shall not be liable for
14 any costs accruing in said action. And the clerks of the various
15 courts shall receive and file such complaint, and all other officers
16 shall execute the necessary processes to carry out the purposes of this
17 section, and RCW 4.08.160 and 4.08.180, free from all charge to said
18 plaintiff, and the court, in its discretion, shall determine the
19 liability for costs of the action.

20 **Sec. 78.** RCW 4.08.180 and 1890 p 94 s 3 are each amended to read
21 as follows:

22 Either of the defendants may set up or show any claim or lien he or
23 she may have to such property, money, or indebtedness, or any part
24 thereof, and the superior right, title, or lien, whether legal or
25 equitable, shall prevail.

26 The court or judge thereof may make all necessary orders, during
27 the pendency of said action, for the preservation and protection of the
28 rights, interests, or liens of the several parties.

29 **Sec. 79.** RCW 4.12.030 and Code 1881 s 51 are each amended to read
30 as follows:

31 The court may, on motion, in the following cases, change the place
32 of trial when it appears by affidavit, or other satisfactory proof:

33 (1) That the county designated in the complaint is not the proper
34 county; or,

1 (2) That there is reason to believe that an impartial trial cannot
2 be had therein; or,

3 (3) That the convenience of witnesses or the ends of justice would
4 be forwarded by the change; or,

5 (4) That from any cause the judge is disqualified; which
6 disqualification exists in either of the following cases: In an action
7 or proceeding to which he or she is a party, or in which he or she is
8 interested; when he or she is related to either party by consanguinity
9 or affinity, within the third degree; when he or she has been of
10 counsel for either party in the action or proceeding.

11 **Sec. 80.** RCW 4.12.070 and 1891 c 33 s 2 are each amended to read
12 as follows:

13 Any party in a civil action pending in the superior court in a
14 county out of whose limits a new county, in whole or in part, has been
15 created, may file with the clerk of such superior court an affidavit
16 setting forth that he or she is a resident of such newly created
17 county, and that the venue of such action is transitory, or that the
18 venue of such action is local, and that it ought properly to be tried
19 in such newly created county; and thereupon the clerk shall make out a
20 transcript of the proceedings already had in such action in such
21 superior court, and certify it under the seal of the court, and
22 transmit such transcript, together with the papers on file in his or
23 her office connected with such action, to the clerk of the superior
24 court of such newly created county, wherein it shall be proceeded with
25 as in other cases.

26 **Sec. 81.** RCW 4.14.020 and 1967 ex.s. c 46 s 5 are each amended to
27 read as follows:

28 (1) A defendant or defendants desiring to remove any civil action
29 from a justice court as authorized by RCW 4.14.010 shall file in the
30 superior court in the county where such action is pending, a verified
31 petition containing a short and plain statement of the facts which
32 entitle him, her, or them to removal together with a copy of all
33 process, pleadings and orders served upon him, her, or them in such
34 action.

35 (2) The petition for removal of a civil action or proceeding shall

1 be filed within twenty days after the receipt by the defendant, through
2 service or otherwise, of a copy of the initial pleading setting forth
3 the claim for relief upon which such action or proceeding is based.

4 If the case stated by the initial pleading is not removable, a
5 petition for removal may be filed within twenty days after receipt by
6 the defendant, through service or otherwise, of a copy of an amended
7 pleading, motion, order, or other paper, including the defendant's
8 answer, from which it may first be ascertained that the case is or has
9 become removable.

10 (3) Promptly after the filing of such petition the defendant or
11 defendants shall give written notice thereof to all adverse parties and
12 shall file a copy of the petition with the justice court, which shall
13 effect the removal and the justice court shall proceed no further
14 unless and until the case is remanded.

15 **Sec. 82.** RCW 4.16.070 and 1890 p 81 s 1 are each amended to read
16 as follows:

17 No action for the recovery of any real estate sold by an executor
18 or administrator under the laws of this state shall be maintained by
19 any heir or other person claiming under the deceased, unless it is
20 commenced within five years next after the sale, and no action for any
21 estate sold by a guardian shall be maintained by the ward, or by any
22 person claiming under him or her, unless commenced within five years
23 next after the termination of the guardianship, except that minors, and
24 other persons under legal disability to sue at the time when the right
25 of action first accrued, may commence such action at any time within
26 three years after the removal of the disability.

27 **Sec. 83.** RCW 4.16.080 and 1989 c 38 s 2 are each amended to read
28 as follows:

29 The following actions shall be commenced within three years:

30 (1) An action for waste or trespass upon real property;

31 (2) An action for taking, detaining, or injuring personal property,
32 including an action for the specific recovery thereof, or for any other
33 injury to the person or rights of another not hereinafter enumerated;

34 (3) Except as provided in RCW 4.16.040(2), an action upon a
35 contract or liability, express or implied, which is not in writing, and
36 does not arise out of any written instrument;

1 (4) An action for relief upon the ground of fraud, the cause of
2 action in such case not to be deemed to have accrued until the
3 discovery by the aggrieved party of the facts constituting the fraud;

4 (5) An action against a sheriff, coroner, or constable upon a
5 liability incurred by the doing of an act in his or her official
6 capacity and by virtue of his or her office, or by the omission of an
7 official duty, including the nonpayment of money collected upon an
8 execution; but this (~~subdivision~~) subsection shall not apply to
9 action for an escape;

10 (6) An action against an officer charged with misappropriation or
11 a failure to properly account for public funds intrusted to his or her
12 custody; an action upon a statute for penalty or forfeiture, where an
13 action is given to the party aggrieved, or to such party and the state,
14 except when the statute imposing it prescribed a different limitation:
15 PROVIDED, HOWEVER, The cause of action for such misappropriation,
16 penalty, or forfeiture, whether for acts heretofore or hereafter done,
17 and regardless of lapse of time or existing statutes of limitations, or
18 the bar thereof, even though complete, shall not be deemed to accrue or
19 to have accrued until discovery by the aggrieved party of the act or
20 acts from which such liability has arisen or shall arise, and such
21 liability, whether for acts heretofore or hereafter done, and
22 regardless of lapse of time or existing statute of limitation, or the
23 bar thereof, even though complete, shall exist and be enforceable for
24 three years after discovery by aggrieved party of the act or acts from
25 which such liability has arisen or shall arise.

26 **Sec. 84.** RCW 4.16.180 and 1927 c 132 s 1 are each amended to read
27 as follows:

28 If the cause of action shall accrue against any person who is a
29 nonresident of this state, or who is a resident of this state and shall
30 be out of the state, or concealed therein, such action may be commenced
31 within the terms herein respectively limited after the coming, or
32 return of such person into the state, or after the end of such
33 concealment; and if after such cause of action shall have accrued, such
34 person shall depart from and reside out of this state, or conceal
35 himself or herself, the time of his or her absence or concealment shall
36 not be deemed or taken as any part of the time limit for the
37 commencement of such action.

1 **Sec. 85.** RCW 4.16.200 and 1989 c 333 s 8 are each amended to read
2 as follows:

3 Limitations on actions against a person who dies before the
4 expiration of the time otherwise limited for commencement thereof are
5 as set forth in chapter 11.40 RCW. Subject to the limitations on
6 claims against a deceased person under chapter 11.40 RCW, if a person
7 entitled to bring an action dies before the expiration of the time
8 limited for the commencement thereof, and the cause of action survives,
9 an action may be commenced by his or her representatives after the
10 expiration of the time and within one year from his or her death.

11 **Sec. 86.** RCW 4.16.240 and Code 1881 s 41 are each amended to read
12 as follows:

13 If an action shall be commenced within the time prescribed
14 therefor, and a judgment therein for the plaintiff be reversed on error
15 or appeal, the plaintiff, or if he or she dies and the cause of action
16 survives, his or her heirs or representatives may commence a new action
17 within one year after reversal.

18 **Sec. 87.** RCW 4.16.250 and Code 1881 s 42 are each amended to read
19 as follows:

20 No person shall avail himself or herself of a disability unless it
21 existed when his or her right of action accrued.

22 **Sec. 88.** RCW 4.16.350 and 2006 c 8 s 302 are each amended to read
23 as follows:

24 Any civil action for damages for injury occurring as a result of
25 health care which is provided after June 25, 1976, against:

- 26 (1) A person licensed by this state to provide health care or
27 related services, including, but not limited to, a physician,
28 osteopathic physician, dentist, nurse, optometrist, podiatric physician
29 and surgeon, chiropractor, physical therapist, psychologist,
30 pharmacist, optician, physician's assistant, osteopathic physician's
31 assistant, nurse practitioner, or physician's trained mobile intensive
32 care paramedic, including, in the event such person is deceased, his or
33 her estate or personal representative;

- 34 (2) An employee or agent of a person described in subsection (1) of

1 this section, acting in the course and scope of his or her employment,
2 including, in the event such employee or agent is deceased, his or her
3 estate or personal representative; or

4 (3) An entity, whether or not incorporated, facility, or
5 institution employing one or more persons described in subsection (1)
6 of this section, including, but not limited to, a hospital, clinic,
7 health maintenance organization, or nursing home; or an officer,
8 director, employee, or agent thereof acting in the course and scope of
9 his or her employment, including, in the event such officer, director,
10 employee, or agent is deceased, his or her estate or personal
11 representative; based upon alleged professional negligence shall be
12 commenced within three years of the act or omission alleged to have
13 caused the injury or condition, or one year of the time the patient or
14 his or her representative discovered or reasonably should have
15 discovered that the injury or condition was caused by said act or
16 omission, whichever period expires later, except that in no event shall
17 an action be commenced more than eight years after said act or
18 omission: PROVIDED, That the time for commencement of an action is
19 tolled upon proof of fraud, intentional concealment, or the presence of
20 a foreign body not intended to have a therapeutic or diagnostic purpose
21 or effect, until the date the patient or the patient's representative
22 has actual knowledge of the act of fraud or concealment, or of the
23 presence of the foreign body; the patient or the patient's
24 representative has one year from the date of the actual knowledge in
25 which to commence a civil action for damages.

26 For purposes of this section, notwithstanding RCW 4.16.190, the
27 knowledge of a custodial parent or guardian shall be imputed to a
28 person under the age of eighteen years, and such imputed knowledge
29 shall operate to bar the claim of such minor to the same extent that
30 the claim of an adult would be barred under this section. Any action
31 not commenced in accordance with this section shall be barred.

32 For purposes of this section, with respect to care provided after
33 June 25, 1976, and before August 1, 1986, the knowledge of a custodial
34 parent or guardian shall be imputed as of April 29, 1987, to persons
35 under the age of eighteen years.

36 This section does not apply to a civil action based on intentional
37 conduct brought against those individuals or entities specified in this

1 section by a person for recovery of damages for injury occurring as a
2 result of childhood sexual abuse as defined in RCW 4.16.340(5).

3 **Sec. 89.** RCW 4.20.010 and 1917 c 123 s 1 are each amended to read
4 as follows:

5 When the death of a person is caused by the wrongful act, neglect,
6 or default of another his or her personal representative may maintain
7 an action for damages against the person causing the death; and
8 although the death shall have been caused under such circumstances as
9 amount, in law, to a felony.

10 **Sec. 90.** RCW 4.20.020 and 2007 c 156 s 29 are each amended to read
11 as follows:

12 Every such action shall be for the benefit of the wife, husband,
13 state registered domestic partner, child or children, including
14 stepchildren, of the person whose death shall have been so caused. If
15 there be no wife, husband, state registered domestic partner, or such
16 child or children, such action may be maintained for the benefit of the
17 parents, sisters, or brothers, who may be dependent upon the deceased
18 person for support, and who are resident within the United States at
19 the time of his or her death.

20 In every such action the jury may give such damages as, under all
21 circumstances of the case, may to them seem just.

22 **Sec. 91.** RCW 4.20.050 and Code 1881 s 17 are each amended to read
23 as follows:

24 No action shall abate by the death, marriage, or other disability
25 of the party, or by the transfer of any interest therein, if the cause
26 of action survives or continues; but the court may at any time within
27 one year thereafter, on motion, allow the action to be continued by or
28 against his or her representatives or successors in interest.

29 **Sec. 92.** RCW 4.22.050 and 1981 c 27 s 13 are each amended to read
30 as follows:

31 (1) If the comparative fault of the parties to a claim for
32 contribution has been established previously by the court in the
33 original action, a party paying more than that party's equitable share
34 of the obligation, upon motion, may recover judgment for contribution.

1 (2) If the comparative fault of the parties to the claim for
2 contribution has not been established by the court in the original
3 action, contribution may be enforced in a separate action, whether or
4 not a judgment has been rendered against either the person seeking
5 contribution or the person from whom contribution is being sought.

6 (3) If a judgment has been rendered, the action for contribution
7 must be commenced within one year after the judgment becomes final. If
8 no judgment has been rendered, the person bringing the action for
9 contribution either must have (a) discharged by payment the common
10 liability within the period of the statute of limitations applicable to
11 the claimant's right of action against him or her and commenced the
12 action for contribution within one year after payment, or (b) agreed
13 while the action was pending to discharge the common liability and,
14 within one year after the agreement, have paid the liability and
15 commenced an action for contribution.

16 **Sec. 93.** RCW 4.24.060 and 1983 c 3 s 5 are each amended to read as
17 follows:

18 The common law right to an action for damages done by fires, is not
19 taken away or diminished by RCW 4.24.040, 4.24.050, and 4.24.060, but
20 it may be pursued; but any person availing himself or herself of the
21 provisions of RCW 4.24.040, shall be barred of his or her action at
22 common law for the damage so sued for, and no action shall be brought
23 at common law for kindling fires in the manner described in RCW
24 4.24.050; but if any such fires shall spread and do damage, the person
25 who kindled the same and any person present and concerned in driving
26 such lumber, by whose act or neglect such fire is suffered to spread
27 and do damage shall be liable in an action on the case for the amount
28 of damages thereby sustained.

29 **Sec. 94.** RCW 4.24.080 and 1957 c 7 s 3 are each amended to read as
30 follows:

31 It shall be lawful for any person letting or renting any house,
32 room, shop, or other building whatsoever, or any boat, booth, garden,
33 or other place, which shall, at any time, be used by the lessee or
34 occupant thereof, or any other person, with his or her knowledge or
35 consent, for gambling purposes, upon discovery thereof, to avoid and

1 terminate such lease, or contract of occupancy, and to recover
2 immediate possession of the premises by an action at law for that
3 purpose.

4 **Sec. 95.** RCW 4.24.115 and 2010 c 120 s 1 are each amended to read
5 as follows:

6 (1) A covenant, promise, agreement, or understanding in, or in
7 connection with or collateral to, a contract or agreement relative to
8 the construction, alteration, repair, addition to, subtraction from,
9 improvement to, or maintenance of, any building, highway, road,
10 railroad, excavation, or other structure, project, development, or
11 improvement attached to real estate, including moving and demolition in
12 connection therewith, or a motor carrier transportation contract,
13 purporting to indemnify against liability for damages arising out of
14 bodily injury to persons or damage to property:

15 (a) Caused by or resulting from the sole negligence of the
16 indemnitee, his or her agents or employees is against public policy and
17 is void and unenforceable;

18 (b) Caused by or resulting from the concurrent negligence of (i)
19 the indemnitee or the indemnitee's agents or employees, and (ii) the
20 indemnitor or the indemnitor's agents or employees, is valid and
21 enforceable only to the extent of the indemnitor's negligence and only
22 if the agreement specifically and expressly provides therefor, and may
23 waive the indemnitor's immunity under industrial insurance, Title 51
24 RCW, only if the agreement specifically and expressly provides therefor
25 and the waiver was mutually negotiated by the parties. This subsection
26 applies to agreements entered into after June 11, 1986.

27 (2) As used in this section, a "motor carrier transportation
28 contract" means a contract, agreement, or understanding covering: (a)
29 The transportation of property for compensation or hire by the motor
30 carrier; (b) entrance on property by the motor carrier for the purpose
31 of loading, unloading, or transporting property for compensation or
32 hire; or (c) a service incidental to activity described in (a) or (b)
33 of this subsection, including, but not limited to, storage of property,
34 moving equipment or trailers, loading or unloading, or monitoring
35 loading or unloading. "Motor carrier transportation contract" shall
36 not include agreements providing for the interchange, use, or

1 possession of intermodal chassis, containers, or other intermodal
2 equipment.

3 **Sec. 96.** RCW 4.24.220 and 1967 c 76 s 3 are each amended to read
4 as follows:

5 In any civil action brought by reason of any person having been
6 detained on or in the immediate vicinity of the premises of a
7 mercantile establishment for the purpose of investigation or
8 questioning as to the ownership of any merchandise, it shall be a
9 defense of such action that the person was detained in a reasonable
10 manner and for not more than a reasonable time to permit such
11 investigation or questioning by a peace officer or by the owner of the
12 mercantile establishment, his or her authorized employee or agent, and
13 that such peace officer, owner, employee, or agent had reasonable
14 grounds to believe that the person so detained was committing or
15 attempting to commit larceny or shoplifting on such premises of such
16 merchandise. As used in this section, "reasonable grounds" shall
17 include, but not be limited to, knowledge that a person has concealed
18 possession of unpurchased merchandise of a mercantile establishment,
19 and a "reasonable time" shall mean the time necessary to permit the
20 person detained to make a statement or to refuse to make a statement,
21 and the time necessary to examine employees and records of the
22 mercantile establishment relative to the ownership of the merchandise.

23 **Sec. 97.** RCW 4.28.100 and 2005 c 117 s 1 are each amended to read
24 as follows:

25 When the defendant cannot be found within the state, and upon the
26 filing of an affidavit of the plaintiff, his or her agent, or attorney,
27 with the clerk of the court, stating that he or she believes that the
28 defendant is not a resident of the state, or cannot be found therein,
29 and that he or she has deposited a copy of the summons (substantially
30 in the form prescribed in RCW 4.28.110) and complaint in the post
31 office, directed to the defendant at his or her place of residence,
32 unless it is stated in the affidavit that such residence is not known
33 to the affiant, and stating the existence of one of the cases
34 hereinafter specified, the service may be made by publication of the
35 summons, by the plaintiff or his or her attorney in any of the
36 following cases:

1 (1) When the defendant is a foreign corporation, and has property
2 within the state;

3 (2) When the defendant, being a resident of this state, has
4 departed therefrom with intent to defraud his or her creditors, or to
5 avoid the service of a summons, or keeps himself or herself concealed
6 therein with like intent;

7 (3) When the defendant is not a resident of the state, but has
8 property therein and the court has jurisdiction of the subject of the
9 action;

10 (4) When the action is for (a) establishment or modification of a
11 parenting plan or residential schedule; or (b) dissolution of marriage,
12 legal separation, or declaration of invalidity, in the cases prescribed
13 by law;

14 (5) When the action is for nonparental custody under chapter 26.10
15 RCW and the child is in the physical custody of the petitioner;

16 (6) When the subject of the action is real or personal property in
17 this state, and the defendant has or claims a lien or interest, actual
18 or contingent, therein, or the relief demanded consists wholly, or
19 partly, in excluding the defendant from any interest or lien therein;

20 (7) When the action is to foreclose, satisfy, or redeem from a
21 mortgage, or to enforce a lien of any kind on real estate in the county
22 where the action is brought, or satisfy or redeem from the same;

23 (8) When the action is against any corporation, whether private or
24 municipal, organized under the laws of the state, and the proper
25 officers on whom to make service do not exist or cannot be found;

26 (9) When the action is brought under RCW 4.08.160 and 4.08.170 to
27 determine conflicting claims to property in this state.

28 **Sec. 98.** RCW 4.28.110 and 1985 c 469 s 2 are each amended to read
29 as follows:

30 The publication shall be made in a newspaper of general circulation
31 in the county where the action is brought once a week for six
32 consecutive weeks: PROVIDED, That publication of summons shall not be
33 made until after the filing of the complaint, and the service of the
34 summons shall be deemed complete at the expiration of the time
35 prescribed for publication. The summons must be subscribed by the
36 plaintiff or his or her attorney or attorneys. The summons shall
37 contain the date of the first publication, and shall require the

1 defendant or defendants upon whom service by publication is desired, to
2 appear and answer the complaint within sixty days from the date of the
3 first publication of the summons; and the summons for publication shall
4 also contain a brief statement of the object of the action. The
5 summons for publication shall be substantially as follows:

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In the superior court of the State of Washington for the
county of

....., Plaintiff,
vs. No.
....., Defendant.

The State of Washington to the said (naming the
defendant or defendants to be served by publication):

You are hereby summoned to appear within sixty days
after the date of the first publication of this summons, to
wit, within sixty days after the day of, 1,
and defend the above entitled action in the above entitled
court, and answer the complaint of the plaintiff, and
serve a copy of your answer upon the undersigned attorneys
for plaintiff, at his (or their) office below stated;
and in case of your failure so to do, judgment will be
rendered against you according to the demand of the
complaint, which has been filed with the clerk of said court.
(Insert here a brief statement of the object of the action.)

.....,
Plaintiff's Attorneys.
P.O. Address
County
Washington.

30 **Sec. 99.** RCW 4.28.140 and 1903 c 144 s 2 are each amended to read
31 as follows:

32 Upon presenting an affidavit to the court or judge, showing to his
33 or her satisfaction that the heirs of such deceased person are proper
34 parties to the action, and that their names and residences cannot with
35 use of reasonable diligence be ascertained, such court or judge may

1 grant an order that service of the summons in such action be made on
2 such "Unknown heirs" by publication thereof in the same manner as in
3 actions against nonresident defendants.

4 **Sec. 100.** RCW 4.28.185 and 1977 c 39 s 1 are each amended to read
5 as follows:

6 (1) Any person, whether or not a citizen or resident of this state,
7 who in person or through an agent does any of the acts in this section
8 enumerated, thereby submits said person, and, if an individual, his or
9 her personal representative, to the jurisdiction of the courts of this
10 state as to any cause of action arising from the doing of any of said
11 acts:

12 (a) The transaction of any business within this state;

13 (b) The commission of a tortious act within this state;

14 (c) The ownership, use, or possession of any property whether real
15 or personal situated in this state;

16 (d) Contracting to insure any person, property, or risk located
17 within this state at the time of contracting;

18 (e) The act of sexual intercourse within this state with respect to
19 which a child may have been conceived;

20 (f) Living in a marital relationship within this state
21 notwithstanding subsequent departure from this state, as to all
22 proceedings authorized by chapter 26.09 RCW, so long as the petitioning
23 party has continued to reside in this state or has continued to be a
24 member of the armed forces stationed in this state.

25 (2) Service of process upon any person who is subject to the
26 jurisdiction of the courts of this state, as provided in this section,
27 may be made by personally serving the defendant outside this state, as
28 provided in RCW 4.28.180, with the same force and effect as though
29 personally served within this state.

30 (3) Only causes of action arising from acts enumerated herein may
31 be asserted against a defendant in an action in which jurisdiction over
32 him or her is based upon this section.

33 (4) Personal service outside the state shall be valid only when an
34 affidavit is made and filed to the effect that service cannot be made
35 within the state.

36 (5) In the event the defendant is personally served outside the
37 state on causes of action enumerated in this section, and prevails in

1 the action, there may be taxed and allowed to the defendant as part of
2 the costs of defending the action a reasonable amount to be fixed by
3 the court as attorneys' fees.

4 (6) Nothing herein contained limits or affects the right to serve
5 any process in any other manner now or hereafter provided by law.

6 **Sec. 101.** RCW 4.28.200 and 1893 c 127 s 12 are each amended to
7 read as follows:

8 If the summons is not served personally on the defendant in the
9 cases provided in RCW 4.28.110 and 4.28.180, he or she or his or her
10 representatives, on application and sufficient cause shown, at any time
11 before judgment, shall be allowed to defend the action and, except in
12 an action for divorce, the defendant or his or her representative may
13 in like manner be allowed to defend after judgment, and within one year
14 after the rendition of such judgment, on such terms as may be just; and
15 if the defense is successful, and the judgment, or any part thereof,
16 has been collected or otherwise enforced, such restitution may
17 thereupon be compelled as the court directs.

18 **Sec. 102.** RCW 4.28.210 and 1893 c 127 s 16 are each amended to
19 read as follows:

20 A defendant appears in an action when he or she answers, demurs,
21 makes any application for an order therein, or gives the plaintiff
22 written notice of his or her appearance. After appearance a defendant
23 is entitled to notice of all subsequent proceedings; but when a
24 defendant has not appeared, service of notice or papers in the ordinary
25 proceedings in an action need not be made upon him or her. Every such
26 appearance made in an action shall be deemed a general appearance,
27 unless the defendant in making the same states that the same is a
28 special appearance.

29 **Sec. 103.** RCW 4.28.325 and 1999 c 233 s 4 are each amended to read
30 as follows:

31 In an action in a United States district court for any district in
32 the state of Washington affecting the title to real property in the
33 state of Washington, the plaintiff, at the time of filing the
34 complaint, or at any time afterwards, or a defendant, when he or she
35 sets up an affirmative cause of action in his or her answer, or at any

1 time afterward, if the same be intended to affect real property, may
2 file with the auditor of each county in which the property is situated
3 a notice of the pendency of the action, containing the names of the
4 parties, the object of the action and a description of the real
5 property in that county affected thereby. From the time of the filing
6 only shall the pendency of the action be constructive notice to a
7 purchaser or encumbrancer of the property affected thereby, and every
8 person whose conveyance or encumbrance is subsequently executed or
9 subsequently recorded shall be deemed a subsequent purchaser or
10 encumbrancer, and shall be bound by all proceedings taken after the
11 filing of such notice to the same extent as if he or she were a party
12 to the action. For the purpose of this section an action shall be
13 deemed to be pending from the time of filing such notice: PROVIDED,
14 HOWEVER, That such notice shall be of no avail unless it shall be
15 followed by the first publication of the summons, or by personal
16 service thereof on a defendant within sixty days after such filing.
17 And the court in which the said action was commenced may, in its
18 discretion, at any time after the action shall be settled,
19 discontinued, or abated, on application of any person aggrieved and on
20 good cause shown and on such notice as shall be directed or approved by
21 the court, order the notice authorized in this section to be canceled,
22 in whole or in part, by the county auditor of any county in whose
23 office the same may have been filed or recorded, and such cancellation
24 shall be evidenced by the recording of the court order.

25 **Sec. 104.** RCW 4.32.150 and Code 1881 s 502 are each amended to
26 read as follows:

27 To entitle a defendant to a setoff he or she must set the same
28 forth in his or her answer.

29 **Sec. 105.** RCW 4.36.080 and Code 1881 s 97 are each amended to read
30 as follows:

31 In pleading the performance of conditions precedent in a contract,
32 it shall not be necessary to state the facts showing such performance,
33 but it may be stated generally that the party duly performed all the
34 conditions on his or her part; and if such allegation be controverted,
35 the party pleading shall be bound to establish, on the trial, the facts
36 showing such performance.

1 **Sec. 106.** RCW 4.36.130 and Code 1881 s 100 are each amended to
2 read as follows:

3 In an action mentioned in RCW 4.36.120, the defendant may, in his
4 or her answer, allege both the truth of the matter charged as
5 defamatory, and any mitigating circumstances to reduce the amount of
6 damages; and whether he or she proves the justification or not, he or
7 she may give in evidence the mitigating circumstances.

8 **Sec. 107.** RCW 4.36.140 and Code 1881 s 101 are each amended to
9 read as follows:

10 In an action to recover the possession of property distrained doing
11 damage, an answer that the defendant or person by whose command he or
12 she acted, was lawfully possessed of the real property upon which the
13 distress was made, and that the property distrained was at the time
14 doing the damage thereon, shall be good, without setting forth the
15 title to such real property.

16 **Sec. 108.** RCW 4.36.210 and Code 1881 s 108 are each amended to
17 read as follows:

18 Where the plaintiff in an action to recover the possession of
19 personal property on a claim of being the owner thereof, shall fail to
20 establish on trial such ownership, but shall prove that he or she is
21 entitled to the possession thereof, by virtue of a special property
22 therein, he or she shall not thereby be defeated of his or her action,
23 but shall be permitted to amend, on reasonable terms his or her
24 complaint, and be entitled to judgment according to the proof in the
25 case.

26 **Sec. 109.** RCW 4.56.060 and Code 1881 s 503 are each amended to
27 read as follows:

28 If the amount of the setoff, duly established, be equal to the
29 plaintiff's debt or demand, judgment shall be rendered that the
30 plaintiff take nothing by his or her action; if it be less than the
31 plaintiff's debt or demand, the plaintiff shall have judgment for the
32 residue only.

33 **Sec. 110.** RCW 4.56.120 and 1929 c 89 s 1 are each amended to read
34 as follows:

1 An action in the superior court may be dismissed by the court and
2 a judgment of nonsuit rendered in the following cases:

3 (1) Upon the motion of the plaintiff, (a) when the case is to be or
4 is being tried before a jury, at any time before the court announces
5 its decision in favor of the defendant upon a challenge to the legal
6 sufficiency of the evidence, or before the jury retire to consider
7 their verdict, (b) when the action, whether for legal or equitable
8 relief, is to be or is being tried before the court without a jury, at
9 any time before the court has announced its decision: PROVIDED, That
10 no action shall be dismissed upon the motion of the plaintiff, if the
11 defendant has interposed a setoff as a defense, or seeks affirmative
12 relief growing out of the same transaction, or sets up a counterclaim,
13 either legal or equitable, to the specific property or thing which is
14 the subject matter of the action.

15 (2) Upon the motion of either party, upon the written consent of
16 the other.

17 (3) When the plaintiff fails to appear at the time of trial and the
18 defendant appears and asks for a dismissal.

19 (4) Upon its own motion, when, upon the trial and before the final
20 submission of the case, the plaintiff abandons it.

21 (5) Upon its own motion, on the refusal or neglect of the plaintiff
22 to make the necessary parties defendants, after having been ordered so
23 to do by the court.

24 (6) Upon the motion of some of the defendants, when there are
25 others whom the plaintiff fails to prosecute with diligence.

26 (7) Upon its own motion, for disobedience of the plaintiff to an
27 order of the court concerning the proceedings in the action.

28 (8) Upon the motion of the defendant, when, upon the trial, the
29 plaintiff fails to prove some material fact or facts necessary to
30 sustain his or her action, as alleged in his or her complaint. When
31 judgment of nonsuit is given, the action is dismissed, but such
32 judgment shall not have the effect to bar another action for the same
33 cause. In every case, other than those mentioned in this section, the
34 judgment shall be rendered upon the merits and shall bar another action
35 for the same cause.

36 **Sec. 111.** RCW 4.60.010 and Code 1881 s 291 are each amended to
37 read as follows:

1 On the confession of the defendant, with the assent of the
2 plaintiff or his or her attorney, judgment may be given against the
3 defendant in any action before or after answer, for any amount or
4 relief not exceeding or different from that demanded in the complaint.

5 **Sec. 112.** RCW 4.60.020 and Code 1881 s 292 are each amended to
6 read as follows:

7 When the action is against the state, a county or other public
8 corporation therein, or a private corporation, or a minor, the
9 confession shall be made by the person who at the time sustains the
10 relation to such state, corporation, county or minor, as would
11 authorize the service of a notice (~~(summons)~~) summons upon him or
12 her; or in the case of a minor, if a guardian for the action has been
13 appointed, then by such guardian; in all other cases the confession
14 shall be made by the defendant in person.

15 **Sec. 113.** RCW 4.60.060 and Code 1881 s 296 are each amended to
16 read as follows:

17 A statement in writing shall be made, signed by the defendant and
18 verified by his or her oath, to the following effect:

- 19 (1) It shall authorize the entry of judgment for a specified sum.
20 (2) If it be for money due or to become due, it shall state
21 concisely the facts out of which the indebtedness arose, and shall show
22 that the sum confessed to be due, is justly due or to become due.
23 (3) If it be for the purpose of securing the plaintiff against a
24 contingent liability, it shall state concisely the facts constituting
25 the liability, and show that the sum confessed therefor does not exceed
26 the same.

27 **Sec. 114.** RCW 4.68.020 and Code 1881 s 315 are each amended to
28 read as follows:

29 The summons, as provided in RCW 4.68.010, must describe the
30 judgment, and require the person summoned to show cause why he or she
31 should not be bound by it, and must be served in the same manner and
32 returnable within the same time, as the original summons. It is not
33 necessary to file a new complaint.

1 **Sec. 115.** RCW 4.68.030 and Code 1881 s 316 are each amended to
2 read as follows:

3 The summons must be accompanied by an affidavit of the plaintiff,
4 his or her agent, representative, or attorney, that the judgment, or
5 some part thereof, remains unsatisfied, and must specify the amount due
6 thereon.

7 **Sec. 116.** RCW 4.68.040 and Code 1881 s 317 are each amended to
8 read as follows:

9 Upon the service of such summons and affidavit, the defendant may
10 answer within the time specified therein, denying the judgment, or
11 setting up any defense which may have arisen subsequently to the taking
12 of the judgment, or he or she may deny his or her liability on the
13 obligation upon which the judgment was rendered, except a discharge
14 from such liability by the statute of limitations.

15 **Sec. 117.** RCW 4.68.050 and Code 1881 s 318 are each amended to
16 read as follows:

17 If the defendant in his or her answer, deny the judgment, or set up
18 any defense which may have arisen subsequently, the summons, with the
19 affidavit annexed, and the answer, constitute the written allegations
20 in the case; if he or she deny his or her liability on the obligation
21 upon which the judgment was rendered, a copy of the original complaint
22 and judgment, the summons with the affidavit annexed, and the answer
23 constitute such written allegations.

24 **Sec. 118.** RCW 4.68.060 and Code 1881 s 319 are each amended to
25 read as follows:

26 The issue formed may be tried as in other cases, but when the
27 defendant denies in his or her answer any liability on the obligation
28 upon which the judgment was rendered, if a verdict be found against him
29 or her, it must not exceed the amount remaining unsatisfied on such
30 original judgment, with interest thereon.

31 **Sec. 119.** RCW 4.72.020 and 1891 c 27 s 1 are each amended to read
32 as follows:

33 The proceedings to vacate or modify a judgment or order for

1 mistakes or omissions of the clerk, or irregularity in obtaining the
2 judgment or order, shall be by motion served on the adverse party or on
3 his or her attorney in the action, and within one year.

4 **Sec. 120.** RCW 4.84.040 and Code 1881 s 508 are each amended to
5 read as follows:

6 In an action for an assault and battery, or for false imprisonment,
7 libel, slander, malicious prosecution, criminal conversation or
8 seduction, if the plaintiff recover less than ten dollars, he or she
9 shall be entitled to no more costs or disbursements than the damage
10 recovered.

11 **Sec. 121.** RCW 4.84.050 and Code 1881 s 509 are each amended to
12 read as follows:

13 When several actions are brought on one bond, undertaking,
14 promissory note, bill of exchange, or other instrument in writing, or
15 in any other case for the same cause of action against several parties,
16 who might have been joined as defendants in the same action, no costs
17 or disbursements shall be allowed to the plaintiff in more than one of
18 such actions, which may be at his or her election, if the parties
19 proceeded against in the other actions were, at the commencement of the
20 previous action, openly within this state.

21 **Sec. 122.** RCW 4.84.060 and Code 1881 s 510 are each amended to
22 read as follows:

23 In all cases where costs and disbursements are not allowed to the
24 plaintiff, the defendant shall be entitled to have judgment in his or
25 her favor for the same.

26 **Sec. 123.** RCW 4.84.090 and 1949 c 146 s 1 are each amended to read
27 as follows:

28 The prevailing party, in addition to allowance for costs, as
29 provided in RCW 4.84.080, shall also be allowed for all necessary
30 disbursements, including the fees of officers allowed by law, the fees
31 of witnesses, the necessary expenses of taking depositions, by
32 commission or otherwise, and the compensation of referees. The court
33 shall allow the prevailing party all service of process charges in case
34 such process was served by a person or persons not an officer or

1 officers. Such service charge shall be the same as is now allowed or
2 shall in the future be allowed as fee and mileage to an officer. The
3 disbursements shall be stated in detail and verified by affidavit, and
4 shall be served on the opposite party or his or her attorney, and filed
5 with the clerk of the court, within ten days after the judgment:
6 PROVIDED, The clerk of the court shall keep a record of all witnesses
7 in attendance upon any civil action, for whom fees are to be claimed,
8 with the number of days in attendance and their mileage, and no fees or
9 mileage for any witness shall be taxed in the cost bill unless they
10 shall have reported their attendance at the close of each day's session
11 to the clerk in attendance at such trial.

12 **Sec. 124.** RCW 4.84.110 and Code 1881 s 516 are each amended to
13 read as follows:

14 When in an action for the recovery of money, the defendant alleges
15 in his or her answer, that, before the commencement of the action, he
16 or she tendered to the plaintiff the full amount to which he or she is
17 entitled, in such money as by agreement ought to be tendered, and
18 thereupon brings into court, for the plaintiff, the amount tendered,
19 and the allegation be found true, the plaintiff shall not recover
20 costs, but shall pay them to the defendant.

21 **Sec. 125.** RCW 4.84.120 and Code 1881 s 517 are each amended to
22 read as follows:

23 If the defendant in any action pending, shall at any time deposit
24 with the clerk of the court, for the plaintiff, the amount which he or
25 she admits to be due, together with all costs that have accrued, and
26 notify the plaintiff thereof, and such plaintiff shall refuse to accept
27 the same in discharge of the action, and shall not afterwards recover
28 a larger amount than that deposited with the clerk, exclusive of
29 interest and cost, he or she shall pay all costs that may accrue from
30 the time such money was so deposited.

31 **Sec. 126.** RCW 4.84.140 and Code 1881 s 519 are each amended to
32 read as follows:

33 When costs are adjudged against an infant plaintiff, the guardian
34 or person by whom he or she appeared in the action shall be responsible
35 therefor, and payment may be enforced by execution.

1 **Sec. 127.** RCW 4.84.150 and Code 1881 s 520 are each amended to
2 read as follows:

3 In (~~(an)~~) an action prosecuted or defended by an executor,
4 administrator, trustee of an express trust, or a person expressly
5 authorized by statute, costs shall be recovered as in an action by or
6 against a person prosecuting in his or her own right, but such costs
7 shall be chargeable only upon or collected of the estate of the party
8 represented, unless the court shall direct the same to be paid by the
9 plaintiff or defendant personally, for mismanagement or bad faith in
10 such action or defense.

11 **Sec. 128.** RCW 4.84.160 and Code 1881 s 521 are each amended to
12 read as follows:

13 When the cause of action, after the commencement of the action, by
14 assignment, or in any other manner, becomes the property of a person
15 not a party thereto, and the prosecution or defense is thereafter
16 continued, such person shall be liable for the costs in the same manner
17 as if he or she were a party, and payment thereof may be enforced by
18 execution.

19 **Sec. 129.** RCW 4.84.220 and 1929 c 103 s 2 are each amended to read
20 as follows:

21 In lieu of separate security for each action or proceeding in any
22 court, the plaintiff may cause to be executed and filed in the court a
23 bond in the penal sum of two hundred dollars running to the state of
24 Washington, with surety as in case of a separate bond, and conditioned
25 for the payment of all judgments for costs which may thereafter be
26 rendered against him or her in that court. Any defendant or garnishee
27 who shall thereafter recover a judgment for costs in said court against
28 the principal on such bond shall likewise be entitled to judgment
29 against the sureties. Such bond shall not be sufficient unless the
30 penalty thereof is unimpaired by any outstanding obligation at the time
31 of the commencement of the action.

32 **Sec. 130.** RCW 4.84.240 and 1909 c 173 s 1 are each amended to read
33 as follows:

34 Whenever any bond or undertaking for the payment of any costs to
35 any party shall be filed in any action or other legal proceeding in any

1 court in this state and judgment should be rendered for any such costs
2 against the principal on any such bonds or against the party primarily
3 liable therefor in whose behalf any such bond or undertaking has been
4 filed, such judgment for costs shall be rendered against the principal
5 on such bond or the party primarily liable therefor and at the same
6 time also against his or her surety or sureties on any or all such
7 bonds or undertakings filed in any such action or other legal
8 proceeding.

9 **Sec. 131.** RCW 4.84.330 and 1977 ex.s. c 203 s 1 are each amended
10 to read as follows:

11 In any action on a contract or lease entered into after September
12 21, 1977, where such contract or lease specifically provides that
13 (~~attorney's~~) attorneys' fees and costs, which are incurred to enforce
14 the provisions of such contract or lease, shall be awarded to one of
15 the parties, the prevailing party, whether he or she is the party
16 specified in the contract or lease or not, shall be entitled to
17 reasonable (~~attorney's~~) attorneys' fees in addition to costs and
18 necessary disbursements.

19 (~~Attorney's~~) Attorneys' fees provided for by this section shall
20 not be subject to waiver by the parties to any contract or lease which
21 is entered into after September 21, 1977. Any provision in any such
22 contract or lease which provides for a waiver of (~~attorney's~~)
23 attorneys' fees is void.

24 As used in this section "prevailing party" means the party in whose
25 favor final judgment is rendered.

26 **Sec. 132.** RCW 5.28.020 and 2 H. C. s 1694 are each amended to read
27 as follows:

28 An oath may be administered as follows: The person who swears
29 holds up his or her hand, while the person administering the oath thus
30 addresses him or her: "You do solemnly swear that the evidence you
31 shall give in the issue (or matter) now pending between
32 and shall be the truth, the whole truth, and nothing
33 but the truth, so help you God." If the oath be administered to any
34 other than a witness giving testimony, the form may be changed to:
35 "You do solemnly swear you will true answers make to such questions as
36 you may be asked," etc.

1 **Sec. 133.** RCW 5.28.030 and 2 H. C. s 1695 are each amended to read
2 as follows:

3 Whenever the court or officer before which a person is offered as
4 a witness is satisfied that he or she has a peculiar mode of swearing
5 connected with or in addition to the usual form of administration,
6 which, in witness' opinion, is more solemn or obligatory, the court or
7 officer may, in its discretion, adopt that mode.

8 **Sec. 134.** RCW 5.28.040 and 2 H. C. s 1696 are each amended to read
9 as follows:

10 When a person is sworn who believes in any other than the Christian
11 religion, he or she may be sworn according to the peculiar ceremonies
12 of his or her religion, if there be any such.

13 **Sec. 135.** RCW 5.28.050 and 2 H. C. s 1697 are each amended to read
14 as follows:

15 Any person who has conscientious scruples against taking an oath,
16 may make his or her solemn affirmation, by assenting, when addressed,
17 in the following manner: "You do solemnly affirm that," etc., as in
18 RCW 5.28.020.

19 **Sec. 136.** RCW 5.40.020 and 1945 c 101 s 1 are each amended to read
20 as follows:

21 A written finding of presumed death, made by the secretary of war,
22 the secretary of the navy, or other officer or employee of the United
23 States authorized to make such finding, pursuant to the federal missing
24 persons act (56 Stat. 143, 1092, and P.L. 408, Ch. 371, 2d Sess. 78th
25 Cong.; U.S.C. App. Supp. 1001-17), as now or hereafter amended, or a
26 duly certified copy of such finding, shall be received in any court,
27 office, or other place in this state as prima facie evidence of the
28 death of the person therein found to be dead, and the date,
29 circumstances, and place of his or her disappearance.

30 **Sec. 137.** RCW 5.40.040 and 1945 c 101 s 3 are each amended to read
31 as follows:

32 For the purposes of RCW 5.40.020 and 5.40.030 any finding, report
33 or record, or duly certified copy thereof, purporting to have been
34 signed by such an officer or employee of the United States as is

1 described in said sections, shall prima facie be deemed to have been
2 signed and issued by such an officer or employee pursuant to law, and
3 the person signing same shall prima facie be deemed to have acted
4 within the scope of his or her authority. If a copy purports to have
5 been certified by a person authorized by law to certify the same, such
6 certified copy shall be prima facie evidence of his or her authority so
7 to certify.

8 **Sec. 138.** RCW 5.48.060 and 1957 c 9 s 5 are each amended to read
9 as follows:

10 In case of the loss or destruction by fire or otherwise of the
11 records, or any part thereof, of any probate court or superior court
12 having probate jurisdiction, the judge of any such court may proceed,
13 upon its own motion, or upon application in writing of any party in
14 interest, to restore the records, papers, and proceedings of either of
15 said courts relating to the estates of deceased persons, including
16 recorded wills, wills probated, or filed for probate in such courts,
17 all marriage records and all other records and proceedings, and for the
18 purpose of restoring said records, wills, papers, or proceedings, or
19 any part thereof, may cause citations or other process to be issued to
20 any and all parties to be designated by him or her, and may compel the
21 attendance in court of any and all witnesses whose testimony may be
22 necessary to the establishment of any such record or part thereof, and
23 the production of any and all written or documentary evidence which may
24 be by him or her deemed necessary in determining the true import and
25 effect of the original records, will, paper, or other document
26 belonging to the files of said courts; and may make such orders and
27 decrees establishing such original record, will, paper, document or
28 proceeding, or the substance thereof, as to him or her shall seem just
29 and proper.

30 **Sec. 139.** RCW 5.52.010 and Code 1881 s 2352 are each amended to
31 read as follows:

32 Contracts made by telegraph shall be deemed to be contracts in
33 writing; and all communications sent by telegraph and signed by the
34 person or persons sending the same, or by his, her, or their authority,
35 shall be held and deemed to be communications in writing.

1 **Sec. 140.** RCW 5.52.020 and Code 1881 s 2353 are each amended to
2 read as follows:

3 Whenever any notice, information, or intelligence, written or
4 otherwise, is required to be given, the same may be given by telegraph:
5 PROVIDED, That the dispatch containing the same be delivered to the
6 person entitled thereto, or to his or her agent or attorney. Notice by
7 telegraph shall be deemed actual notice.

8 **Sec. 141.** RCW 5.56.010 and 1963 c 19 s 1 are each amended to read
9 as follows:

10 Any person may be compelled to attend as a witness before any court
11 of record, judge, commissioner, or referee, in any civil action or
12 proceeding in this state. No such person shall be compelled to attend
13 as a witness in any civil action or proceeding unless the fees be paid
14 or tendered him or her which are allowed by law for one day's
15 attendance as a witness and for traveling to and returning from the
16 place where he or she is required to attend, together with any
17 allowance for meals and lodging theretofore fixed as specified herein:
18 PROVIDED, That such fees be demanded by any witness residing within the
19 same county where such court of record, judge, commissioner, or referee
20 is located, or within twenty miles of the place where such court is
21 located, at the time of service of the subpoena: PROVIDED FURTHER,
22 That a party desiring the attendance of a witness residing outside of
23 the county in which such action or proceeding is pending, or more than
24 twenty miles of the place where such court is located, shall apply ex
25 parte to such court, or to the judge, commissioner, referee, or clerk
26 thereof, who, if such application be granted and a subpoena issued,
27 shall fix without notice an allowance for meals and lodging, if any to
28 be allowed, together with necessary travel expenses, and the amounts so
29 fixed shall be endorsed upon the subpoena and tendered to such witness
30 at the time of the service of the subpoena: PROVIDED FURTHER, That the
31 court shall fix and allow at or after trial such additional amounts for
32 meals, lodging, and travel as it may deem reasonable for the attendance
33 of such witness.

34 **Sec. 142.** RCW 5.56.050 and Code 1881 s 397 are each amended to
35 read as follows:

1 A person present in court or before a judicial officer, may be
2 required to testify in the same manner as if he or she were in
3 attendance upon a subpoena issued by such court or officer.

4 **Sec. 143.** RCW 5.56.060 and Code 1881 s 398 are each amended to
5 read as follows:

6 If any person duly served with a subpoena and obliged to attend as
7 a witness, shall fail to do so, without any reasonable excuse, he or
8 she shall be liable to the aggrieved party for all damages occasioned
9 by such failure, to be recovered in a civil action.

10 **Sec. 144.** RCW 5.56.090 and Code 1881 s 401 are each amended to
11 read as follows:

12 If the witness be a prisoner confined in a jail or prison within
13 this state, an order for his or her examination in prison, upon
14 deposition, or for his or her temporary removal and production before
15 a court or officer, for the purpose of being orally examined, may be
16 issued.

17 **Sec. 145.** RCW 6.23.040 and 1987 c 442 s 704 are each amended to
18 read as follows:

19 (1) If property is redeemed from the purchaser by a redemptioner,
20 as provided in RCW 6.23.020, another redemptioner may, within sixty
21 days after the first redemption, redeem it from the first redemptioner.
22 The property may be again, and as often as a redemptioner is so
23 disposed, redeemed from any previous redemptioner within sixty days
24 after the last redemption, and such sixty-day redemption periods may
25 extend beyond the period prescribed in RCW 6.23.020 for redemption from
26 the purchaser.

27 (2) The judgment debtor may also redeem from a redemptioner, but in
28 all cases the judgment debtor shall have the entire redemption period
29 prescribed by RCW 6.23.020, but no longer unless the time is extended
30 under RCW 6.23.030 or 6.23.090. If the judgment debtor redeems, the
31 effect of the sale is terminated and the estate of the debtor is
32 restored.

33 (3) A redemptioner may redeem under this section by paying the sum
34 paid on the last previous redemption with interest at the rate of eight
35 percent per annum, and the amount of any assessments or taxes which the

1 last previous redemptioner paid on the property after redeeming, with
2 like interest, and the amount of any liens by judgment, decree, deed of
3 trust, or mortgage, other than the judgment under which the property
4 was sold, held by the last redemptioner, prior to his or her own, with
5 interest. A judgment debtor who redeems from a redemptioner under this
6 section must make the same payments as are required to effect a
7 redemption by a redemptioner, including any lien by judgment, decree,
8 deed of trust, or mortgage, other than the judgment under which the
9 property was sold, held by the redemptioner. A redemptioner who pays
10 any taxes or assessments, or has or acquires any such lien as herein
11 mentioned, must file a statement as required under RCW 6.23.050.

12 **Sec. 146.** RCW 6.23.110 and 1987 c 442 s 711 are each amended to
13 read as follows:

14 (1) Except as provided in this section and RCW 6.23.090, the
15 purchaser from the day of sale until a resale or redemption, and the
16 redemptioner from the day of redemption until another redemption, shall
17 be entitled to the possession of the property purchased or redeemed,
18 unless the same be in the possession of a tenant holding under an
19 unexpired lease, and in such case shall be entitled to receive from
20 such tenant the rents or the value of the use and occupation thereof
21 during the period of redemption.

22 (2) If a mortgage contains a stipulation that in case of
23 foreclosure the mortgagor may remain in possession of the mortgaged
24 premises after sale and until the period of redemption has expired, the
25 court shall make its decree to that effect and the mortgagor shall have
26 such right.

27 (3) As to any land so sold which is at the time of the sale used
28 for farming purposes, or which is a part of a farm used, at the time of
29 sale, for farming purposes, the judgment debtor shall be entitled to
30 retain possession thereof during the period of redemption and the
31 purchaser or his or her successor in interest shall, if the judgment
32 debtor does not redeem, have a lien upon the crops raised or harvested
33 thereon during said period of redemption, for interest on the purchase
34 price at the rate of six percent per annum during said period of
35 redemption and for taxes becoming delinquent during the period of
36 redemption together with interest thereon.

1 (4) In case of any homestead as defined in chapter 6.13 RCW and
2 occupied for that purpose at the time of sale, the judgment debtor
3 shall have the right to retain possession thereof during the period of
4 redemption without accounting for issues or for value of occupation.

5 **Sec. 147.** RCW 6.25.030 and 1987 c 442 s 803 are each amended to
6 read as follows:

7 The writ of attachment may be issued by the court in which the
8 action is pending on one or more of the following grounds:

9 (1) That the defendant is a foreign corporation; or

10 (2) That the defendant is not a resident of this state; or

11 (3) That the defendant conceals himself or herself so that the
12 ordinary process of law cannot be served upon him or her; or

13 (4) That the defendant has absconded or absented himself or herself
14 from his or her usual place of abode in this state, so that the
15 ordinary process of law cannot be served upon him or her; or

16 (5) That the defendant has removed or is about to remove any of his
17 or her property from this state, with intent to delay or defraud his or
18 her creditors; or

19 (6) That the defendant has assigned, secreted, or disposed of, or
20 is about to assign, secrete, or dispose of, any of his or her property,
21 with intent to delay or defraud his or her creditors; or

22 (7) That the defendant is about to convert his or her property, or
23 a part thereof, into money, for the purpose of placing it beyond the
24 reach of his or her creditors; or

25 (8) That the defendant has been guilty of a fraud in contracting
26 the debt or incurring the obligation for which the action is brought;
27 or

28 (9) That the damages for which the action is brought are for
29 injuries arising from the commission of some felony, gross misdemeanor,
30 or misdemeanor; or

31 (10) That the object for which the action is brought is to recover
32 on a contract, express or implied.

33 **Sec. 148.** RCW 6.25.040 and 1987 c 442 s 804 are each amended to
34 read as follows:

35 An action may be commenced and the property of a debtor may be
36 attached previous to the time when the debt becomes due, when nothing

1 but time is wanting to fix an absolute indebtedness, and when the
2 complaint and the affidavit allege, in addition to that fact, one or
3 more of the following grounds:

4 (1) That the defendant is about to dispose or has disposed of his
5 or her property in whole or in part with intent to defraud his or her
6 creditors; or

7 (2) That the defendant is about to remove from the state and
8 refuses to make any arrangements for securing the payment of the debt
9 when it falls due, and the contemplated removal was not known to the
10 plaintiff at the time the debt was contracted; or

11 (3) That the debt was incurred for property obtained under false
12 pretenses.

13 **Sec. 149.** RCW 6.32.030 and 1923 c 160 s 1 are each amended to read
14 as follows:

15 Any person may be made a party to a supplemental proceeding by
16 service of a like order in like manner as that required to be served
17 upon the judgment debtor, and upon proof by affidavit or otherwise, to
18 the satisfaction of the judge, that execution has been issued and
19 return made thereon wholly or partially unsatisfied, and also that any
20 person or corporation has personal property of the judgment debtor of
21 the value of twenty-five dollars or over, or is indebted to him or her
22 in said amount, or is holding the title to real estate for the judgment
23 debtor, or has knowledge concerning the property interests of the
24 judgment debtor, the judge may make an order requiring such person or
25 corporation, or an officer thereof, to appear at a specified time and
26 place before him or her, or a referee appointed by him or her, and
27 answer concerning the same.

28 **Sec. 150.** RCW 6.32.040 and 1893 c 133 s 4 are each amended to read
29 as follows:

30 An order requiring a person to attend and be examined, made
31 pursuant to any provision of this chapter, must require him or her so
32 to attend and be examined either before the judge to whom the order is
33 returnable or before a referee designated therein. Where the
34 examination is taken before a referee, he or she must certify to the
35 judge to whom the order is returnable all of the evidence and other
36 proceedings taken before him or her.

1 **Sec. 154.** RCW 6.32.080 and 1893 c 133 s 8 are each amended to read
2 as follows:

3 Where it appears from the examination or testimony taken in the
4 special proceedings authorized by this chapter that the judgment debtor
5 has in his or her possession or under his or her control money or other
6 personal property belonging to him or her, or that one or more articles
7 of personal property capable of manual delivery, his or her right to
8 the possession whereof is not substantially disputed, are in the
9 possession or under the control of another person, the judge by whom
10 the order or warrant was granted, or to whom it is returnable, may in
11 his or her discretion, and upon such notice given to such persons as he
12 or she deems just, or without notice, make an order directing the
13 judgment debtor, or other person, immediately to pay the money or
14 deliver the articles of personal property to a sheriff designated in
15 the order, unless a receiver has been appointed or a receivership has
16 been extended to the special proceedings, and in that case to the
17 receiver.

18 **Sec. 155.** RCW 6.32.090 and 1893 c 133 s 9 are each amended to read
19 as follows:

20 If the sheriff to whom money is paid or other property is
21 delivered, pursuant to an order made as prescribed in RCW 6.32.080,
22 does not then hold an execution upon the judgment against the property
23 of the judgment debtor, he or she has the same rights and power, and is
24 subject to the same duties and liabilities with respect to the money or
25 property, as if the money had been collected or the property had been
26 levied upon by him or her by virtue of such an execution, except as
27 provided in RCW 6.32.100.

28 **Sec. 156.** RCW 6.32.110 and 1893 c 133 s 11 are each amended to
29 read as follows:

30 Where money is paid or property is delivered as prescribed in RCW
31 6.32.070, 6.32.080, 6.32.090, and 6.32.100 and afterwards the special
32 proceeding is discontinued or dismissed, or the judgment is satisfied
33 without resorting to the money or property, or a balance of the money
34 or of the proceeds of the property, or a part of the property remains
35 in the sheriff's or receiver's hands after satisfying the judgment and
36 the costs and expenses of the special proceeding, the judge must make

1 an order directing the sheriff or receiver to pay the money or deliver
2 the property so remaining in his or her hands to the debtor, or to such
3 other person as appears to be entitled thereto, upon payment of his or
4 her fees and all other sums legally chargeable against the same.

5 **Sec. 157.** RCW 6.32.140 and 1893 c 133 s 14 are each amended to
6 read as follows:

7 The sheriff, when he or she arrests a judgment debtor by virtue of
8 a warrant issued as prescribed in this chapter, must deliver to him or
9 her a copy of the warrant and of the affidavit upon which it was
10 granted.

11 **Sec. 158.** RCW 6.32.160 and 1893 c 133 s 16 are each amended to
12 read as follows:

13 The judge may make an order allowing to the judgment creditor a
14 fixed sum as costs, consisting of his or her witness fees and referee's
15 fees and other disbursements, and of a sum in addition thereto not
16 exceeding twenty-five dollars, and directing the payment thereof out of
17 any money which has come or may come to the hands of the receiver or of
18 the sheriff within a time specified in the order.

19 **Sec. 159.** RCW 6.32.170 and 1923 c 160 s 2 are each amended to read
20 as follows:

21 Where the judgment debtor or other person against whom the special
22 proceeding is instituted has been examined, and property applicable to
23 the payment of the judgment has not been discovered, the judge may make
24 an order allowing him or her a sum, not to exceed twenty-five dollars,
25 as costs, provided that any such sum so allowed the judgment debtor,
26 shall be set off against the amount due the judgment creditor on his or
27 her judgment.

28 **Sec. 160.** RCW 6.32.180 and 1893 c 133 s 18 are each amended to
29 read as follows:

30 A person who refuses, or without sufficient excuse neglects, to
31 obey an order of a judge or referee made pursuant to any of the
32 provisions of this chapter, and duly served upon him or her, or an oral
33 direction given directly to him or her by a judge or referee in the
34 course of the special proceeding, or to attend before a judge or

1 referee according to the command of a subpoena duly served upon him or
2 her, may be punished by the judge of the court out of which the
3 execution issued, as for contempt.

4 **Sec. 161.** RCW 6.32.190 and 1893 c 133 s 19 are each amended to
5 read as follows:

6 A judgment debtor who resides or does business in the state cannot
7 be compelled to attend pursuant to an order made under the provisions
8 of this chapter at a place without the county where his or her
9 residence or place of business is situated. Where the judgment debtor
10 to be examined under this chapter is a corporation the court may cause
11 such corporation to appear and be examined by making like order or
12 orders as are prescribed in this chapter, directed to any officer or
13 officers thereof.

14 **Sec. 162.** RCW 6.32.200 and 1893 c 133 s 20 are each amended to
15 read as follows:

16 A party or witness examined in a special proceeding authorized by
17 this chapter is not excused from answering a question on the ground
18 that his or her examination will tend to convict him or her of a
19 commission of a fraud, or to prove that he or she has been a party to
20 or privy to or knowing of a conveyance, assignment, transfer, or other
21 disposition of property for any purpose; or that he, she, or another
22 person claims to be entitled as against the judgment creditor or
23 receiver appointed or to be appointed in the special proceeding to hold
24 property derived from or through the judgment debtor, or to be
25 discharged from the payment of a debt which was due to the judgment
26 debtor or to a person in his or her behalf. But an answer cannot be
27 used as evidence against the person so answering in a criminal action
28 or criminal proceeding.

29 **Sec. 163.** RCW 6.36.160 and 1953 c 191 s 16 are each amended to
30 read as follows:

31 The right of a judgment creditor to bring an action to enforce his
32 or her judgment instead of proceeding under this chapter remains
33 unimpaired.

1 **Sec. 164.** RCW 7.06.050 and 2002 c 339 s 1 are each amended to read
2 as follows:

3 (1) Following a hearing as prescribed by court rule, the arbitrator
4 shall file his or her decision and award with the clerk of the superior
5 court, together with proof of service thereof on the parties. Within
6 twenty days after such filing, any aggrieved party may file with the
7 clerk a written notice of appeal and request for a trial de novo in the
8 superior court on all issues of law and fact. Such trial de novo shall
9 thereupon be held, including a right to jury, if demanded.

10 (a) Up to thirty days prior to the actual date of a trial de novo,
11 a nonappealing party may serve upon the appealing party a written offer
12 of compromise.

13 (b) In any case in which an offer of compromise is not accepted by
14 the appealing party within ten calendar days after service thereof, for
15 purposes of MAR 7.3, the amount of the offer of compromise shall
16 replace the amount of the arbitrator's award for determining whether
17 the party appealing the arbitrator's award has failed to improve that
18 party's position on the trial de novo.

19 (c) A postarbitration offer of compromise shall not be filed or
20 communicated to the court or the trier of fact until after judgment on
21 the trial de novo, at which time a copy of the offer of compromise
22 shall be filed for purposes of determining whether the party who
23 appealed the arbitrator's award has failed to improve that party's
24 position on the trial de novo, pursuant to MAR 7.3.

25 (2) If no appeal has been filed at the expiration of twenty days
26 following filing of the arbitrator's decision and award, a judgment
27 shall be entered and may be presented to the court by any party, on
28 notice, which judgment when entered shall have the same force and
29 effect as judgments in civil actions.

30 **Sec. 165.** RCW 7.16.180 and 1895 c 65 s 18 are each amended to read
31 as follows:

32 The writ may be either alternative or peremptory. The alternative
33 writ must state generally the allegation against the party to whom it
34 is directed, and command such party, immediately after the receipt of
35 the writ, or at some other specified time, to do the act required to be
36 performed, or to show cause before the court, at a specified time and
37 place, why he or she has not done so. The peremptory writ must be in

1 some similar form, except the words requiring the party to show cause
2 why he or she has not done as commanded must be omitted and a return
3 (~~{day}~~) day inserted.

4 **Sec. 166.** RCW 7.16.210 and 1895 c 65 s 21 are each amended to read
5 as follows:

6 If an answer be made which raises a question as to a matter of fact
7 essential to the determination of the motion, and affecting the
8 substantial rights of the parties, and upon the supposed truth of the
9 allegation of which the application for the writ is based, the court
10 may, in its discretion, order the question to be tried before a jury,
11 and postpone the argument until such trial can be had, and the verdict
12 certified to the court. The question to be tried must be distinctly
13 stated in the order for trial, and the county must be designated in
14 which the same shall be had. The order may also direct the jury to
15 assess any damages which the appellant may have sustained, in case they
16 find for him or her.

17 **Sec. 167.** RCW 7.16.260 and 1895 c 65 s 26 are each amended to read
18 as follows:

19 If judgment be given for the applicant he or she may recover the
20 damages which he or she has sustained, as found by the jury or as may
21 be determined by the court or referee, upon a reference to be ordered,
22 together with costs; and for such damages and costs an execution may
23 issue, and a peremptory mandate must also be awarded without delay.

24 **Sec. 168.** RCW 7.16.310 and 1895 c 65 s 31 are each amended to read
25 as follows:

26 The writ must be either alternative or peremptory. The alternative
27 writ must state generally the allegations against the party to whom it
28 is directed, and command such party to desist or refrain from further
29 proceedings in the action or matter specified therein until the further
30 order of the court from which it is issued, and to show cause before
31 such court, at a specified time and place, why such party should not be
32 absolutely restrained from any further proceedings in such action or
33 matter. The peremptory writ must be in a similar form, except that the
34 words requiring the party to show cause why he or she should not be
35 absolutely restrained, etc., must be omitted and a return day inserted.

1 **Sec. 169.** RCW 7.25.020 and 1999 c 284 s 3 are each amended to read
2 as follows:

3 A complaint shall be prepared and filed in the superior court by
4 such government entity setting forth such ordinance or resolution and
5 that it is the purpose of the plaintiff to issue and sell bonds as
6 stated therein and that it is desired that the right of the plaintiff
7 to so issue such bonds and sell the same shall be tested and determined
8 in said action. In said action all interested parties shall be deemed
9 to be defendants. The title of the action shall be "In re (name of
10 bond issue)." Upon the filing of the complaint the court shall, upon
11 the application of the plaintiff, enter an order naming one or more
12 interested parties upon whom service in said action shall be made as
13 the representative of all interested parties, except such as may
14 intervene as herein provided, and in such case the court shall fix and
15 allow a reasonable (~~(attorney's)~~) attorneys' fee in said action to the
16 attorney who shall represent the representative interested parties as
17 aforesaid, and such fee and all taxable costs incurred by such
18 representative interested parties shall be taxed as costs against the
19 plaintiff: PROVIDED, That if the interested parties appointed by the
20 court shall default, the court shall appoint an attorney who shall
21 defend said action on behalf of all interested parties, and such
22 attorney shall be allowed a reasonable fee and taxable costs to be
23 taxed against the plaintiff: PROVIDED FURTHER, That after filing the
24 complaint, the plaintiff shall twice place a notice in a newspaper of
25 general circulation within the boundaries of the government entity,
26 stating the title of the action, informing the interested parties that
27 the action has been commenced testing the validity of the bonds, and
28 stating that any interested parties, as that term is defined herein,
29 may intervene in such action and be represented therein by his or her
30 own attorney. Thereupon, any interested parties who desire to
31 intervene must apply to the court to intervene within ten days after
32 the second publication of the notice.

33 **Sec. 170.** RCW 7.28.010 and 1911 c 83 s 1 are each amended to read
34 as follows:

35 Any person having a valid subsisting interest in real property, and
36 a right to the possession thereof, may recover the same by action in
37 the superior court of the proper county, to be brought against the

1 tenant in possession; if there is no such tenant, then against the
2 person claiming the title or some interest therein, and may have
3 judgment in such action quieting or removing a cloud from plaintiff's
4 title; an action to quiet title may be brought by the known heirs of
5 any deceased person, or of any person presumed in law to be deceased,
6 or by the successors in interest of such known heirs against the
7 unknown heirs of such deceased person or against such person presumed
8 to be deceased and his or her unknown heirs, and if it shall be made to
9 appear in such action that the plaintiffs are heirs of the deceased
10 person, or the person presumed in law to be deceased, or the successors
11 in interest of such heirs, and have been in possession of the real
12 property involved in such action for ten years preceding the time of
13 the commencement of such action, and that during said time no person
14 other than the plaintiff in the action or his or her grantors has
15 claimed or asserted any right or title or interest in said property,
16 the court may adjudge and decree the plaintiff or plaintiffs in such
17 action to be the owners of such real property, free from all claims of
18 any unknown heirs of such deceased person, or person presumed in law to
19 be deceased; and an action to quiet title may be maintained by any
20 person in the actual possession of real property against the unknown
21 heirs of a person known to be dead, or against any person where it is
22 not known whether such person is dead or not, and against the unknown
23 heirs of such person, and if it shall thereafter transpire that such
24 person was at the time of commencing such action dead the judgment or
25 decree in such action shall be as binding and conclusive on the heirs
26 of such person as though they had been known and named; and in all
27 actions, under this section, to quiet or remove a cloud from the title
28 to real property, if the defendant be absent or a nonresident of this
29 state, or cannot, after due diligence, be found within the state, or
30 conceals himself or herself to avoid the service of summons, service
31 may be made upon such defendant by publication of summons as provided
32 by law; and the court may appoint a trustee for such absent or
33 nonresident defendant, to make or cancel any deed or conveyance of
34 whatsoever nature, or do any other act to carry into effect the
35 judgment or the decree of the court.

36 **Sec. 171.** RCW 7.28.110 and Code 1881 s 537 are each amended to
37 read as follows:

1 A defendant who is in actual possession may, for answer, plead that
2 he or she is in possession only as a tenant of another, naming him or
3 her and his or her place of residence, and thereupon the landlord, if
4 he or she applies therefor, shall be made defendant in place of the
5 tenant, and the action shall proceed in all respects as if originally
6 commenced against him or her. If the landlord does not apply to be
7 made defendant within the time the tenant is allowed to answer,
8 thereafter he or she shall not be allowed to, but he or she shall be
9 made defendant if the plaintiff require it. If the landlord be made
10 defendant on motion of the plaintiff he or she shall be required to
11 appear and answer within ten days from notice of the pendency of the
12 action and the order making him or her defendant, or such further
13 notice as the court or judge thereof may prescribe.

14 **Sec. 172.** RCW 7.28.120 and Code 1881 s 538 are each amended to
15 read as follows:

16 The plaintiff in such action shall set forth in his or her
17 complaint the nature of his or her estate, claim, or title to the
18 property, and the defendant may set up a legal or equitable defense to
19 plaintiff's claims; and the superior title, whether legal or equitable,
20 shall prevail. The property shall be described with such certainty as
21 to enable the possession thereof to be delivered if a recovery be had.

22 **Sec. 173.** RCW 7.28.130 and Code 1881 s 539 are each amended to
23 read as follows:

24 The defendant shall not be allowed to give in evidence any estate
25 in himself, herself, or another in the property, or any license or
26 right to the possession thereof unless the same be pleaded in his or
27 her answer. If so pleaded, the nature and duration of such estate, or
28 license or right to the possession, shall be set forth with the
29 certainty and particularity required in a complaint. If the defendant
30 does not defend for the whole of the property, he or she shall specify
31 for what particular part he or she does defend. In an action against
32 a tenant, the judgment shall be conclusive against a landlord who has
33 been made defendant in place of the tenant, to the same extent as if
34 the action had been originally commenced against him or her.

1 **Sec. 174.** RCW 7.28.140 and Code 1881 s 540 are each amended to
2 read as follows:

3 The jury by their verdict shall find as follows:

4 (1) If the verdict be for the plaintiff, that he or she is entitled
5 to the possession of the property described in the complaint, or some
6 part thereof, or some undivided share or interest in either, and the
7 nature and duration of his or her estate in such property, part
8 thereof, or undivided share or interest, in either, as the case may be.

9 (2) If the verdict be for the defendant, that the plaintiff is not
10 entitled to the possession of the property described in the complaint,
11 or to such part thereof as the defendant defends for, and the estate in
12 such property or part thereof, or license, or right to the possession
13 of either established on the trial by the defendant, if any, in effect
14 as the same is required to be pleaded.

15 **Sec. 175.** RCW 7.28.150 and Code 1881 s 541 are each amended to
16 read as follows:

17 The plaintiff shall only be entitled to recover damages for
18 withholding the property for the term of six years next preceding the
19 commencement of the action, and for any period that may elapse from
20 such commencement, to the time of giving a verdict therein, exclusive
21 of the use of permanent improvements made by the defendant. When
22 permanent improvements have been made upon the property by the
23 defendant, or those under whom he or she claims holding under color of
24 title adversely to the claim of the plaintiff, in good faith, the value
25 thereof at the time of trial shall be allowed as a setoff against such
26 damages.

27 **Sec. 176.** RCW 7.28.160 and 1903 c 137 s 1 are each amended to read
28 as follows:

29 In an action for the recovery of real property upon which permanent
30 improvements have been made or general or special taxes or local
31 assessments have been paid by a defendant, or those under whom he or
32 she claims, holding in good faith under color or claim of title
33 adversely to the claim of plaintiff, the value of such improvements and
34 the amount of such taxes or assessments with interest thereon from date
35 of payment must be allowed as a counterclaim to the defendant.

1 **Sec. 177.** RCW 7.28.180 and 1903 c 137 s 3 are each amended to read
2 as follows:

3 If the judgment be in favor of the plaintiff for the recovery of
4 the realty, and of the defendant upon the counterclaim, the plaintiff
5 shall be entitled to recover such damages as he or she may be found to
6 have suffered through the withholding of the premises and waste
7 committed thereupon by the defendant or those under whom he or she
8 claims, but against this recovery shall be offset pro tanto the value
9 of the permanent improvements and the amount of said taxes and
10 assessments with interest found as above provided. Should the value of
11 improvements or taxes or assessments with interest exceed the recovery
12 for damages, the plaintiff, shall, within two months, pay to the
13 defendant the difference between the two sums and upon proof, after
14 notice, to the defendant, that this has been done, the court shall make
15 an order declaring that fact, and that title to the improvements is
16 vested in him or her. Should the plaintiff fail to make such payment,
17 the defendant may at any time within two months after the time limited
18 for such payment to be made, pay to the plaintiff the value of the land
19 apart from the improvements, and the amount of the damages awarded
20 against him or her, and he or she thereupon shall be vested with title
21 to the land, and, after notice to the plaintiff, the court shall make
22 an order reciting the fact and adjudging title to be in him or her.
23 Should neither party make the payment above provided, within the
24 specified time, they shall be deemed to be tenants in common of the
25 premises, including the improvements, each holding an interest
26 proportionate to the value of his or her property determined in the
27 manner specified in RCW 7.28.170: PROVIDED, That the interest of the
28 owner of the improvements shall be the difference between the value of
29 the improvements and the amount of damages recovered against him or her
30 by the plaintiff.

31 **Sec. 178.** RCW 7.28.210 and Code 1881 s 544 are each amended to
32 read as follows:

33 The order shall describe the property, and a copy thereof shall be
34 served upon the defendant, and thereupon the party may enter upon the
35 property and make such survey and admeasurement; but if any unnecessary
36 injury be done to the premises, he or she shall be liable therefor.

1 **Sec. 179.** RCW 7.28.230 and 1991 c 188 s 1 are each amended to read
2 as follows:

3 (1) A mortgage of any interest in real property shall not be deemed
4 a conveyance so as to enable the owner of the mortgage to recover
5 possession of the real property, without a foreclosure and sale
6 according to law: PROVIDED, That nothing in this section shall be
7 construed as any limitation upon the right of the owner of real
8 property to mortgage, pledge or assign the rents and profits thereof,
9 nor as prohibiting the mortgagee, pledgee or assignee of such rents and
10 profits, or any trustee under a mortgage or trust deed either
11 contemporaneously or upon the happening of a future event of default,
12 from entering into possession of any real property, other than farm
13 lands or the homestead of the mortgagor or his or her successor in
14 interest, for the purpose of collecting the rents and profits thereof
15 for application in accordance with the provisions of the mortgage or
16 trust deed or other instrument creating the lien, nor as any limitation
17 upon the power of a court of equity to appoint a receiver to take
18 charge of such real property and collect such rents and profits thereof
19 for application in accordance with the terms of such mortgage, trust
20 deed, or assignment.

21 (2) Until paid, the rents and profits of real property constitute
22 real property for the purposes of mortgages, trust deeds, or
23 assignments whether or not said rents and profits have accrued. The
24 provisions of RCW 65.08.070 as now or hereafter amended shall be
25 applicable to such rents and profits, and such rents and profits are
26 excluded from Article 62A.9 RCW.

27 (3) The recording of an assignment, mortgage, or pledge of unpaid
28 rents and profits of real property, intended as security, in accordance
29 with RCW 65.08.070, shall immediately perfect the security interest in
30 the assignee, mortgagee, or pledgee and shall not require any further
31 action by the holder of the security interest to be perfected as to any
32 subsequent purchaser, mortgagee, or assignee. Any lien created by such
33 assignment, mortgage, or pledge shall, when recorded, be deemed
34 specific, perfected, and choate even if recorded prior to July 23,
35 1989.

36 **Sec. 180.** RCW 7.28.240 and Code 1881 s 547 are each amended to
37 read as follows:

1 In an action by a tenant in common, or a joint tenant of real
2 property against his or her cotenant, the plaintiff must show, in
3 addition to his or her evidence of right, that the defendant either
4 denied the plaintiff's right or did some act amounting to such denial.

5 **Sec. 181.** RCW 7.28.250 and Code 1881 s 548 are each amended to
6 read as follows:

7 When in the case of a lease of real property and the failure of
8 tenant to pay rent, the landlord has a subsisting right to reenter for
9 such failure; he or she may bring an action to recover the possession
10 of such property, and such action is equivalent to a demand of the rent
11 and a reentry upon the property. But if at any time before the
12 judgment in such action, the lessee or his or her successor in interest
13 as to the whole or a part of the property, pay to the plaintiff, or
14 bring into court the amount of rent then in arrear, with interest and
15 cost of action, and perform the other covenants or agreements on the
16 part of the lessee, he or she shall be entitled to continue in the
17 possession according to the terms of the lease.

18 **Sec. 182.** RCW 7.28.260 and 1909 c 35 s 1 are each amended to read
19 as follows:

20 In an action to recover possession of real property, the judgment
21 rendered therein shall be conclusive as to the estate in such property
22 and the right of possession thereof, so far as the same is thereby
23 determined, upon all persons claiming by, through, or under the party
24 against whom the judgment is rendered, by title or interest passing
25 after the commencement of the action, if the party in whose favor the
26 judgment is rendered shall have filed a notice of the pendency of the
27 action as required by RCW 4.28.320. When service of the notice is made
28 by publication, and judgment is given for failure to answer, at any
29 time within two years from the entry thereof, the defendant or his or
30 her successor in interest as to the whole or any part of the property,
31 shall, upon application to the court or judge thereof, be entitled to
32 an order, vacating the judgment and granting him or her a new trial,
33 upon the payment of the costs of the action.

34 **Sec. 183.** RCW 7.28.270 and Code 1881 s 550 are each amended to
35 read as follows:

1 If the plaintiff has taken possession of the property before the
2 judgment is set aside and a new trial granted, as provided in RCW
3 7.28.260, such possession shall not be thereby affected in any way; and
4 if judgment be given for defendant in the new trial, he or she shall be
5 entitled to restitution by execution in the same manner as if he or she
6 were plaintiff.

7 **Sec. 184.** RCW 7.28.280 and Code 1881 s 551 are each amended to
8 read as follows:

9 In an action at law, for the recovery of the possession of real
10 property, if either party claims the property as a donee of the United
11 States, and under the act of congress approved September 27th, 1850,
12 commonly called the "Donation law," or the acts amendatory thereof,
13 such party, from the date of his or her settlement thereon, as provided
14 in said act, shall be deemed to have a legal estate in fee, in such
15 property, to continue upon condition that he or she perform the
16 conditions required by such acts, which estate is unconditional and
17 indefeasible after the performance of such conditions. In such action,
18 if both plaintiff and defendant claim title to the same real property,
19 by virtue of settlement, under such acts, such settlement and
20 performance of the subsequent condition shall be prima facie presumed
21 in favor of the party having or claiming under the elder certificate,
22 or patent, as the case may be, unless it appears upon the face of such
23 certificate or patent that the same is absolutely void. Any person in
24 possession, by himself or herself or his or her tenant, of real
25 property, and any private or municipal corporation in possession by
26 itself or its tenant of any real property, or when such real property
27 is not in the actual possession of anyone, any person or private or
28 municipal corporation claiming title to any real property under a
29 patent from the United States, or during his, her, or its claim of
30 title to such real property under a patent from the United States for
31 such real estate, may maintain a civil action against any person or
32 persons, corporations, or associations claiming an interest in said
33 real property or any part thereof, or any right thereto adverse to him,
34 her, them, or it, for the purpose of determining such claim, estate, or
35 interest; and where several persons, or private or municipal
36 corporations are in possession of, or claim as aforesaid, separate
37 parcels of real property, and an adverse interest is claimed or claim

1 made in or to any such parcels, by any other person, persons,
2 corporations, or associations, arising out of a question, conveyance,
3 statute, grant, or other matter common to all such parcels of real
4 estate, all or any portion of such persons or corporations so in
5 possession, or claiming such parcel of real property may unite as
6 plaintiffs in such suit to determine such adverse claim or interest
7 against all persons, corporations, or associations claiming such
8 adverse interest.

9 **Sec. 185.** RCW 7.36.010 and Code 1881 s 666 are each amended to
10 read as follows:

11 Every person restrained of his or her liberty under any pretense
12 whatever, may prosecute a writ of habeas corpus to inquire into the
13 cause of the restraint, and shall be delivered therefrom when illegal.

14 **Sec. 186.** RCW 7.36.030 and Code 1881 s 667 are each amended to
15 read as follows:

16 Application for the writ shall be made by petition, signed and
17 verified either by the plaintiff or by some person in his or her
18 behalf, and shall specify:

19 (1) By whom the petitioner is restrained of his or her liberty, and
20 the place where, (naming the parties if they are known, or describing
21 them if they are not known).

22 (2) The cause or pretense of the restraint according to the best of
23 the knowledge and belief of the applicant.

24 (3) If the restraint be alleged to be illegal, in what the
25 illegality consists.

26 **Sec. 187.** RCW 7.36.050 and Code 1881 s 669 are each amended to
27 read as follows:

28 The writ shall be directed to the officer or party having the
29 person under restraint, commanding him or her to have such person
30 before the court or judge at such time and place as the court or judge
31 shall direct to do and receive what shall be ordered concerning him or
32 her, and have then and there the writ.

33 **Sec. 188.** RCW 7.36.060 and Code 1881 s 670 are each amended to
34 read as follows:

1 If the writ be directed to the sheriff, it shall be delivered by
2 the clerk to him or her without delay.

3 **Sec. 189.** RCW 7.36.070 and Code 1881 s 671 are each amended to
4 read as follows:

5 If the writ be directed to any other person, it shall be delivered
6 to the sheriff and shall be by him or her served by delivering the same
7 to such person without delay.

8 **Sec. 190.** RCW 7.36.080 and Code 1881 s 672 are each amended to
9 read as follows:

10 If the person to whom such writ is directed cannot be found or
11 shall refuse admittance to the sheriff, the same may be served by
12 leaving it at the residence of the person to whom it is directed, or by
13 posting the same (~~(on—[in])~~) in some conspicuous place, either (~~(of~~
14 ~~[on])~~) on his or her dwelling house or where the party is confined or
15 under restraint.

16 **Sec. 191.** RCW 7.36.090 and Code 1881 s 673 are each amended to
17 read as follows:

18 The sheriff or other person to whom the writ is directed shall make
19 immediate return thereof, and if he or she refuse after due service to
20 make return, the court shall enforce obedience by attachment.

21 **Sec. 192.** RCW 7.36.100 and Code 1881 s 674 are each amended to
22 read as follows:

23 The return must be signed and verified by the person making it, who
24 shall state:

25 (1) The authority or cause of the restraint of the party in his or
26 her custody.

27 (2) If the authority shall be in writing, he or she shall return a
28 copy and produce the original on the hearing.

29 (3) If he or she has had the party in his or her custody or under
30 his or her restraint, and has transferred him or her to another, he or
31 she shall state to whom, the time, place, and cause of the transfer.
32 He or she shall produce the party at the hearing unless prevented by
33 sickness or infirmity, which must be shown in the return.

1 **Sec. 193.** RCW 7.36.190 and Code 1881 s 682 are each amended to
2 read as follows:

3 Whenever it shall appear by affidavit that any one is illegally
4 held in custody or restraint, and that there is good reason to believe
5 that such person will be carried out of the jurisdiction of the court
6 or judge before whom the application is made, or will suffer some
7 irreparable injury before compliance with the writ can be enforced,
8 such court or judge may cause a warrant to be issued reciting the
9 facts, and directed to the sheriff or any constable of the county,
10 commanding him or her to take the person thus held in custody or
11 restraint, and forthwith bring him or her before the court or judge to
12 be dealt with according to the law.

13 **Sec. 194.** RCW 7.40.020 and Code 1881 s 154 are each amended to
14 read as follows:

15 When it appears by the complaint that the plaintiff is entitled to
16 the relief demanded and the relief, or any part thereof, consists in
17 restraining the commission or continuance of some act, the commission
18 or continuance of which during the litigation would produce great
19 injury to the plaintiff; or when during the litigation, it appears that
20 the defendant is doing, or threatened, or is about to do, or is
21 procuring, or is suffering some act to be done in violation of the
22 plaintiff's rights respecting the subject of the action tending to
23 render the judgment ineffectual; or where such relief, or any part
24 thereof, consists in restraining proceedings upon any final order or
25 judgment, an injunction may be granted to restrain such act or
26 proceedings until the further order of the court, which may afterwards
27 be dissolved or modified upon motion. And where it appears in the
28 complaint at the commencement of the action, or during the pendency
29 thereof, by affidavit, that the defendant threatens, or is about to
30 remove or dispose of his or her property with intent to defraud his or
31 her creditors, a temporary injunction may be granted to restrain the
32 removal or disposition of his or her property.

33 **Sec. 195.** RCW 7.40.090 and Code 1881 s 160 are each amended to
34 read as follows:

35 When an injunction is granted upon the hearing, after a temporary
36 restraining order, the plaintiff shall not be required to enter into a

1 second bond, unless the former shall be deemed insufficient, but the
2 plaintiff and his or her surety shall remain liable upon his or her
3 original bond.

4 **Sec. 196.** RCW 7.40.100 and Code 1881 s 161 are each amended to
5 read as follows:

6 It shall not be necessary to issue a writ of injunction, but the
7 clerk shall issue a copy of the order of injunction duly certified by
8 him or her, which shall be forthwith served by delivering the same to
9 the adverse party.

10 **Sec. 197.** RCW 7.40.110 and Code 1881 s 162 are each amended to
11 read as follows:

12 In application to stay proceedings after judgment, the plaintiff
13 shall endorse upon his or her complaint a release of errors in the
14 judgment whenever required to do so by the judge or court.

15 **Sec. 198.** RCW 7.40.120 and Code 1881 s 163 are each amended to
16 read as follows:

17 An order of injunction shall bind every person and officer
18 restrained from the time he or she is informed thereof.

19 **Sec. 199.** RCW 7.40.130 and Code 1881 s 164 are each amended to
20 read as follows:

21 When notice of the application for an injunction has been served
22 upon the adverse party, it shall not be necessary to serve the order
23 upon him or her, but he or she shall be bound by the injunction as soon
24 as the bond required of the plaintiff is executed and delivered to the
25 proper officer.

26 **Sec. 200.** RCW 7.40.150 and 1957 c 9 s 12 are each amended to read
27 as follows:

28 Whenever it shall appear to any court granting a restraining order
29 or an order of injunction, or by affidavit, that any person has
30 (~~wilfully~~) willfully disobeyed the order after notice thereof, such
31 court shall award an attachment for contempt against the party charged,
32 or an order to show cause why it should not issue. The attachment or

1 order shall be issued by the clerk of the court, and directed to the
2 sheriff, and shall be served by him or her.

3 **Sec. 201.** RCW 7.40.160 and Code 1881 s 167 are each amended to
4 read as follows:

5 The attachment for contempt shall be immediately served, by
6 arresting the party charged, and bringing him or her into court, if in
7 session, to be dealt with as in other cases of contempt; and the court
8 shall also take all necessary measures to secure and indemnify the
9 plaintiff against damages in the premises.

10 **Sec. 202.** RCW 7.40.170 and 1891 c 56 s 1 are each amended to read
11 as follows:

12 If the court is not in session the officer making the arrest shall
13 cause the person to enter into a bond, with surety, to be approved by
14 the officer, conditioned that he or she personally appear in open court
15 whenever his or her appearance shall be required, to answer such
16 contempt, and that he or she will pay to the plaintiff all his or her
17 damages and costs occasioned by the breach of the order; and in default
18 thereof he or she shall be committed to the jail of the county until he
19 or she shall enter into such bond with surety, or be otherwise legally
20 discharged.

21 **Sec. 203.** RCW 7.42.020 and 1959 c 105 s 2 are each amended to read
22 as follows:

23 The prosecuting attorney of every county of the state, in which a
24 person, firm, or corporation sells or distributes or offers to sell or
25 distribute or has in his or her possession with intent to sell or
26 distribute any book, magazine, pamphlet, comic book, story paper,
27 writing, paper, newspaper, phonograph record, magnetic tape, electric
28 or mechanical transcription, picture, drawing, photograph, figure,
29 image, or any written or printed matter of an indecent character, which
30 is obscene, lewd, lascivious, filthy, or indecent, or which contains an
31 article or instrument of indecent use or purports to be for indecent
32 use or purpose, may maintain an action in the name of the state for an
33 injunction against such person, firm, or corporation in the superior
34 court to prevent the sale or further sale or the distribution or
35 further distribution or the acquisition or possession of any book,

1 magazine, pamphlet, comic book, story paper, writing, paper, newspaper,
2 phonograph record, magnetic tape, electric or mechanical transcription,
3 picture, drawing, photograph, figure, or image or any written or
4 printed matter of indecent character, herein described.

5 **Sec. 204.** RCW 7.42.060 and 1959 c 105 s 6 are each amended to read
6 as follows:

7 Every person, firm, or corporation who sells, distributes, or
8 acquires possession with intent to sell or distribute any of the matter
9 described in RCW 7.42.020, after the service upon him or her of a
10 summons and complaint in an action brought by the prosecuting attorney
11 pursuant to this chapter is chargeable with knowledge of the contents
12 thereof.

13 **Sec. 205.** RCW 7.44.010 and Code 1881 s 636 are each amended to
14 read as follows:

15 Actions may be commenced upon any agreement in writing before the
16 time for the performance of the contract expires, when the plaintiff or
17 his or her agent shall make and file an affidavit with the clerk of the
18 proper court, that the defendant is about to leave the state without
19 performing or making provisions for the performance of the contract,
20 taking with him or her property, moneys, credits, or effects subject to
21 execution, with intent to defraud plaintiff.

22 **Sec. 206.** RCW 7.44.020 and 1891 c 42 (p 81) s 1 are each amended
23 to read as follows:

24 At the time of filing the affidavit the plaintiff shall also file
25 his or her complaint in the action, and thenceforth the action shall
26 proceed as other actions at law, except as otherwise provided in this
27 chapter.

28 **Sec. 207.** RCW 7.44.021 and 1957 c 51 s 10 are each amended to read
29 as follows:

30 Upon such affidavit and complaint being filed, the clerk shall
31 issue an order of arrest and bail, directed to the sheriff, which shall
32 be issued, served, and returned in all respects as such orders in other
33 cases; before such order shall issue the plaintiff shall file in the
34 office of the clerk a bond, with sufficient surety, to be approved by

1 the clerk, conditioned that the plaintiff will pay the defendant such
2 damages and costs as he or she shall wrongfully sustain by reason of
3 the action, which surety shall justify as provided by law.

4 **Sec. 208.** RCW 7.44.030 and 1891 c 42 s 3 are each amended to read
5 as follows:

6 The sheriff shall require the defendant to enter into a bond, with
7 sufficient surety, personally to appear within the time allowed by law
8 for answering the complaint, and to abide the order of the court; and
9 in default thereof the defendant shall be committed to prison until
10 discharged in due course of law; such special bail shall be liable for
11 the principal, and shall have a right to arrest and deliver him or her
12 up, as in other cases, and the defendant may give other bail.

13 **Sec. 209.** RCW 7.44.031 and Code 1881 s 639 are each amended to
14 read as follows:

15 Instead of giving special bail, as above provided, the defendant
16 shall be entitled to his or her discharge from custody if he or she
17 will secure the performance of the contract to the satisfaction of the
18 plaintiff.

19 **Sec. 210.** RCW 7.48.030 and Code 1881 s 607 are each amended to
20 read as follows:

21 If the order be made, the clerk shall thereafter, at any time
22 within six months, when requested by the plaintiff, issue such warrant
23 directed to the sheriff, requiring him or her forthwith to abate the
24 nuisance at the expense of the defendant, and return the warrant as
25 soon thereafter as may be, with his or her proceedings indorsed
26 thereon. The expenses of abating the nuisance may be levied by the
27 sheriff on the property of the defendant, and in this respect the
28 warrant is to be deemed an execution against property.

29 **Sec. 211.** RCW 7.48.040 and 1957 c 51 s 11 are each amended to read
30 as follows:

31 At any time before the order is made or the warrant issues, the
32 defendant may, on motion to the court or judge thereof, have an order
33 to stay the issue of such warrant for such period as may be necessary,
34 not exceeding six months, to allow the defendant to abate the nuisance

1 himself or herself, upon his or her giving bond to the plaintiff in a
2 sufficient amount with one or more sureties, to the satisfaction of the
3 court or judge thereof, that he or she will abate it within the time
4 and in the manner specified in such order. The sureties shall justify
5 as provided by law. If the defendant fails to abate such nuisance
6 within the time specified, the warrant for the abatement of the
7 nuisance may issue as if the same had not been stayed.

8 **Sec. 212.** RCW 7.48.058 and 1979 c 1 s 5 are each amended to read
9 as follows:

10 The attorney general, prosecuting attorney, city attorney, city
11 prosecutor, or any citizen of the county may maintain an action of an
12 equitable nature in the name of the state of Washington upon the
13 relation of such attorney general, prosecuting attorney, city attorney,
14 city prosecutor, or citizen, to abate a moral nuisance, to perpetually
15 enjoin all persons from maintaining the same, and to enjoin the use of
16 any structure or thing adjudged to be a moral nuisance.

17 If such action is instituted by a private person, the complainant
18 shall execute a bond to the person against whom complaint is made, with
19 good and sufficient surety to be approved by the court or clerk
20 thereof, in the sum of not less than five hundred dollars, to secure to
21 the party enjoined the damages he or she may sustain if such action is
22 wrongfully brought, and the court finds there was no reasonable grounds
23 or cause for said action and the case is dismissed for that reason
24 before trial or for want of prosecution. No bond shall be required of
25 the attorney general, prosecuting attorney, city attorney, or city
26 prosecutor, and no action shall be maintained against such public
27 official for his or her official action when brought in good faith.

28 **Sec. 213.** RCW 7.48.076 and 1979 c 1 s 14 are each amended to read
29 as follows:

30 If the action is brought by a person who is a citizen of the
31 county, and the court finds that there were no reasonable grounds or
32 probable cause for bringing said action, and the case is dismissed
33 before trial for that reason or for want of prosecution, the costs,
34 including (~~attorney's~~) attorneys' fees, may be taxed to such person.

35 If the existence of the nuisance is established upon the trial, a
36 judgment shall be entered which shall perpetually enjoin the defendant

1 and any other person from further maintaining the nuisance at the place
2 complained of, and the defendant from maintaining such nuisance
3 elsewhere. The entire expenses of such abatement, including
4 (~~attorney's~~) attorneys' fees, shall be recoverable by the plaintiff
5 as a part of his or her costs of the lawsuit.

6 If the complaint is filed by a person who is a citizen of the
7 county, it shall not be dismissed except upon a sworn statement by the
8 complainant and his or her attorney, setting forth the reason why the
9 action should be dismissed and the dismissal approved by the
10 prosecuting attorney in writing or in open court. If the judge is of
11 the opinion that the action should not be dismissed, he or she may
12 direct the prosecuting attorney to prosecute said action to judgment at
13 the expense of the county, and if the action is continued for more than
14 one term of court, any person who is a citizen of the county or has an
15 office therein, or the attorney general, the prosecuting attorney, city
16 attorney, or city prosecutor, may be substituted for the complainant
17 and prosecute said action to judgment.

18 **Sec. 214.** RCW 7.48.078 and 1979 c 1 s 15 are each amended to read
19 as follows:

20 If the existence of a nuisance is admitted or established in an
21 action as provided for in RCW 7.48.058 or in a criminal proceeding, an
22 order of abatement shall be entered as a part of the judgment in the
23 case, which order shall direct the removal from the place of all
24 personal property and contents used in conducting the nuisance and not
25 already released under authority of the court as provided for in RCW
26 7.48.066 and 7.48.068, and shall direct the sale of such thereof as
27 belong to the defendants notified or appearing, in the manner provided
28 for the sale of chattels under execution. Lewd matter shall be
29 destroyed and shall not be sold.

30 Such judgment shall impose a penalty of three hundred dollars for
31 the maintenance of such nuisance, which penalty shall be imposed
32 against the person or persons found to have maintained the nuisance,
33 and, in case any owner or agent of the building found to have had
34 actual or constructive notice of the maintenance of such nuisance,
35 against such owner or agent, and against the building kept or used for
36 the purposes of maintaining a moral nuisance, which penalty shall be

1 collected by execution as in civil actions, and when collected, shall
2 be paid into the current expense fund of the county in which the
3 judgment is had.

4 Such order shall also require the renewal for one year of any bond
5 furnished by the owner of the real property, as provided in RCW
6 7.48.068 or, if not so furnished, shall continue for one year any
7 closing order issued at the time of granting the temporary injunction,
8 or, if no such closing order was then issued, shall include an order
9 directing the effectual closing of the place against its use for any
10 purpose and keeping it closed for a period of one year unless sooner
11 released.

12 The owner of any place closed and not released under bond may then
13 appear and obtain such release in the manner and upon fulfilling the
14 requirements provided in RCW 7.48.068.

15 Owners of unsold personal property and contents so seized must
16 appear and claim the same within ten days after such order of abatement
17 is made, and prove innocence to the satisfaction of the court of any
18 knowledge of such use thereof, and that with reasonable care and
19 diligence they could not have known thereof. If such innocence is
20 established, such unsold personal property and contents shall be
21 delivered to the owner, otherwise it shall be sold as provided in this
22 section. For removing and selling the personal property and contents,
23 the officer shall be entitled to charge and receive the same fees as he
24 or she would for levying upon and selling like property on execution;
25 and for closing the place and keeping it closed, a reasonable sum shall
26 be allowed by the court.

27 **Sec. 215.** RCW 7.48.085 and 1979 c 1 s 17 are each amended to read
28 as follows:

29 If a tenant or occupant of a building or tenement, under a lawful
30 title, uses such place for the purposes of maintaining a moral
31 nuisance, such use makes void at the option of the owner the lease or
32 other title under which he or she holds, and without any act of the
33 owner causes the right of possession to revert and vest in such owner,
34 who may without process of law make immediate entry upon the premises.

35 **Sec. 216.** RCW 7.48.100 and 1979 c 1 s 19 are each amended to read
36 as follows:

1 The provisions of any criminal statutes with respect to the
2 exhibition of, or the possession with the intent to exhibit, any
3 obscene film shall not apply to a motion picture projectionist, usher,
4 or ticket taker acting within the scope of his or her employment, if
5 such projectionist, usher, or ticket taker (1) has no financial
6 interest in the place wherein he or she is so employed, other than his
7 or her salary, and (2) freely and willingly gives testimony regarding
8 such employment in any judicial proceedings brought under RCW 7.48.050
9 through 7.48.100 as now or hereafter amended, including pretrial
10 discovery proceedings incident thereto, when and if such is requested,
11 and upon being granted immunity by the trial judge sitting in such
12 matters.

13 **Sec. 217.** RCW 7.48.110 and 1927 c 94 s 3 are each amended to read
14 as follows:

15 If the owner of the building in which a nuisance is found to be
16 maintained, appears and pays all costs of the proceeding, and files a
17 bond with sureties to be approved by the clerk in the full value of the
18 property to be ascertained by the court, conditioned that he or she
19 will immediately abate said nuisance and prevent the same from being
20 established or kept therein within a period of one year thereafter, the
21 court or judge may, if satisfied of his or her good faith, order the
22 premises, closed under the order of abatement, to be delivered to said
23 owner, and said order closing the building canceled. The release of
24 the property under the provisions of this section shall not release it
25 from any judgment, lien, penalty, or liability to which it may be
26 subject by law.

27 **Sec. 218.** RCW 7.48.210 and Code 1881 s 1243 are each amended to
28 read as follows:

29 A private person may maintain a civil action for a public nuisance,
30 if it is specially injurious to himself or herself but not otherwise.

31 **Sec. 219.** RCW 7.48.230 and Code 1881 s 1245 are each amended to
32 read as follows:

33 Any person may abate a public nuisance which is specially injurious
34 to him or her by removing, or if necessary, destroying the thing which

1 constitutes the same, without committing a breach of the peace, or
2 doing unnecessary injury.

3 **Sec. 220.** RCW 7.48.270 and 1957 c 45 s 3 are each amended to read
4 as follows:

5 Instead of issuing such warrant, the court may order the same to be
6 stayed upon motion of the defendant, and upon his or her entering into
7 a bond in such sum and with such surety as the court may direct to the
8 state, conditioned either that the defendant will discontinue said
9 nuisance, or that within a time limited by the court, and not exceeding
10 six months, he or she will cause the same to be abated and removed, as
11 either is directed by the court, and upon his or her default to perform
12 the condition of his or her bond, the same shall be forfeited, and the
13 court, upon being satisfied of such default, may order such warrant
14 forthwith to issue, and an order to show cause why judgment should not
15 be entered against the sureties of said bond.

16 **Sec. 221.** RCW 7.52.030 and Code 1881 s 554 are each amended to
17 read as follows:

18 The plaintiff may, at his or her option, make creditors having a
19 lien upon the property or any portion thereof, other than by a judgment
20 or decree, defendants in the suit. When the lien is upon an undivided
21 interest or estate of any of the parties, such lien, if a partition be
22 made, is thenceforth a lien only on the share assigned to such party;
23 but such share shall be first charged with its just proportion of the
24 costs of the partition, in preference to such lien.

25 **Sec. 222.** RCW 7.52.060 and Code 1881 s 557 are each amended to
26 read as follows:

27 The defendant shall set forth in his or her answer, the nature, and
28 extent of his or her interest in the property, and if he or she be a
29 lien creditor, how such lien was created, the amount of the debt
30 secured thereby and remaining due, and whether such debt is secured in
31 any other way, and if so, the nature of such other security.

32 **Sec. 223.** RCW 7.52.120 and Code 1881 s 563 are each amended to
33 read as follows:

34 The expenses of the referees, including those of a surveyor and his

1 or her assistants, when employed, shall be ascertained and allowed by
2 the court, and the amount thereof, together with the fees allowed by
3 law to the referees, shall be paid by the plaintiff and may be allowed
4 as costs.

5 **Sec. 224.** RCW 7.52.160 and 1957 c 51 s 13 are each amended to read
6 as follows:

7 If an order of sale be made before the distribution of the proceeds
8 thereof, the plaintiff shall produce to the court the certificate of
9 the clerk of the county where the property is situated, showing the
10 liens remaining unsatisfied, if any, by judgment or decree upon the
11 property or any portion thereof, and unless he or she do so the court
12 shall order a referee to ascertain them.

13 **Sec. 225.** RCW 7.52.180 and Code 1881 s 569 are each amended to
14 read as follows:

15 The plaintiff must cause a notice to be served at least twenty days
16 before the time for appearance on each person having such lien by
17 judgment or decree, to appear before the referee at a specified time
18 and place to make proof by his or her own affidavit or otherwise, of
19 the true amount due or to become due, contingently or absolutely on his
20 or her judgment or decree.

21 **Sec. 226.** RCW 7.52.190 and Code 1881 s 570 are each amended to
22 read as follows:

23 The referee shall receive the evidence and report the names of the
24 creditors whose liens are established, the amounts due thereon, or
25 secured thereby, and their priority respectively, and whether
26 contingent or absolute. He or she shall attach to his or her report
27 the proof of service of the notices and the evidence before him or her.

28 **Sec. 227.** RCW 7.52.200 and Code 1881 s 571 are each amended to
29 read as follows:

30 The report of the referee may be excepted to by either party to the
31 suit, or to the proceedings before the referee, in like manner and with
32 like effect as in ordinary cases. If a lien creditor be absent from
33 the state, or his or her residence therein be unknown, and that fact
34 appear by affidavit, the court or judge thereof may by order direct

1 that service of the notice may be made upon his or her agent or
2 attorney of record, or by publication thereof, for such time and in
3 such manner as the order may prescribe.

4 **Sec. 228.** RCW 7.52.290 and Code 1881 s 580 are each amended to
5 read as follows:

6 The referees may take separate mortgages, and other securities for
7 the whole, or convenient portions of the purchase money, of such parts
8 of the property as are directed by the court to be sold on credit, in
9 the name of the clerk of the court, and his or her successors in
10 office; and for the shares of any known owner of full age, in the name
11 of such owner.

12 **Sec. 229.** RCW 7.52.390 and Code 1881 s 590 are each amended to
13 read as follows:

14 When a party entitled to a share of the property, or an
15 encumbrancer entitled to have his or her lien paid out of the sale,
16 becomes a purchaser, the referees may take his or her receipt for so
17 much of the proceeds of the sale as belong to him or her.

18 **Sec. 230.** RCW 7.52.410 and Code 1881 s 592 are each amended to
19 read as follows:

20 When the security for the proceeds of sale is taken, or when an
21 investment of any such proceeds is made, it shall be done, except as
22 herein otherwise provided, in the name of the clerk of the court and
23 his or her successors in office, who shall hold the same for the use
24 and benefit of the parties interested, subject to the order of the
25 court.

26 **Sec. 231.** RCW 7.52.430 and Code 1881 s 594 are each amended to
27 read as follows:

28 The clerk in whose name a security is taken, or by whom an
29 investment is made, and his or her successors in office, shall receive
30 the interest and principal as it becomes due, and apply and invest the
31 same as the court may direct, and shall file in his or her office all
32 securities taken and keep an account in a book provided and kept for
33 that purpose in the clerk's office, free for inspection by all persons,

1 of investments and moneys received by him or her thereon, and the
2 disposition thereof.

3 **Sec. 232.** RCW 7.52.440 and Code 1881 s 595 are each amended to
4 read as follows:

5 When it appears that partition cannot be made equal between the
6 parties according to their respective rights, without prejudice to the
7 rights and interests of some of them, the court may adjudge
8 compensation to be made by one party to another on account of the
9 inequality of partition; but such compensation shall not be required to
10 be made to others by owners unknown, nor by infants, unless in case of
11 an infant it appear that he or she has personal property sufficient for
12 that purpose, and that his or her interest will be promoted thereby.

13 **Sec. 233.** RCW 7.52.450 and Code 1881 s 596 are each amended to
14 read as follows:

15 When the share of an infant is sold, the proceeds of the sale may
16 be paid by the referees making the sale, to his or her general
17 guardian, or the special guardian appointed for him or her in the suit,
18 upon giving the security required by law, or directed by order of the
19 court.

20 **Sec. 234.** RCW 7.52.460 and 1977 ex.s. c 80 s 9 are each amended to
21 read as follows:

22 The guardian or limited guardian who may be entitled to the custody
23 and management of the estate of an incompetent or disabled person
24 adjudged incapable of conducting his or her own affairs, whose interest
25 in real property shall have been sold, may receive in behalf of such
26 person his or her share of the proceeds of such real property from the
27 referees, on executing a bond with sufficient sureties, approved by the
28 judge of the court, conditioned that he or she faithfully discharge the
29 trust reposed in him or her, and will render a true and just account to
30 the person entitled, or to his or her legal representative.

31 **Sec. 235.** RCW 7.52.470 and 1977 ex.s. c 80 s 10 are each amended
32 to read as follows:

33 The general guardian of an infant, and the guardian or limited
34 guardian entitled to the custody and management of the estate of an

1 incompetent or disabled person adjudged incapable of conducting his or
2 her own affairs, who is interested in real estate held in common or in
3 any other manner, so as to authorize his or her being made a party to
4 an action for the partition thereof, may consent to a partition without
5 suit and agree upon the share to be set off to such infant or other
6 person entitled, and may execute a release in his or her behalf to the
7 owners of the shares or parts to which they may respectively be
8 entitled, and upon an order of the court.

9 **Sec. 236.** RCW 7.56.010 and Code 1881 s 702 are each amended to
10 read as follows:

11 An information may be filed against any person or corporation in
12 the following cases:

13 (1) When any person shall usurp, intrude upon, or unlawfully hold
14 or exercise any public office or franchise within the state, or any
15 office in any corporation created by the authority of the state.

16 (2) When any public officer shall have done or suffered any act,
17 which, by the provisions of law, shall work a forfeiture of his or her
18 office.

19 (3) When several persons claim to be entitled to the same office or
20 franchise, one information may be filed against any or all such persons
21 in order to try their respective rights to the office or franchise.

22 (4) When any association or number of persons shall act within this
23 state as a corporation, without being legally incorporated.

24 (5) Or where any corporation do, or omit acts which amount to a
25 surrender or a forfeiture of their rights and privileges as a
26 corporation, or where they exercise powers not conferred by law.

27 **Sec. 237.** RCW 7.56.020 and Code 1881 s 703 are each amended to
28 read as follows:

29 The information may be filed by the prosecuting attorney in the
30 superior court of the proper county, upon his or her own relation,
31 whenever he or she shall deem it his or her duty to do so, or shall be
32 directed by the court or other competent authority, or by any other
33 person on his or her own relation, whenever he or she claims an
34 interest in the office, franchise, or corporation which is the subject
35 of the information.

1 **Sec. 238.** RCW 7.56.040 and Code 1881 s 705 are each amended to
2 read as follows:

3 Whenever an information shall be filed against a person for
4 usurping an office, by the prosecuting attorney, he or she shall also
5 set forth therein the name of the person rightfully entitled to the
6 office, with an averment of his or her right thereto; and when filed by
7 any other person he or she shall show his or her interest in the
8 matter, and he or she may claim the damages he or she has sustained.

9 **Sec. 239.** RCW 7.56.060 and Code 1881 s 707 are each amended to
10 read as follows:

11 In every case wherein the right to an office is contested, judgment
12 shall be rendered upon the rights of the parties, and for the damages
13 the relator may show himself or herself entitled to, if any, at the
14 time of the judgment.

15 **Sec. 240.** RCW 7.56.070 and Code 1881 s 708 are each amended to
16 read as follows:

17 If judgment be rendered in favor of the relator, he or she shall
18 proceed to exercise the functions of the office, after he or she has
19 been qualified as required by law, and the court shall order the
20 defendant to deliver over all books and papers in his or her custody or
21 within his or her power, belonging to the office from which he or she
22 has been ousted.

23 **Sec. 241.** RCW 7.56.090 and Code 1881 s 710 are each amended to
24 read as follows:

25 When judgment is rendered in favor of the plaintiff, he or she may,
26 if he or she has not claimed his or her damages in the information,
27 have his or her action for the damages at any time within one year
28 after the judgment.

29 **Sec. 242.** RCW 7.56.100 and Code 1881 s 711 are each amended to
30 read as follows:

31 Whenever any defendant shall be found guilty of any usurpation of
32 or intrusion into, or unlawfully exercising any office or franchise
33 within this state, or any office in any corporation created by the
34 authority of this state, or when any public officer thus charged shall

1 be found guilty of having done or suffered any act which by the
2 provisions of the law shall work a forfeiture of his or her office, or
3 when any association or number of persons shall be found guilty of
4 having acted as a corporation without having been legally incorporated,
5 the court shall give judgment of ouster against the defendant or
6 defendants, and exclude him, her, or them from the office, franchise,
7 or corporate rights, and in case of corporations that the same shall be
8 dissolved, and the court shall adjudge costs in favor of the plaintiff.

9 **Sec. 243.** RCW 7.56.130 and Code 1881 s 714 are each amended to
10 read as follows:

11 When an information is filed by the prosecuting attorney, he or she
12 shall not be liable for the costs, but when it is filed upon the
13 relation of a private person such person shall be liable for costs
14 unless the same are adjudged against the defendant.

15 **Sec. 244.** RCW 7.56.140 and Code 1881 s 715 are each amended to
16 read as follows:

17 An information may be prosecuted for the purpose of annulling or
18 vacating any letters patent, certificate, or deed, granted by the
19 proper authorities of this state, when there is reason to believe that
20 the same were obtained by fraud or through mistake or ignorance of a
21 material fact, or when the patentee or those claiming under him or her
22 have done or omitted an act in violation of the terms on which the
23 letters, deeds or certificates were granted, or have by any other means
24 forfeited the interests acquired under the same.

25 **Sec. 245.** RCW 7.56.150 and Code 1881 s 716 are each amended to
26 read as follows:

27 In such cases, the information may be filed by the prosecuting
28 attorney upon his or her relation, or by any private person upon his or
29 her relation showing his or her interest in the subject matter; and the
30 subsequent proceedings, judgment of the court and awarding of costs,
31 shall conform to the above provisions, and such letters patent, deed,
32 or certificate shall be annulled or sustained, according to the right
33 of the case.

1 **Sec. 246.** RCW 7.68.035 and 2009 c 479 s 8 are each amended to read
2 as follows:

3 (1)(a) When any person is found guilty in any superior court of
4 having committed a crime, except as provided in subsection (2) of this
5 section, there shall be imposed by the court upon such convicted person
6 a penalty assessment. The assessment shall be in addition to any other
7 penalty or fine imposed by law and shall be five hundred dollars for
8 each case or cause of action that includes one or more convictions of
9 a felony or gross misdemeanor and two hundred fifty dollars for any
10 case or cause of action that includes convictions of only one or more
11 misdemeanors.

12 (b) When any juvenile is adjudicated of any offense in any juvenile
13 offense disposition under Title 13 RCW, except as provided in
14 subsection (2) of this section, there shall be imposed upon the
15 juvenile offender a penalty assessment. The assessment shall be in
16 addition to any other penalty or fine imposed by law and shall be one
17 hundred dollars for each case or cause of action that includes one or
18 more adjudications for a felony or gross misdemeanor and seventy-five
19 dollars for each case or cause of action that includes adjudications of
20 only one or more misdemeanors.

21 (2) The assessment imposed by subsection (1) of this section shall
22 not apply to motor vehicle crimes defined in Title 46 RCW except those
23 defined in the following sections: RCW 46.61.520, 46.61.522,
24 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101,
25 46.20.410, 46.52.020, (~~46.10.130, 46.09.130,~~) 46.10.495, 46.09.480,
26 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015,
27 46.52.010, 46.44.180, (~~46.10.090(2)~~) 46.10.490(2), and
28 (~~46.09.120(2)~~) 46.09.470(2).

29 (3) When any person accused of having committed a crime posts bail
30 in superior court pursuant to the provisions of chapter 10.19 RCW and
31 such bail is forfeited, there shall be deducted from the proceeds of
32 such forfeited bail a penalty assessment, in addition to any other
33 penalty or fine imposed by law, equal to the assessment which would be
34 applicable under subsection (1) of this section if the person had been
35 convicted of the crime.

36 (4) Such penalty assessments shall be paid by the clerk of the
37 superior court to the county treasurer who shall monthly transmit the
38 money as provided in RCW 10.82.070. Each county shall deposit fifty

1 percent of the money it receives per case or cause of action under
2 subsection (1) of this section and retains under RCW 10.82.070, not
3 less than one and seventy-five one-hundredths percent of the remaining
4 money it retains under RCW 10.82.070 and the money it retains under
5 chapter 3.62 RCW, and all money it receives under subsection (7) of
6 this section into a fund maintained exclusively for the support of
7 comprehensive programs to encourage and facilitate testimony by the
8 victims of crimes and witnesses to crimes. A program shall be
9 considered "comprehensive" only after approval of the department upon
10 application by the county prosecuting attorney. The department shall
11 approve as comprehensive only programs which:

12 (a) Provide comprehensive services to victims and witnesses of all
13 types of crime with particular emphasis on serious crimes against
14 persons and property. It is the intent of the legislature to make
15 funds available only to programs which do not restrict services to
16 victims or witnesses of a particular type or types of crime and that
17 such funds supplement, not supplant, existing local funding levels;

18 (b) Are administered by the county prosecuting attorney either
19 directly through the prosecuting attorney's office or by contract
20 between the county and agencies providing services to victims of crime;

21 (c) Make a reasonable effort to inform the known victim or his or
22 her surviving dependents of the existence of this chapter and the
23 procedure for making application for benefits;

24 (d) Assist victims in the restitution and adjudication process; and

25 (e) Assist victims of violent crimes in the preparation and
26 presentation of their claims to the department of labor and industries
27 under this chapter.

28 Before a program in any county west of the Cascade mountains is
29 submitted to the department for approval, it shall be submitted for
30 review and comment to each city within the county with a population of
31 more than one hundred fifty thousand. The department will consider if
32 the county's proposed comprehensive plan meets the needs of crime
33 victims in cases adjudicated in municipal, district or superior courts
34 and of crime victims located within the city and county.

35 (5) Upon submission to the department of a letter of intent to
36 adopt a comprehensive program, the prosecuting attorney shall retain
37 the money deposited by the county under subsection (4) of this section
38 until such time as the county prosecuting attorney has obtained

1 approval of a program from the department. Approval of the
2 comprehensive plan by the department must be obtained within one year
3 of the date of the letter of intent to adopt a comprehensive program.
4 The county prosecuting attorney shall not make any expenditures from
5 the money deposited under subsection (4) of this section until approval
6 of a comprehensive plan by the department. If a county prosecuting
7 attorney has failed to obtain approval of a program from the department
8 under subsection (4) of this section or failed to obtain approval of a
9 comprehensive program within one year after submission of a letter of
10 intent under this section, the county treasurer shall monthly transmit
11 one hundred percent of the money deposited by the county under
12 subsection (4) of this section to the state treasurer for deposit in
13 the state general fund.

14 (6) County prosecuting attorneys are responsible to make every
15 reasonable effort to insure that the penalty assessments of this
16 chapter are imposed and collected.

17 (7) Every city and town shall transmit monthly one and seventy-five
18 one-hundredths percent of all money, other than money received for
19 parking infractions, retained under RCW 3.50.100 and 35.20.220 to the
20 county treasurer for deposit as provided in subsection (4) of this
21 section.

22 **Sec. 247.** RCW 7.68.050 and 1998 c 91 s 1 are each amended to read
23 as follows:

24 (1) No right of action at law for damages incurred as a consequence
25 of a criminal act shall be lost as a consequence of being entitled to
26 benefits under the provisions of this chapter. The victim or his or
27 her beneficiary may elect to seek damages from the person or persons
28 liable for the claimed injury or death, and such victim or beneficiary
29 is entitled to the full compensation and benefits provided by this
30 chapter regardless of any election or recovery made pursuant to this
31 section.

32 (2) For the purposes of this section, the rights, privileges,
33 responsibilities, duties, limitations, and procedures contained in RCW
34 51.24.050 through 51.24.110 apply.

35 (3) If the recovery involved is against the state, the lien of the
36 department includes the interest on the benefits paid by the department

1 to or on behalf of such person under this chapter computed at the rate
2 of eight percent per annum from the date of payment.

3 (4) The 1980 amendments to this section apply only to injuries
4 which occur on or after April 1, 1980.

5 **Sec. 248.** RCW 7.68.200 and 1979 ex.s. c 219 s 13 are each amended
6 to read as follows:

7 After hearing, as provided in RCW 7.68.210, every person, firm,
8 corporation, partnership, association, or other legal entity
9 contracting with any person or the representative or assignee of any
10 person, accused or convicted of a crime in this state, with respect to
11 the reenactment of such crime, by way of a movie, book, magazine
12 article, tape recording, phonograph record, radio or television
13 presentation, live entertainment of any kind, or from the expression of
14 such accused or convicted person's thoughts, feelings, opinion, or
15 emotions regarding such crime, shall submit a copy of such contract to
16 the department and pay over to the department any moneys which would
17 otherwise, by terms of such contract, be owing to the person so accused
18 or convicted or his or her representatives. The department shall
19 deposit such moneys in an escrow account for the benefit of and payable
20 to any victim or the legal representative of any victim of crimes
21 committed by: ~~((+i+))~~ (1) Such convicted person; or ~~((+ii+))~~ (2) such
22 accused person, but only if such accused person is eventually convicted
23 of the crime and provided that such victim, within five years of the
24 date of the establishment of such escrow account, brings a civil action
25 in a court of competent jurisdiction and recovers a money judgment for
26 damages against such person or his or her representatives.

27 **Sec. 249.** RCW 7.68.240 and 1988 c 155 s 4 are each amended to read
28 as follows:

29 Upon a showing by any convicted person or the state that five years
30 have elapsed from the establishment of such escrow account and further
31 that no actions are pending against such convicted person pursuant to
32 RCW 7.68.200 through 7.68.280, the department shall immediately pay
33 over fifty percent of any moneys in the escrow account to such person
34 or his or her legal representatives and fifty percent of any moneys in
35 the escrow account to the fund under RCW 7.68.035(4).

1 **Sec. 250.** RCW 7.70.030 and 1975-'76 2nd ex.s. c 56 s 8 are each
2 amended to read as follows:

3 No award shall be made in any action or arbitration for damages for
4 injury occurring as the result of health care which is provided after
5 June 25, 1976, unless the plaintiff establishes one or more of the
6 following propositions:

7 (1) That injury resulted from the failure of a health care provider
8 to follow the accepted standard of care;

9 (2) That a health care provider promised the patient or his or her
10 representative that the injury suffered would not occur;

11 (3) That injury resulted from health care to which the patient or
12 his or her representative did not consent.

13 Unless otherwise provided in this chapter, the plaintiff shall have
14 the burden of proving each fact essential to an award by a
15 preponderance of the evidence.

16 **Sec. 251.** RCW 7.70.040 and 1983 c 149 s 2 are each amended to read
17 as follows:

18 The following shall be necessary elements of proof that injury
19 resulted from the failure of the health care provider to follow the
20 accepted standard of care:

21 (1) The health care provider failed to exercise that degree of
22 care, skill, and learning expected of a reasonably prudent health care
23 provider at that time in the profession or class to which he or she
24 belongs, in the state of Washington, acting in the same or similar
25 circumstances;

26 (2) Such failure was a proximate cause of the injury complained of.

27 **Sec. 252.** RCW 7.70.050 and 1975-'76 2nd ex.s. c 56 s 10 are each
28 amended to read as follows:

29 (1) The following shall be necessary elements of proof that injury
30 resulted from health care in a civil negligence case or arbitration
31 involving the issue of the alleged breach of the duty to secure an
32 informed consent by a patient or his or her representatives against a
33 health care provider:

34 (a) That the health care provider failed to inform the patient of
35 a material fact or facts relating to the treatment;

1 (b) That the patient consented to the treatment without being aware
2 of or fully informed of such material fact or facts;

3 (c) That a reasonably prudent patient under similar circumstances
4 would not have consented to the treatment if informed of such material
5 fact or facts;

6 (d) That the treatment in question proximately caused injury to the
7 patient.

8 (2) Under the provisions of this section a fact is defined as or
9 considered to be a material fact, if a reasonably prudent person in the
10 position of the patient or his or her representative would attach
11 significance to it deciding whether or not to submit to the proposed
12 treatment.

13 (3) Material facts under the provisions of this section which must
14 be established by expert testimony shall be either:

15 (a) The nature and character of the treatment proposed and
16 administered;

17 (b) The anticipated results of the treatment proposed and
18 administered;

19 (c) The recognized possible alternative forms of treatment; or

20 (d) The recognized serious possible risks, complications, and
21 anticipated benefits involved in the treatment administered and in the
22 recognized possible alternative forms of treatment, including
23 nontreatment.

24 (4) If a recognized health care emergency exists and the patient is
25 not legally competent to give an informed consent and/or a person
26 legally authorized to consent on behalf of the patient is not readily
27 available, his or her consent to required treatment will be implied.

28 **Sec. 253.** RCW 8.04.090 and 1979 c 151 s 7 are each amended to read
29 as follows:

30 In case the state shall require immediate possession and use of the
31 property sought to be condemned, and an order of necessity shall have
32 been granted, and no review has been taken therefrom, the attorney
33 general may stipulate with respondents in accordance with the
34 provisions of this section and RCW 8.04.092 and 8.04.094 for an order
35 of immediate possession and use, and file with the clerk of the court
36 wherein the action is pending, a certificate of the state's requirement
37 of immediate possession and use of the land, which shall state the

1 amount of money offered to the respondents and shall further state that
2 such offer constitutes a continuing tender of such amount. The
3 attorney general shall file a copy of the certificate with the office
4 of financial management, which forthwith shall issue and deliver to him
5 or her a warrant payable to the order of the clerk of the court wherein
6 the action is pending in a sum sufficient to pay the amount offered,
7 which shall forthwith be paid into the registry of the court. The
8 court without further notice to respondent shall enter an order
9 granting to the state the immediate possession and use of the property
10 described in the order of necessity, which order shall bind the
11 petitioner to pay the full amount of any final judgment of compensation
12 and damages which may thereafter be awarded for the taking and
13 appropriation of the lands, real estate, premises, or other property
14 described in the petition and for the injury, if any, to the remainder
15 of the lands, real estate, premises, or other property from which they
16 are to be taken by reason of such taking and appropriation, after
17 offsetting against any and all such compensation and damages the
18 special benefits, if any, accruing to such remainder by reason of the
19 appropriation and use by the state of the lands, real estate, premises,
20 or other property described in the petition. The moneys paid into
21 court may at any time after entry of the order of immediate possession,
22 be withdrawn by respondents, by order of the court, as their interests
23 shall appear.

24 **Sec. 254.** RCW 8.04.094 and 1951 c 177 s 3 are each amended to read
25 as follows:

26 If any respondent shall elect to demand a trial for the purpose of
27 assessing just compensation and damages arising from the taking, he or
28 she shall so move within sixty days from the date of entry of the order
29 of immediate possession and use, and the issues shall be brought to
30 trial within one year from the date of such order unless good and
31 sufficient proof shall be offered and it shall appear therefrom to the
32 court that the hearing could not have been held within said year. In
33 the event that no such demand be timely made or having been timely
34 made, shall not be brought to trial within the limiting period, the
35 court, upon application of the state, shall enter a decree of
36 appropriation for the amount paid into court under the provisions of

1 RCW 8.04.090, as the total sum to which respondents are entitled, and
2 such decree shall be final and nonappealable.

3 **Sec. 255.** RCW 8.04.140 and 1891 c 74 s 8 are each amended to read
4 as follows:

5 Any person, corporation, or county claiming to be entitled to any
6 money paid into court, as provided in RCW 8.04.010 through 8.04.160,
7 may apply to the court therefor, and upon furnishing evidence
8 satisfactory to the court that he or she or it is entitled to the same,
9 the court shall make an order directing the payment to such claimant
10 the portion of such money as he or she or it shall be found entitled
11 to; but if, upon application, the court or judge thereof should decide
12 that the title to the land, real estate, or premises specified in the
13 application of such claimant was in such condition as to require that
14 an action be commenced to determine the conflicting claims thereto, he
15 or she shall refuse such order until such action is commenced and the
16 conflicting claims to such land, real estate, or premises be determined
17 according to law.

18 **Sec. 256.** RCW 8.04.150 and 1988 c 202 s 8 are each amended to read
19 as follows:

20 Either party may seek appellate review of the judgment for damages
21 entered in the superior court within thirty days after the entry of
22 judgment as aforesaid, and such review shall bring before the supreme
23 court or the court of appeals the propriety and justness of the amount
24 of damages in respect to the parties to the review: PROVIDED HOWEVER,
25 That upon such review no bond shall be required: AND PROVIDED FURTHER,
26 That if the owner of land, the real estate or premises accepts the sum
27 awarded by the jury, the court or the judge thereof, he or she shall be
28 deemed thereby to have waived conclusively appellate review, and final
29 judgment by default may be rendered in the superior court as in other
30 cases: PROVIDED FURTHER, That no review shall operate so as to prevent
31 the said state of Washington from taking possession of such property
32 pending review after the amount of said award shall have been paid into
33 court.

34 **Sec. 257.** RCW 8.04.170 and 1917 c 153 s 1 are each amended to read
35 as follows:

1 Whenever the governor, as commander-in-chief of the military of
2 this state, shall deem it necessary to acquire any lands, real estate,
3 premises, or other property for any military purpose or purposes of
4 this state, either to add to, enlarge, increase, or otherwise improve
5 state military facilities now or hereafter existing or to establish new
6 facilities, the acquisition of which shall have been provided for by
7 the state, by a county or by a city, or by either, all or any thereof,
8 upon certificate by the governor of such necessity, proceedings for the
9 condemnation, appropriation, and taking of the lands, real estate,
10 premises, or other property so certified to be necessary shall be taken
11 as follows:

12 Where the state is to pay the purchase price it shall be the duty
13 of the attorney general, upon receipt by him or her of said certificate
14 of the governor, to file a petition in the superior court for the
15 county in which such lands, real estate, premises, or other property
16 may be situate praying such condemnation, appropriating, and taking,
17 which petition shall be prosecuted to a final determination in the
18 manner by law provided for other condemnation suits brought by or on
19 behalf of the state;

20 Where a county is to pay the purchase price it shall be the duty of
21 the prosecuting attorney of said county upon receipt by him or her of
22 said certificate of the governor, to file a petition in the superior
23 court for said county praying such condemnation, appropriation, and
24 taking, which petition shall be prosecuted to a final determination in
25 the manner by law provided for other condemnation suits brought by or
26 on behalf of a county;

27 Where a city is to pay the purchase price it shall be the duty of
28 the corporation counsel, city attorney, or other head of the legal
29 department of said city, upon receipt by him or her of said certificate
30 of the governor, to file a petition in the superior court for the
31 county in which said city is situate, praying such condemnation,
32 appropriation, and taking, which petition shall be prosecuted to a
33 final determination in the manner by law provided for other
34 condemnation suits brought by or on behalf of such city;

35 Where the purchase price is to be paid by the state, a county, and
36 a city or by the state and a county, or by the state and a city, or by
37 a county and a city, the condemnation shall be prosecuted to a final

1 determination in the manner by law provided for either or any thereof,
2 as the governor may determine, which determination shall be final and
3 conclusive.

4 **Sec. 258.** RCW 8.08.060 and 1949 c 79 s 6 are each amended to read
5 as follows:

6 Upon the verdict of the jury or upon the determination of the court
7 of the compensation or damages to be paid for the real estate or
8 property appropriated, judgment shall be entered against such county in
9 favor of the owner or owners of the real estate or property so
10 appropriated for the amount found as just compensation therefor, and
11 upon the payment of such amount by such county to the clerk of such
12 court for the use of the owner or owners or the persons interested in
13 the premises sought to be taken, the court shall enter a decree of
14 appropriation of the real estate or property sought to be taken,
15 thereby vesting the title to the same in such county; and a certified
16 copy of such decree of appropriation may be filed in the office of the
17 county auditor of the county wherein the real estate taken is situated
18 and shall be recorded by such auditor like a deed of real estate and
19 with like effect. The money so paid to the clerk of the court shall be
20 by him or her paid to the person or persons entitled thereto upon the
21 order of the court.

22 **Sec. 259.** RCW 8.08.080 and 1988 c 202 s 9 are each amended to read
23 as follows:

24 Either party may seek appellate review of the judgment for
25 compensation of the damages awarded in the superior court within thirty
26 days after the entry of judgment as aforesaid, and such review shall
27 bring before the supreme court or the court of appeals the propriety
28 and justice of the amount of damage in respect to the parties to the
29 review: PROVIDED, That upon such review no bonds shall be required:
30 AND PROVIDED FURTHER, That if the owner of land, real estate, or
31 premises accepts the sum awarded by the jury or the court, he or she
32 shall be deemed thereby to have waived conclusively appellate review,
33 and final judgment by default may be rendered in the superior court as
34 in other cases.

1 **Sec. 260.** RCW 8.12.120 and 1907 c 153 s 8 are each amended to read
2 as follows:

3 Such jury shall also ascertain the just compensation to be paid to
4 any person claiming an interest in any lot, parcel of land, or property
5 which may be taken or damaged by such improvement, whether or not such
6 person's name or such lot, parcel of land, or other property is
7 mentioned or described in such petition: PROVIDED, Such person shall
8 first be admitted as a party defendant to said suit by such court and
9 shall file a statement of his or her interest in and description of the
10 lot, parcel of land, or other property in respect to which he or she
11 claims compensation.

12 **Sec. 261.** RCW 8.12.200 and 1993 c 14 s 1 are each amended to read
13 as follows:

14 Any final judgment or judgments rendered by said court upon any
15 finding or findings of any jury or juries, or upon any finding or
16 findings of the court in case a jury be waived, shall be lawful and
17 sufficient condemnation of the land or property to be taken, or of the
18 right to damage the same in the manner proposed, upon the payment of
19 the amount of such findings and all costs which shall be taxed as in
20 other civil cases, provided that in case any defendant recovers no
21 damages, no costs shall be taxed. Such judgment or judgments shall be
22 final and conclusive as to the damages caused by such improvement
23 unless appellate review is sought, and review of the same shall not
24 delay proceedings under said ordinance, if such city shall pay into
25 court for the owners and parties interested, as directed by the court,
26 the amount of the judgment and costs, and such city, after making such
27 payment into court, shall be liable to such owner or owners or parties
28 interested for the payment of any further compensation which may at any
29 time be finally awarded to such parties seeking review of said
30 proceeding, and his or her costs, and shall pay the same on the
31 rendition of judgment therefor, and abide any rule or order of the
32 court in relation to the matter in controversy. In case of review by
33 the supreme court or the court of appeals of the state by any party to
34 the proceedings the money so paid into the superior court by such city,
35 as aforesaid, shall remain in the custody of said superior court until
36 the final determination of the proceedings. If the owner of the land,
37 real estate, premises, or other property accepts the sum awarded by the

1 jury or the court, he or she shall be deemed thereby to have waived
2 conclusively appellate review and final judgment may be rendered in the
3 superior court as in other cases.

4 **Sec. 262.** RCW 8.12.260 and 1907 c 153 s 21 are each amended to
5 read as follows:

6 At any time after June 11, 1907, any such city may petition the
7 superior court of the county in which said city is situated, that a
8 board of eminent domain commissioners be appointed to make assessments
9 in all condemnation proceedings instituted by such city. Said superior
10 court shall thereupon, by order duly entered in its records, appoint
11 three competent persons as commissioners who shall be known as and who
12 shall constitute the "board of eminent domain commissioners of the city
13 of," and who shall thereafter make assessments in all
14 condemnation proceedings instituted by such city. The order of the
15 court shall provide that one of the members of such board shall serve
16 for one year, one for two years, and one for three years, from the date
17 of their appointment and until their successors are appointed and
18 qualified. Annually thereafter, said superior court shall appoint one
19 such person as such commissioner, whose term shall begin on the same
20 day of the month on which the first order of appointment was made and
21 continue for three years thereafter and until his or her successor is
22 appointed and qualified. If any commissioner shall be disqualified in
23 any proceeding by reason of interest, or for any other reason, said
24 superior court shall appoint some other competent person to act in his
25 or her place in such proceeding.

26 **Sec. 263.** RCW 8.12.270 and 1947 c 139 s 1 are each amended to read
27 as follows:

28 All commissioners, before entering upon their duties, shall take
29 and subscribe an oath that they will faithfully perform the duties of
30 the office to which they are appointed, and will to the best of their
31 abilities make true and impartial assessments according to law. Every
32 commissioner shall receive compensation at the rate of ten dollars per
33 day for each day actually spent in making the assessment herein
34 provided for: PROVIDED, That in any city of the first class the
35 superior court of the county in which said city is situated may, by
36 order duly entered in its record, fix the compensation of each

1 commissioner in an amount in no case to exceed twenty-five dollars per
2 day for each day actually spent in making the assessment herein
3 provided for. Each commissioner shall file in the proceeding in which
4 he or she has made such assessment his or her account, stating the
5 number of days he or she has actually spent in said proceeding, and
6 upon the approval of said account by the judge before whom the
7 proceeding is pending, the comptroller or city clerk of such city shall
8 issue a warrant in the amount approved by the judge upon the special
9 fund created to pay the awards and costs of said proceeding, and the
10 fees of such commissioner so paid shall be included in the cost and
11 expense of such proceedings. In case such commissioners are, during
12 the same period, or parts thereof, engaged in making assessments in
13 different proceedings, in rendering their accounts they shall apportion
14 them to the different proceedings in proportion to the amount of time,
15 actually spent by them on the assessment in each proceeding.

16 **Sec. 264.** RCW 8.12.360 and 1915 c 154 s 5 are each amended to read
17 as follows:

18 The clerk of the court in which such judgment is rendered shall
19 certify a copy of the assessment roll and judgment to the treasurer of
20 the city, or if there has been an appeal taken from any part of such
21 judgment, then he or she shall certify such part of the roll and
22 judgment as is not included in such appeal, and the remainder when
23 final judgment is rendered: PROVIDED, That if upon such appeal, the
24 judgment of the superior court shall be affirmed, the assessments on
25 such property as to which appeal has been taken shall bear interest at
26 the same rate and from the same date which other assessments not paid
27 within the time hereafter provided shall bear. Such copy of the
28 assessment roll shall describe the lots, blocks, tracts, parcels of
29 land, or other property assessed, and the respective amounts assessed
30 on each, and shall be sufficient warrant to the city treasurer to
31 collect the assessment therein specified. In no case, however, shall
32 a copy of such assessment roll and judgment be certified to the city
33 treasurer unless and until the awards of the jury shall have first been
34 accepted by the city council or other legislative body as provided by
35 law, or the time for rejecting the same shall have expired.

1 **Sec. 265.** RCW 8.12.370 and 1915 c 154 s 6 are each amended to read
2 as follows:

3 Whenever the assessment for any such improvement shall be
4 immediately payable, the owner of any such lot, tract, or parcel of
5 land or other property so assessed may pay such entire assessment, or
6 any part thereof, without interest, within thirty days after the notice
7 of such assessment.

8 The city treasurer shall, as soon as the certified copy of the
9 assessment roll has been placed in his or her hands for collection,
10 publish a notice in the official newspaper of the city for two
11 consecutive daily, or two consecutive weekly issues, and then by
12 posting four notices thereof in public places along the line of the
13 proposed improvement, that the said roll is in his or her hands for
14 collection, and that any assessment thereon, or any part thereof, may
15 be paid within thirty days from the date of the first publication or
16 posting of said notice, without penalty, interest or costs, and if not
17 so paid, the same shall thereupon become delinquent.

18 **Sec. 266.** RCW 8.12.380 and 1907 c 153 s 33 are each amended to
19 read as follows:

20 It shall be the duty of the city treasurer into whose hands such
21 judgment and assessment roll shall come, to mail notices of such
22 assessment to the persons whose names appear on the assessment roll, so
23 far as the addresses of such persons are known to him or her. Any such
24 treasurer omitting so to do, shall be liable to a penalty of five
25 dollars for every such omission; but the validity of the special
26 assessment shall not be affected by such omission. When any assessment
27 or assessments are paid, it shall be the duty of the treasurer to write
28 the word "paid" opposite the same together with the name and post
29 office address of the person making the payment and the date of
30 payment. The owner may annually notify the treasurer of his or her
31 address and it shall be the duty of the treasurer to mail the notice
32 above provided for to such address.

33 **Sec. 267.** RCW 8.12.430 and 1985 c 469 s 4 are each amended to read
34 as follows:

35 Whenever the assessment for any such improvement shall be payable
36 in installments, the owner of any lot, tract, or parcel of land or

1 other property charged with any such assessment may pay the assessment
2 or any portion thereof, without interest, within thirty days after such
3 notice of the assessment.

4 The city treasurer shall, as soon as the certified copy of the
5 assessment roll has been placed in his or her hands for collection,
6 publish a notice in the official newspaper of the city for two
7 consecutive daily or two consecutive weekly issues, that the roll is in
8 his or her hands for collection and that any assessment thereon or any
9 portion of any such assessment may be paid at any time within thirty
10 days from the date of the first publication of the notice without
11 penalty, interest, or costs, and the unpaid balance, if any, may be
12 paid in equal annual installments, or any such assessment may be paid
13 at any time after the first thirty days following the date of the first
14 publication of the notice by paying the entire unpaid portion thereof
15 with all penalties and costs attached, together with all interest
16 thereon to the date of delinquency of the first installment thereof
17 next falling due.

18 The notice shall further state that the first installment of the
19 assessment shall become due and payable during the thirty day period
20 succeeding a date one year after the date of first publication of the
21 notice, and annually thereafter each succeeding installment shall
22 become due and payable in like manner.

23 If the whole or any portion of any assessment remains unpaid after
24 the first thirty day period herein provided for, interest upon the
25 whole unpaid sum shall be charged at the bond rate, and each year
26 thereafter one of the installments, together with interest due upon the
27 whole of the unpaid balance, shall be collected, except that where the
28 assessment is payable in twenty years, installments of interest only
29 shall be collected for the first ten years, as provided in RCW
30 8.12.420.

31 Any installment not paid prior to the expiration of the thirty day
32 period during which the installment is due and payable, shall thereupon
33 become delinquent. All delinquent installments shall be subject to a
34 charge of five percent penalty levied upon both principal and interest
35 due on the installments, and all delinquent installments, except
36 installments of interest when the assessment is payable in twenty
37 years, as provided in RCW 8.12.420, shall, until paid, be subject to a
38 charge for interest at the bond rate.

1 The bonds herein provided for shall not be issued prior to twenty
2 days after the expiration of the thirty days first above mentioned, but
3 may be issued at any time thereafter. In all cases where any sum is
4 paid as herein provided, the same shall be paid to the city treasurer,
5 or to the officer whose duty it is to collect the assessments, and all
6 sums so paid shall be applied solely to the payment of the awards,
7 interest and costs of the improvements or the redemption of the bonds
8 issued therefor.

9 **Sec. 268.** RCW 8.12.440 and 1983 c 167 s 14 are each amended to
10 read as follows:

11 If the city shall fail, neglect, or refuse to pay said bonds or to
12 promptly collect any such assessments when due, the owner of any such
13 bonds may proceed in his or her own name to collect such assessment and
14 foreclose the lien thereof in any court of competent jurisdiction, and
15 shall in addition to the principal of such bonds and interest thereon,
16 recover five percent of such sum, together with the costs of such suit.
17 Any number of owners of such bonds for any single improvement may join
18 as plaintiffs and any number of owners of the property on which the
19 same are a lien may be joined as defendants in such suit.

20 **Sec. 269.** RCW 8.12.450 and 1915 c 154 s 16 are each amended to
21 read as follows:

22 Neither the holder nor owner of any bond issued under the authority
23 of this chapter shall have any claim therefor against the city by which
24 the same is issued, except from the special assessment made for the
25 improvement for which such bond was issued, but his or her remedy in
26 case of nonpayment, shall be confined to the enforcement of such
27 assessments. A copy of this section shall be plainly written, printed,
28 or engraved on each bond so issued.

29 **Sec. 270.** RCW 8.12.490 and 1907 c 153 s 43 are each amended to
30 read as follows:

31 Whenever before the sale of any property the amount of any
32 assessment thereon, with interest and costs accrued thereon, shall be
33 paid to the treasurer, he or she shall thereupon mark the same paid,
34 with the date of payment thereof on the assessment roll, and whenever
35 after sale of any property for any assessments, the same shall be

1 redeemed, he or she shall thereupon enter the same redeemed with the
2 date of such redemption on such record. Such entry shall be made on
3 the margin of the record opposite the description of such property.

4 **Sec. 271.** RCW 8.12.500 and 1907 c 153 s 44 are each amended to
5 read as follows:

6 If the treasurer shall receive any moneys for assessments, giving
7 a receipt therefor, for any property and afterwards return the same as
8 unpaid, or shall receive the same after making such return, and the
9 same be sold for assessment which has been so paid and receipted for by
10 himself or herself or his or her clerk or assistant, he or she and his
11 or her bond shall be liable to the holder of the certificate given to
12 the purchaser at the sale for the amount of the face of the
13 certificate, and a penalty of fifteen percent additional thereto
14 besides legal interest, to be demanded within two years from the date
15 of the sale and recovered in any court having jurisdiction of the
16 amount, and the city shall in no case be liable to the holder of such
17 certificate.

18 **Sec. 272.** RCW 8.16.020 and 1909 p 372 s 2 are each amended to read
19 as follows:

20 The board of directors of the school district shall present to the
21 superior court of the state of Washington in and for the county wherein
22 is situated the real estate desired to be acquired for schoolhouse site
23 purposes, a petition, reciting that the board of directors of such
24 school district have selected certain real estate, describing it, as a
25 schoolhouse site, or as additional grounds to an existing site, for
26 such school district; that the site so selected, or some part thereof,
27 describing it, belongs to a person or persons, naming him, her, or
28 them, that such school district has offered to give the owner or owners
29 thereof therefor dollars, and that the owner of such real
30 estate has refused to accept the same therefor; that the board of
31 school directors of such school district and the said owner or owners
32 of such real estate are unable to agree upon the compensation to be
33 paid by such school district to the owner or owners of such real estate
34 therefor, and praying that a jury be impaneled to ascertain and
35 determine the compensation to be made in money by such school district
36 to such owner or owners for the taking of such real estate for the use

1 as a schoolhouse site for such school district; or in case a jury be
2 waived in the manner provided by law in other civil actions in courts
3 of record, then that the compensation to be made as aforesaid, be
4 ascertained and determined by the court, or judge thereof.

5 **Sec. 273.** RCW 8.16.060 and 1909 p 373 s 6 are each amended to read
6 as follows:

7 The jury impaneled to hear the evidence and determine the
8 compensation to be paid to the owner or owners of such real estate
9 desired for such schoolhouse site purpose shall consist of twelve
10 persons unless a less number be agreed upon, and shall be selected,
11 impaneled, and sworn in the same manner that juries in other civil
12 actions are selected, impaneled, and sworn, provided a juror may be
13 challenged for cause on the ground that he or she is a taxpayer of the
14 district seeking the condemnation of any real estate.

15 **Sec. 274.** RCW 8.16.110 and 1909 p 374 s 11 are each amended to
16 read as follows:

17 Upon the verdict of the jury, or upon the determination by the
18 court of the compensation to be paid for the property sought to be
19 taken as herein provided, judgment shall be entered against such school
20 district in favor of the owner or owners of the real estate sought to
21 be taken, for the amount found as compensation therefor, and upon the
22 payment of such amount by such school district to the clerk of such
23 court for the use of the owner or owners of, and the persons interested
24 in the premises sought to be taken, the court shall enter a decree of
25 appropriation of the real estate sought to be taken, thereby vesting
26 the title to the same in such school district; and a certified copy of
27 such decree of appropriation may be filed in the office of the county
28 auditor of the county wherein the real estate taken is situated, and
29 shall be recorded by such auditor like a deed of real estate, and with
30 like effect. The money so paid to the clerk of the court shall be by
31 him or her paid to the person or persons entitled thereto, upon the
32 order of the court.

33 **Sec. 275.** RCW 8.16.130 and 1988 c 202 s 12 are each amended to
34 read as follows:

35 Either party may seek appellate review of the judgment for

1 compensation awarded for the property taken, entered in the superior
2 court, to the supreme court or the court of appeals of the state within
3 sixty days after the entry of the judgment, and such review shall bring
4 before the supreme court or the court of appeals the justness of the
5 compensation awarded for the property taken, and any error occurring on
6 the hearing of such matter, prejudicial to the party appealing:
7 PROVIDED, HOWEVER, That if the owner or owners of the land taken
8 accepts the sum awarded by the jury or court, he, she, or they shall be
9 deemed thereby to have waived appellate review.

10 **Sec. 276.** RCW 8.16.150 and 1909 p 375 s 15 are each amended to
11 read as follows:

12 In all proceedings under this chapter the school district seeking
13 to acquire title to real estate for a schoolhouse site, shall be
14 denominated plaintiff, and all other persons interested therein shall
15 be denominated defendants; and in all such proceedings the clerk of the
16 superior court wherein any such proceeding is brought shall charge
17 nothing for his or her services, except in taking an appeal from the
18 judgment entered in the superior court.

19 **Sec. 277.** RCW 8.20.010 and 1890 p 294 s 1 are each amended to read
20 as follows:

21 Any corporation authorized by law to appropriate land, real estate,
22 premises, or other property for right-of-way or any other corporate
23 purposes, may present to the superior court of the county in which any
24 land, real estate, premises, or other property sought to be
25 appropriated shall be situated, or to the judge of such superior court
26 in any county where he or she has jurisdiction or is holding court, a
27 petition in which the land, real estate, premises, or other property
28 sought to be appropriated shall be described with reasonable certainty,
29 and setting forth the name of each and every owner, encumbrancer, or
30 other person or party interested in the same, or any part thereof, so
31 far as the same can be ascertained from the public records, the object
32 for which the land is sought to be appropriated, and praying that a
33 jury be impaneled to ascertain and determine the compensation to be
34 made in money, irrespective of any benefit from any improvement
35 proposed by such corporation, to such owner or owners, respectively,
36 and to all tenants, encumbrancers, and others interested, for the

1 taking or injuriously affecting such lands, real estate, premises, or
2 other property, or in case a jury be waived as in other civil cases in
3 courts of record in the manner prescribed by law, then that the
4 compensation to be made, as aforesaid, be ascertained and determined by
5 the court, or judge thereof.

6 **Sec. 278.** RCW 8.20.110 and 1890 p 299 s 8 are each amended to read
7 as follows:

8 Any person, corporation, state or county, claiming to be entitled
9 to any money paid into court, as provided in RCW 8.20.010 through
10 8.20.140 may apply to the court therefor, and upon furnishing evidence
11 satisfactory to the court that he, she, or it is entitled to the same,
12 the court shall make an order directing the payment to such claimant
13 the portion of such money as he, she, or it shall be found entitled to;
14 but if, upon application, the court or judge thereof shall decide that
15 the title to the land, real estate, premises, or other property
16 specified in the application of such claimant was in such condition as
17 to require that an action be commenced to determine the conflicting
18 claims thereto, he or she shall refuse such order until such action is
19 commenced and the conflicting claims to such land, real estate,
20 premises, or other property be determined according to law.

21 **Sec. 279.** RCW 8.20.120 and 1988 c 202 s 14 are each amended to
22 read as follows:

23 Either party may seek appellate review of the judgment for damages
24 entered in the superior court within thirty days after the entry of
25 judgment as aforesaid and such review shall bring before the supreme
26 court or the court of appeals the propriety and justness of the amount
27 of damages in respect to the parties to the review: PROVIDED, HOWEVER,
28 That no bond shall be required of any person interested in the property
29 sought to be appropriated by such corporation, but in case the
30 corporation appropriating such land, real estate, premises, or other
31 property is appellant, it shall give a bond like that prescribed in RCW
32 8.20.130, to be executed, filed, and approved in the same manner: AND
33 PROVIDED FURTHER, That if the owner of the land, real estate, premises,
34 or other property accepts the sum awarded by the jury, the court, or
35 the judge thereof, he or she shall be deemed thereby to have waived

1 conclusively appellate review, and final judgment by default may be
2 rendered in the superior court as in other cases.

3 **Sec. 280.** RCW 8.26.020 and 2003 c 254 s 1 are each amended to read
4 as follows:

5 As used in this chapter:

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

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

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

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

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

21 (ii) On which the person is a residential tenant or conducts a
22 small business, a farm operation, or a business defined in this
23 section, as a direct result of rehabilitation, demolition, or such
24 other displacing activity as the lead agency may prescribe, under a
25 program or project undertaken by a displacing agency in any case in
26 which the displacing agency determines that the displacement is
27 permanent.

28 (b) Solely for the purposes of RCW 8.26.035 (1) and (2) and
29 8.26.065, the term "displaced person" includes any person who moves
30 from real property, or moves his or her personal property from real
31 property:

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

36 (ii) As a direct result of rehabilitation, demolition, or such
37 other displacing activity as the lead agency may prescribe, of other

1 real property on which the person conducts a business or a farm
2 operation, under a program or project undertaken by a displacing agency
3 where the displacing agency determines that the displacement is
4 permanent.

5 (c) The term "displaced person" does not include:

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

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

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

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

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

21 (c) By a nonprofit organization; or

22 (d) Solely for the purposes of RCW 8.26.035, for assisting in the
23 purchase, sale, resale, manufacture, processing, or marketing of
24 products, commodities, personal property, or services by the erection
25 and maintenance of an outdoor advertising display or displays, whether
26 or not such display or displays are located on the premises on which
27 any of the above activities are conducted.

28 (6) The term "farm operation" means any activity conducted solely
29 or primarily for the production of one or more agricultural products or
30 commodities, including timber, for sale or for home use, and
31 customarily producing such products or commodities in sufficient
32 quantity to be capable of contributing materially to the operator's
33 support.

34 (7) The term "comparable replacement dwelling" means any dwelling
35 that is (a) decent, safe, and sanitary; (b) adequate in size to
36 accommodate the occupants; (c) within the financial means of the
37 displaced person; (d) functionally equivalent; (e) in an area not
38 subject to unreasonably adverse environmental conditions; and (f) in a

1 location generally not less desirable than the location of the
2 displaced person's dwelling with respect to public utilities,
3 facilities, services, and the displaced person's place of employment.

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

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

8 (b) Any state agency, local public agency, or person that (i) does
9 not have the authority to acquire property by eminent domain under
10 state law and (ii) has been designated an "acquiring agency" under
11 rules adopted by the lead agency. However, the lead agency may only
12 designate a state agency, local public agency, or a person as an
13 "acquiring agency" to the extent that it is necessary in order to
14 qualify for federal financial assistance.

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

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

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

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

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

35 **Sec. 281.** RCW 8.26.085 and 1988 c 90 s 8 are each amended to read
36 as follows:

1 (1) The lead agency, after full consultation with the department of
2 general administration, shall adopt rules and establish such procedures
3 as the lead agency may determine to be necessary to assure:

4 (a) That the payments and assistance authorized by this chapter are
5 administered in a manner that is fair and reasonable and as uniform as
6 practicable;

7 (b) That a displaced person who makes proper application for a
8 payment authorized for that person by this chapter is paid promptly
9 after a move or, in hardship cases, is paid in advance; and

10 (c) That a displaced person who is aggrieved by a program or
11 project that is under the authority of a state agency or local public
12 agency may have his or her application reviewed by the state agency or
13 local public agency.

14 (2) The lead agency, after full consultation with the department of
15 general administration, may adopt such other rules and procedures,
16 consistent with the provisions of this chapter, as the lead agency
17 deems necessary or appropriate to carry out this chapter.

18 (3) State agencies and local public agencies shall comply with the
19 rules adopted pursuant to this section by April 2, 1989.

20 **Sec. 282.** RCW 8.26.180 and 1988 c 90 s 12 are each amended to read
21 as follows:

22 Every acquiring agency shall, to the greatest extent practicable,
23 be guided by the following policies:

24 (1) Every reasonable effort shall be made to acquire expeditiously
25 real property by negotiation.

26 (2) Real property shall be appraised before the initiation of
27 negotiations, and the owner or his or her designated representative
28 shall be given an opportunity to accompany at least one appraiser of
29 the acquiring agency during his or her inspection of the property,
30 except that the lead agency may prescribe a procedure to waive the
31 appraisal in cases involving the acquisition of property with a low
32 fair market value.

33 (3) Before the initiation of negotiations for real property, the
34 acquiring agency shall establish an amount which it believes to be just
35 compensation therefor, and shall make a prompt offer to acquire the
36 property for the full amount so established. In no event shall such
37 amount be less than the agency's approved appraisal of the fair market

1 value of such property. Any decrease or increase in the fair market
2 value of the real property to be acquired prior to the date of
3 valuation caused by the public improvement for which such property is
4 acquired, or by the likelihood that the property would be acquired for
5 such improvement, other than that due to physical deterioration within
6 the reasonable control of the owner, will be disregarded in determining
7 the compensation for the property. The acquiring agency shall provide
8 the owner of real property to be acquired with a written statement of,
9 and summary of the basis for, the amount it established as just
10 compensation. Where appropriate the just compensation for the real
11 property acquired, for damages to remaining real property, and for
12 benefits to remaining real property shall be separately stated.

13 (4) No owner shall be required to surrender possession of real
14 property before the agreed purchase price is paid or deposited with a
15 court having jurisdiction of condemnation of such property, in
16 accordance with applicable law, for the benefit of the owner an amount
17 not less than the acquiring agency's approved appraisal of the fair
18 market value of such property, or the amount of the award of
19 compensation in the condemnation proceeding of such property.

20 (5) The construction or development of a public improvement shall
21 be so scheduled that, to the greatest extent practicable, no person
22 lawfully occupying real property shall be required to move from a
23 dwelling or to move his or her business or farm operation without at
24 least ninety days written notice of the date by which such move is
25 required.

26 (6) If an owner or tenant is permitted to occupy the real property
27 acquired on a rental basis for a short term or for a period subject to
28 termination on short notice, the amount of rent required shall not
29 exceed the fair rental value of the property to a short-term occupier.

30 (7) In no event shall the time of condemnation be advanced, on
31 negotiations or condemnation and the deposit of funds in court for the
32 use of the owner be deferred, or any other coercive action be taken to
33 compel an agreement on the price to be paid for the property.

34 (8) If an interest in real property is to be acquired by exercise
35 of the power of eminent domain, formal condemnation proceedings shall
36 be instituted. The acquiring agency shall not intentionally make it
37 necessary for an owner to institute legal proceedings to prove the fact
38 of the taking of his or her real property.

1 (9) If the acquisition of only a portion of a property would leave
2 the owner with an uneconomic remnant, the head of the agency concerned
3 shall offer to acquire that remnant. For the purposes of this chapter,
4 an uneconomic remnant is a parcel of real property in which the owner
5 is left with an interest after the partial acquisition of the owner's
6 property and that the head of the agency concerned has determined has
7 little or no value or utility.

8 (10) A person whose real property is being acquired in accordance
9 with this chapter may, after the person has been fully informed of his
10 or her right to receive just compensation for the property, donate the
11 property, any part thereof, any interest therein, or any compensation
12 paid for it to any agency as the person may determine.

13 **Sec. 283.** RCW 8.26.190 and 1988 c 90 s 13 are each amended to read
14 as follows:

15 (1) Where any interest in real property is acquired, the acquiring
16 agency shall acquire an equal interest in all buildings, structures, or
17 other improvements located upon the real property so acquired and which
18 is required to be removed from such real property or which is
19 determined to be adversely affected by the use to which such real
20 property will be put.

21 (2) For the purpose of determining the just compensation to be paid
22 for any building, structure, or other improvement required to be
23 acquired under subsection (1) of this section, such building,
24 structure, or other improvement shall be deemed to be a part of the
25 real property to be acquired notwithstanding the right or obligation of
26 a tenant of the lands, as against the owner of any other interest in
27 the real property, to remove such building, structure, or improvement
28 at the expiration of his or her term, and the fair market value which
29 such building, structure, or improvement contributes to the fair market
30 value of the real property to be acquired, or the fair market value of
31 such building, structure, or improvement for removal from the real
32 property, whichever is the greater, shall be paid to the owner of such
33 building, structure, or improvement.

34 (3) Payment for such building, structure, or improvement under
35 subsection (1) of this section shall not result in duplication of any
36 payments otherwise authorized by state law. No such payment shall be
37 made unless the owner of the land involved disclaims all interest in

1 the improvements of the tenant. In consideration for any such payment,
2 the tenant shall assign, transfer, and release all his or her right,
3 title, and interest in and to such improvements. Nothing with regard
4 to the above-mentioned acquisition of buildings, structures, or other
5 improvements shall be construed to deprive the tenant of any rights to
6 reject payment and to obtain payment for such property interests in
7 accordance with other laws of this state.

8 **Sec. 284.** RCW 8.28.010 and 1927 c 255 s 104 are each amended to
9 read as follows:

10 In all condemnation proceedings brought for the purpose of
11 appropriating any public land owned by the state or in which the state
12 has an interest, service of process shall be made upon the commissioner
13 of public lands.

14 When in any condemnation proceeding a decree is entered
15 appropriating public lands owned by the state or in which the state has
16 an interest, or any interest in or rights over such lands, it shall be
17 the duty of the plaintiff to cause to be filed in the office of the
18 commissioner of public lands a certified copy of such decree, together
19 with a plat of the lands appropriated and the lands contiguous thereto,
20 in form and substance as prescribed and required by the commissioner of
21 public lands, showing in detail the lands appropriated, and to pay to
22 the commissioner of public lands, or into the registry of the court,
23 the amount of compensation and damages fixed and awarded in the decree.
24 Upon receipt of such decree, plat, compensation and damages, the
25 commissioner of public lands shall examine the same, and if he or she
26 shall find that the final decree and proceedings comply with the
27 original petition and notice and any amendment duly authorized, and
28 that no additional interest of the state has been taken or appropriated
29 through error or mistake, he or she shall cause notations thereof to be
30 made upon the abstracts, records and tract books in his or her office,
31 and shall issue to the plaintiff his or her certificate, reciting
32 compliance, in substance, with the above requirements, particularly
33 describing the lands appropriated, and shall forthwith transmit the
34 amount received as compensation and damages to the state treasurer, as
35 in the case of sale of land, and the subdivision of land through which
36 any right-of-way is appropriated shall thereafter be sold or leased
37 subject to the right-of-way.

1 **Sec. 285.** RCW 9.01.110 and 1909 c 249 s 23 are each amended to
2 read as follows:

3 No person shall be punished for an omission to perform an act when
4 such act has been performed by another acting in his or her behalf, and
5 competent to perform it.

6 **Sec. 286.** RCW 9.03.020 and 1955 c 298 s 2 are each amended to read
7 as follows:

8 Any owner, lessee, or manager who knowingly permits such an unused
9 refrigerator, icebox, or deep freeze locker to remain on the premises
10 under his or her control without having the door removed or a portion
11 of the latch mechanism removed to prevent latching or locking of the
12 door is guilty of a misdemeanor.

13 **Sec. 287.** RCW 9.03.040 and 1955 c 298 s 4 are each amended to read
14 as follows:

15 Any person who keeps or stores refrigerators, iceboxes, or deep
16 freeze lockers for the purpose of selling or offering them for sale
17 shall not be guilty of a violation of this chapter if he or she takes
18 reasonable precautions to effectively secure the door of any
19 refrigerator, icebox, or deep freeze locker held for purpose of sale so
20 as to prevent entrance of children small enough to fit into such
21 articles.

22 **Sec. 288.** RCW 9.04.080 and 1961 c 189 s 4 are each amended to read
23 as follows:

24 In the enforcement of RCW 9.04.050 through 9.04.080 the official
25 enforcing RCW 9.04.050 through 9.04.080 may accept an assurance of
26 discontinuance of any act or practice deemed in violation of RCW
27 9.04.050 through 9.04.080, from any person engaging in, or who has
28 engaged in such act or practice. Any such assurance shall be in
29 writing and be filed with and subject to the approval of the superior
30 court of the county in which the alleged violator resides or has his or
31 her principal place of business, or in Thurston county. A violation of
32 such assurance shall constitute prima facie proof of a violation of RCW
33 9.04.050 through 9.04.080: PROVIDED, That after commencement of any
34 action by a prosecuting attorney, as provided herein, the attorney

1 general may not accept an assurance of discontinuance without the
2 consent of the prosecuting attorney.

3 **Sec. 289.** RCW 9.16.060 and 1909 c 249 s 347 are each amended to
4 read as follows:

5 Every person who shall for himself or herself, or on behalf of any
6 other person, corporation, association, or union, procure the filing of
7 any label, trademark, term, design, device, or form of advertisement,
8 with the secretary of state by any fraudulent means, shall be guilty of
9 a misdemeanor.

10 **Sec. 290.** RCW 9.16.100 and 1909 c 249 s 428 are each amended to
11 read as follows:

12 Every person who shall make, sell or offer to sell or dispose of,
13 or have in his or her possession with intent to sell or dispose of any
14 metal article marked, stamped or branded with the words "sterling,"
15 "sterling silver," or "solid silver," unless nine hundred twenty-five
16 one-thousandths of the component parts of the metal of which such
17 article and all parts thereof is manufactured is pure silver, shall be
18 guilty of a gross misdemeanor.

19 **Sec. 291.** RCW 9.16.110 and 1909 c 249 s 429 are each amended to
20 read as follows:

21 Every person who shall make, sell or offer to sell or dispose of,
22 or have in his or her possession with intent to dispose of any metal
23 article marked, stamped or branded with the words "coin," or "coin
24 silver," unless nine hundred one-thousandths of the component parts of
25 the metal of which such article and all parts thereof is manufactured,
26 is pure silver, shall be guilty of a gross misdemeanor.

27 **Sec. 292.** RCW 9.16.120 and 1909 c 249 s 430 are each amended to
28 read as follows:

29 Every person who shall make, sell, offer to sell or dispose of, or
30 have in his or her possession with intent to sell or dispose of, any
31 article comprised of leather, shell, ivory, celluloid, pearl, glass,
32 porcelain, pottery, steel or wood, to which is applied or attached a
33 metal mounting marked, stamped or branded with the words "sterling," or

1 "sterling silver," unless nine hundred twenty-five one-thousandths of
2 the component parts of the metal of which such metal mounting is
3 manufactured is pure silver, shall be guilty of a gross misdemeanor.

4 **Sec. 293.** RCW 9.16.130 and 1909 c 249 s 431 are each amended to
5 read as follows:

6 Every person who shall make, sell, offer to sell or dispose of, or
7 have in his or her possession with intent to sell or dispose of, any
8 article comprised of leather, shell, ivory, celluloid, pearl, glass,
9 porcelain, pottery, steel or wood, to which is applied or attached a
10 metal mounting marked, stamped or branded with the words "coin" or
11 "coin silver," unless nine hundred one-thousandths of the component
12 parts of the metal of which such metal mounting is manufactured is pure
13 silver, shall be guilty of a gross misdemeanor.

14 **Sec. 294.** RCW 9.16.140 and 1909 c 249 s 432 are each amended to
15 read as follows:

16 Every person who shall make, sell, offer to sell or dispose of, or
17 have in his or her possession with intent to sell or dispose of, any
18 article constructed wholly or in part of gold, or of an alloy of gold,
19 and marked, stamped or branded in such manner as to indicate that the
20 gold or alloy of gold in such article is of a greater degree or carat
21 of fineness, by more than one carat, than the actual carat or fineness
22 of such gold or alloy of gold, shall be guilty of a gross misdemeanor.

23 **Sec. 295.** RCW 9.18.080 and 1909 c 249 s 78 are each amended to
24 read as follows:

25 Every person offending against any of the provisions of law
26 relating to bribery or corruption shall be a competent witness against
27 another so offending and shall not be excused from giving testimony
28 tending to criminate himself or herself.

29 **Sec. 296.** RCW 9.38.010 and 1909 c 249 s 368 are each amended to
30 read as follows:

31 Every person who, with intent thereby to obtain credit or financial
32 rating, shall (~~wilfully~~) willfully make any false statement in
33 writing of his or her assets or liabilities to any person with whom he
34 or she may be either actually or prospectively engaged in any business

1 transaction or to any commercial agency or other person engaged in the
2 business of collecting or disseminating information concerning
3 financial or commercial ratings, shall be guilty of a misdemeanor.

4 **Sec. 297.** RCW 9.44.080 and 1999 c 143 s 4 are each amended to read
5 as follows:

6 In a situation not covered by RCW ((~~29.79.440, 29.79.490,~~
7 ~~29.82.170, or 29.82.220~~)) 29A.84.220, 29A.84.230, 29A.84.240, or
8 29A.84.250, every person who shall willfully sign the name of another
9 person or of a fictitious person, or for any consideration, gratuity or
10 reward shall sign his or her own name to or withdraw his or her name
11 from any referendum or other petition circulated in pursuance of any
12 law of this state or any municipal ordinance; or in signing his or her
13 name to such petition shall willfully subscribe to any false statement
14 concerning his or her age, citizenship, residence or other
15 qualifications to sign the same; or knowing that any such petition
16 contains any such false or wrongful signature or statement, shall file
17 the same, or put the same off with intent that it should be filed, as
18 a true and genuine petition, shall be guilty of a misdemeanor.

19 **Sec. 298.** RCW 9.45.060 and 1971 c 61 s 1 are each amended to read
20 as follows:

21 Every person being in possession thereof, who shall sell, remove,
22 conceal, convert to his or her own use, or destroy or connive at or
23 consent to the sale, removal, conversion, concealment, or destruction
24 of any personal property or any part thereof, upon which a security
25 agreement, mortgage, lien, conditional sales contract, rental
26 agreement, or lease exists, with intent to hinder, delay, or defraud
27 the secured party of such security agreement, or the holder of such
28 mortgage, lien, or conditional sales contract or the lessor under such
29 lease or rentor ((~~of~~ [~~under~~])) under such rental agreement, or any
30 assignee of such security agreement, mortgage, lien, conditional sales
31 contract, rental agreement or lease shall be guilty of a gross
32 misdemeanor.

33 In any prosecution under this section any allegation containing a
34 description of the security agreement, mortgage, lien, conditional
35 sales contract, rental agreement, or lease by reference to the date

1 thereof and names of the parties thereto, shall be sufficiently
2 definite and certain.

3 The provisions of this section shall be cumulative and nonexclusive
4 and shall not affect any other criminal provision.

5 **Sec. 299.** RCW 9.45.080 and 1909 c 249 s 379 are each amended to
6 read as follows:

7 Every person who, with intent to defraud a prior or subsequent
8 purchaser thereof, or prevent any of his or her property being made
9 liable for the payment of any of his or her debts, or levied upon by an
10 execution or warrant of attachment, shall remove any of his or her
11 property, or secrete, assign, convey, or otherwise dispose of the same,
12 or with intent to defraud a creditor shall remove, secrete, assign,
13 convey, or otherwise dispose of any of his or her books or accounts,
14 vouchers or writings in any way relating to his or her business
15 affairs, or destroy, obliterate, alter, or erase any of such books of
16 account, accounts, vouchers, or writing or any entry, memorandum, or
17 minute therein contained, shall be guilty of a gross misdemeanor.

18 **Sec. 300.** RCW 9.45.090 and 1909 c 249 s 380 are each amended to
19 read as follows:

20 Every person who shall receive any property or conveyance thereof
21 from another, knowing that the same is transferred or delivered to him
22 or her in violation of, or with the intent to violate RCW 9.45.080,
23 shall be guilty of a misdemeanor.

24 **Sec. 301.** RCW 9.45.100 and 1909 c 249 s 381 are each amended to
25 read as follows:

26 Every person who, having made, or being about to make, a general
27 assignment of his or her property to pay his or her debts, shall by
28 color or aid of any false or fraudulent representation, pretense,
29 token, or writing induce any creditor to participate in the benefits of
30 such assignments, or to give any release or discharge of his or her
31 claim or any part thereof, or shall connive at the payment in whole or
32 in part of any false, fraudulent or fictitious claim, shall be guilty
33 of a gross misdemeanor.

1 **Sec. 302.** RCW 9.46.050 and 1984 c 287 s 9 are each amended to read
2 as follows:

3 (1) Upon appointment of the initial membership the commission shall
4 meet at a time and place designated by the governor and proceed to
5 organize, electing one of such members as ((~~chairman~~)) chair of the
6 commission who shall serve until July 1, 1974; thereafter a
7 ((~~chairman~~)) chair shall be elected annually.

8 (2) A majority of the members shall constitute a quorum of the
9 commission: PROVIDED, That all actions of the commission relating to
10 the regulation of licensing under this chapter shall require an
11 affirmative vote by three or more members of the commission.

12 (3) The principal office of the commission shall be at the state
13 capitol, and meetings shall be held at least quarterly and at such
14 other times as may be called by the ((~~chairman~~)) chair or upon written
15 request to the ((~~chairman~~)) chair of a majority of the commission.

16 (4) Members shall be compensated in accordance with RCW 43.03.250
17 and shall receive reimbursement for travel expenses incurred in the
18 performance of their duties as provided in RCW 43.03.050 and 43.03.060.

19 (5) Before entering upon the duties of his or her office, each of
20 the members of the commission shall enter into a surety bond executed
21 by a surety company authorized to do business in this state, payable to
22 the state of Washington, to be approved by the governor, in the penal
23 sum of fifty thousand dollars, conditioned upon the faithful
24 performance of his or her duties, and shall take and subscribe to the
25 oath of office prescribed for elective state officers, which oath and
26 bond shall be filed with the secretary of state. The premium for said
27 bond shall be paid by the commission.

28 (6) Any member of the commission may be removed for inefficiency,
29 malfeasance, or misfeasance in office, upon specific written charges
30 filed by the governor, who shall transmit such written charges to the
31 member accused and to the chief justice of the supreme court. The
32 chief justice shall thereupon designate a tribunal composed of three
33 judges of the superior court to hear and adjudicate the charges. Such
34 tribunal shall fix the time of the hearing, which shall be public, and
35 the procedure for the hearing, and the decision of such tribunal shall
36 be final. Removal of any member of the commission by the tribunal
37 shall disqualify such member for reappointment.

1 **Sec. 303.** RCW 9.46.130 and 1981 c 139 s 10 are each amended to
2 read as follows:

3 The premises and paraphernalia, and all the books and records of
4 any person, association, or organization conducting gambling activities
5 authorized under this chapter and any person, association, or
6 organization receiving profits therefrom or having any interest therein
7 shall be subject to inspection and audit at any reasonable time, with
8 or without notice, upon demand, by the commission or its designee, the
9 attorney general or his or her designee, the chief of the Washington
10 state patrol or his or her designee or the prosecuting attorney,
11 sheriff, or director of public safety or their designees of the county
12 wherein located, or the chief of police or his or her designee of any
13 city or town in which said organization is located, for the purpose of
14 determining compliance or noncompliance with the provisions of this
15 chapter and any rules or regulations or local ordinances adopted
16 pursuant thereto. A reasonable time for the purpose of this section
17 shall be: (1) If the items or records to be inspected or audited are
18 located anywhere upon a premises any portion of which is regularly open
19 to the public or members and guests, then at any time when the premises
20 are so open, or at which they are usually open; or (2) if the items or
21 records to be inspected or audited are not located upon a premises set
22 out in subsection (1) (~~above~~) of this section, then any time between
23 the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

24 The commission shall be provided at such reasonable intervals as
25 the commission shall determine with a report, under oath, detailing all
26 receipts and disbursements in connection with such gambling activities
27 together with such other reasonable information as required in order to
28 determine whether such activities comply with the purposes of this
29 chapter or any local ordinances relating thereto.

30 **Sec. 304.** RCW 9.46.200 and 1987 c 4 s 41 are each amended to read
31 as follows:

32 In addition to any other penalty provided for in this chapter,
33 every person, directly or indirectly controlling the operation of any
34 gambling activity authorized by this chapter, including a director,
35 officer, and/or manager of any association, organization, or
36 corporation conducting the same, whether charitable, nonprofit, or
37 profit, shall be liable, jointly and severally, for money damages

1 suffered by any person because of any violation of this chapter,
2 together with interest on any such amount of money damages at six
3 percent per annum from the date of the loss, and reasonable attorneys'
4 fees: PROVIDED, That if any such director, officer, and/or manager did
5 not know any such violation was taking place and had taken all
6 reasonable care to prevent any such violation from taking place, and if
7 such director, officer, and/or manager shall establish by a
8 preponderance of the evidence that he or she did not have such
9 knowledge and that he or she had exercised all reasonable care to
10 prevent the violations he or she shall not be liable hereunder. Any
11 civil action under this section may be considered a class action.

12 **Sec. 305.** RCW 9.46.250 and 1987 c 4 s 45 are each amended to read
13 as follows:

14 (1) All gambling premises are common nuisances and shall be subject
15 to abatement by injunction or as otherwise provided by law. The
16 plaintiff in any action brought under this subsection against any
17 gambling premises, need not show special injury and may, in the
18 discretion of the court, be relieved of all requirements as to giving
19 security.

20 (2) When any property or premise held under a mortgage, contract,
21 or leasehold is determined by a court having jurisdiction to be a
22 gambling premises, all rights and interests of the holder therein shall
23 terminate and the owner shall be entitled to immediate possession at
24 his or her election: PROVIDED, HOWEVER, That this subsection shall not
25 apply to those premises in which activities authorized by this chapter
26 or any act or acts in furtherance thereof are carried on when conducted
27 in compliance with the provisions of this chapter and in accordance
28 with the rules and regulations adopted pursuant thereto.

29 (3) When any property or premises for which one or more licenses
30 issued by the commission are in effect, is determined by a court having
31 jurisdiction to be a gambling premise, all such licenses may be voided
32 and no longer in effect, and no license so voided shall be issued or
33 reissued for such property or premises for a period of up to sixty days
34 thereafter. Enforcement of this subsection shall be the duty of all
35 peace officers and all taxing and licensing officials of this state and
36 its political subdivisions and other public agencies. This subsection
37 shall not apply to property or premises in which activities authorized

1 by this chapter, or any act or acts in furtherance thereof, are carried
2 on when conducted in compliance with the provisions of this chapter and
3 in accordance with the rules and regulations adopted pursuant thereto.

4 **Sec. 306.** RCW 9.47.100 and 1909 c 249 s 225 are each amended to
5 read as follows:

6 Every person, whether in his or her own behalf, or as the servant,
7 agent, or employee of another person, within or outside of this state,
8 who shall buy or sell for another, or execute any order for the
9 purchase or sale of any commodities, securities, or property, upon
10 margin or credit, whether for immediate or future delivery, shall, upon
11 written demand therefor, furnish such principal or customer with a
12 written statement containing the names of the persons from whom such
13 property was bought, or to whom it has been sold, as the case may be,
14 the time when, the place where, the amount of, and the price at which
15 the same was either bought or sold; and if such person shall refuse or
16 neglect to furnish such statement within forty-eight hours after such
17 written demand, such refusal shall be prima facie evidence as against
18 him or her that such purchase or sale was made in violation of RCW
19 9.47.090.

20 **Sec. 307.** RCW 9.47A.040 and 1984 c 68 s 4 are each amended to read
21 as follows:

22 No person may sell, offer to sell, deliver, or give to any other
23 person any container of a substance containing a solvent having the
24 property of releasing toxic vapors or fumes, if he or she has knowledge
25 that the product sold, offered for sale, delivered, or given will be
26 used for the purpose set forth in RCW 9.47A.020.

27 **Sec. 308.** RCW 9.51.020 and 1909 c 249 s 76 are each amended to
28 read as follows:

29 Every person who shall, directly or indirectly, solicit or request
30 any person charged with the duty of preparing any jury list to put his
31 or her name, or the name of any other person, on any such list, shall
32 be guilty of a gross misdemeanor.

33 **Sec. 309.** RCW 9.51.040 and 1909 c 249 s 121 are each amended to
34 read as follows:

1 Every grand juror who, with knowledge that a challenge interposed
2 against him or her by a defendant has been allowed, shall be present
3 at, or take part, or attempt to take part, in the consideration of the
4 charge against the defendant who interposed such challenge, or the
5 deliberations of the grand jury thereon, shall be guilty of a
6 misdemeanor.

7 **Sec. 310.** RCW 9.51.050 and 1909 c 249 s 126 are each amended to
8 read as follows:

9 Every judge, grand juror, prosecuting attorney, clerk,
10 stenographer, or other officer who, except in the due discharge of his
11 or her official duty, shall disclose the fact that a presentment has
12 been made or indictment found or ordered against any person, before
13 such person shall be in custody; and every grand juror, clerk, or
14 stenographer who, except when lawfully required by a court or officer,
15 shall disclose any evidence adduced before the grand jury, or any
16 proceeding, discussion, or vote of the grand jury or any member
17 thereof, shall be guilty of a misdemeanor.

18 **Sec. 311.** RCW 9.51.060 and 1909 c 249 s 127 are each amended to
19 read as follows:

20 Every clerk of any court or other officer who shall ((~~wilfully~~))
21 willfully permit any deposition, or the transcript of any testimony,
22 returned by a grand jury and filed with such clerk or officer, to be
23 inspected by any person except the court, the deputies or assistants of
24 such clerk, and the prosecuting attorney and his or her deputies, until
25 after the arrest of the defendant, shall be guilty of a misdemeanor.

26 **Sec. 312.** RCW 9.54.130 and 1909 c 249 s 357 are each amended to
27 read as follows:

28 The officer arresting any person charged as principal or accessory
29 in any robbery or larceny shall use reasonable diligence to secure the
30 property alleged to have been stolen, and after seizure shall be
31 answerable therefor while it remains in his or her hands, and shall
32 annex a schedule thereof to his or her return of the warrant.

33 Whenever the prosecuting attorney shall require such property for
34 use as evidence upon the examination or trial, such officer, upon his

1 or her demand, shall deliver it to him or her and take his or her
2 receipt therefor, after which such prosecuting attorney shall be
3 answerable for the same.

4 **Sec. 313.** RCW 9.55.020 and 1909 c 249 s 86 are each amended to
5 read as follows:

6 Every person duly summoned to attend as a witness before either
7 house of the legislature of this state, or any committee thereof
8 authorized to summon witnesses, who shall refuse or neglect, without
9 lawful excuse, to attend pursuant to such summons, or who shall
10 (~~wilfully~~) willfully refuse to be sworn or to affirm or to answer any
11 material or proper question or to produce, upon reasonable notice, any
12 material or proper books, papers or documents in his or her possession
13 or under his or her control, shall be guilty of a gross misdemeanor.

14 **Sec. 314.** RCW 9.61.190 and 1987 c 456 s 25 are each amended to
15 read as follows:

16 It is a class 1 civil infraction for any person, other than the
17 owner thereof or his or her authorized agent, to knowingly shoot, kill,
18 maim, injure, molest, entrap, or detain any Antwerp Messenger or Racing
19 Pigeon, commonly called "carrier or racing pigeons", having the name of
20 its owner stamped upon its wing or tail or bearing upon its leg a band
21 or ring with the name or initials of the owner or an identification or
22 registration number stamped thereon.

23 **Sec. 315.** RCW 9.61.200 and 1987 c 456 s 26 are each amended to
24 read as follows:

25 It is a class 2 civil infraction for any person other than the
26 owner thereof or his or her authorized agent to remove or alter any
27 stamp, leg band, ring, or other mark of identification attached to any
28 Antwerp Messenger or Racing Pigeon.

29 **Sec. 316.** RCW 9.61.240 and 1967 c 16 s 2 are each amended to read
30 as follows:

31 Any person who knowingly permits any telephone under his or her
32 control to be used for any purpose prohibited by RCW 9.61.230 shall be
33 guilty of a misdemeanor.

1 **Sec. 317.** RCW 9.62.020 and 1909 c 249 s 124 are each amended to
2 read as follows:

3 Every person who shall institute or prosecute any action or other
4 proceeding in the name of another, without his or her consent and
5 contrary to law, shall be guilty of a gross misdemeanor.

6 **Sec. 318.** RCW 9.68.070 and 1992 c 5 s 4 are each amended to read
7 as follows:

8 In any prosecution for violation of RCW 9.68.060, it shall be a
9 defense that:

10 (1) If the violation pertains to a motion picture or sound
11 recording, the minor was accompanied by a parent, parent's spouse, or
12 guardian; or

13 (2) Such minor exhibited to the defendant a draft card, driver's
14 license, birth certificate, or other official or an apparently official
15 document purporting to establish such minor was over the age of
16 eighteen years; or

17 (3) Such minor was accompanied by a person who represented himself
18 or herself to be a parent, or the spouse of a parent, or a guardian of
19 such minor, and the defendant in good faith relied upon such
20 representation.

21 **Sec. 319.** RCW 9.68.080 and 1969 ex.s. c 256 s 16 are each amended
22 to read as follows:

23 (1) It shall be unlawful for any minor to misrepresent his or her
24 true age or his or her true status as the child, stepchild, or ward of
25 a person accompanying him or her, for the purpose of purchasing or
26 obtaining access to any material described in RCW 9.68.050.

27 (2) It shall be unlawful for any person accompanying such minor to
28 misrepresent his or her true status as parent, spouse of a parent, or
29 guardian of any minor for the purpose of enabling such minor to
30 purchase or obtain access to material described in RCW 9.68.050.

31 **Sec. 320.** RCW 9.68.090 and 1992 c 5 s 3 are each amended to read
32 as follows:

33 No retailer, wholesaler, or exhibitor is to be deprived of service
34 from a wholesaler or wholesaler-distributor of books, magazines, motion
35 pictures, sound recordings, or other materials or subjected to loss of

1 his or her franchise or right to deal or exhibit as a result of his or
2 her attempts to comply with this statute. Any publisher, distributor,
3 or other person, or combination of such persons, which withdraws or
4 attempts to withdraw a franchise or other right to sell at retail,
5 wholesale or exhibit materials on account of the retailer's,
6 wholesaler's, or exhibitor's attempts to comply with RCW 9.68.050
7 through 9.68.120 shall incur civil liability to such retailer,
8 wholesaler, or exhibitor for threefold the actual damages resulting
9 from such withdrawal or attempted withdrawal.

10 **Sec. 321.** RCW 9.68.110 and 1969 ex.s. c 256 s 19 are each amended
11 to read as follows:

12 The provisions of RCW 9.68.050 through 9.68.120 shall not apply to
13 acts done in the scope of his or her employment by a motion picture
14 operator or projectionist employed by the owner or manager of a theatre
15 or other place for the showing of motion pictures, unless the motion
16 picture operator or projectionist has a financial interest in such
17 theatre or place wherein he or she is so employed or unless he or she
18 caused to be performed or exhibited such performance or motion picture
19 without the knowledge and consent of the manager or owner of the
20 theatre or other place of showing.

21 **Sec. 322.** RCW 9.68.130 and 1975 1st ex.s. c 156 s 1 are each
22 amended to read as follows:

23 (1) A person is guilty of unlawful display of sexually explicit
24 material if he or she knowingly exhibits such material on a viewing
25 screen so that the sexually explicit material is easily visible from a
26 public thoroughfare, park or playground or from one or more family
27 dwelling units.

28 (2) "Sexually explicit material" as that term is used in this
29 section means any pictorial material displaying direct physical
30 stimulation of unclothed genitals, masturbation, sodomy (i.e.
31 bestiality or oral or anal intercourse), flagellation or torture in the
32 context of a sexual relationship, or emphasizing the depiction of adult
33 human genitals: PROVIDED HOWEVER, That works of art or of
34 anthropological significance shall not be deemed to be within the
35 foregoing definition.

1 (3) Any person who violates subsection (1) of this section shall be
2 guilty of a misdemeanor.

3 **Sec. 323.** RCW 9.73.010 and 1909 c 249 s 410 are each amended to
4 read as follows:

5 Every person who shall wrongfully obtain or attempt to obtain, any
6 knowledge of a telegraphic message, by connivance with the clerk,
7 operator, messenger, or other employee of a telegraph company, and
8 every clerk, operator, messenger, or other employee of such company who
9 shall ((~~wilfully~~)) willfully divulge to any but the person for whom it
10 was intended, any telegraphic message or dispatch intrusted to him or
11 her for transmission or delivery, or the nature or contents thereof, or
12 shall ((~~wilfully~~)) willfully refuse, neglect, or delay duly to transmit
13 or deliver the same, shall be guilty of a misdemeanor.

14 **Sec. 324.** RCW 9.73.060 and 1977 ex.s. c 363 s 2 are each amended
15 to read as follows:

16 Any person who, directly or by means of a detective agency or any
17 other agent, violates the provisions of this chapter shall be subject
18 to legal action for damages, to be brought by any other person claiming
19 that a violation of this statute has injured his or her business, his
20 or her person, or his or her reputation. A person so injured shall be
21 entitled to actual damages, including mental pain and suffering endured
22 by him or her on account of violation of the provisions of this
23 chapter, or liquidated damages computed at the rate of one hundred
24 dollars a day for each day of violation, not to exceed one thousand
25 dollars, and a reasonable attorney's fee and other costs of litigation.

26 **Sec. 325.** RCW 9.73.090 and 2006 c 38 s 1 are each amended to read
27 as follows:

28 (1) The provisions of RCW 9.73.030 through 9.73.080 shall not apply
29 to police, fire, emergency medical service, emergency communication
30 center, and poison center personnel in the following instances:

31 (a) Recording incoming telephone calls to police and fire stations,
32 licensed emergency medical service providers, emergency communication
33 centers, and poison centers;

34 (b) Video and/or sound recordings may be made of arrested persons

1 by police officers responsible for making arrests or holding persons in
2 custody before their first appearance in court. Such video and/or
3 sound recordings shall conform strictly to the following:

4 (i) The arrested person shall be informed that such recording is
5 being made and the statement so informing him or her shall be included
6 in the recording;

7 (ii) The recording shall commence with an indication of the time of
8 the beginning thereof and terminate with an indication of the time
9 thereof;

10 (iii) At the commencement of the recording the arrested person
11 shall be fully informed of his or her constitutional rights, and such
12 statements informing him or her shall be included in the recording;

13 (iv) The recordings shall only be used for valid police or court
14 activities;

15 (c) Sound recordings that correspond to video images recorded by
16 video cameras mounted in law enforcement vehicles. All law enforcement
17 officers wearing a sound recording device that makes recordings
18 corresponding to videos recorded by video cameras mounted in law
19 enforcement vehicles must be in uniform. A sound recording device that
20 makes a recording pursuant to this subsection (1)(c) must be operated
21 simultaneously with the video camera when the operating system has been
22 activated for an event. No sound recording device may be intentionally
23 turned off by the law enforcement officer during the recording of an
24 event. Once the event has been captured, the officer may turn off the
25 audio recording and place the system back into "pre-event" mode.

26 No sound or video recording made under this subsection (1)(c) may
27 be duplicated and made available to the public by a law enforcement
28 agency subject to this section until final disposition of any criminal
29 or civil litigation which arises from the event or events which were
30 recorded. Such sound recordings shall not be divulged or used by any
31 law enforcement agency for any commercial purpose.

32 A law enforcement officer shall inform any person being recorded by
33 sound under this subsection (1)(c) that a sound recording is being made
34 and the statement so informing the person shall be included in the
35 sound recording, except that the law enforcement officer is not
36 required to inform the person being recorded if the person is being
37 recorded under exigent circumstances. A law enforcement officer is not

1 required to inform a person being recorded by video under this
2 subsection (1)(c) that the person is being recorded by video.

3 (2) It shall not be unlawful for a law enforcement officer acting
4 in the performance of the officer's official duties to intercept,
5 record, or disclose an oral communication or conversation where the
6 officer is a party to the communication or conversation or one of the
7 parties to the communication or conversation has given prior consent to
8 the interception, recording, or disclosure: PROVIDED, That prior to
9 the interception, transmission, or recording the officer shall obtain
10 written or telephonic authorization from a judge or magistrate, who
11 shall approve the interception, recording, or disclosure of
12 communications or conversations with a nonconsenting party for a
13 reasonable and specified period of time, if there is probable cause to
14 believe that the nonconsenting party has committed, is engaged in, or
15 is about to commit a felony: PROVIDED HOWEVER, That if such
16 authorization is given by telephone the authorization and officer's
17 statement justifying such authorization must be electronically recorded
18 by the judge or magistrate on a recording device in the custody of the
19 judge or magistrate at the time transmitted and the recording shall be
20 retained in the court records and reduced to writing as soon as
21 possible thereafter.

22 Any recording or interception of a communication or conversation
23 incident to a lawfully recorded or intercepted communication or
24 conversation pursuant to this subsection shall be lawful and may be
25 divulged.

26 All recordings of communications or conversations made pursuant to
27 this subsection shall be retained for as long as any crime may be
28 charged based on the events or communications or conversations
29 recorded.

30 (3) Communications or conversations authorized to be intercepted,
31 recorded, or disclosed by this section shall not be inadmissible under
32 RCW 9.73.050.

33 (4) Authorizations issued under subsection (2) of this section
34 shall be effective for not more than seven days, after which period the
35 issuing authority may renew or continue the authorization for
36 additional periods not to exceed seven days.

37 (5) If the judge or magistrate determines that there is probable
38 cause to believe that the communication or conversation concerns the

1 unlawful manufacture, delivery, sale, or possession with intent to
2 manufacture, deliver, or sell, controlled substances as defined in
3 chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or
4 imitation controlled substances as defined in chapter 69.52 RCW, the
5 judge or magistrate may authorize the interception, transmission,
6 recording, or disclosure of communications or conversations under
7 subsection (2) of this section even though the true name of the
8 nonconsenting party, or the particular time and place for the
9 interception, transmission, recording, or disclosure, is not known at
10 the time of the request, if the authorization describes the
11 nonconsenting party and subject matter of the communication or
12 conversation with reasonable certainty under the circumstances. Any
13 such communication or conversation may be intercepted, transmitted,
14 recorded, or disclosed as authorized notwithstanding a change in the
15 time or location of the communication or conversation after the
16 authorization has been obtained or the presence of or participation in
17 the communication or conversation by any additional party not named in
18 the authorization.

19 Authorizations issued under this subsection shall be effective for
20 not more than fourteen days, after which period the issuing authority
21 may renew or continue the authorization for an additional period not to
22 exceed fourteen days.

23 **Sec. 326.** RCW 9.73.130 and 1977 ex.s. c 363 s 6 are each amended
24 to read as follows:

25 Each application for an authorization to record communications or
26 conversations pursuant to RCW 9.73.090 as now or hereafter amended
27 shall be made in writing upon oath or affirmation and shall state:

28 (1) The authority of the applicant to make such application;

29 (2) The identity and qualifications of the investigative or law
30 enforcement officers or agency for whom the authority to record a
31 communication or conversation is sought and the identity of whoever
32 authorized the application;

33 (3) A particular statement of the facts relied upon by the
34 applicant to justify his or her belief that an authorization should be
35 issued, including:

36 (a) The identity of the particular person, if known, committing the
37 offense and whose communications or conversations are to be recorded;

1 (b) The details as to the particular offense that has been, is
2 being, or is about to be committed;

3 (c) The particular type of communication or conversation to be
4 recorded and a showing that there is probable cause to believe such
5 communication will be communicated on the wire communication facility
6 involved or at the particular place where the oral communication is to
7 be recorded;

8 (d) The character and location of the particular wire communication
9 facilities involved or the particular place where the oral
10 communication is to be recorded;

11 (e) A statement of the period of time for which the recording is
12 required to be maintained, if the character of the investigation is
13 such that the authorization for recording should not automatically
14 terminate when the described type of communication or conversation has
15 been first obtained, a particular statement of facts establishing
16 probable cause to believe that additional communications of the same
17 type will occur thereafter;

18 (f) A particular statement of facts showing that other normal
19 investigative procedures with respect to the offense have been tried
20 and have failed or reasonably appear to be unlikely to succeed if tried
21 or to be too dangerous to employ;

22 (4) Where the application is for the renewal or extension of an
23 authorization, a particular statement of facts showing the results thus
24 far obtained from the recording, or a reasonable explanation of the
25 failure to obtain such results;

26 (5) A complete statement of the facts concerning all previous
27 applications, known to the individual authorizing and to the individual
28 making the application, made to any court for authorization to record
29 a wire or oral communication involving any of the same facilities or
30 places specified in the application or involving any person whose
31 communication is to be intercepted, and the action taken by the court
32 on each application; and

33 (6) Such additional testimony or documentary evidence in support of
34 the application as the judge may require.

35 **Sec. 327.** RCW 9.73.140 and 1977 ex.s. c 363 s 7 are each amended
36 to read as follows:

37 Within a reasonable time but not later than thirty days after the

1 termination of the period of the authorization or of extensions or
2 renewals thereof, or the date of the denial of an authorization applied
3 for under RCW 9.73.090 as now or hereafter amended, the issuing
4 authority shall cause to be served on the person named in the
5 authorization or application for an authorization, and such other
6 parties to the recorded communications as the judge may in his or her
7 discretion determine to be in the interest of justice, an inventory
8 which shall include:

9 (1) Notice of the entry of the authorization or the application for
10 an authorization which has been denied under RCW 9.73.090 as now or
11 hereafter amended;

12 (2) The date of the entry of the authorization or the denial of an
13 authorization applied for under RCW 9.73.090 as now or hereafter
14 amended;

15 (3) The period of authorized or disapproved recording; and

16 (4) The fact that during the period wire or oral communications
17 were or were not recorded.

18 The issuing authority, upon the filing of a motion, may in its
19 discretion make available to such person or his or her attorney for
20 inspection such portions of the recorded communications, applications
21 and orders as the court determines to be in the interest of justice.
22 On an ex parte showing of good cause to the court the serving of the
23 inventory required by this section may be postponed or dispensed with.

24 **Sec. 328.** RCW 9.81.090 and 1971 c 81 s 44 are each amended to read
25 as follows:

26 Reasonable grounds on all the evidence to believe that any person
27 is a subversive person, as defined in this chapter, shall be cause for
28 discharge from any appointive office or other position of profit or
29 trust in the government of or in the administration of the business of
30 this state, or of any county, municipality or other political
31 subdivision of this state, or any agency thereof. The attorney general
32 and the personnel director, and the civil service commission of any
33 county, city, or other political subdivision of this state, shall, by
34 appropriate rules or regulations, prescribe that persons charged with
35 being subversive persons, as defined in this chapter, shall have the
36 right of reasonable notice, date, time, and place of hearing,
37 opportunity to be heard by himself or herself and witnesses on his or

1 her behalf, to be represented by counsel, to be confronted by witnesses
2 against him or her, the right to cross-examination, and such other
3 rights which are in accordance with the procedures prescribed by law
4 for the discharge of such person for other reasons. Every person and
5 every board, commission, council, department, or other agency of the
6 state of Washington or any political subdivision thereof having
7 responsibility for the appointment, employment, or supervision of
8 public employees not covered by the classified service in this section
9 referred to, shall establish rules or procedures similar to those
10 required herein for classified services for a hearing for any person
11 charged with being a subversive person, as defined in this chapter,
12 after notice and opportunity to be heard. Every employing authority
13 discharging any person pursuant to any provision of this chapter, shall
14 promptly report to the special assistant attorney general in charge of
15 subversive activities the fact of and the circumstances surrounding
16 such discharge. Any person discharged under the provisions of this
17 chapter shall have the right within thirty days thereafter to appeal to
18 the superior court of the county wherein said person may reside or
19 wherein he or she may have been employed for determination by said
20 court as to whether or not the discharge appealed from was justified
21 under the provisions of this chapter. The court shall regularly hear
22 and determine such appeals and the decision of the superior court may
23 be appealed to the supreme court or the court of appeals of the state
24 of Washington as in civil cases. Any person appealing to the superior
25 court may be entitled to trial by jury if he or she so elects.

26 **Sec. 329.** RCW 9.91.010 and 1953 c 87 s 1 are each amended to read
27 as follows:

28 Terms used in this section shall have the following definitions:

29 (1)(a) "Every person" shall be construed to include any owner,
30 lessee, proprietor, manager, agent or employee whether one or more
31 natural persons, partnerships, associations, organizations,
32 corporations, cooperatives, legal representatives, trustees, receivers,
33 of this state and its political subdivisions, boards and commissions,
34 engaged in or exercising control over the operation of any place of
35 public resort, accommodation, assemblage, or amusement.

36 (b) "Deny" is hereby defined to include any act which directly or
37 indirectly, or by subterfuge, by a person or his or her agent or

1 employee, results or is intended or calculated to result in whole or in
2 part in any discrimination, distinction, restriction, or unequal
3 treatment, or the requiring of any person to pay a larger sum than the
4 uniform rates charged other persons, or the refusing or withholding
5 from any person the admission, patronage, custom, presence,
6 frequenting, dwelling, staying, or lodging in any place of public
7 resort, accommodation, assemblage, or amusement except for conditions
8 and limitations established by law and applicable alike to all persons,
9 regardless of race, creed, or color.

10 (c) "Full enjoyment of" shall be construed to include the right to
11 purchase any service, commodity, or article of personal property
12 offered or sold on, or by, any establishment to the public, and the
13 admission of any person to accommodations, advantages, facilities, or
14 privileges of any place of public resort, accommodation, assemblage, or
15 amusement, without acts directly or indirectly causing persons of any
16 particular race, creed, or color, to be treated as not welcome,
17 accepted, desired, or solicited.

18 (d) "Any place of public resort, accommodation, assemblage, or
19 amusement" is hereby defined to include, but not to be limited to, any
20 public place, licensed or unlicensed, kept for gain, hire or reward, or
21 where charges are made for admission, service, occupancy or use of any
22 property or facilities, whether conducted for the entertainment,
23 housing, or lodging of transient guests, or for the benefit, use or
24 accommodation of those seeking health, recreation, or rest, or for the
25 sale of goods and merchandise, or for the rendering of personal
26 services, or for public conveyance or transportation on land, water or
27 in the air, including the stations and terminals thereof and the
28 garaging of vehicles, or where food or beverages of any kind are sold
29 for consumption on the premises, or where public amusement,
30 entertainment, sports, or recreation of any kind is offered with or
31 without charge, or where medical service or care is made available, or
32 where the public gathers, congregates, or assembles for amusement,
33 recreation or public purposes, or public halls, public elevators, and
34 public washrooms of buildings and structures occupied by two or more
35 tenants, or by the owner and one or more tenants, or any public library
36 or any educational institution wholly or partially supported by public
37 funds, or schools of special instruction, or nursery schools, or day
38 care centers or children's camps; nothing herein contained shall be

1 construed to include, or apply to, any institute, bona fide club, or
2 place of accommodation, which is by its nature distinctly private
3 provided that where public use is permitted that use shall be covered
4 by this section; nor shall anything herein contained apply to any
5 educational facility operated or maintained by a bona fide religious or
6 sectarian institution; and the right of a natural parent in *loco*
7 *parentis* to direct the education and upbringing of a child under his or
8 her control is hereby affirmed.

9 (2) Every person who denies to any other person because of race,
10 creed, or color, the full enjoyment of any of the accommodations,
11 advantages, facilities, or privileges of any place of public resort,
12 accommodation, assemblage, or amusement, shall be guilty of a
13 misdemeanor.

14 **Sec. 330.** RCW 9.92.062 and 1971 ex.s. c 188 s 1 are each amended
15 to read as follows:

16 In all cases prior to August 9, 1971, wherein the execution of
17 sentence has been suspended pursuant to RCW 9.92.060, such person may
18 apply to the court by which he or she was convicted and sentenced to
19 establish a definite termination date for the suspended sentence. The
20 court shall set a date no later than the time the original sentence
21 would have elapsed and may provide for an earlier termination of the
22 suspended sentence.

23 **Sec. 331.** RCW 9.92.080 and 1981 c 136 s 35 are each amended to
24 read as follows:

25 (1) Whenever a person while under sentence of felony shall commit
26 another felony and be sentenced to another term of imprisonment, such
27 latter term shall not begin until the expiration of all prior terms:
28 PROVIDED, That any person granted probation pursuant to the provisions
29 of RCW 9.95.210 and/or 9.92.060 shall not be considered to be under
30 sentence of a felony for the purposes of this subsection.

31 (2) Whenever a person is convicted of two or more offenses which
32 arise from a single act or omission, the sentences imposed therefor
33 shall run concurrently, unless the court, in pronouncing sentence,
34 expressly orders the service of said sentences to be consecutive.

35 (3) In all other cases, whenever a person is convicted of two or
36 more offenses arising from separate and distinct acts or omissions, and

1 not otherwise governed by the provisions of subsections (1) and (2) of
2 this section, the sentences imposed therefor shall run consecutively,
3 unless the court, in pronouncing the second or other subsequent
4 sentences, expressly orders concurrent service thereof.

5 (4) The sentencing court may require the secretary of corrections,
6 or his or her designee, to provide information to the court concerning
7 the existence of all prior judgments against the defendant, the terms
8 of imprisonment imposed, and the status thereof.

9 **Sec. 332.** RCW 9.92.110 and 1909 c 249 s 36 are each amended to
10 read as follows:

11 Every person sentenced to imprisonment in any penal institution
12 shall be under the protection of the law, and any unauthorized injury
13 to his or her person shall be punished in the same manner as if he or
14 she were not so convicted or sentenced. A conviction of crime shall
15 not work a forfeiture of any property, real or personal, or of any
16 right or interest therein. All forfeitures in the nature of deodands,
17 or in case of suicide or where a person flees from justice, are
18 abolished.

19 **Sec. 333.** RCW 9.92.120 and 1909 c 249 s 37 are each amended to
20 read as follows:

21 The conviction of a public officer of any felony or malfeasance in
22 office shall entail, in addition to such other penalty as may be
23 imposed, the forfeiture of his or her office, and shall disqualify him
24 or her from ever afterward holding any public office in this state.

25 **Sec. 334.** RCW 9.94A.010 and 1999 c 196 s 1 are each amended to
26 read as follows:

27 The purpose of this chapter is to make the criminal justice system
28 accountable to the public by developing a system for the sentencing of
29 felony offenders which structures, but does not eliminate,
30 discretionary decisions affecting sentences, and to:

31 (1) Ensure that the punishment for a criminal offense is
32 proportionate to the seriousness of the offense and the offender's
33 criminal history;

34 (2) Promote respect for the law by providing punishment which is
35 just;

- 1 (3) Be commensurate with the punishment imposed on others
- 2 committing similar offenses;
- 3 (4) Protect the public;
- 4 (5) Offer the offender an opportunity to improve ((him)) himself or
- 5 herself;
- 6 (6) Make frugal use of the state's and local governments'
- 7 resources; and
- 8 (7) Reduce the risk of reoffending by offenders in the community.

9 **Sec. 335.** RCW 9.94A.880 and 1981 c 137 s 25 are each amended to
10 read as follows:

11 (1) The clemency and pardons board is established as a board within
12 the office of the governor. The board consists of five members
13 appointed by the governor, subject to confirmation by the senate.

14 (2) Members of the board shall serve terms of four years and until
15 their successors are appointed and confirmed. However, the governor
16 shall stagger the terms by appointing one of the initial members for a
17 term of one year, one for a term of two years, one for a term of three
18 years, and two for terms of four years.

19 (3) The board shall elect a ((chairman)) chair from among its
20 members and shall adopt bylaws governing the operation of the board.

21 (4) Members of the board shall receive no compensation but shall be
22 reimbursed for travel expenses as provided in RCW 43.03.050 and
23 43.03.060 as now existing or hereafter amended.

24 (5) The attorney general shall provide a staff as needed for the
25 operation of the board.

26 **Sec. 336.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read
27 as follows:

28 The board shall consist of a ((chairman)) chair and four other
29 members, each of whom shall be appointed by the governor with the
30 consent of the senate. Each member shall hold office for a term of
31 five years, and until his or her successor is appointed and qualified.
32 The terms shall expire on April 15th of the expiration year. Vacancies
33 in the membership of the board shall be filled by appointment by the
34 governor with the consent of the senate. In the event of the inability
35 of any member to act, the governor shall appoint some competent person
36 to act in his or her stead during the continuance of such inability.

1 The members shall not be removable during their respective terms except
2 for cause determined by the superior court of Thurston county. The
3 governor in appointing the members shall designate one of them to serve
4 as ((~~chairman~~)) chair at the governor's pleasure. The appointed
5 ((~~chairman~~)) chair shall serve as a fully participating board member
6 and as the director of the agency.

7 The members of the board and its officers and employees shall not
8 engage in any other business or profession or hold any other public
9 office without the prior approval of the executive ethics board
10 indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040, and
11 42.52.120; nor shall they, at the time of appointment or employment or
12 during their incumbency, serve as the representative of any political
13 party on an executive committee or other governing body thereof, or as
14 an executive officer or employee of any political committee or
15 association. The members of the board shall each severally receive
16 salaries fixed by the governor in accordance with the provisions of RCW
17 43.03.040, and in addition shall receive travel expenses incurred in
18 the discharge of their official duties in accordance with RCW 43.03.050
19 and 43.03.060.

20 The board may employ, and fix, with the approval of the governor,
21 the compensation of and prescribe the duties of a senior administrative
22 officer and such officers, employees, and assistants as may be
23 necessary, and provide necessary quarters, supplies, and equipment.

24 **Sec. 337.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read
25 as follows:

26 The board may meet and transact business in panels. Each board
27 panel shall consist of at least two members of the board. In all
28 matters concerning the internal affairs of the board and policy-making
29 decisions, a majority of the full board must concur in such matters.
30 The ((~~chairman~~)) chair of the board with the consent of a majority of
31 the board may designate any two members to exercise all the powers and
32 duties of the board in connection with any hearing before the board.
33 If the two members so designated cannot unanimously agree as to the
34 disposition of the hearing assigned to them, such hearing shall be
35 reheard by the full board. All actions of the full board shall be by
36 concurrence of a majority of the board members.

1 **Sec. 338.** RCW 9.95.030 and 1999 c 143 s 17 are each amended to
2 read as follows:

3 At the time the convicted person is transported to the custody of
4 the department of corrections, the indeterminate sentence review board
5 shall obtain from the sentencing judge and the prosecuting attorney, a
6 statement of all the facts concerning the convicted person's crime and
7 any other information of which they may be possessed relative to him or
8 her, and the sentencing judge and the prosecuting attorney shall
9 furnish the board with such information. The sentencing judge and
10 prosecuting attorney shall indicate to the board, for its guidance,
11 what, in their judgment, should be the duration of the convicted
12 person's imprisonment.

13 **Sec. 339.** RCW 9.95.063 and 1971 ex.s. c 86 s 1 are each amended to
14 read as follows:

15 If a defendant who has been imprisoned during the pendency of any
16 posttrial proceeding in any state or federal court shall be again
17 convicted upon a new trial resulting from any such proceeding, the
18 period of his or her former imprisonment shall be deducted by the
19 superior court from the period of imprisonment to be fixed on the last
20 verdict of conviction.

21 **Sec. 340.** RCW 9.95.200 and 1981 c 136 s 41 are each amended to
22 read as follows:

23 After conviction by plea or verdict of guilty of any crime, the
24 court upon application or its own motion, may summarily grant or deny
25 probation, or at a subsequent time fixed may hear and determine, in the
26 presence of the defendant, the matter of probation of the defendant,
27 and the conditions of such probation, if granted. The court may, in
28 its discretion, prior to the hearing on the granting of probation,
29 refer the matter to the secretary of corrections or such officers as
30 the secretary may designate for investigation and report to the court
31 at a specified time, upon the circumstances surrounding the crime and
32 concerning the defendant, his or her prior record, and his or her
33 family surroundings and environment.

34 **Sec. 341.** RCW 9.95.330 and 1981 c 136 s 46 are each amended to
35 read as follows:

1 The department of corrections may accept any devise, bequest, gift,
2 grant, or contribution made for the purposes of RCW 9.95.310 through
3 9.95.370 and the secretary of corrections or his or her designee may
4 make expenditures, or approve expenditures by local parole or probation
5 officers, therefrom for the purposes of RCW 9.95.310 through 9.95.370
6 in accordance with the rules of the department of corrections.

7 **Sec. 342.** RCW 9.96.010 and 1961 c 187 s 2 are each amended to read
8 as follows:

9 Whenever the governor shall grant a pardon to a person convicted of
10 an infamous crime, or whenever the maximum term of imprisonment for
11 which any such person was committed is about to expire or has expired,
12 and such person has not otherwise had his or her civil rights restored,
13 the governor shall have the power, in his or her discretion, to restore
14 to such person his or her civil rights in the manner as in this chapter
15 provided.

16 **Sec. 343.** RCW 9.96.020 and 1931 c 19 s 2 are each amended to read
17 as follows:

18 Whenever the governor shall determine to restore his or her civil
19 rights to any person convicted of an infamous crime in any superior
20 court of this state, he or she shall execute and file in the office of
21 the secretary of state an instrument in writing in substantially the
22 following form:

23 "To the People of the State of Washington
24 Greeting:
25 I, the undersigned Governor of the State of
26 Washington, by virtue of the power vested in my office by
27 the constitution and laws of the State of Washington, do by
28 these presents restore to his civil rights forfeited
29 by him (or her) by reason of his (or her) conviction of the
30 crime of (naming it) in the Superior Court for
31 the County of, on to-wit: The day of
32, 19...
33 Dated the day of, 19...
34 (Signed)
35 Governor of Washington."

1 **Sec. 344.** RCW 9.96.030 and 1931 c 19 s 3 are each amended to read
2 as follows:

3 Upon the filing of an instrument restoring civil rights in his or
4 her office, it shall be the duty of the secretary of state to transmit
5 a duly certified copy thereof to the clerk of the superior court named
6 therein, who shall record the same in the journal of the court and
7 index the same in the execution docket of the cause in which the
8 conviction was had.

9 **Sec. 345.** RCW 9.98.010 and 1999 c 143 s 33 are each amended to
10 read as follows:

11 (1) Whenever a person has entered upon a term of imprisonment in a
12 penal or correctional institution of this state, and whenever during
13 the continuance of the term of imprisonment there is pending in this
14 state any untried indictment, information, or complaint against the
15 prisoner, he or she shall be brought to trial within one hundred twenty
16 days after he or she shall have caused to be delivered to the
17 prosecuting attorney and the superior court of the county in which the
18 indictment, information, or complaint is pending written notice of the
19 place of his or her imprisonment and his or her request for a final
20 disposition to be made of the indictment, information, or complaint:
21 PROVIDED, That for good cause shown in open court, the prisoner or his
22 or her counsel shall have the right to be present, the court having
23 jurisdiction of the matter may grant any necessary or reasonable
24 continuance. The request of the prisoner shall be accompanied by a
25 certificate of the superintendent having custody of the prisoner,
26 stating the term of commitment under which the prisoner is being held,
27 the time already served, the time remaining to be served on the
28 sentence, the amount of good time earned, the time of parole
29 eligibility of the prisoner, and any decisions of the indeterminate
30 sentence review board relating to the prisoner.

31 (2) The written notice and request for final disposition referred
32 to in subsection (1) (~~hereof~~) of this section shall be given or sent
33 by the prisoner to the superintendent having custody of him or her, who
34 shall promptly forward it together with the certificate to the
35 appropriate prosecuting attorney and superior court by certified mail,
36 return receipt requested.

1 (3) The superintendent having custody of the prisoner shall
2 promptly inform him or her in writing of the source and contents of any
3 untried indictment, information, or complaint against him or her
4 concerning which the superintendent has knowledge and of his or her
5 right to make a request for final disposition thereof.

6 (4) Escape from custody by the prisoner subsequent to his or her
7 execution of the request for final disposition referred to in
8 subsection (1) (~~hereof~~) of this section shall void the request.

9 **Sec. 346.** RCW 9.100.070 and 1967 c 34 s 7 are each amended to read
10 as follows:

11 In order to implement Article IV(a) of the agreement on detainers,
12 and in furtherance of its purposes, the appropriate authorities having
13 custody of the prisoner shall, promptly upon receipt of the officer's
14 written request, notify the prisoner and the governor in writing that
15 a request for temporary custody has been made and such notification
16 shall describe the source and contents of said request. The
17 authorities having custody of the prisoner shall also advise him or her
18 in writing of his or her rights to counsel, to make representations to
19 the governor within thirty days, and to contest the legality of his or
20 her delivery.

21 **Sec. 347.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
22 each amended to read as follows:

23 Children under the age of eight years are incapable of committing
24 crime. Children of eight and under twelve years of age are presumed to
25 be incapable of committing crime, but this presumption may be removed
26 by proof that they have sufficient capacity to understand the act or
27 neglect, and to know that it was wrong. Whenever in legal proceedings
28 it becomes necessary to determine the age of a child, he or she may be
29 produced for inspection, to enable the court or jury to determine the
30 age thereby; and the court may also direct his or her examination by
31 one or more physicians, whose opinion shall be competent evidence upon
32 the question of his or her age.

33 **Sec. 348.** RCW 9A.04.070 and 1975 1st ex.s. c 260 s 9A.04.070 are
34 each amended to read as follows:

35 Every person, regardless of whether or not he or she is an

1 inhabitant of this state, may be tried and punished under the laws of
2 this state for an offense committed by him or her therein, except when
3 such offense is cognizable exclusively in the courts of the United
4 States.

5 **Sec. 349.** RCW 9A.04.100 and 1975 1st ex.s. c 260 s 9A.04.100 are
6 each amended to read as follows:

7 (1) Every person charged with the commission of a crime is presumed
8 innocent unless proved guilty. No person may be convicted of a crime
9 unless each element of such crime is proved by competent evidence
10 beyond a reasonable doubt.

11 (2) When a crime has been proven against a person, and there exists
12 a reasonable doubt as to which of two or more degrees he or she is
13 guilty, he or she shall be convicted only of the lowest degree.

14 **Sec. 350.** RCW 9A.04.110 and 2007 c 79 s 3 are each amended to read
15 as follows:

16 In this title unless a different meaning plainly is required:

17 (1) "Acted" includes, where relevant, omitted to act;

18 (2) "Actor" includes, where relevant, a person failing to act;

19 (3) "Benefit" is any gain or advantage to the beneficiary,
20 including any gain or advantage to a third person pursuant to the
21 desire or consent of the beneficiary;

22 (4)(a) "Bodily injury," "physical injury," or "bodily harm" means
23 physical pain or injury, illness, or an impairment of physical
24 condition;

25 (b) "Substantial bodily harm" means bodily injury which involves a
26 temporary but substantial disfigurement, or which causes a temporary
27 but substantial loss or impairment of the function of any bodily part
28 or organ, or which causes a fracture of any bodily part;

29 (c) "Great bodily harm" means bodily injury which creates a
30 probability of death, or which causes significant serious permanent
31 disfigurement, or which causes a significant permanent loss or
32 impairment of the function of any bodily part or organ;

33 (5) "Building," in addition to its ordinary meaning, includes any
34 dwelling, fenced area, vehicle, railway car, cargo container, or any
35 other structure used for lodging of persons or for carrying on business

1 therein, or for the use, sale, or deposit of goods; each unit of a
2 building consisting of two or more units separately secured or occupied
3 is a separate building;

4 (6) "Deadly weapon" means any explosive or loaded or unloaded
5 firearm, and shall include any other weapon, device, instrument,
6 article, or substance, including a "vehicle" as defined in this
7 section, which, under the circumstances in which it is used, attempted
8 to be used, or threatened to be used, is readily capable of causing
9 death or substantial bodily harm;

10 (7) "Dwelling" means any building or structure, though movable or
11 temporary, or a portion thereof, which is used or ordinarily used by a
12 person for lodging;

13 (8) "Government" includes any branch, subdivision, or agency of the
14 government of this state and any county, city, district, or other local
15 governmental unit;

16 (9) "Governmental function" includes any activity which a public
17 servant is legally authorized or permitted to undertake on behalf of a
18 government;

19 (10) "Indicted" and "indictment" include "informed against" and
20 "information," and "informed against" and "information" include
21 "indicted" and "indictment";

22 (11) "Judge" includes every judicial officer authorized alone or
23 with others, to hold or preside over a court;

24 (12) "Malice" and "maliciously" shall import an evil intent, wish,
25 or design to vex, annoy, or injure another person. Malice may be
26 inferred from an act done in (~~wilful~~) willful disregard of the rights
27 of another, or an act wrongfully done without just cause or excuse, or
28 an act or omission of duty betraying a (~~wilful~~) willful disregard of
29 social duty;

30 (13) "Officer" and "public officer" means a person holding office
31 under a city, county, or state government, or the federal government
32 who performs a public function and in so doing is vested with the
33 exercise of some sovereign power of government, and includes all
34 assistants, deputies, clerks, and employees of any public officer and
35 all persons lawfully exercising or assuming to exercise any of the
36 powers or functions of a public officer;

37 (14) "Omission" means a failure to act;

1 (15) "Peace officer" means a duly appointed city, county, or state
2 law enforcement officer;

3 (16) "Pecuniary benefit" means any gain or advantage in the form of
4 money, property, commercial interest, or anything else the primary
5 significance of which is economic gain;

6 (17) "Person", "he or she", and "actor" include any natural person
7 and, where relevant, a corporation, joint stock association, or an
8 unincorporated association;

9 (18) "Place of work" includes but is not limited to all the lands
10 and other real property of a farm or ranch in the case of an actor who
11 owns, operates, or is employed to work on such a farm or ranch;

12 (19) "Prison" means any place designated by law for the keeping of
13 persons held in custody under process of law, or under lawful arrest,
14 including but not limited to any state correctional institution or any
15 county or city jail;

16 (20) "Prisoner" includes any person held in custody under process
17 of law, or under lawful arrest;

18 (21) "Projectile stun gun" means an electronic device that projects
19 wired probes attached to the device that emit an electrical charge and
20 that is designed and primarily employed to incapacitate a person or
21 animal;

22 (22) "Property" means anything of value, whether tangible or
23 intangible, real or personal;

24 (23) "Public servant" means any person other than a witness who
25 presently occupies the position of or has been elected, appointed, or
26 designated to become any officer or employee of government, including
27 a legislator, judge, judicial officer, juror, and any person
28 participating as an advisor, consultant, or otherwise in performing a
29 governmental function;

30 (24) "Signature" includes any memorandum, mark, or sign made with
31 intent to authenticate any instrument or writing, or the subscription
32 of any person thereto;

33 (25) "Statute" means the Constitution or an act of the legislature
34 or initiative or referendum of this state;

35 (26) "Strangulation" means to compress a person's neck, thereby
36 obstructing the person's blood flow or ability to breathe, or doing so
37 with the intent to obstruct the person's blood flow or ability to
38 breathe;

1 (27) "Threat" means to communicate, directly or indirectly the
2 intent:

3 (a) To cause bodily injury in the future to the person threatened
4 or to any other person; or

5 (b) To cause physical damage to the property of a person other than
6 the actor; or

7 (c) To subject the person threatened or any other person to
8 physical confinement or restraint; or

9 (d) To accuse any person of a crime or cause criminal charges to be
10 instituted against any person; or

11 (e) To expose a secret or publicize an asserted fact, whether true
12 or false, tending to subject any person to hatred, contempt, or
13 ridicule; or

14 (f) To reveal any information sought to be concealed by the person
15 threatened; or

16 (g) To testify or provide information or withhold testimony or
17 information with respect to another's legal claim or defense; or

18 (h) To take wrongful action as an official against anyone or
19 anything, or wrongfully withhold official action, or cause such action
20 or withholding; or

21 (i) To bring about or continue a strike, boycott, or other similar
22 collective action to obtain property which is not demanded or received
23 for the benefit of the group which the actor purports to represent; or

24 (j) To do any other act which is intended to harm substantially the
25 person threatened or another with respect to his or her health, safety,
26 business, financial condition, or personal relationships;

27 (28) "Vehicle" means a "motor vehicle" as defined in the vehicle
28 and traffic laws, any aircraft, or any vessel equipped for propulsion
29 by mechanical means or by sail;

30 (29) Words in the present tense shall include the future tense; and
31 in the masculine shall include the feminine and neuter genders; and in
32 the singular shall include the plural; and in the plural shall include
33 the singular.

34 **Sec. 351.** RCW 9A.08.020 and 1975-'76 2nd ex.s. c 38 s 1 are each
35 amended to read as follows:

36 (1) A person is guilty of a crime if it is committed by the conduct
37 of another person for which he or she is legally accountable.

1 (2) A person is legally accountable for the conduct of another
2 person when:

3 (a) Acting with the kind of culpability that is sufficient for the
4 commission of the crime, he or she causes an innocent or irresponsible
5 person to engage in such conduct; or

6 (b) He or she is made accountable for the conduct of such other
7 person by this title or by the law defining the crime; or

8 (c) He or she is an accomplice of such other person in the
9 commission of the crime.

10 (3) A person is an accomplice of another person in the commission
11 of a crime if:

12 (a) With knowledge that it will promote or facilitate the
13 commission of the crime, he or she:

14 (i) Solicits, commands, encourages, or requests such other person
15 to commit it; or

16 (ii) Aids or agrees to aid such other person in planning or
17 committing it; or

18 (b) His or her conduct is expressly declared by law to establish
19 his or her complicity.

20 (4) A person who is legally incapable of committing a particular
21 crime himself or herself may be guilty thereof if it is committed by
22 the conduct of another person for which he or she is legally
23 accountable, unless such liability is inconsistent with the purpose of
24 the provision establishing his or her incapacity.

25 (5) Unless otherwise provided by this title or by the law defining
26 the crime, a person is not an accomplice in a crime committed by
27 another person if:

28 (a) He or she is a victim of that crime; or

29 (b) He or she terminates his or her complicity prior to the
30 commission of the crime, and either gives timely warning to the law
31 enforcement authorities or otherwise makes a good faith effort to
32 prevent the commission of the crime.

33 (6) A person legally accountable for the conduct of another person
34 may be convicted on proof of the commission of the crime and of his or
35 her complicity therein, though the person claimed to have committed the
36 crime has not been prosecuted or convicted or has been convicted of a
37 different crime or degree of crime or has an immunity to prosecution or
38 conviction or has been acquitted.

1 **Sec. 352.** RCW 9A.08.030 and 1975 1st ex.s. c 260 s 9A.08.030 are
2 each amended to read as follows:

3 (1) As used in this section:

4 (a) "Agent" means any director, officer, or employee of a
5 corporation, or any other person who is authorized to act on behalf of
6 the corporation;

7 (b) "Corporation" includes a joint stock association;

8 (c) "High managerial agent" means an officer or director of a
9 corporation or any other agent in a position of comparable authority
10 with respect to the formulation of corporate policy or the supervision
11 in a managerial capacity of subordinate employees.

12 (2) A corporation is guilty of an offense when:

13 (a) The conduct constituting the offense consists of an omission to
14 discharge a specific duty of performance imposed on corporations by
15 law; or

16 (b) The conduct constituting the offense is engaged in, authorized,
17 solicited, requested, commanded, or tolerated by the board of directors
18 or by a high managerial agent acting within the scope of his or her
19 employment and on behalf of the corporation; or

20 (c) The conduct constituting the offense is engaged in by an agent
21 of the corporation, other than a high managerial agent, while acting
22 within the scope of his or her employment and in behalf of the
23 corporation and (i) the offense is a gross misdemeanor or misdemeanor,
24 or (ii) the offense is one defined by a statute which clearly indicates
25 a legislative intent to impose such criminal liability on a
26 corporation.

27 (3) A person is criminally liable for conduct constituting an
28 offense which he or she performs or causes to be performed in the name
29 of or on behalf of a corporation to the same extent as if such conduct
30 were performed in his or her own name or behalf.

31 (4) Whenever a duty to act is imposed by law upon a corporation,
32 any agent of the corporation who knows he or she has or shares primary
33 responsibility for the discharge of the duty is criminally liable for
34 a reckless or, if a high managerial agent, criminally negligent
35 omission to perform the required act to the same extent as if the duty
36 were by law imposed directly upon such agent.

37 (5) Every corporation, whether foreign or domestic, which shall
38 violate any provision of RCW 9A.28.040, shall forfeit every right and

1 franchise to do business in this state. The attorney general shall
2 begin and conduct all actions and proceedings necessary to enforce the
3 provisions of this subsection.

4 **Sec. 353.** RCW 9A.12.010 and 1975 1st ex.s. c 260 s 9A.12.010 are
5 each amended to read as follows:

6 To establish the defense of insanity, it must be shown that:

7 (1) At the time of the commission of the offense, as a result of
8 mental disease or defect, the mind of the actor was affected to such an
9 extent that:

10 (a) He or she was unable to perceive the nature and quality of the
11 act with which he or she is charged; or

12 (b) He or she was unable to tell right from wrong with reference to
13 the particular act charged.

14 (2) The defense of insanity must be established by a preponderance
15 of the evidence.

16 **Sec. 354.** RCW 9A.16.050 and 1975 1st ex.s. c 260 s 9A.16.050 are
17 each amended to read as follows:

18 Homicide is also justifiable when committed either:

19 (1) In the lawful defense of the slayer, or his or her husband,
20 wife, parent, child, brother, or sister, or of any other person in his
21 or her presence or company, when there is reasonable ground to
22 apprehend a design on the part of the person slain to commit a felony
23 or to do some great personal injury to the slayer or to any such
24 person, and there is imminent danger of such design being accomplished;
25 or

26 (2) In the actual resistance of an attempt to commit a felony upon
27 the slayer, in his or her presence, or upon or in a dwelling, or other
28 place of abode, in which he or she is.

29 **Sec. 355.** RCW 9A.16.090 and 1975 1st ex.s. c 260 s 9A.16.090 are
30 each amended to read as follows:

31 No act committed by a person while in a state of voluntary
32 intoxication shall be deemed less criminal by reason of his or her
33 condition, but whenever the actual existence of any particular mental
34 state is a necessary element to constitute a particular species or

1 degree of crime, the fact of his or her intoxication may be taken into
2 consideration in determining such mental state.

3 **Sec. 356.** RCW 9A.28.030 and 1975 1st ex.s. c 260 s 9A.28.030 are
4 each amended to read as follows:

5 (1) A person is guilty of criminal solicitation when, with intent
6 to promote or facilitate the commission of a crime, he or she offers to
7 give or gives money or other thing of value to another to engage in
8 specific conduct which would constitute such crime or which would
9 establish complicity of such other person in its commission or
10 attempted commission had such crime been attempted or committed.

11 (2) Criminal solicitation shall be punished in the same manner as
12 criminal attempt under RCW 9A.28.020.

13 **Sec. 357.** RCW 9A.32.060 and 1997 c 365 s 5 are each amended to
14 read as follows:

15 (1) A person is guilty of manslaughter in the first degree when:

16 (a) He or she recklessly causes the death of another person; or

17 (b) He or she intentionally and unlawfully kills an unborn quick
18 child by inflicting any injury upon the mother of such child.

19 (2) Manslaughter in the first degree is a class A felony.

20 **Sec. 358.** RCW 9A.32.070 and 1997 c 365 s 6 are each amended to
21 read as follows:

22 (1) A person is guilty of manslaughter in the second degree when,
23 with criminal negligence, he or she causes the death of another person.

24 (2) Manslaughter in the second degree is a class B felony.

25 **Sec. 359.** RCW 9A.36.031 and 2005 c 458 s 1 are each amended to
26 read as follows:

27 (1) A person is guilty of assault in the third degree if he or she,
28 under circumstances not amounting to assault in the first or second
29 degree:

30 (a) With intent to prevent or resist the execution of any lawful
31 process or mandate of any court officer or the lawful apprehension or
32 detention of himself, herself, or another person, assaults another; or

33 (b) Assaults a person employed as a transit operator or driver, the
34 immediate supervisor of a transit operator or driver, a mechanic, or a

1 security officer, by a public or private transit company or a
2 contracted transit service provider, while that person is performing
3 his or her official duties at the time of the assault; or

4 (c) Assaults a school bus driver, the immediate supervisor of a
5 driver, a mechanic, or a security officer, employed by a school
6 district transportation service or a private company under contract for
7 transportation services with a school district, while the person is
8 performing his or her official duties at the time of the assault; or

9 (d) With criminal negligence, causes bodily harm to another person
10 by means of a weapon or other instrument or thing likely to produce
11 bodily harm; or

12 (e) Assaults a firefighter or other employee of a fire department,
13 county fire marshal's office, county fire prevention bureau, or fire
14 protection district who was performing his or her official duties at
15 the time of the assault; or

16 (f) With criminal negligence, causes bodily harm accompanied by
17 substantial pain that extends for a period sufficient to cause
18 considerable suffering; or

19 (g) Assaults a law enforcement officer or other employee of a law
20 enforcement agency who was performing his or her official duties at the
21 time of the assault; or

22 (h) Assaults a peace officer with a projectile stun gun; or

23 (i) Assaults a nurse, physician, or health care provider who was
24 performing his or her nursing or health care duties at the time of the
25 assault. For purposes of this subsection: "Nurse" means a person
26 licensed under chapter 18.79 RCW; "physician" means a person licensed
27 under chapter 18.57 or 18.71 RCW; and "health care provider" means a
28 person certified under chapter 18.71 or 18.73 RCW who performs
29 emergency medical services or a person regulated under Title 18 RCW and
30 employed by, or contracting with, a hospital licensed under chapter
31 70.41 RCW.

32 (2) Assault in the third degree is a class C felony.

33 **Sec. 360.** RCW 9A.36.060 and 1975 1st ex.s. c 260 s 9A.36.060 are
34 each amended to read as follows:

35 (1) A person is guilty of promoting a suicide attempt when he or
36 she knowingly causes or aids another person to attempt suicide.

37 (2) Promoting a suicide attempt is a class C felony.

1 **Sec. 361.** RCW 9A.36.070 and 1975 1st ex.s. c 260 s 9A.36.070 are
2 each amended to read as follows:

3 (1) A person is guilty of coercion if by use of a threat he or she
4 compels or induces a person to engage in conduct which the latter has
5 a legal right to abstain from, or to abstain from conduct which he or
6 she has a legal right to engage in.

7 (2) "Threat" as used in this section means:

8 (a) To communicate, directly or indirectly, the intent immediately
9 to use force against any person who is present at the time; or

10 (b) Threats as defined in RCW 9A.04.110(~~(+25+)~~) (27) (a), (b), or
11 (c).

12 (3) Coercion is a gross misdemeanor.

13 **Sec. 362.** RCW 9A.36.090 and 1982 c 185 s 1 are each amended to
14 read as follows:

15 (1) Whoever knowingly and (~~wilfully~~) willfully deposits for
16 conveyance in the mail or for a delivery from any post office or by any
17 letter carrier any letter, paper, writing, print, missive, or document
18 containing any threat to take the life of or to inflict bodily harm
19 upon the governor of the state or his or her immediate family, the
20 governor-elect, the lieutenant governor, other officer next in the
21 order of succession to the office of governor of the state, or the
22 lieutenant governor-elect, or knowingly and (~~wilfully~~) willfully
23 otherwise makes any such threat against the governor, governor-elect,
24 lieutenant governor, other officer next in the order of succession to
25 the office of governor, or lieutenant governor-elect, shall be guilty
26 of a class C felony.

27 (2) As used in this section, the term "governor-elect" and
28 "lieutenant governor-elect" means such persons as are the successful
29 candidates for the offices of governor and lieutenant governor,
30 respectively, as ascertained from the results of the general election.
31 As used in this section, the phrase "other officer next in the order of
32 succession to the office of governor" means the person other than the
33 lieutenant governor next in order of succession to the office of
34 governor under Article 3, section 10 of the state Constitution.

35 (3) The Washington state patrol may investigate for violations of
36 this section.

1 **Sec. 363.** RCW 9A.40.010 and 1975 1st ex.s. c 260 s 9A.40.010 are
2 each amended to read as follows:

3 The following definitions apply in this chapter:

4 (1) "Restrain" means to restrict a person's movements without
5 consent and without legal authority in a manner which interferes
6 substantially with his or her liberty. Restraint is "without consent"
7 if it is accomplished by (a) physical force, intimidation, or
8 deception, or (b) any means including acquiescence of the victim, if he
9 or she is a child less than sixteen years old or an incompetent person
10 and if the parent, guardian, or other person or institution having
11 lawful control or custody of him or her has not acquiesced.

12 (2) "Abduct" means to restrain a person by either (a) secreting or
13 holding him or her in a place where he or she is not likely to be
14 found, or (b) using or threatening to use deadly force;

15 (3) "Relative" means an ancestor, descendant, or sibling, including
16 a relative of the same degree through marriage or adoption, or a
17 spouse.

18 **Sec. 364.** RCW 9A.40.020 and 1975 1st ex.s. c 260 s 9A.40.020 are
19 each amended to read as follows:

20 (1) A person is guilty of kidnapping in the first degree if he or
21 she intentionally abducts another person with intent:

22 (a) To hold him or her for ransom or reward, or as a shield or
23 hostage; or

24 (b) To facilitate commission of any felony or flight thereafter; or

25 (c) To inflict bodily injury on him or her; or

26 (d) To inflict extreme mental distress on him, her, or a third
27 person; or

28 (e) To interfere with the performance of any governmental function.

29 (2) Kidnapping in the first degree is a class A felony.

30 **Sec. 365.** RCW 9A.40.040 and 1975 1st ex.s. c 260 s 9A.40.040 are
31 each amended to read as follows:

32 (1) A person is guilty of unlawful imprisonment if he or she
33 knowingly restrains another person.

34 (2) Unlawful imprisonment is a class C felony.

1 **Sec. 366.** RCW 9A.48.030 and 1975 1st ex.s. c 260 s 9A.48.030 are
2 each amended to read as follows:

3 (1) A person is guilty of arson in the second degree if he or she
4 knowingly and maliciously causes a fire or explosion which damages a
5 building, or any structure or erection appurtenant to or joining any
6 building, or any wharf, dock, machine, engine, automobile, or other
7 motor vehicle, watercraft, aircraft, bridge, or trestle, or hay, grain,
8 crop, or timber, whether cut or standing or any range land, or pasture
9 land, or any fence, or any lumber, shingle, or other timber products,
10 or any property.

11 (2) Arson in the second degree is a class B felony.

12 **Sec. 367.** RCW 9A.48.040 and 1975 1st ex.s. c 260 s 9A.48.040 are
13 each amended to read as follows:

14 (1) A person is guilty of reckless burning in the first degree if
15 he or she recklessly damages a building or other structure or any
16 vehicle, railway car, aircraft, or watercraft or any hay, grain, crop,
17 or timber whether cut or standing, by knowingly causing a fire or
18 explosion.

19 (2) Reckless burning in the first degree is a class C felony.

20 **Sec. 368.** RCW 9A.48.050 and 1975 1st ex.s. c 260 s 9A.48.050 are
21 each amended to read as follows:

22 (1) A person is guilty of reckless burning in the second degree if
23 he or she knowingly causes a fire or explosion, whether on his or her
24 own property or that of another, and thereby recklessly places a
25 building or other structure, or any vehicle, railway car, aircraft, or
26 watercraft, or any hay, grain, crop or timber, whether cut or standing,
27 in danger of destruction or damage.

28 (2) Reckless burning in the second degree is a gross misdemeanor.

29 **Sec. 369.** RCW 9A.52.010 and 2004 c 69 s 1 are each amended to read
30 as follows:

31 The following definitions apply in this chapter:

32 (1) "Premises" includes any building, dwelling, structure used for
33 commercial aquaculture, or any real property;

34 (2) "Enter". The word "enter" when constituting an element or part
35 of a crime, shall include the entrance of the person, or the insertion

1 of any part of his or her body, or any instrument or weapon held in his
2 or her hand and used or intended to be used to threaten or intimidate
3 a person or to detach or remove property;

4 (3) "Enters or remains unlawfully". A person "enters or remains
5 unlawfully" in or upon premises when he or she is not then licensed,
6 invited, or otherwise privileged to so enter or remain.

7 A license or privilege to enter or remain in a building which is
8 only partly open to the public is not a license or privilege to enter
9 or remain in that part of a building which is not open to the public.
10 A person who enters or remains upon unimproved and apparently unused
11 land, which is neither fenced nor otherwise enclosed in a manner
12 designed to exclude intruders, does so with license and privilege
13 unless notice against trespass is personally communicated to him or her
14 by the owner of the land or some other authorized person, or unless
15 notice is given by posting in a conspicuous manner. Land that is used
16 for commercial aquaculture or for growing an agricultural crop or
17 crops, other than timber, is not unimproved and apparently unused land
18 if a crop or any other sign of cultivation is clearly visible or if
19 notice is given by posting in a conspicuous manner. Similarly, a field
20 fenced in any manner is not unimproved and apparently unused land. A
21 license or privilege to enter or remain on improved and apparently used
22 land that is open to the public at particular times, which is neither
23 fenced nor otherwise enclosed in a manner to exclude intruders, is not
24 a license or privilege to enter or remain on the land at other times if
25 notice of prohibited times of entry is posted in a conspicuous manner;

26 (4) "Data" means a representation of information, knowledge, facts,
27 concepts, or instructions that are being prepared or have been prepared
28 in a formalized manner and are intended for use in a computer;

29 (5) "Computer program" means an ordered set of data representing
30 coded instructions or statements that when executed by a computer cause
31 the computer to process data;

32 (6) "Access" means to approach, instruct, communicate with, store
33 data in, retrieve data from, or otherwise make use of any resources of
34 a computer, directly or by electronic means.

35 **Sec. 370.** RCW 9A.52.030 and 1989 2nd ex.s. c 1 s 2 are each
36 amended to read as follows:

37 (1) A person is guilty of burglary in the second degree if, with

1 intent to commit a crime against a person or property therein, he or
2 she enters or remains unlawfully in a building other than a vehicle or
3 a dwelling.

4 (2) Burglary in the second degree is a class B felony.

5 **Sec. 371.** RCW 9A.52.060 and 1975 1st ex.s. c 260 s 9A.52.060 are
6 each amended to read as follows:

7 (1) Every person who shall make or mend or cause to be made or
8 mended, or have in his or her possession, any engine, machine, tool,
9 false key, pick lock, bit, nippers, or implement adapted, designed, or
10 commonly used for the commission of burglary under circumstances
11 evincing an intent to use or employ, or allow the same to be used or
12 employed in the commission of a burglary, or knowing that the same is
13 intended to be so used, shall be guilty of making or having burglar
14 tools.

15 (2) Making or having burglar tools is a gross misdemeanor.

16 **Sec. 372.** RCW 9A.52.070 and 1979 ex.s. c 244 s 12 are each amended
17 to read as follows:

18 (1) A person is guilty of criminal trespass in the first degree if
19 he or she knowingly enters or remains unlawfully in a building.

20 (2) Criminal trespass in the first degree is a gross misdemeanor.

21 **Sec. 373.** RCW 9A.52.080 and 1979 ex.s. c 244 s 13 are each amended
22 to read as follows:

23 (1) A person is guilty of criminal trespass in the second degree if
24 he or she knowingly enters or remains unlawfully in or upon premises of
25 another under circumstances not constituting criminal trespass in the
26 first degree.

27 (2) Criminal trespass in the second degree is a misdemeanor.

28 **Sec. 374.** RCW 9A.52.090 and 1986 c 219 s 2 are each amended to
29 read as follows:

30 In any prosecution under RCW 9A.52.070 and 9A.52.080, it is a
31 defense that:

32 (1) A building involved in an offense under RCW 9A.52.070 was
33 abandoned; or

1 (2) The premises were at the time open to members of the public and
2 the actor complied with all lawful conditions imposed on access to or
3 remaining in the premises; or

4 (3) The actor reasonably believed that the owner of the premises,
5 or other person empowered to license access thereto, would have
6 licensed him or her to enter or remain; or

7 (4) The actor was attempting to serve legal process which includes
8 any document required or allowed to be served upon persons or property,
9 by any statute, rule, ordinance, regulation, or court order, excluding
10 delivery by the mails of the United States. This defense applies only
11 if the actor did not enter into a private residence or other building
12 not open to the public and the entry onto the premises was reasonable
13 and necessary for service of the legal process.

14 **Sec. 375.** RCW 9A.52.095 and 1982 1st ex.s. c 47 s 13 are each
15 amended to read as follows:

16 (1) A person is guilty of vehicle prowling in the first degree if,
17 with intent to commit a crime against a person or property therein, he
18 or she enters or remains unlawfully in a motor home, as defined in RCW
19 46.04.305, or in a vessel equipped for propulsion by mechanical means
20 or by sail which has a cabin equipped with permanently installed
21 sleeping quarters or cooking facilities.

22 (2) Vehicle prowling in the first degree is a class C felony.

23 **Sec. 376.** RCW 9A.52.100 and 1982 1st ex.s. c 47 s 14 are each
24 amended to read as follows:

25 (1) A person is guilty of vehicle prowling in the second degree if,
26 with intent to commit a crime against a person or property therein, he
27 or she enters or remains unlawfully in a vehicle other than a motor
28 home, as defined in RCW 46.04.305, or a vessel equipped for propulsion
29 by mechanical means or by sail which has a cabin equipped with
30 permanently installed sleeping quarters or cooking facilities.

31 (2) Vehicle prowling in the second degree is a gross misdemeanor.

32 **Sec. 377.** RCW 9A.56.120 and 1975 1st ex.s. c 260 s 9A.56.120 are
33 each amended to read as follows:

34 (1) A person is guilty of extortion in the first degree if he or

1 she commits extortion by means of a threat as defined in RCW
2 9A.04.110(~~(+25+)~~) (27) (a), (b), or (c).

3 (2) Extortion in the first degree is a class B felony.

4 **Sec. 378.** RCW 9A.56.180 and 1975-'76 2nd ex.s. c 38 s 11 are each
5 amended to read as follows:

6 (1) A person is guilty of obscuring the identity of a machine if he
7 or she knowingly:

8 (a) Obscures the manufacturer's serial number or any other
9 distinguishing identification number or mark upon any vehicle, machine,
10 engine, apparatus, appliance, or other device with intent to render it
11 unidentifiable; or

12 (b) Possesses a vehicle, machine, engine, apparatus, appliance, or
13 other device held for sale knowing that the serial number or other
14 identification number or mark has been obscured.

15 (2) "Obscure" means to remove, deface, cover, alter, destroy, or
16 otherwise render unidentifiable.

17 (3) Obscuring the identity of a machine is a gross misdemeanor.

18 **Sec. 379.** RCW 9A.56.190 and 1975 1st ex.s. c 260 s 9A.56.190 are
19 each amended to read as follows:

20 A person commits robbery when he or she unlawfully takes personal
21 property from the person of another or in his or her presence against
22 his or her will by the use or threatened use of immediate force,
23 violence, or fear of injury to that person or his or her property or
24 the person or property of anyone. Such force or fear must be used to
25 obtain or retain possession of the property, or to prevent or overcome
26 resistance to the taking; in either of which cases the degree of force
27 is immaterial. Such taking constitutes robbery whenever it appears
28 that, although the taking was fully completed without the knowledge of
29 the person from whom taken, such knowledge was prevented by the use of
30 force or fear.

31 **Sec. 380.** RCW 9A.56.210 and 1975 1st ex.s. c 260 s 9A.56.210 are
32 each amended to read as follows:

33 (1) A person is guilty of robbery in the second degree if he or she
34 commits robbery.

35 (2) Robbery in the second degree is a class B felony.

1 **Sec. 381.** RCW 9A.60.010 and 1999 c 143 s 38 are each amended to
2 read as follows:

3 The following definitions and the definitions of RCW 9A.56.010 are
4 applicable in this chapter unless the context otherwise requires:

5 (1) "Written instrument" means: (a) Any paper, document, or other
6 instrument containing written or printed matter or its equivalent; or
7 (b) any access device, token, stamp, seal, badge, trademark, or other
8 evidence or symbol of value, right, privilege, or identification;

9 (2) "Complete written instrument" means one which is fully drawn
10 with respect to every essential feature thereof;

11 (3) "Incomplete written instrument" means one which contains some
12 matter by way of content or authentication but which requires
13 additional matter in order to render it a complete written instrument;

14 (4) To "falsely make" a written instrument means to make or draw a
15 complete or incomplete written instrument which purports to be
16 authentic, but which is not authentic either because the ostensible
17 maker is fictitious or because, if real, he or she did not authorize
18 the making or drawing thereof;

19 (5) To "falsely complete" a written instrument means to transform
20 an incomplete written instrument into a complete one by adding or
21 inserting matter, without the authority of anyone entitled to grant it;

22 (6) To "falsely alter" a written instrument means to change,
23 without authorization by anyone entitled to grant it, a written
24 instrument, whether complete or incomplete, by means of erasure,
25 obliteration, deletion, insertion of new matter, transposition of
26 matter, or in any other manner;

27 (7) "Forged instrument" means a written instrument which has been
28 falsely made, completed, or altered.

29 **Sec. 382.** RCW 9A.60.020 and 2003 c 119 s 5 are each amended to
30 read as follows:

31 (1) A person is guilty of forgery if, with intent to injure or
32 defraud:

33 (a) He or she falsely makes, completes, or alters a written
34 instrument or;

35 (b) He or she possesses, utters, offers, disposes of, or puts off
36 as true a written instrument which he or she knows to be forged.

1 (2) In a proceeding under this section that is related to an
2 identity theft under RCW 9.35.020, the crime will be considered to have
3 been committed in any locality where the person whose means of
4 identification or financial information was appropriated resides, or in
5 which any part of the offense took place, regardless of whether the
6 defendant was ever actually in that locality.

7 (3) Forgery is a class C felony.

8 **Sec. 383.** RCW 9A.60.030 and 1975-'76 2nd ex.s. c 38 s 14 are each
9 amended to read as follows:

10 (1) A person is guilty of obtaining a signature by deception or
11 duress if by deception or duress and with intent to defraud or deprive
12 he or she causes another person to sign or execute a written
13 instrument.

14 (2) Obtaining a signature by deception or duress is a class C
15 felony.

16 **Sec. 384.** RCW 9A.60.050 and 1975-'76 2nd ex.s. c 38 s 15 are each
17 amended to read as follows:

18 (1) A person is guilty of false certification, if, being an officer
19 authorized to take a proof or acknowledgment of an instrument which by
20 law may be recorded, he or she knowingly certifies falsely that the
21 execution of such instrument was acknowledged by any party thereto or
22 that the execution thereof was proved.

23 (2) False certification is a gross misdemeanor.

24 **Sec. 385.** RCW 9A.64.010 and 1986 c 257 s 14 are each amended to
25 read as follows:

26 (1) A person is guilty of bigamy if he or she intentionally marries
27 or purports to marry another person when either person has a living
28 spouse.

29 (2) In any prosecution under this section, it is a defense that at
30 the time of the subsequent marriage or purported marriage:

31 (a) The actor reasonably believed that the prior spouse was dead;
32 or

33 (b) A court had entered a judgment purporting to terminate or annul
34 any prior disqualifying marriage and the actor did not know that such
35 judgment was invalid; or

1 (c) The actor reasonably believed that he or she was legally
2 eligible to marry.

3 (3) The limitation imposed by RCW 9A.04.080 on commencing a
4 prosecution for bigamy does not begin to run until the death of the
5 prior or subsequent spouse of the actor or until a court enters a
6 judgment terminating or annulling the prior or subsequent marriage.

7 (4) Bigamy is a class C felony.

8 **Sec. 386.** RCW 9A.68.010 and 1975 1st ex.s. c 260 s 9A.68.010 are
9 each amended to read as follows:

10 (1) A person is guilty of bribery if:

11 (a) With the intent to secure a particular result in a particular
12 matter involving the exercise of the public servant's vote, opinion,
13 judgment, exercise of discretion, or other action in his or her
14 official capacity, he or she offers, confers, or agrees to confer any
15 pecuniary benefit upon such public servant; or

16 (b) Being a public servant, he or she requests, accepts, or agrees
17 to accept any pecuniary benefit pursuant to an agreement or
18 understanding that his or her vote, opinion, judgment, exercise of
19 discretion, or other action as a public servant will be used to secure
20 or attempt to secure a particular result in a particular matter.

21 (2) It is no defense to a prosecution under this section that the
22 public servant sought to be influenced was not qualified to act in the
23 desired way, whether because he or she had not yet assumed office,
24 lacked jurisdiction, or for any other reason.

25 (3) Bribery is a class B felony.

26 **Sec. 387.** RCW 9A.68.020 and 1975 1st ex.s. c 260 s 9A.68.020 are
27 each amended to read as follows:

28 (1) A public servant is guilty of requesting unlawful compensation
29 if he or she requests a pecuniary benefit for the performance of an
30 official action knowing that he or she is required to perform that
31 action without compensation or at a level of compensation lower than
32 that requested.

33 (2) Requesting unlawful compensation is a class C felony.

34 **Sec. 388.** RCW 9A.68.030 and 1975 1st ex.s. c 260 s 9A.68.030 are
35 each amended to read as follows:

1 (1) A person is guilty of receiving or granting unlawful
2 compensation if:

3 (a) Being a public servant, he or she requests, accepts, or agrees
4 to accept compensation for advice or other assistance in preparing a
5 bill, contract, claim, or transaction regarding which he or she knows
6 he or she is likely to have an official discretion to exercise; or

7 (b) He or she knowingly offers, pays, or agrees to pay compensation
8 to a public servant for advice or other assistance in preparing or
9 promoting a bill, contract, claim, or other transaction regarding which
10 the public servant is likely to have an official discretion to
11 exercise.

12 (2) Receiving or granting unlawful compensation is a class C
13 felony.

14 **Sec. 389.** RCW 9A.68.040 and 1975 1st ex.s. c 260 s 9A.68.040 are
15 each amended to read as follows:

16 (1) A person is guilty of trading in public office if:

17 (a) He or she offers, confers, or agrees to confer any pecuniary
18 benefit upon a public servant pursuant to an agreement or understanding
19 that such actor will or may be appointed to a public office; or

20 (b) Being a public servant, he or she requests, accepts, or agrees
21 to accept any pecuniary benefit from another person pursuant to an
22 agreement or understanding that such person will or may be appointed to
23 a public office.

24 (2) Trading in public office is a class C felony.

25 **Sec. 390.** RCW 9A.68.050 and 1975 1st ex.s. c 260 s 9A.68.050 are
26 each amended to read as follows:

27 (1) A person is guilty of trading in special influence if:

28 (a) He or she offers, confers, or agrees to confer any pecuniary
29 benefit upon another person pursuant to an agreement or understanding
30 that such other person will offer or confer a benefit upon a public
31 servant or procure another to do so with intent thereby to secure or
32 attempt to secure a particular result in a particular matter; or

33 (b) He or she requests, accepts, or agrees to accept any pecuniary
34 benefit pursuant to an agreement or understanding that he or she will
35 offer or confer a benefit upon a public servant or procure another to

1 do so with intent thereby to secure or attempt to secure a particular
2 result in a particular matter.

3 (2) Trading in special influence is a class C felony.

4 **Sec. 391.** RCW 9A.72.020 and 1975 1st ex.s. c 260 s 9A.72.020 are
5 each amended to read as follows:

6 (1) A person is guilty of perjury in the first degree if in any
7 official proceeding he or she makes a materially false statement which
8 he or she knows to be false under an oath required or authorized by
9 law.

10 (2) Knowledge of the materiality of the statement is not an element
11 of this crime, and the actor's mistaken belief that his or her
12 statement was not material is not a defense to a prosecution under this
13 section.

14 (3) Perjury in the first degree is a class B felony.

15 **Sec. 392.** RCW 9A.72.040 and 1975 1st ex.s. c 260 s 9A.72.040 are
16 each amended to read as follows:

17 (1) A person is guilty of false swearing if he or she makes a false
18 statement, which he or she knows to be false, under an oath required or
19 authorized by law.

20 (2) False swearing is a gross misdemeanor.

21 **Sec. 393.** RCW 9A.72.060 and 1975-'76 2nd ex.s. c 38 s 16 are each
22 amended to read as follows:

23 No person shall be convicted of perjury or false swearing if he or
24 she retracts his or her false statement in the course of the same
25 proceeding in which it was made, if in fact he or she does so before it
26 becomes manifest that the falsification is or will be exposed and
27 before the falsification substantially affects the proceeding.
28 Statements made in separate hearings at separate stages of the same
29 trial, administrative, or other official proceeding shall be treated as
30 if made in the course of the same proceeding.

31 **Sec. 394.** RCW 9A.72.080 and 1975 1st ex.s. c 260 s 9A.72.080 are
32 each amended to read as follows:

33 Every unqualified statement of that which one does not know to be

1 true is equivalent to a statement of that which he or she knows to be
2 false.

3 **Sec. 395.** RCW 9A.72.130 and 1985 c 327 s 3 are each amended to
4 read as follows:

5 (1) A person is guilty of intimidating a juror if a person directs
6 a threat to a former juror because of the juror's vote, opinion,
7 decision, or other official action as a juror, or if, by use of a
8 threat, he or she attempts to influence a juror's vote, opinion,
9 decision, or other official action as a juror.

10 (2) "Threat" as used in this section means:

11 (a) To communicate, directly or indirectly, the intent immediately
12 to use force against any person who is present at the time; or

13 (b) Threats as defined in RCW 9A.04.110(~~(+25)~~)).

14 (3) Intimidating a juror is a class B felony.

15 **Sec. 396.** RCW 9A.72.140 and 1975 1st ex.s. c 260 s 9A.72.140 are
16 each amended to read as follows:

17 (1) A person is guilty of jury tampering if with intent to
18 influence a juror's vote, opinion, decision, or other official action
19 in a case, he or she attempts to communicate directly or indirectly
20 with a juror other than as part of the proceedings in the trial of the
21 case.

22 (2) Jury tampering is a gross misdemeanor.

23 **Sec. 397.** RCW 9A.72.150 and 1975 1st ex.s. c 260 s 9A.72.150 are
24 each amended to read as follows:

25 (1) A person is guilty of tampering with physical evidence if,
26 having reason to believe that an official proceeding is pending or
27 about to be instituted and acting without legal right or authority, he
28 or she:

29 (a) Destroys, mutilates, conceals, removes, or alters physical
30 evidence with intent to impair its appearance, character, or
31 availability in such pending or prospective official proceeding; or

32 (b) Knowingly presents or offers any false physical evidence.

33 (2) "Physical evidence" as used in this section includes any
34 article, object, document, record, or other thing of physical
35 substance.

1 (3) Tampering with physical evidence is a gross misdemeanor.

2 **Sec. 398.** RCW 9A.76.030 and 1975 1st ex.s. c 260 s 9A.76.030 are
3 each amended to read as follows:

4 (1) A person is guilty of refusing to summon aid for a peace
5 officer if, upon request by a person he or she knows to be a peace
6 officer, he or she unreasonably refuses or fails to summon aid for such
7 peace officer.

8 (2) Refusing to summon aid for a peace officer is a misdemeanor.

9 **Sec. 399.** RCW 9A.76.040 and 1975 1st ex.s. c 260 s 9A.76.040 are
10 each amended to read as follows:

11 (1) A person is guilty of resisting arrest if he or she
12 intentionally prevents or attempts to prevent a peace officer from
13 lawfully arresting him or her.

14 (2) Resisting arrest is a misdemeanor.

15 **Sec. 400.** RCW 9A.76.050 and 1982 1st ex.s. c 47 s 20 are each
16 amended to read as follows:

17 As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person
18 "renders criminal assistance" if, with intent to prevent, hinder, or
19 delay the apprehension or prosecution of another person who he or she
20 knows has committed a crime or juvenile offense or is being sought by
21 law enforcement officials for the commission of a crime or juvenile
22 offense or has escaped from a detention facility, he or she:

23 (1) Harbors or conceals such person; or

24 (2) Warns such person of impending discovery or apprehension; or

25 (3) Provides such person with money, transportation, disguise, or
26 other means of avoiding discovery or apprehension; or

27 (4) Prevents or obstructs, by use of force, deception, or threat,
28 anyone from performing an act that might aid in the discovery or
29 apprehension of such person; or

30 (5) Conceals, alters, or destroys any physical evidence that might
31 aid in the discovery or apprehension of such person; or

32 (6) Provides such person with a weapon.

33 **Sec. 401.** RCW 9A.76.090 and 1975 1st ex.s. c 260 s 9A.76.090 are
34 each amended to read as follows:

1 (1) A person is guilty of rendering criminal assistance in the
2 third degree if he or she renders criminal assistance to a person who
3 has committed a gross misdemeanor or misdemeanor.

4 (2) Rendering criminal assistance in the third degree is a
5 misdemeanor.

6 **Sec. 402.** RCW 9A.76.100 and 1975 1st ex.s. c 260 s 9A.76.100 are
7 each amended to read as follows:

8 (1) A person is guilty of compounding if:

9 (a) He or she requests, accepts, or agrees to accept any pecuniary
10 benefit pursuant to an agreement or understanding that he or she will
11 refrain from initiating a prosecution for a crime; or

12 (b) He or she confers, or offers or agrees to confer, any pecuniary
13 benefit upon another pursuant to an agreement or understanding that
14 such other person will refrain from initiating a prosecution for a
15 crime.

16 (2) In any prosecution under this section, it is a defense if
17 established by a preponderance of the evidence that the pecuniary
18 benefit did not exceed an amount which the defendant reasonably
19 believed to be due as restitution or indemnification for harm caused by
20 the crime.

21 (3) Compounding is a gross misdemeanor.

22 **Sec. 403.** RCW 9A.76.130 and 1975 1st ex.s. c 260 s 9A.76.130 are
23 each amended to read as follows:

24 (1) A person is guilty of escape in the third degree if he or she
25 escapes from custody.

26 (2) Escape in the third degree is a gross misdemeanor.

27 **Sec. 404.** RCW 9A.76.140 and 1975 1st ex.s. c 260 s 9A.76.140 are
28 each amended to read as follows:

29 (1) A person is guilty of introducing contraband in the first
30 degree if he or she knowingly provides any deadly weapon to any person
31 confined in a detention facility.

32 (2) Introducing contraband in the first degree is a class B felony.

33 **Sec. 405.** RCW 9A.76.150 and 1975 1st ex.s. c 260 s 9A.76.150 are
34 each amended to read as follows:

1 (1) A person is guilty of introducing contraband in the second
2 degree if he or she knowingly and unlawfully provides contraband to any
3 person confined in a detention facility with the intent that such
4 contraband be of assistance in an escape or in the commission of a
5 crime.

6 (2) Introducing contraband in the second degree is a class C
7 felony.

8 **Sec. 406.** RCW 9A.76.160 and 1975 1st ex.s. c 260 s 9A.76.160 are
9 each amended to read as follows:

10 (1) A person is guilty of introducing contraband in the third
11 degree if he or she knowingly and unlawfully provides contraband to any
12 person confined in a detention facility.

13 (2) Introducing contraband in the third degree is a misdemeanor.

14 **Sec. 407.** RCW 9A.76.180 and 1975 1st ex.s. c 260 s 9A.76.180 are
15 each amended to read as follows:

16 (1) A person is guilty of intimidating a public servant if, by use
17 of a threat, he or she attempts to influence a public servant's vote,
18 opinion, decision, or other official action as a public servant.

19 (2) For purposes of this section "public servant" shall not include
20 jurors.

21 (3) "Threat" as used in this section means:

22 (a) To communicate, directly or indirectly, the intent immediately
23 to use force against any person who is present at the time; or

24 (b) Threats as defined in RCW 9A.04.110(~~(+25)~~)).

25 (4) Intimidating a public servant is a class B felony.

26 **Sec. 408.** RCW 9A.80.010 and 1975-'76 2nd ex.s. c 38 s 17 are each
27 amended to read as follows:

28 (1) A public servant is guilty of official misconduct if, with
29 intent to obtain a benefit or to deprive another person of a lawful
30 right or privilege:

31 (a) He or she intentionally commits an unauthorized act under color
32 of law; or

33 (b) He or she intentionally refrains from performing a duty imposed
34 upon him or her by law.

35 (2) Official misconduct is a gross misdemeanor.

1 **Sec. 409.** RCW 9A.83.040 and 1992 c 210 s 4 are each amended to
2 read as follows:

3 No liability is imposed by this chapter upon any authorized state,
4 county, or municipal officer engaged in the lawful performance of his
5 or her duties, or upon any person who reasonably believes that he or
6 she is acting at the direction of such officer and that the officer is
7 acting in the lawful performance of his or her duties.

8 **Sec. 410.** RCW 9A.84.020 and 1975 1st ex.s. c 260 s 9A.84.020 are
9 each amended to read as follows:

10 (1) A person is guilty of failure to disperse if:

11 (a) He or she congregates with a group of three or more other
12 persons and there are acts of conduct within that group which create a
13 substantial risk of causing injury to any person, or substantial harm
14 to property; and

15 (b) He or she refuses or fails to disperse when ordered to do so by
16 a peace officer or other public servant engaged in enforcing or
17 executing the law.

18 (2) Failure to disperse is a misdemeanor.

19 **Sec. 411.** RCW 9A.84.040 and 1975 1st ex.s. c 260 s 9A.84.040 are
20 each amended to read as follows:

21 (1) A person is guilty of false reporting if with knowledge that
22 the information reported, conveyed, or circulated is false, he or she
23 initiates or circulates a false report or warning of an alleged
24 occurrence or impending occurrence of a fire, explosion, crime,
25 catastrophe, or emergency knowing that such false report is likely to
26 cause evacuation of a building, place of assembly, or transportation
27 facility, or to cause public inconvenience or alarm.

28 (2) False reporting is a gross misdemeanor.

29 **Sec. 412.** RCW 9A.88.060 and 1975 1st ex.s. c 260 s 9A.88.060 are
30 each amended to read as follows:

31 The following definitions are applicable in RCW 9A.88.070 through
32 9A.88.090:

33 (1) "Advances prostitution." A person "advances prostitution" if,
34 acting other than as a prostitute or as a customer thereof, he or she
35 causes or aids a person to commit or engage in prostitution, procures

1 or solicits customers for prostitution, provides persons or premises
2 for prostitution purposes, operates or assists in the operation of a
3 house of prostitution or a prostitution enterprise, or engages in any
4 other conduct designed to institute, aid, or facilitate an act or
5 enterprise of prostitution.

6 (2) "Profits from prostitution." A person "profits from
7 prostitution" if, acting other than as a prostitute receiving
8 compensation for personally rendered prostitution services, he or she
9 accepts or receives money or other property pursuant to an agreement or
10 understanding with any person whereby he or she participates or is to
11 participate in the proceeds of prostitution activity.

12 **Sec. 413.** RCW 9A.88.080 and 1975 1st ex.s. c 260 s 9A.88.080 are
13 each amended to read as follows:

14 (1) A person is guilty of promoting prostitution in the second
15 degree if he or she knowingly:

- 16 (a) Profits from prostitution; or
- 17 (b) Advances prostitution.

18 (2) Promoting prostitution in the second degree is a class C
19 felony.

20 **Sec. 414.** RCW 9A.88.090 and 1975 1st ex.s. c 260 s 9A.88.090 are
21 each amended to read as follows:

22 (1) A person is guilty of permitting prostitution if, having
23 possession or control of premises which he or she knows are being used
24 for prostitution purposes, he or she fails without lawful excuse to
25 make reasonable effort to halt or abate such use.

26 (2) Permitting prostitution is a misdemeanor.

27 **Sec. 415.** RCW 15.66.150 and 1981 c 297 s 40 are each amended to
28 read as follows:

29 There is hereby levied, and there shall be collected by each
30 commission, upon each and every unit of any agricultural commodity
31 specified in any marketing order an annual assessment which shall be
32 paid by the producer thereof upon each and every such unit sold,
33 processed, stored, or delivered for sale, processing, or storage by him
34 or her. Such assessments shall be expressed as a stated amount of
35 money per unit or as a percentage of the net unit price at the time of

1 sale. The total amount of such annual assessment to be paid by all
2 affected producers of such commodity shall not exceed three percent of
3 the total market value of all affected units sold, processed, stored,
4 or delivered for sale, processing, or storage by all affected producers
5 of such units during the year to which the assessment applies.

6 Every marketing order shall prescribe the per unit or percentage
7 rate of such assessment. Such rate may be at the full amount of, or at
8 any lesser amount than the amount hereinabove limited and may be
9 altered from time to time by amendment of such order. In every such
10 marketing order and amendment the determination of such rate shall be
11 based upon the volume and price of sales of affected units during a
12 period which the director determines to be a representative period.
13 The per unit or percentage rate of assessment prescribed in any such
14 order or amendment shall for all purposes and times be deemed to be
15 within the limits of assessment above provided until such time as such
16 order is amended as to such rate. However, at the end of any year, any
17 affected producer may obtain a refund from the commission of any
18 assessment payments made which exceed three percent of the total market
19 value of all of the affected commodity sold, processed, stored, or
20 delivered for sale, processing, or storage by such producer during the
21 year. Such refund shall be made only upon satisfactory proof given by
22 such producer in accordance with reasonable rules and regulations
23 prescribed by the director. Such market value shall be based upon the
24 average sales price received by such producer during the year from all
25 his or her bona fide sales or, if such producer did not sell twenty-
26 five percent or more of all of the affected commodity produced by him
27 or her during the year, such market value shall be determined by the
28 director upon other sales of the affected commodity determined by the
29 director to be representative and comparable.

30 To collect such assessment each order may require:

31 (1) Stamps to be purchased from the affected commodity commission
32 or other authority stated in such order and attached to the containers,
33 invoices, shipping documents, inspection certificates, releases, or
34 receiving receipts or tickets (said stamps to be canceled immediately
35 upon being attached and the date of cancellation placed thereon).

36 (2) Payment of producer assessments before the affected units are
37 shipped off the farm or payment of assessments at different or later

1 times, and in such event the order may require any person subject to
2 the assessment to give adequate assurance or security for its payment.

3 (3) Every affected producer subject to assessment under such order
4 to deposit with the commission in advance an amount based on the
5 estimated number of affected units upon which such person will be
6 subject to such assessment in any one year during which such marketing
7 order is in force, or upon any other basis which the director
8 determines to be reasonable and equitable and specifies in such order,
9 but in no event shall such deposit exceed twenty-five percent of the
10 estimated total annual assessment payable by such person. At the close
11 of such marketing year the sums so deposited shall be adjusted to the
12 total of such assessments payable by such person.

13 (4) Handlers receiving the affected commodity from the producer,
14 including ((~~warehousemen~~)) warehouse operators and processors, to
15 collect producer assessments from producers whose production they
16 handle and remit the same to the affected commission. The lending
17 agency for a commodity credit corporation loan to producers shall be
18 deemed a handler for the purpose of this subsection. No affected units
19 shall be transported, carried, shipped, sold, stored, or otherwise
20 handled or disposed of until every due and payable assessment herein
21 provided for has been paid and the receipt issued, but no liability
22 hereunder shall attach to common carriers in the regular course of
23 their business.

24 **Sec. 416.** RCW 15.80.420 and 1969 ex.s. c 100 s 13 are each amended
25 to read as follows:

26 It shall be a violation of this chapter to transport by highway any
27 hay, straw, or grain which has been purchased by weight or will be
28 purchased by weight, unless it is weighed and a certified weight ticket
29 is issued thereon, by the first licensed public weighmaster which would
30 be encountered on the ordinary route to the destination where the hay,
31 straw, or grain is to be unloaded: PROVIDED, HOWEVER, That this
32 section shall not apply to the following:

33 (1) The transportation of, or sale of, hay, straw, or grain by the
34 primary producer thereof;

35 (2) The transportation of hay, straw, or grain by an
36 agriculturalist for use in his or her own growing, or animal or poultry
37 husbandry endeavors;

1 (3) The transportation of grain by a party who is either a
2 (~~warehouseman~~) warehouse operator or grain dealer and who is licensed
3 under the grain warehouse laws and who makes such shipment in the
4 course of the business for which he or she is so licensed;

5 (4) The transportation of hay, straw, or grain by retail merchants,
6 except for the provisions of RCW 15.80.430 and 15.80.440;

7 (5) The transportation of grain from a warehouse licensed under the
8 grain warehouse laws when the transported grain is consigned directly
9 to a public terminal warehouse.

10 **Sec. 417.** RCW 15.115.270 and 2009 c 33 s 28 are each amended to
11 read as follows:

12 (1) The collection of the assessment made and levied by the
13 commission must be paid by the producer upon all commercial quantities
14 of wheat and all commercial quantities of barley sold, processed,
15 stored, or delivered for sale, processing, or storage by the producer.
16 However, an assessment may not be levied or collected on wheat or
17 barley grown and used by the producer for feed, seed, or personal
18 consumption.

19 (2) Handlers including (~~warehousemen~~) warehouse operators,
20 processors, and feedlots receiving wheat or barley in commercial
21 quantities from producers shall collect the assessment made and levied
22 by the commission from each producer whose production they handle and
23 remit the assessment to the commission on a monthly basis. Affected
24 units of wheat or barley must not be transported, carried, shipped,
25 sold, stored, or otherwise handled or disposed of until every due and
26 payable assessment under this chapter has been paid and the receipt
27 issued, but liability under this chapter does not attach to common
28 carriers in the regular course of their business.

29 (3) Any due and payable assessment levied under this chapter
30 constitutes a personal debt of every person so assessed or who
31 otherwise owes the assessment, and the assessment is due and payable to
32 the commission on a monthly basis. In the event any person fails to
33 pay the full amount of such an assessment, the commission may add to
34 the unpaid assessment an amount not exceeding ten percent of the unpaid
35 assessment to defray the cost of enforcing the collecting of the unpaid
36 assessment. In the event of failure of the person or persons to pay
37 any due and payable assessment, the commission may bring a civil action

1 against the person or persons in a state court of competent
2 jurisdiction for the collection thereof, together with the additional
3 ten percent, and the action must be tried and judgment rendered as in
4 any other cause of action for debt due and payable. Venue for an
5 action against a person owing a due and payable assessment to the
6 commission is in Spokane county or a county in which the person
7 produces or handles wheat or barley.

8 **Sec. 418.** RCW 16.04.020 and 1893 c 31 s 2 are each amended to read
9 as follows:

10 Whenever any animals are restrained as provided in RCW 16.04.010,
11 the person restraining such animals shall within twenty-four hours
12 thereafter notify in writing the owner, or person in whose custody the
13 same was at the time the trespass was committed, of the seizure of such
14 animals, and the probable amount of the damages sustained: PROVIDED,
15 He or she knows to whom such animals belong.

16 **Sec. 419.** RCW 16.24.120 and 1989 c 286 s 12 are each amended to
17 read as follows:

18 Upon taking possession of any livestock at large contrary to the
19 provisions of RCW ((16.13.020)) 16.24.110, or any unclaimed livestock
20 submitted or impounded, by any person, at any public livestock market
21 or any other facility approved by the director, the sheriff or brand
22 inspector shall cause it to be transported to and impounded at the
23 nearest public livestock market licensed under chapter 16.65 RCW or at
24 such place as approved by the director. If the sheriff has impounded
25 an animal in accordance with this section, he or she shall forthwith
26 notify the nearest brand inspector of the department of agriculture,
27 who shall examine the animal and, by brand, tattoo, or other
28 identifying characteristic, shall attempt to ascertain the ownership
29 thereof.

30 **Sec. 420.** RCW 16.24.180 and 1989 c 286 s 15 are each amended to
31 read as follows:

32 It shall be lawful for any person having cows or heifers running at
33 large in this state to take up or capture and castrate, at the risk of
34 the owner, at any time between the first day of March and the fifteenth
35 day of May, any bull above the age of ten months found running at large

1 out of the enclosed grounds of the owner or keeper. It shall be lawful
2 for any person to take up or capture and geld, at the risk of the
3 owner, between April 1st and September 30th of any year, any stud horse
4 or jackass or any male mule above the age of eighteen months found
5 running at large out of the enclosed grounds of the owner or keeper.
6 If the said animal shall die, as a result of such castration, the owner
7 shall have no recourse against the person who shall have taken up or
8 captured and castrated, or caused to be castrated, the said animal:
9 PROVIDED, Such act of castration shall have been skillfully done by a
10 person accustomed to doing the same: AND PROVIDED FURTHER, That if the
11 person so taking up or capturing such animal, or causing it to be so
12 taken up or captured, shall know the owner or keeper of such animal,
13 and shall know that said animal is being kept for breeding purposes, it
14 shall be his or her duty forthwith to notify such owner or keeper of
15 the taking up of said animal, and if such owner or keeper shall not
16 within two days after being so notified pay for the reasonable costs of
17 keeping of said animal, and take and safely keep said animal thereafter
18 within his or her own enclosures, then it shall be lawful for the
19 taker-up of said animal to castrate the same, and the owner thereof
20 shall pay a reasonable sum for such act of castration, if done
21 skillfully, as hereinbefore required, and shall also pay for the
22 keeping of said animal as above provided, and the amount for which he
23 or she may be liable therefor may be recovered in an action at law in
24 any court having jurisdiction thereof: AND PROVIDED FURTHER, That if
25 said animal should be found running at large a third time within the
26 same year, and within the prohibited dates hereinbefore mentioned, it
27 shall be lawful for any person to capture and castrate the animal
28 without giving any notice to the owner or keeper whatever. For
29 purposes of this section, geld and castrate shall have the same
30 meaning.

31 **Sec. 421.** RCW 16.50.110 and 1967 c 31 s 2 are each amended to read
32 as follows:

33 For the purpose of this chapter:

34 (1) "Department" means the department of agriculture of the state
35 of Washington.

36 (2) "Director" means the director of the department or his or her
37 duly appointed representative.

1 (3) "Humane method" means either: (a) A method whereby the animal
2 is rendered insensible to pain by mechanical, electrical, chemical, or
3 other means that is rapid and effective, before being shackled,
4 hoisted, thrown, cast, or cut; or (b) a method in accordance with the
5 ritual requirements of any religious faith whereby the animal suffers
6 loss of consciousness by anemia of the brain caused by the simultaneous
7 and instantaneous severance of the carotid arteries with a sharp
8 instrument.

9 (4) "Livestock" means cattle, calves, sheep, swine, horses, mules,
10 and goats.

11 (5) "Packer" means any person engaged in the business of
12 slaughtering livestock.

13 (6) "Person" means a natural person, individual, firm, partnership,
14 corporation, company, society, and association and every officer,
15 agent, or employee, thereof. This term shall import either the
16 singular or plural, as the case may be.

17 (7) "Slaughterer" means any person engaged in the commercial or
18 custom slaughtering of livestock, including custom farm slaughterers.

19 **Sec. 422.** RCW 16.50.120 and 1967 c 31 s 3 are each amended to read
20 as follows:

21 No slaughterer or packer shall bleed or slaughter any livestock
22 except by a humane method: PROVIDED, That the director may, by
23 administrative order, exempt a person from compliance with this chapter
24 for a period of not to exceed six months if he or she finds that an
25 earlier compliance would cause such person undue hardship.

26 **Sec. 423.** RCW 16.50.130 and 1967 c 31 s 4 are each amended to read
27 as follows:

28 The director shall administer the provisions of this chapter. He
29 or she shall adopt and may from time to time revise rules which shall
30 conform substantially to the rules and regulations promulgated by the
31 secretary of agriculture of the United States pursuant to the federal
32 humane slaughter act of 1958, Public Law 85-765, 72 Stat. 862 and any
33 amendments thereto. Such rules shall be adopted pursuant to the
34 provisions of chapter 34.05 RCW as enacted or hereafter amended
35 concerning the adoption of rules.

1 **Sec. 424.** RCW 16.52.110 and 1901 c 146 s 13 are each amended to
2 read as follows:

3 Every owner, driver, or possessor of any old, maimed, or diseased
4 horse, cow, mule, or other domestic animal, who shall permit the same
5 to go loose in any lane, street, square, or lot or place of any city or
6 township, without proper care and attention, for more than three hours
7 after knowledge thereof, shall be guilty of a misdemeanor: PROVIDED,
8 That this shall not apply to any such owner keeping any old or diseased
9 animal belonging to him or her on his or her own premises with proper
10 care. Every sick, disabled, infirm, or crippled horse, ox, mule, cow,
11 or other domestic animal, which shall be abandoned on the public
12 highway, or in any open or enclosed space in any city or township, may,
13 if, after search by a peace officer or officer of such society no owner
14 can be found therefor, be killed by such officer; and it shall be the
15 duty of all peace and public officers to cause the same to be killed on
16 information of such abandonment.

17 **Sec. 425.** RCW 16.54.020 and 1955 c 190 s 2 are each amended to
18 read as follows:

19 Any person having in his or her care, custody, or control any
20 abandoned animal as defined in RCW 16.54.010, may deliver such animal
21 to any humane society having facilities for the care of such animals or
22 to any pound maintained by or under contract or agreement with any city
23 or county within which such animal was abandoned. If no such humane
24 society or pound exists within the county the person with whom the
25 animal was abandoned may notify the sheriff of the county wherein the
26 abandonment occurred.

27 **Sec. 426.** RCW 16.60.020 and 1907 c 13 s 1 are each amended to read
28 as follows:

29 When any fence has been, or shall hereafter be, erected by any
30 person on the boundary line of his or her land and the person owning
31 land adjoining thereto shall make, or cause to be made, an inclosure,
32 so that such fence may also answer the purpose of inclosing his or her
33 ground, he or she shall pay the owner of such fence already erected
34 one-half of the value of so much thereof as serves for a partition
35 fence between them: PROVIDED, That in case such fence has woven wire
36 or other material known as hog fencing, then the adjoining owner shall

1 not be required to pay the extra cost of such hog fencing over and
2 above the cost of erecting a lawful fence, as by law defined, unless
3 such adjoining owner has his or her land fenced with hog fencing and
4 uses the partition fence to make a hog enclosure of his or her land,
5 then he or she shall pay to the one who owns said hog fence one-half of
6 the value thereof.

7 **Sec. 427.** RCW 16.60.050 and 1907 c 13 s 2 are each amended to read
8 as follows:

9 The respective owners of adjoining inclosures shall keep up and
10 maintain in good repair all partition fences between such inclosures in
11 equal shares, so long as they shall continue to occupy or improve the
12 same; and in case either of the parties shall desire to make such fence
13 capable of turning hogs and the other party does not desire to use it
14 for such purpose, then the party desiring to use it shall have the
15 right to attach hog-fencing material to the posts of such fence, which
16 hog fencing shall remain the property of the party who put it up, and
17 he or she may remove it at any time he or she desires: PROVIDED, That
18 he or she leaves the fence in as good condition as it was when the hog
19 fencing was by him or her attached, the natural decay of the posts
20 excepted. The attaching of such hog fencing shall not relieve the
21 other party from the duty of keeping in repair his or her part of such
22 fence, as to all materials used in said fence additional to said hog
23 fencing.

24 **Sec. 428.** RCW 16.60.060 and Code 1881 s 2496 are each amended to
25 read as follows:

26 When any party shall wish to lay open his or her inclosure, he or
27 she shall notify any person owning adjoining inclosures, and if such
28 person shall not pay to the party giving notice one-half the value of
29 any partition fence between such enclosures, within three months after
30 receiving such notice, the party giving notice may proceed to remove
31 one-half of such fence, as provided in RCW 16.60.055.

32 **Sec. 429.** RCW 16.60.075 and Code 1881 s 2499 are each amended to
33 read as follows:

34 The owner of any animal that is unruly, and in the habit of
35 breaking through or throwing down fences, if after being notified that

1 such animal is unruly and in the habit of breaking through or throwing
2 down fences as aforesaid, he or she shall allow such animal to run at
3 large, shall be liable for all damages caused by such animal, and any
4 and all other animals, that may be in company with such animal.

5 **Sec. 430.** RCW 16.60.080 and Code 1881, Bagley's Supp., p 25 s 1
6 are each amended to read as follows:

7 Whenever any inhabitant of this state shall have his or her fences
8 removed by floods or destroyed by fire, the county commissioners of the
9 county in which he or she resides shall have power to grant a license
10 or permit for him or her to put a convenient gate or gates across any
11 highway for a limited period of time, to be named in their order, in
12 order to secure him or her from depredations upon his or her crops
13 until he or she can repair his or her fences, and they shall grant such
14 license or permit for no longer period than they may think absolutely
15 necessary.

16 **Sec. 431.** RCW 16.60.085 and Code 1881, Bagley's Supp., p 25 s 2
17 are each amended to read as follows:

18 It shall be lawful for the auditor of any county to grant such
19 permit in vacation, but his or her license shall not extend past the
20 next meeting of the commissioner's court.

21 **Sec. 432.** RCW 16.60.090 and Code 1881, Bagley's Supp., p 25 s 3
22 are each amended to read as follows:

23 Any person retaining a gate across the highway after his or her
24 license shall expire, shall be subject to a fine of one dollar for the
25 first day and fifty cents for each subsequent day he or she shall
26 retain the same, and it may be removed by the road supervisor, as an
27 obstruction, at the cost of the person placing or keeping it upon the
28 highway.

29 **Sec. 433.** RCW 16.65.130 and 1959 c 107 s 13 are each amended to
30 read as follows:

31 It shall be unlawful for the licensee to use for his or her own
32 purposes consignor's net proceeds, or funds received by such licensee
33 to purchase livestock on order, through recourse to the so-called
34 "float" in the bank account, or in any other manner.

1 **Sec. 434.** RCW 16.65.330 and 1959 c 107 s 33 are each amended to
2 read as follows:

3 For the purpose of making investigations as provided for in RCW
4 16.65.320, the director may enter a public livestock market and examine
5 any records required under the provisions of this chapter. The
6 director shall have full authority to issue subpoenas requiring the
7 attendance of witnesses before him or her, together with all books,
8 memorandums, papers, and other documents relative to the matters under
9 investigation, and to administer oaths and take testimony thereunder.

10 **Sec. 435.** RCW 16.65.410 and 1959 c 107 s 41 are each amended to
11 read as follows:

12 It shall be unlawful for a packer to own or control more than a
13 twenty percent interest in any public livestock market, directly or
14 indirectly through stock ownership or control, or otherwise by himself
15 or herself or through his or her agents or employees.

16 **Sec. 436.** RCW 16.67.090 and 2002 c 313 s 82 are each amended to
17 read as follows:

18 The powers and duties of the commission shall include the
19 following:

20 (1) To administer and enforce the provisions of this chapter, and
21 do all things reasonably necessary to effectuate the purposes of this
22 chapter;

23 (2) To elect a ((~~chairman~~)) chair and such other officers as it
24 deems advisable;

25 (3) To employ and discharge at its discretion a manager, secretary,
26 and such other personnel, including attorneys engaged in the private
27 practice of law subject to the review of the attorney general, as the
28 commission determines are necessary and proper to carry out the
29 purposes of this chapter, and to prescribe their duties and powers and
30 fix their compensation;

31 (4) To adopt, rescind, and amend rules, regulations, and orders for
32 the exercise of its powers hereunder subject to the provisions of
33 chapter 34.05 RCW, except that rule-making proceedings conducted under
34 this chapter are exempt from compliance with RCW 34.05.310, the
35 provisions of chapter 19.85 RCW, the regulatory fairness act, and the

1 provisions of RCW 43.135.055 when adoption of the rule is determined by
2 a referendum vote of the affected parties;

3 (5) To establish by resolution, a headquarters which shall continue
4 as such unless and until so changed by the commission. All records,
5 books, and minutes of the commission shall be kept at such
6 headquarters;

7 (6) To require a bond of all commission members and employees of
8 the commission in a position of trust in the amount the commission
9 shall deem necessary. The premium for such bond or bonds shall be paid
10 by the commission from assessments collected. Such bond shall not be
11 necessary if any such commission member or employee is covered by any
12 blanket bond covering officials or employees of the state of
13 Washington;

14 (7) To establish a beef commission revolving fund, such fund to be
15 deposited in a bank or banks or financial institution or institutions,
16 approved for the deposit of state funds, in which all money received by
17 the commission, except an amount of petty cash for each day's needs not
18 to exceed one hundred dollars, shall be deposited each day or as often
19 during the day as advisable; none of the provisions of RCW 43.01.050 as
20 now or hereafter amended shall apply to money collected under this
21 chapter;

22 (8) To prepare a budget or budgets covering anticipated income and
23 expenses to be incurred in carrying out the provisions of this chapter
24 during each fiscal year;

25 (9) To incur expense and enter into contracts and to create such
26 liabilities as may be reasonable for the proper administration and
27 enforcement of this chapter;

28 (10) To borrow money, not in excess of its estimate of its revenue
29 from the current year's contributions;

30 (11) To keep or cause to be kept in accordance with accepted
31 standards of good accounting practice, accurate records of all
32 assessments, expenditures, moneys, and other financial transactions
33 made and done pursuant to this chapter. Such records, books, and
34 accounts shall be audited at least every five years subject to
35 procedures and methods lawfully prescribed by the state auditor. Such
36 books and accounts shall be closed as of the last day of each fiscal
37 year. A copy of such audit shall be delivered within thirty days after
38 completion thereof to the director, the state auditor, and the

1 commission. On such years and in such event the state auditor is
2 unable to audit the records, books, and accounts within six months
3 following the close of the audit period it shall be mandatory that the
4 commission employ a private auditor to make such audit;

5 (12) To sue and be sued as a commission, without individual
6 liability for acts of the commission within the scope of the powers
7 conferred upon it by this chapter;

8 (13) To cooperate with any other local, state, or national
9 commission, organization, or agency, whether voluntary or established
10 by state or federal law, including recognized livestock groups, engaged
11 in work or activities similar to the work and activities of the
12 commission created by this chapter and make contracts and agreements
13 with such organizations or agencies for carrying on joint programs
14 beneficial to the beef industry;

15 (14) To accept grants, donations, contributions, or gifts from any
16 governmental agency or private source for expenditures for any purpose
17 consistent with the provisions of this chapter; and

18 (15) To operate jointly with beef commissions or similar agencies
19 established by state laws in adjoining states.

20 **Sec. 437.** RCW 16.67.160 and 1969 c 133 s 15 are each amended to
21 read as follows:

22 Obligations incurred by the commission and liabilities or claims
23 against the commission shall be enforced only against the assets of the
24 commission in the same manner as if it were a corporation and no
25 liability for the debts or actions of the commission shall exist
26 against either the state of Washington or any subdivision or
27 instrumentality thereof or against any member officer, employee, or
28 agent of the commission in his or her individual capacity. The members
29 of the commission including employees of the commission shall not be
30 held responsible individually or any way whatsoever to any person for
31 errors in judgment, mistakes, or other acts, either of commission or
32 omission, as principal, agent, person, or employees, except for their
33 own individual acts of dishonesty or crime. No such person or employee
34 shall be held responsible individually for any act or omission of any
35 other member of the commission. The liability of the members of the
36 commission shall be several and not joint and no member shall be liable
37 for the default of any other member.

1 **Sec. 438.** RCW 16.68.010 and 1949 c 100 s 1 are each amended to
2 read as follows:

3 For the purposes of this chapter, unless clearly indicated
4 otherwise by the context:

5 (1) "Director" means the director of agriculture;

6 (2) "Meat food animal" means cattle, horses, mules, asses, swine,
7 sheep, and goats;

8 (3) "Dead animal" means the body of a meat food animal, or any part
9 or portion thereof: PROVIDED, That the following dead animals are
10 exempt from the provisions of this chapter:

11 (a) Edible products from a licensed slaughtering establishment;

12 (b) Edible products where the meat food animal was slaughtered
13 under farm slaughter permit;

14 (c) Edible products where the meat food animal was slaughtered by
15 a bona fide farmer on his or her own ranch for his or her own
16 consumption;

17 (d) Hides from meat food animals that are properly identified as to
18 ownership and brands;

19 (4) "Carcass" means all parts, including viscera, of a dead meat
20 food animal;

21 (5) "Person" means any individual, firm, corporation, partnership,
22 or association;

23 (6) "Rendering plant" means any place of business or location where
24 dead animals or any part or portion thereof, or packing house refuse,
25 are processed for the purpose of obtaining the hide, skin, grease
26 residue, or any other by-product whatsoever;

27 (7) "Substation" means a properly equipped and authorized
28 concentration site for the temporary storage of dead animals or packing
29 house refuse pending final delivery to a licensed rendering plant;

30 (8) "Place of transfer" means an authorized reloading site for the
31 direct transfer of dead animals or packing house refuse from the
32 vehicle making original pickup to the line vehicle that will transport
33 the dead animals or packing house refuse to a specified licensed
34 rendering plant;

35 (9) "Independent collector" means any person who does not own a
36 licensed rendering plant within the state of Washington but is properly
37 equipped and licensed to transport dead animals or packing house refuse
38 to a specified rendering plant.

1 **Sec. 439.** RCW 16.68.030 and 1949 c 100 s 3 are each amended to
2 read as follows:

3 It is unlawful for any person to sell, offer for sale, or give away
4 a dead animal or convey the same along any public road or land not his
5 or her own: PROVIDED, That dead animals may be sold or given away to
6 and legally transported on highways by a person having an unrevoked,
7 annual license to operate a rendering plant or by a person having an
8 unrevoked, annual license to operate as an independent collector.

9 **Sec. 440.** RCW 16.68.080 and 1949 c 100 s 8 are each amended to
10 read as follows:

11 Any license or permit issued under this chapter shall expire on the
12 thirtieth day of June next subsequent to the date of issue, and may be
13 sooner revoked by the director or his or her authorized representative
14 for violations of this chapter. Any licensee or permittee under this
15 chapter shall have the right to demand a hearing before the director
16 before a revocation is made permanent.

17 **Sec. 441.** RCW 16.68.100 and 1949 c 100 s 10 are each amended to
18 read as follows:

19 If the director finds that the locations, buildings, substations
20 equipment, vehicles, places of transfer, or proposed method of
21 operation do not fully comply with the requirements of this chapter, he
22 or she shall notify the applicant by registered letter wherein the same
23 fails to comply. If the applicant whose plant or operation failed to
24 comply notifies the director within ten days from the receipt of the
25 registered letter that he or she will discontinue operations, the fee
26 accompanying the application will be returned to him or her; otherwise
27 no part of the fee will be refunded. If the applicant whose plant
28 failed to comply within a reasonable time, to be fixed by the director
29 or his or her authorized representative, notifies the director that
30 such defects are remedied, a second inspection shall be made. Not more
31 than two inspections may be made on one application.

32 **Sec. 442.** RCW 16.68.110 and 1949 c 100 s 12 are each amended to
33 read as follows:

34 Every licensee under this chapter must comply with the following:

1 (1) All floors shall be constructed of concrete or other impervious
2 material, shall be kept reasonably clean and in good repair. Floors
3 shall slope at least one-fourth inch to the foot toward drains, and
4 slope at least three-eighths inch to the foot as the drains are
5 approached.

6 (2) Adequate sanitary drainage must be provided leading to approved
7 grease traps and approved sewage disposal system. No point on the
8 floor shall be over sixteen feet from a drain.

9 (3) Suitable disposal of paunch contents must be provided in
10 accordance with sanitary regulations.

11 (4) Walls shall be of impervious material to a height not less than
12 six feet from the floor with a tight union with the floor.

13 (5) Potable water supply shall be provided for human consumption,
14 washing, and cleaning.

15 (6) Ample steam shall be provided for cleaning purposes.

16 (7) Approved toilet and dressing room facilities must be provided
17 for employees.

18 (8) The building must be kept free from flies, rats, mice, and
19 cockroaches.

20 (9) Premises must be kept neat and orderly and all buildings must
21 be attractive in appearance.

22 (10) All rendering plants, substations, and places of transfer
23 shall be so located, arranged, constructed, and maintained, and the
24 operation so conducted at all times as to be consistent with public
25 health and safety.

26 (11) Suitable facilities for the dipping, washing, and disinfecting
27 of hides obtained from animals that died or were killed on account of
28 an infectious or contagious disease, shall be provided.

29 (12) Two copies of building or remodeling plans shall be forwarded
30 to the director for his or her approval before such building or
31 remodeling is begun.

32 **Sec. 443.** RCW 16.68.130 and 1949 c 100 s 14 are each amended to
33 read as follows:

34 The director or his or her authorized agent, shall have free and
35 uninterrupted access to all parts of premises that come under the
36 provisions of this chapter, for the purpose of making inspections and
37 the examination of records.

1 **Sec. 444.** RCW 16.68.140 and 1949 c 100 s 15 are each amended to
2 read as follows:

3 It shall be unlawful for any person to transport, to sell, offer to
4 sell, or have on his or her premises horse meat for other than human
5 consumption unless said horse meat is decharacterized in a manner
6 prescribed by the director: PROVIDED, That this provision shall not
7 apply to carcasses slaughtered by a farmer for consumption on his or
8 her own ranch or to carcasses in the possession of a person licensed
9 under this chapter, or to canned horse meat meeting United States
10 bureau of animal industry regulations.

11 **Sec. 445.** RCW 16.70.030 and 1971 c 72 s 3 are each amended to read
12 as follows:

13 In the event of an emergency arising out of an outbreak of
14 communicable disease caused by exposure to or contact with pet animals,
15 the secretary is hereby authorized to take any reasonable action deemed
16 necessary by him or her to protect the public health, including but not
17 limited to the use of quarantine or the institution of any legal action
18 authorized pursuant to Title 7 RCW and RCW (~~(43.20A.640 through~~
19 ~~43.20A.650)) 43.70.170, 43.70.180, and 43.70.190.~~

20 The secretary shall have authority to destroy any pet animal or
21 animals which may reasonably be suspected of having a communicable
22 disease dangerous to humans and such animal or animals are hereby
23 declared to be a public nuisance.

24 **Sec. 446.** RCW 17.04.070 and 1971 ex.s. c 292 s 15 are each amended
25 to read as follows:

26 If the board of county commissioners establish such district it
27 shall call a special meeting to be held within such district for the
28 purpose of electing three directors for such district. No person shall
29 be eligible to hold the office of director who is not a qualified
30 elector of the state of Washington and a resident and landowner within
31 such district. Such meeting shall be held not less than thirty nor
32 more than ninety days from the date when such district is established
33 by such board.

34 Notice of such meeting shall be given by the county auditor by
35 publication once a week for three successive weeks in a newspaper of
36 general circulation in such district, and by posting such notice for

1 not less than ten days before the date fixed for such meeting in three
2 public places within the boundaries of such district. The notices
3 shall state the object of the meeting and the time and place when the
4 same shall be held.

5 At the time and place fixed for the meeting the county commissioner
6 in whose commissioner district such district is located shall act as
7 ((~~chairman~~)) chair and call the meeting to order. The ((~~chairman~~))
8 chair shall appoint two persons to assist him or her in conducting the
9 election, one of whom shall act as clerk. If such county commissioner
10 be not present the electors of such district then present shall elect
11 a ((~~chairman~~)) chair of the meeting.

12 Every person who is a landowner within such district and a
13 qualified elector of the state of Washington shall be entitled to vote
14 at such meeting. Any person offering to vote may be challenged by any
15 legally qualified elector of such district, and the ((~~chairman~~)) chair
16 of such meeting shall thereupon administer to the person challenged an
17 oath in substance as follows: "You do swear (or affirm) that you are
18 a citizen of the United States and a qualified elector of the state of
19 Washington and an owner of land within the boundaries of weed district
20 No. of county (giving number of district and name
21 of county)." If the challenged person shall take such oath or make
22 such affirmation, he or she shall be entitled to vote; otherwise his or
23 her vote shall not be received. Any person making a false oath, or
24 affirmation, or any person illegally voting at such meeting, shall be
25 punished as provided in the general election laws of the state for
26 illegal voting.

27 The vote shall be by secret ballot, on white paper of uniform size
28 and quality, of such arrangement that when names are written thereon,
29 the same may be folded so as not to disclose the names. The elector
30 shall write the names of three persons that he or she desires as the
31 first directors of such district and shall fold his or her ballot and
32 hand the same to the ((~~chairman~~)) chair of the meeting who shall
33 deposit it in a ballot box provided for that purpose. The clerk shall
34 thereupon write the name of such person on a list as having voted at
35 such election. After all persons present and entitled to vote have
36 voted, the ((~~chairman~~)) chair shall declare the election closed, and
37 shall, with the assistance of the clerk and the other person appointed
38 as assistant, proceed to count the ballots. The person receiving the

1 greatest number of votes shall be elected as director for a term ending
2 three years from the first Monday in March following his or her
3 election; the person receiving the second greatest number of votes
4 shall be elected for a term ending two years from the first Monday in
5 March following his or her election, and the person receiving the third
6 greatest number of votes shall be elected for a term ending one year
7 from the first Monday of March following his or her election.

8 Annually thereafter, there shall be held a meeting of the electors
9 of such district on the last Monday in February, except that the
10 directors may, by giving the same notice as is required for the initial
11 meeting, fix an earlier time for the annual meeting on any nonholiday
12 during the months of December, January, or February. At such meeting
13 one director shall be elected to succeed the director whose term will
14 expire on the first Monday in March following. The directors shall
15 call the annual meeting, and shall fix the time and place where the
16 same shall be held and shall give the same notice thereof as provided
17 for the initial meeting. The annual meeting shall be conducted in the
18 same manner as is provided for the initial meeting, and the
19 qualifications of electors at such annual meeting shall be the same as
20 is required for the initial meeting. In conducting directors'
21 elections, the ((~~chairman~~)) chair may accept nominations from the floor
22 but voting shall not be limited to those nominated.

23 All directors shall hold office for the term for which they are
24 elected, and until their successors are elected and qualified. In case
25 of a vacancy occurring in the office of any director, the county
26 commissioners of the county in which such district is located shall
27 appoint a qualified person to fill the vacancy for the unexpired term.
28 The board of directors shall elect one of its members ((~~chairman~~))
29 chair and may appoint a secretary who need not be a member of the
30 board, and who shall be paid such compensation as the board may
31 determine. Each director shall furnish a bond in the sum of one
32 thousand dollars, which may be a surety company bond or property bond
33 approved by the board of county commissioners, which bond shall be
34 filed with the county commissioners and shall be conditioned for the
35 faithful discharge of his or her duties. The cost of such bond shall
36 be paid by the district the same as other expenses of the district. At
37 any annual meeting the method for destroying, preventing, and
38 exterminating weeds of such district as set forth in the petition, and

1 the rules and regulations adopted by such district, may be changed by
2 a majority vote of the qualified electors present at such meeting, or
3 a special meeting may be called for that purpose, notice of which
4 meeting and of such proposed changes to be voted on, shall be given to
5 all landowners residing within the district by mailing a copy of such
6 notice and of such proposed changes to the address of such landowner at
7 least one week before the date fixed for such special meeting. The
8 qualified electors of any weed district, at any annual meeting, may
9 make other weeds that are not on the petition subject to control by the
10 weed district by a two-thirds vote of the electors present: PROVIDED,
11 That said weeds have been classified by the agricultural experiment
12 station of Washington State University as noxious and: PROVIDED
13 FURTHER, That the directors of the weed district give public notice in
14 the manner required for initial meetings of the proposed new control of
15 said weeds by the weed district.

16 **Sec. 447.** RCW 17.04.150 and 1961 c 250 s 3 are each amended to
17 read as follows:

18 The board of directors of such weed district shall have power:

19 (1) To adopt rules and regulations, plans, methods, and means for
20 the purpose of destroying, preventing, and exterminating the weed or
21 weeds specified in the petition, and to supervise, carry out, and
22 enforce such rules, regulations, plans, methods, and means.

23 (2) To appoint a weed inspector and to require from him or her a
24 bond in such sum as the directors may determine for the faithful
25 discharge of his or her duties, and to pay the cost of such bond from
26 the funds of such district; and to direct such weed inspector in the
27 discharge of his or her duties; and to pay such weed inspector from the
28 funds of such district such per diem or salary for the time employed in
29 the discharge of his or her duties as the directors shall determine.

30 **Sec. 448.** RCW 17.04.190 and 1961 c 250 s 5 are each amended to
31 read as follows:

32 It shall be the duty of the weed inspector to carry out the
33 directions of the board of directors and to see that the rules and
34 regulations adopted by the board are carried out. He or she shall
35 personally deliver or mail to each resident landowner within such
36 district and to any lessee or person in charge of any land within such

1 district and residing in such district, a copy of the rules and
2 regulations of such district; and he or she shall personally deliver a
3 copy thereof to nonresident landowners or shall deposit a copy of the
4 same in the United States post office in an envelope with postage
5 prepaid thereon addressed to the last known address of such person as
6 shown by the records of the county auditor; and in event no such
7 address is available for mailing he or she shall post a copy of such
8 rules and regulations in a conspicuous place upon such land. A record
9 shall be kept by the weed inspector of such dates of mailing, posting,
10 or delivering such rules and regulations. In case of any railroad such
11 rules and regulations shall be delivered to the section foreman, or to
12 any official of the railroad having offices within the state. Such
13 rules and regulations must be delivered, posted, or mailed by the weed
14 inspector as herein provided at least ten days before the time to start
15 any annual operations necessary to comply with such rules and
16 regulations: PROVIDED, That after such district shall have been in
17 operation two years such rules and regulations shall be delivered to
18 resident landowners only once every three years, unless such rules and
19 regulations are changed.

20 **Sec. 449.** RCW 17.04.200 and 1961 c 250 s 6 are each amended to
21 read as follows:

22 (1) If the weed inspector, or the board of directors, shall find
23 that the rules and regulations of the weed district are not being
24 carried out on any one or more parcels of land within such district,
25 the weed inspector shall give forthwith a notice in writing, on a form
26 to be prescribed by the directors, to the owners, tenants, mortgagees,
27 and occupants, or to the accredited resident agent of any nonresident
28 owner of such lands within the district whereon noxious weeds are
29 standing, being or growing and in danger of going to seed, requiring
30 him or her to cause the same to be cut down, otherwise destroyed or
31 eradicated on such lands in the manner and within the time specified in
32 the notice, such time, however, not to exceed seven days. It shall be
33 the duty of the county auditor and county treasurer to make available
34 to the weed inspector lists of owners, tenants, and mortgagees of lands
35 within such district;

36 (2) If a resident agent of any nonresident owner of lands where
37 noxious weeds are found standing, being, or growing cannot be found,

1 the local weed inspector shall post said notice in the form provided by
2 the directors in three conspicuous places on said land, and in addition
3 to posting said notice the local weed inspector shall, at the same time
4 mail a copy thereof by registered or certified mail with return receipt
5 requested to the owner of such nonresident lands, if his or her post
6 office address is known or can be ascertained by said inspector from
7 the last tax list in the county treasurer's office, and it shall be the
8 duty of the treasurer to furnish such lists upon request by the weed
9 inspector. Proof of such serving, posting, and mailing of notice by
10 the weed inspector shall be made by affidavit forthwith filed in the
11 office of the county auditor and it shall be the duty of the county
12 auditor to accept and file such affidavits;

13 (3) If the weeds are not cut down, otherwise destroyed, or
14 eradicated within the time specified in said notice, the local weed
15 inspector shall personally, or with such help as he or she may require,
16 cause the same to be cut down or otherwise destroyed in the manner
17 specified in said notice.

18 **Sec. 450.** RCW 17.04.210 and 1961 c 250 s 7 are each amended to
19 read as follows:

20 The weed inspector shall keep an accurate account of expenses
21 incurred by him or her in carrying out the provisions of this chapter
22 with respect to each parcel of land entered upon, and the prosecuting
23 attorney of the county or the attorney for the weed district shall
24 cause to be served, mailed, or posted in the same manner as provided in
25 this chapter for giving notice to destroy noxious weeds, a statement of
26 such expenses, including description of the land, verified by oath of
27 the weed inspector to the owner, lessee, mortgagee, occupant or agent,
28 or person having charge of said land, and coupled with such statement
29 shall be a notice subscribed by said prosecuting attorney or attorney
30 for the weed district and naming a time and place when and where such
31 matter will be brought before the board of directors of such district
32 for hearing and determination, said statement or notice to be served,
33 mailed, or posted, as the case may be, at least ten days before the
34 time for such hearing.

35 **Sec. 451.** RCW 17.04.230 and 1988 c 202 s 21 are each amended to
36 read as follows:

1 Any interested party may appeal from the decision and order of the
2 board of directors of such district to the superior court of the county
3 in which such district is located, by serving written notice of appeal
4 on the ((~~chairman~~)) chair of the board of directors and by filing in
5 the office of the clerk of the superior court a copy of said notice of
6 appeal with proof of service attached, together with a good and
7 sufficient cost bond in the sum of two hundred dollars, said cost bond
8 to run to such district and in all respects to comply with the laws
9 relating to cost bonds required of nonresident plaintiffs in the
10 superior court. Said notice must be served and filed within ten days
11 from the date of the decision and order of such board of directors, and
12 said bond must be filed within five days after the filing of such
13 notice of appeal. Whenever notice of appeal and the cost bond as
14 herein provided shall have been filed with the clerk of the superior
15 court, the clerk shall notify the board of directors of such district
16 thereof, and such board shall forthwith certify to said court all
17 notices and records in said matters, together with proof of service,
18 and a true copy of the order and decision pertaining thereto made by
19 such board. If no appeal be perfected within ten days from the
20 decision and order of such board, the same shall be deemed confirmed
21 and the board shall certify the amount of such charges to the county
22 treasurer who shall enter the same on the tax rolls against the land.
23 When an appeal is perfected the matter shall be heard in the superior
24 court de novo and the court's decision shall be conclusive on all
25 persons served under this chapter: PROVIDED, That appellate review of
26 the order or decision of the superior court in the manner provided by
27 existing laws, and upon the conclusion of such review, the amount of
28 charges and costs adjudged to be paid shall be certified by the clerk
29 of the superior court to the county treasurer and said treasurer shall
30 proceed to enter the same on his or her rolls against the lands
31 affected.

32 **Sec. 452.** RCW 17.04.280 and 1961 c 250 s 10 are each amended to
33 read as follows:

34 All weed district directors, all weed inspectors, and all official
35 agents of all weed districts, in the performance of their official
36 duties, have the right to enter and go upon any of the lands within
37 their weed district at any reasonable time for any reason necessary to

1 effectuate the purposes of the weed district. Any person who prevents
2 or threatens to prevent any lawful agent of the weed district, after
3 said agent identifies himself or herself and the purpose for which he
4 or she is going upon the land, from entering or going upon the land
5 within said weed district at a reasonable time and for a lawful purpose
6 of the weed district, is guilty of a misdemeanor.

7 **Sec. 453.** RCW 17.06.040 and 1959 c 205 s 4 are each amended to
8 read as follows:

9 At the time and place fixed for such hearing, with the ((~~chairman~~))
10 chair of the principal board acting as ((~~chairman~~)) chair, the
11 respective boards shall determine by a majority vote of each of the
12 boards of county commissioners of the counties whether such intercounty
13 weed district shall be created, and if they determine that such
14 district shall be created, the respective boards shall fix the
15 boundaries of the portion of the proposed district within their
16 respective counties, but they shall not modify the purposes of the
17 petition with respect to the weed or weeds to be destroyed, prevented,
18 and exterminated as set forth in the petition, and they shall not
19 enlarge the boundary of the proposed district, or enlarge or change the
20 boundary or boundaries of any district or districts already formed
21 without first giving notice, as provided in RCW 17.06.030, to all
22 landowners interested. If the respective bodies shall determine that
23 the weed district petitioned for shall be created each such board shall
24 thereupon enter an order establishing and defining the boundary lines
25 of the proposed district within its respective county. A number shall
26 be assigned to such weed district which shall be the lowest number not
27 already taken or adopted by an intercounty weed district in the state,
28 and thereafter such district shall be known as "weed district No.
29", inserting in the blank the number of the district.

30 If any county represented does not by a majority vote of its board
31 of commissioners support the petition for an intercounty district, the
32 petition shall be dismissed.

33 **Sec. 454.** RCW 17.06.050 and 1971 ex.s. c 292 s 16 are each amended
34 to read as follows:

35 If the respective boards of county commissioners establish such
36 district the ((~~chairman~~)) chair of the principal board shall call a

1 special meeting of landowners to be held within such district for the
2 purpose of electing three directors for such district. No person shall
3 be eligible to hold the office of director who is not a qualified
4 elector of the state of Washington and a resident and landowner within
5 such district. Such meeting shall be held not less than thirty nor
6 more than ninety days from the date when such district is established.

7 Notice of such meeting shall be given by the principal county
8 auditor by publication once a week for three successive weeks in a
9 newspaper of general circulation in such district, and by posting such
10 notice for not less than ten days before the date fixed for such
11 meeting in three public places within the boundaries of such district.
12 The notices shall state the object of the meeting and the time and
13 place when the same shall be held.

14 At the time and place fixed for the meeting the ((~~chairman~~)) chair
15 shall appoint two persons to assist him or her in conducting the
16 election, one of whom shall act as clerk. If such ((~~chairman~~)) chair
17 be not present the electors of such district then present shall elect
18 a ((~~chairman~~)) chair of the meeting.

19 Every person who is a landowner within such district and a
20 qualified elector of the state of Washington shall be entitled to vote
21 at such meeting. Any person offering to vote may be challenged by any
22 legally qualified elector of such district, and the ((~~chairman~~)) chair
23 of such meeting shall thereupon administer to the person challenged an
24 oath in substance as follows: "You do swear (or affirm) that you are
25 a citizen of the United States and a qualified elector of the state of
26 Washington and an owner of land within the boundaries of weed district
27 No. . . . (giving number of district)." If the challenged person
28 shall take such oath or make such affirmation, he or she shall be
29 entitled to vote; otherwise his or her vote shall not be received. Any
30 person making a false oath, or affirmation, or any person illegally
31 voting at such meeting, shall be punished as provided in the general
32 election laws of the state for illegal voting.

33 The vote shall be by secret ballot, on white paper of uniform size
34 and quality, of such arrangement that when names are written thereon,
35 the same may be folded so as not to disclose the names. The elector
36 shall write the names of three persons that he or she desires as the
37 first directors of such district and shall fold his or her ballot and
38 hand the same to the ((~~chairman~~)) chair of the meeting who shall

1 deposit it in a ballot box provided for that purpose. The clerk shall
2 thereupon write the name of such person on a list as having voted at
3 such election. After all persons present and entitled to vote have
4 voted, the ((~~chairman~~)) chair shall declare the election closed, and
5 shall, with the assistance of the clerk and the other person appointed
6 as assistant, proceed to count the ballots. The person receiving the
7 greatest number of votes shall be elected as director for a term ending
8 three years from the first Monday in March following his or her
9 election; the person receiving the second greatest number of votes
10 shall be elected for a term ending two years from the first Monday in
11 March following his or her election, and the person receiving the third
12 greatest number of votes shall be elected for a term ending one year
13 from the first day of March following his or her election.

14 Annually thereafter, there shall be held a meeting of the electors
15 of such district on the first Monday in February. At such meeting one
16 director shall be elected to succeed the director whose term will
17 expire on the first Monday in March following. The directors shall
18 call the annual meeting, and shall fix the time when and place where
19 the same shall be held and shall give the same notice thereof as
20 provided for the initial meeting. The annual meeting shall be
21 conducted in the same manner as is provided for the initial meeting,
22 and the qualifications of electors at such annual meeting shall be the
23 same as is required for the initial meeting.

24 All directors shall hold office for the term for which they are
25 elected, and until their successors are elected and qualified. In case
26 of a vacancy occurring in the office of any director, the remaining
27 members of the board of directors shall appoint a qualified person to
28 fill the vacancy for the unexpired term. The board of directors shall
29 elect one of its members ((~~chairman~~)) chair and may appoint a secretary
30 who need not be a member of the board, and who shall be paid such
31 compensation as the board may determine. Each director shall furnish
32 a bond in the sum of one thousand dollars, which may be a surety
33 company bond or property bond approved by the principal board of county
34 commissioners, which bond shall be filed with the same board and shall
35 be conditioned for the faithful discharge of his or her duties. The
36 cost of such bond shall be paid by the district the same as other
37 expenses of the district.

1 At any annual meeting the method for destroying, preventing, and
2 exterminating weeds of such district as set forth in the petition, and
3 the rules and regulations adopted by such district, may be changed by
4 a majority vote of the qualified electors present at such meeting, or
5 a special meeting may be called for that purpose, notice of which
6 meeting and of such proposed changes to be voted on, shall be given to
7 all landowners residing within the district by mailing a copy of such
8 notice and of such proposed changes to the address of such landowner at
9 least one week before the date fixed for such special meeting.

10 **Sec. 455.** RCW 17.06.060 and 1959 c 205 s 6 are each amended to
11 read as follows:

12 The board of directors of an intercounty weed district shall have
13 the same powers and duties as the board of directors of a weed district
14 located entirely within one county, and all the provisions of chapter
15 17.04 RCW are hereby made applicable to intercounty weed districts:
16 PROVIDED, That in the case of evaluation, assessment, collection,
17 apportionment, and any other allied power or duty relating to taxes in
18 connection with the district, the action shall be performed by the
19 officer or board of the county for that area of the district which is
20 located within his or her respective county, and all materials,
21 information, and other data and all moneys collected shall be submitted
22 to the proper officer of the county of that part of the district in
23 which the greatest amount of acreage is located. Any power which may
24 be or duty which shall be performed in connection therewith shall be
25 performed by the officer or board receiving such as though only a
26 district in a single county were concerned. All moneys collected from
27 such area constituting a part of such district that should be paid to
28 such district shall be delivered to the principal county treasurer who
29 shall be ex officio treasurer of such district. All other materials,
30 information, or data relating to the district shall be submitted to the
31 district board of directors.

32 Any costs or expenses incurred under this section shall be borne
33 proportionately by each county involved.

34 **Sec. 456.** RCW 17.10.280 and 1987 c 438 s 35 are each amended to
35 read as follows:

36 Every activated county noxious weed control board performing labor,

1 furnishing material, or renting, leasing, or otherwise supplying
2 equipment, to be used in the control of noxious weeds, or in causing
3 control of noxious weeds, upon any property pursuant to the provisions
4 of chapter 17.10 RCW has a lien upon such property for the labor
5 performed, material furnished, or equipment supplied whether performed,
6 furnished, or supplied with the consent of the owner, or his or her
7 agent, of such property, or without the consent of said owner or agent.

8 **Sec. 457.** RCW 17.10.290 and 1987 c 438 s 36 are each amended to
9 read as follows:

10 Every county noxious weed control board furnishing labor,
11 materials, or supplies or renting, leasing, or otherwise supplying
12 equipment to be used in the control of noxious weeds upon any property
13 pursuant to RCW 17.10.160 and 17.10.170 or pursuant to an order under
14 RCW 17.10.210 as now or hereafter amended, shall give to the owner or
15 reputed owner or his or her agent a notice in writing, within ninety
16 days from the date of the cessation of the performance of such labor,
17 the furnishing of such materials, or the supplying of such equipment,
18 which notice shall cover the labor, material, supplies, or equipment
19 furnished or leased, as well as all subsequent labor, materials,
20 supplies, or equipment furnished or leased, stating in substance and
21 effect that such county noxious weed control board is furnishing or has
22 furnished labor, materials and supplies or equipment for use thereon,
23 with the name of the county noxious weed control board ordering the
24 same, and that a lien may be claimed for all materials and supplies or
25 equipment furnished by such county noxious weed control board for use
26 thereon, which notice shall be given by mailing the same by registered
27 or certified mail in an envelope addressed to the owner at his or her
28 place of residence or reputed residence.

29 **Sec. 458.** RCW 17.12.060 and 1977 ex.s. c 169 s 4 are each amended
30 to read as follows:

31 The agricultural expert in counties having an agricultural expert,
32 shall under the direction of Washington State University have general
33 supervision of the methods and means of preventing, destroying, or
34 exterminating any animals or rodents as herein mentioned within his or
35 her county, and of how the funds of any pest district shall be expended
36 to best accomplish the purposes for which such funds were raised; in

1 counties having no such agricultural expert each county commissioner
2 shall be within his or her respective commissioner district, ex officio
3 supervisor, or the board may designate some such person to so act, and
4 shall fix his or her compensation therefor. Whenever any member of the
5 board shall act as supervisor he or she shall be entitled to his or her
6 actual expenses and his or her per diem as county commissioner the same
7 as if he or she were doing other county business.

8 **Sec. 459.** RCW 17.12.080 and 1973 c 106 s 11 are each amended to
9 read as follows:

10 Whenever there shall be included within any pest district lands
11 belonging to the state or to the county the board of county
12 commissioners shall determine the amount of the tax or assessment for
13 which such land would be liable if the same were in private ownership
14 for each subdivision of forty acres or fraction thereof. The assessor
15 shall transmit to the county commissioners a statement of the amounts
16 so due from county lands and the county commissioners shall appropriate
17 from the current expense fund of the county sufficient money to pay
18 such amounts. A statement of the amounts due from state lands within
19 each county shall be annually forwarded to the commissioner of public
20 lands who shall examine the same and if he or she finds the same
21 correct and that the determination was made according to law, he or she
22 shall certify the same and issue a warrant for the payment of same
23 against any funds in the state treasury appropriated for such purposes.

24 The commissioner of public lands shall keep a record of the amounts
25 so paid on account of any state lands which are under lease or contract
26 of sale and such amounts shall be added to and become a part of the
27 annual rental or purchase price of the land, and shall be paid annually
28 at the time of payment of rent or payment of interest or purchase price
29 of such land. When such amounts shall be collected by the commissioner
30 of public lands it shall be paid into the general fund in the state
31 treasury.

32 **Sec. 460.** RCW 17.21.170 and 1994 c 283 s 20 are each amended to
33 read as follows:

34 The following requirements apply to the amount of bond or insurance
35 required for commercial applicators:

1 (1) The amount of the surety bond or liability insurance, as
2 provided for in RCW 17.21.160, shall be not less than fifty thousand
3 dollars for property damage and public liability insurance, each
4 separately, and including loss or damage arising out of the actual use
5 of any pesticide. The surety bond or liability insurance shall be
6 maintained at not less than that sum at all times during the licensed
7 period.

8 (2) The property damage portion of this requirement may be waived
9 by the director if it can be demonstrated by the applicant that all
10 applications performed under this license occur under confined
11 circumstances and on property owned or leased by the applicant.

12 (3) The director shall be notified ten days before any reduction of
13 insurance coverage at the request of the applicant or cancellation of
14 the surety bond or liability insurance by the surety or insurer and by
15 the insured.

16 (4) The total and aggregate of the surety and insurer for all
17 claims is limited to the face of the bond or liability insurance
18 policy. The director may accept a liability insurance policy or surety
19 bond in the proper sum which has a deductible clause in an amount not
20 exceeding five thousand dollars for all applicators for the total
21 amount of liability insurance or surety bond required by this section,
22 but if the applicant has not satisfied the requirement of the
23 deductible amount in any prior legal claim the deductible clause shall
24 not be accepted by the director unless the applicant furnishes the
25 director with a surety bond or liability insurance which shall satisfy
26 the amount of the deductible as to all claims that may arise in his or
27 her application of pesticides.

28 **Sec. 461.** RCW 17.24.210 and 1982 c 153 s 3 are each amended to
29 read as follows:

30 The director of agriculture may, on the behalf of the state of
31 Washington, enter into indemnity contracts wherein the state of
32 Washington agrees to repay any person, firm, corporation, or other
33 entity acting under the direction or control of the proper authority to
34 provide plant pest or plant disease prevention, control, or eradication
35 measures as provided in this chapter or any rule adopted pursuant to
36 the provisions of this chapter, for losses and damages incurred as a

1 result of such prevention, control, or eradication measures if all of
2 the following conditions occur:

3 (1) At the time of the incident the worker is performing services
4 as an emergency measures worker and is acting within the course of his
5 or her duties as an emergency measures worker;

6 (2) At the time of the injury, loss, or damage, the organization
7 providing emergency measures by which the worker is employed is an
8 approved organization for providing emergency measures;

9 (3) The injury, loss, or damage is proximately caused by his or her
10 service either with or without negligence as an emergency measures
11 worker;

12 (4) The injury, loss, or damage is not caused by the intoxication
13 of the worker; and

14 (5) The injury, loss, or damage is not due to (~~wilful~~) willful
15 misconduct or gross negligence on the part of a worker.

16 Where an act or omission by an emergency services provider in the
17 course of providing emergency services injures a person or property,
18 the provider and the state may be jointly and severally liable for the
19 injury, if state liability is proved under existing or hereafter
20 enacted law.

21 Each person, firm, corporation, or other entity authorized to
22 provide the prevention, control, or eradication measures implementing
23 a program approved under RCW 17.24.200 shall be identified on a list
24 approved by the director. For the purposes of this section, each
25 person on the list shall be known, for the duration of the person's
26 services under the program, as "an emergency measures worker."

27 **Sec. 462.** RCW 17.28.030 and 1957 c 153 s 3 are each amended to
28 read as follows:

29 Before a city can be included as a part of the proposed district
30 its governing body shall have requested that the city be included by
31 resolution, duly authenticated.

32 The petition shall set forth and describe the boundaries of the
33 proposed district and it shall request that it be organized as a
34 mosquito control district. Upon receipt of such a petition, the
35 auditor of the county in which the greater area of the proposed
36 district is located shall be charged with the responsibility of
37 examining the same and certifying to the sufficiency of the signatures

1 thereon. For the purpose of examining the signatures on such
2 petitions, the auditor shall be permitted access to the voters'
3 registration books of each city and county located in the proposed
4 district and may appoint the respective county auditors and city clerks
5 thereof as his or her deputies. No person may withdraw his or her name
6 from a petition after it has been filed with the auditor. Within
7 thirty days following the receipt of such petition, the auditor shall
8 transmit the same to the board of commissioners of the county in which
9 the greater area of the proposed district is located, together with his
10 or her certificate as to the sufficiency thereof.

11 **Sec. 463.** RCW 17.28.070 and 1957 c 153 s 7 are each amended to
12 read as follows:

13 If the county commissioners deem it proper to include any territory
14 not proposed for inclusion within the proposed boundaries, they shall
15 first cause notice of intention to do so to be mailed to each owner of
16 land in the territory whose name appears as owner on the last completed
17 assessment roll of the county in which the territory lies, addressed to
18 the owner at his or her address given on the assessment roll, or if no
19 address is given, to his or her last known address; or if it is not
20 known, at the county seat of the county in which his or her land lies.
21 The notice shall describe the territory and shall fix a time, not less
22 than two weeks from the date of mailing, when all persons interested
23 may appear before the county commissioners and be heard.

24 The boundaries of a district lying in a city shall not be altered
25 unless the governing board of the city, by resolution, consents to the
26 alteration.

27 **Sec. 464.** RCW 17.28.090 and 1957 c 153 s 9 are each amended to
28 read as follows:

29 If, from the testimony given before the county commissioners, it
30 appears to that board that the public necessity or welfare requires the
31 formation of the district, it shall, by an order entered on its
32 minutes, declare that to be its finding, and shall further declare and
33 order that the territory within the boundaries so fixed and determined
34 be organized as a district, under an appropriate name to be selected by
35 the county commissioners, subject to approval of the voters of the

1 district as hereinafter provided. The name shall contain the words
2 "mosquito control district."

3 At the time of the declaration establishing and naming the
4 district, the county commissioners shall by resolution call a special
5 election to be held not less than thirty days and not more than sixty
6 days from the date thereof, and shall cause to be published a notice of
7 such election at least once a week for three consecutive weeks in a
8 newspaper of general circulation in the county, setting forth the hours
9 during which the polls will be open, the boundaries of the proposed
10 district as finally adopted, and the object of the election. If any
11 portion of the proposed district lies in another county, a notice of
12 such election shall likewise be published in that county.

13 The election on the formation of the mosquito control district
14 shall be conducted by the auditor of the county in which the greater
15 area of the proposed district is located in accordance with the general
16 election laws of the state and the results thereof shall be canvassed
17 by that county's canvassing board. For the purpose of conducting an
18 election under this section, the auditor of the county in which the
19 greater area of the proposed district is located may appoint the
20 auditor of any county or the city clerk of any city lying wholly or
21 partially within the proposed district as his or her deputies. No
22 person shall be entitled to vote at such election unless he or she is
23 a qualified voter under the laws of the state in effect at the time of
24 such election and has resided within the mosquito control district for
25 at least thirty days preceding the date of the election. The ballot
26 proposition shall be in substantially the following form:

27 "Shall a mosquito control district be established for the
28 area described in a resolution of the board of
29 commissioners of county adopted on the day
30 of, 19...?
31 YES
32 NO

33 If a majority of the persons voting on the proposition shall vote
34 in favor thereof, the mosquito control district shall thereupon be
35 established and the county commissioners of the county in which the
36 greater area of the district is situated shall immediately file for
37 record in the office of the county auditor of each county in which any

1 portion of the land embraced in the district is situated, and shall
2 also forward to the county commissioners of each of the other counties,
3 if any, in which any portion of the district is situated, and also
4 shall file with the secretary of state, a certified copy of the order
5 of the county commissioners. From and after the date of the filing of
6 the certified copy with the secretary of state, the district named
7 therein is organized as a district, with all the rights, privileges,
8 and powers set forth in this chapter, or necessarily incident thereto.

9 If a majority of the persons voting on the proposition shall vote
10 in favor thereof, all expenses of the election shall be paid by the
11 mosquito control district when organized. If the proposition fails to
12 receive a majority of votes in favor, the expenses of the election
13 shall be borne by the respective counties in which the district is
14 located in proportion to the number of votes cast in said counties.

15 **Sec. 465.** RCW 17.28.120 and 1957 c 153 s 12 are each amended to
16 read as follows:

17 The district board shall be called "The board of trustees of
18 mosquito control district."

19 Each member of the board appointed by the governing body of a city
20 shall be an elector of the city from which he or she is appointed and
21 a resident of that portion of the city which is in the district.

22 Each member appointed from a county or portion of a county shall be
23 an elector of the county and a resident of that portion of the county
24 which is in the district.

25 Each member appointed at large shall be an elector of the district.

26 **Sec. 466.** RCW 17.28.130 and 1957 c 153 s 13 are each amended to
27 read as follows:

28 The members of the first board in any district shall classify
29 themselves by lot at their first meeting so that:

30 (1) If the total membership is an even number, the terms of one-
31 half the members will expire at the end of one year, and the terms of
32 the remainder at the end of two years, from the second day of the
33 calendar year next succeeding their appointment.

34 (2) If the total membership is an odd number, the terms of a bare
35 majority of the members will expire at the end of one year, and the

1 terms of the remainder at the end of two years, from the second day of
2 the calendar year next succeeding their appointment.

3 The term of each subsequent member is two years from and after the
4 expiration of the term of his or her predecessor.

5 In event of the resignation, death, or disability of any member,
6 his or her successor shall be appointed by the governing body which
7 appointed him or her.

8 **Sec. 467.** RCW 17.28.250 and 1957 c 153 s 25 are each amended to
9 read as follows:

10 Any person who obstructs, hinders, or interferes with the entry
11 upon any land within the district of any officer or employee of the
12 district in the performance of his or her duty, and any person who
13 obstructs, interferes with, molests, or damages any work performed by
14 the district, is guilty of a misdemeanor.

15 **Sec. 468.** RCW 17.28.258 and 1959 c 64 s 10 are each amended to
16 read as follows:

17 The county treasurer shall collect all mosquito control district
18 assessments, and the duties and responsibilities herein imposed upon
19 him or her shall be among the duties and responsibilities of his or her
20 office for which his or her bond is given as county treasurer. The
21 collection and disposition of revenue from such assessments and the
22 depository thereof shall be the same as for tax revenues of such
23 districts as provided in RCW 17.28.270.

24 **Sec. 469.** RCW 17.28.310 and 1957 c 153 s 31 are each amended to
25 read as follows:

26 It shall be the duty of the assessor of each county lying wholly or
27 partially within the district to certify annually to the board the
28 aggregate assessed valuation of all taxable property in his or her
29 county situated in any mosquito control district as the same appears
30 from the last assessment roll of his or her county.

31 **Sec. 470.** RCW 17.28.430 and 1957 c 153 s 43 are each amended to
32 read as follows:

33 Should two-thirds or more of the votes at the election favor
34 dissolution the district board shall certify that fact to the secretary

1 of state. Upon receipt of such certification the secretary of state
2 shall issue his or her certificate reciting that the district (naming
3 it) has been dissolved, and shall transmit to and file a copy with the
4 county clerk of each county in which any portion of the district is
5 situated.

6 After the date of the certificate of the secretary of state, the
7 district is dissolved.

8 **Sec. 471.** RCW 17.34.040 and 1969 ex.s. c 130 s 4 are each amended
9 to read as follows:

10 The compact administrator for this state shall be the director of
11 agriculture. The duties of the compact administrator shall be deemed
12 a regular part of his or her office.

13 **Sec. 472.** RCW 17.34.050 and 1969 ex.s. c 130 s 5 are each amended
14 to read as follows:

15 Within the meaning of Article VI(B) or VIII(A), a request or
16 application for assistance from the insurance fund may be made by the
17 director of agriculture whenever in his or her judgment the conditions
18 qualifying this state for such assistance exist and it would be in the
19 best interest of this state to make such request.

20 **Sec. 473.** RCW 17.34.060 and 1969 ex.s. c 130 s 6 are each amended
21 to read as follows:

22 The department, agency, or officer expending or becoming liable for
23 an expenditure on account of a control or eradication program
24 undertaken or intensified pursuant to the compact shall have credited
25 to his or her account in the state treasury the amount or amounts of
26 any payments made to this state to defray the cost of such program, or
27 any part thereof, or as reimbursement thereof.

28 **Sec. 474.** RCW 18.27.080 and 2007 c 436 s 5 are each amended to
29 read as follows:

30 No person engaged in the business or acting in the capacity of a
31 contractor may bring or maintain any action in any court of this state
32 for the collection of compensation for the performance of any work or
33 for breach of any contract for which registration is required under
34 this chapter without alleging and proving that he or she was a duly

1 registered contractor and held a current and valid certificate of
2 registration at the time he or she contracted for the performance of
3 such work or entered into such contract. For the purposes of this
4 section, the court shall not find a contractor in substantial
5 compliance with the registration requirements of this chapter unless:
6 (1) The department has on file the information required by RCW
7 18.27.030; (2) the contractor has at all times had in force a current
8 bond or other security as required by RCW 18.27.040; and (3) the
9 contractor has at all times had in force current insurance as required
10 by RCW 18.27.050. In determining under this section whether a
11 contractor is in substantial compliance with the registration
12 requirements of this chapter, the court shall take into consideration
13 the length of time during which the contractor did not hold a valid
14 certificate of registration.

15 **Sec. 475.** RCW 18.27.100 and 2008 c 120 s 2 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 18.27.065 for partnerships and joint
18 ventures, no person who has registered under one name as provided in
19 this chapter shall engage in the business, or act in the capacity, of
20 a contractor under any other name unless such name also is registered
21 under this chapter.

22 (2) All advertising and all contracts, correspondence, cards,
23 signs, posters, papers, and documents which show a contractor's name or
24 address shall show the contractor's name or address as registered under
25 this chapter.

26 (3)(a) All advertising that shows the contractor's name or address
27 shall show the contractor's current registration number. The
28 registration number may be omitted in an alphabetized listing of
29 registered contractors stating only the name, address, and telephone
30 number: PROVIDED, That signs on motor vehicles subject to RCW
31 (~~46.16.010~~) 46.16A.030 and on-premise signs shall not constitute
32 advertising as provided in this section. All materials used to
33 directly solicit business from retail customers who are not businesses
34 shall show the contractor's current registration number. A contractor
35 shall not use a false or expired registration number in purchasing or
36 offering to purchase an advertisement for which a contractor

1 registration number is required. Advertising by airwave transmission
2 shall not be subject to this subsection (3)(a).

3 (b) The director may issue a subpoena to any person or entity
4 selling any advertising subject to this section for the name, address,
5 and telephone number provided to the seller of the advertising by the
6 purchaser of the advertising. The subpoena must have enclosed a
7 stamped, self-addressed envelope and blank form to be filled out by the
8 seller of the advertising. If the seller of the advertising has the
9 information on file, the seller shall, within a reasonable time, return
10 the completed form to the department. The subpoena must be issued no
11 more than two days after the expiration of the issue or publication
12 containing the advertising or after the broadcast of the advertising.
13 The good-faith compliance by a seller of advertising with a written
14 request of the department for information concerning the purchaser of
15 advertising shall constitute a complete defense to any civil or
16 criminal action brought against the seller of advertising arising from
17 such compliance. Advertising by airwave or electronic transmission is
18 subject to this subsection (3)(b).

19 (4) No contractor shall advertise that he or she is bonded and
20 insured because of the bond required to be filed and sufficiency of
21 insurance as provided in this chapter.

22 (5) A contractor shall not falsify a registration number and use
23 it, or use an expired registration number, in connection with any
24 solicitation or identification as a contractor. All individual
25 contractors and all partners, associates, agents, (~~salesmen~~)
26 salespersons, solicitors, officers, and employees of contractors shall
27 use their true names and addresses at all times while engaged in the
28 business or capacity of a contractor or activities related thereto.

29 (6) Any advertising by a person, firm, or corporation soliciting
30 work as a contractor when that person, firm, or corporation is not
31 registered pursuant to this chapter is a violation of this chapter.

32 (7) An applicant or registrant who falsifies information on an
33 application for registration commits a violation under this section.

34 (8)(a) The finding of a violation of this section by the director
35 at a hearing held in accordance with the Administrative Procedure Act,
36 chapter 34.05 RCW, shall subject the person committing the violation to
37 a penalty of not more than ten thousand dollars as determined by the
38 director.

1 (b) Penalties under this section shall not apply to a violation
2 determined to be an inadvertent error.

3 **Sec. 476.** RCW 18.28.210 and 1967 c 201 s 21 are each amended to
4 read as follows:

5 The attorney general may accept an assurance of discontinuance of
6 any act or practice deemed in violation of this chapter in the
7 enforcement thereof from any person engaging in or who has engaged in
8 such act or practice. Any such assurance shall be in writing and be
9 filed with and subject to the approval of the superior court of the
10 county in which the alleged violator resides or has his or her
11 principal place of business, or in the alternative, in Thurston county.
12 Failure to perform the terms of any such assurance shall constitute
13 prima facie proof of a violation of this chapter for the purpose of
14 securing any injunction as provided for in RCW 18.28.200: PROVIDED,
15 That after commencement of any action by a prosecuting attorney, as
16 provided therein, the attorney general may not accept an assurance of
17 discontinuance without the consent of said prosecuting attorney.

18 **Sec. 477.** RCW 18.32.020 and 1996 c 259 s 1 are each amended to
19 read as follows:

20 A person practices dentistry, within the meaning of this chapter,
21 who (1) represents himself or herself as being able to diagnose, treat,
22 remove stains and concretions from teeth, operate or prescribe for any
23 disease, pain, injury, deficiency, deformity, or physical condition of
24 the human teeth, alveolar process, gums, or jaw, or (2) offers or
25 undertakes by any means or methods to diagnose, treat, remove stains or
26 concretions from teeth, operate or prescribe for any disease, pain,
27 injury, deficiency, deformity, or physical condition of the same, or
28 take impressions of the teeth or jaw, or (3) owns, maintains, or
29 operates an office for the practice of dentistry, or (4) engages in any
30 of the practices included in the curricula of recognized and approved
31 dental schools or colleges, or (5) professes to the public by any
32 method to furnish, supply, construct, reproduce, or repair any
33 prosthetic denture, bridge, appliance, or other structure to be worn in
34 the human mouth.

35 The fact that a person uses any dental degree, or designation, or

1 any card, device, directory, poster, sign, or other media whereby he or
2 she represents himself or herself to be a dentist, shall be prima facie
3 evidence that such person is engaged in the practice of dentistry.

4 X-ray diagnosis as to the method of dental practice in which the
5 diagnosis and examination is made of the normal and abnormal
6 structures, parts, or functions of the human teeth, the alveolar
7 process, maxilla, mandible or soft tissues adjacent thereto, is hereby
8 declared to be the practice of dentistry. Any person other than a
9 regularly licensed physician or surgeon who makes any diagnosis or
10 interpretation or explanation, or attempts to diagnose or to make any
11 interpretation or explanation of the registered shadow or shadows of
12 any part of the human teeth, alveolar process, maxilla, mandible or
13 soft tissues adjacent thereto by the use of X-ray is declared to be
14 engaged in the practice of dentistry, medicine, or surgery.

15 The practice of dentistry includes the performance of any dental or
16 oral and maxillofacial surgery. "Oral and maxillofacial surgery" means
17 the specialty of dentistry that includes the diagnosis and surgical and
18 adjunctive treatment of diseases, injuries, and defects of the hard and
19 soft tissues of the oral and maxillofacial region.

20 **Sec. 478.** RCW 18.32.735 and 1935 c 112 s 28 are each amended to
21 read as follows:

22 Any licensed dentist who shall permit any dental hygienist
23 operating under his or her supervision to perform any operation
24 required to be performed by a dentist under the provisions of this
25 chapter shall be guilty of a misdemeanor.

26 **Sec. 479.** RCW 18.34.010 and 2010 c 16 s 1 are each amended to read
27 as follows:

28 Nothing in this chapter shall:

29 (1) Be construed to limit or restrict a duly licensed physician or
30 optometrist or employees working under the personal supervision of a
31 duly licensed physician or optometrist from the practices enumerated in
32 this chapter, and each such licensed physician and optometrist shall
33 have all the rights and privileges which may accrue under this chapter
34 to dispensing opticians licensed hereunder;

35 (2) Be construed to prohibit or restrict practice by a regularly
36 enrolled student in a prescribed course in opticianry in a college or

1 university approved by the secretary whose performance of services is
2 pursuant to a regular course of instruction or assignments from an
3 instructor and under the supervision of a licensed dispensing optician,
4 optometrist, or ophthalmologist: PROVIDED, That persons practicing
5 under this section must be clearly identified as students;

6 (3) Be construed to prohibit an unlicensed person from performing
7 mechanical work upon inert matter in an optical office, laboratory, or
8 shop;

9 (4) Be construed to prohibit an unlicensed person from engaging in
10 the sale of spectacles, eyeglasses, magnifying glasses, goggles,
11 sunglasses, telescopes, binoculars, or any such articles which are
12 completely preassembled and sold only as merchandise;

13 (5) Be construed to authorize or permit a licensee hereunder to
14 hold himself or herself out as being able to, or to offer to, or to
15 undertake to attempt, by any manner of means, to examine or exercise
16 eyes, diagnose, treat, correct, relieve, operate, or prescribe for any
17 human ailment, deficiency, deformity, disease, or injury.

18 **Sec. 480.** RCW 18.43.010 and 1947 c 283 s 1 are each amended to
19 read as follows:

20 In order to safeguard life, health, and property, and to promote
21 the public welfare, any person in either public or private capacity
22 practicing or offering to practice engineering or land surveying, shall
23 hereafter be required to submit evidence that he or she is qualified so
24 to practice and shall be registered as hereinafter provided; and it
25 shall be unlawful for any person to practice or to offer to practice in
26 this state, engineering or land surveying, as defined in the provisions
27 of this chapter, or to use in connection with his or her name or
28 otherwise assume, use, or advertise any title or description tending to
29 convey the impression that he or she is a professional engineer or a
30 land surveyor, unless such a person has been duly registered under the
31 provisions of this chapter.

32 **Sec. 481.** RCW 18.43.030 and 1986 c 102 s 1 are each amended to
33 read as follows:

34 A state board of registration for professional engineers and land
35 surveyors is hereby created which shall exercise all of the powers and
36 perform all of the duties conferred upon it by this chapter. After

1 July 9, 1986, the board shall consist of seven members, who shall be
2 appointed by the governor and shall have the qualifications as
3 hereinafter required. The terms of board members in office on June 11,
4 1986, shall not be affected. The first additional member shall be
5 appointed for a four-year term and the second additional member shall
6 be appointed for a three-year term. On the expiration of the term of
7 any member, the governor shall appoint a successor for a term of five
8 years to take the place of the member whose term on said board is about
9 to expire. However, no member shall serve more than two consecutive
10 terms on the board. Each member shall hold office until the expiration
11 of the term for which such member is appointed or until a successor
12 shall have been duly appointed and shall have qualified.

13 Five members of the board shall be registered professional
14 engineers licensed under the provisions of this chapter. Two members
15 shall be registered professional land surveyors licensed under this
16 chapter. Each of the members of the board shall have been actively
17 engaged in the practice of engineering or land surveying for at least
18 ten years subsequent to registration, five of which shall have been
19 immediately prior to their appointment to the board.

20 Each member of the board shall be a citizen of the United States
21 and shall have been a resident of this state for at least five years
22 immediately preceding his or her appointment.

23 Each member of the board shall be compensated in accordance with
24 RCW 43.03.240 and, in addition thereto, shall be reimbursed for travel
25 expenses incurred in carrying out the provisions of this chapter in
26 accordance with RCW 43.03.050 and 43.03.060.

27 The governor may remove any member of the board for misconduct,
28 incompetency, or neglect of duty. Vacancies in the membership of the
29 board shall be filled for the unexpired term by appointment by the
30 governor as hereinabove provided.

31 **Sec. 482.** RCW 18.43.070 and 1995 c 356 s 4 are each amended to
32 read as follows:

33 The director of licensing shall issue a certificate of registration
34 upon payment of a registration fee as provided for in this chapter, to
35 any applicant who, in the opinion of the board, has satisfactorily met
36 all the requirements of this chapter. In case of a registered
37 engineer, the certificate shall authorize the practice of "professional

1 engineering" and specify the branch or branches in which specialized,
2 and in case of a registered land surveyor, the certificate shall
3 authorize the practice of "land surveying."

4 In case of engineer-in-training, the certificate shall state that
5 the applicant has successfully passed the examination in fundamental
6 engineering subjects required by the board and has been enrolled as an
7 "engineer-in-training." In case of land-surveyor-in-training, the
8 certificate shall state that the applicant has successfully passed the
9 examination in fundamental surveying subjects required by the board and
10 has been enrolled as a "land-surveyor-in-training." All certificates
11 of registration shall show the full name of the registrant, shall have
12 a serial number, and shall be signed by the (~~chairman~~) chair and the
13 secretary of the board and by the director of licensing.

14 The issuance of a certificate of registration by the director of
15 licensing shall be prima facie evidence that the person named therein
16 is entitled to all the rights and privileges of a registered
17 professional engineer or a registered land surveyor, while the said
18 certificate remains unrevoked and unexpired.

19 Each registrant hereunder shall upon registration obtain a seal of
20 the design authorized by the board, bearing the registrant's name and
21 the legend "registered professional engineer" or "registered land
22 surveyor." Plans, specifications, plats, and reports prepared by the
23 registrant shall be signed, dated, and stamped with said seal or
24 facsimile thereof. Such signature and stamping shall constitute a
25 certification by the registrant that the same was prepared by or under
26 his or her direct supervision and that to his or her knowledge and
27 belief the same was prepared in accordance with the requirements of the
28 statute. It shall be unlawful for anyone to stamp or seal any document
29 with said seal or facsimile thereof after the certificate of registrant
30 named thereon has expired or been revoked, unless said certificate
31 shall have been renewed or reissued.

32 **Sec. 483.** RCW 18.43.120 and 1986 c 102 s 4 are each amended to
33 read as follows:

34 Any person who shall practice, or offer to practice, engineering or
35 land surveying in this state without being registered in accordance
36 with the provisions of the chapter, or any person presenting or
37 attempting to use as his or her own the certificate of registration or

1 the seal of another, or any person who shall give any false or forged
2 evidence of any kind to the board or to any member thereof in obtaining
3 a certificate of registration, or any person who shall falsely
4 impersonate any other registrant, or any person who shall attempt to
5 use the expired or revoked certificate of registration, or any person
6 who shall violate any of the provisions of this chapter shall be guilty
7 of a gross misdemeanor.

8 It shall be the duty of all officers of the state or any political
9 subdivision thereof, to enforce the provisions of this chapter. The
10 attorney general shall act as legal adviser of the board, and render
11 such legal assistance as may be necessary in carrying out the
12 provisions of this chapter.

13 **Sec. 484.** RCW 18.44.500 and 1995 c 238 s 3 are each amended to
14 read as follows:

15 There is established an escrow commission of the state of
16 Washington, to consist of the director of financial institutions or his
17 or her designee as (~~chairman~~) chair, and five other members who shall
18 act as advisors to the director as to the needs of the escrow
19 profession, including but not limited to the design and conduct of
20 tests to be administered to applicants for escrow licenses, the
21 schedule of license fees to be applied to the escrow licensees,
22 educational programs, audits and investigations of the escrow
23 profession designed to protect the consumer, and such other matters
24 determined appropriate. The director is hereby empowered to and shall
25 appoint the other members, each of whom shall have been a resident of
26 this state for at least five years and shall have at least five years
27 experience in the practice of escrow as an escrow agent or as a person
28 in responsible charge of escrow transactions.

29 The members of the first commission shall serve for the following
30 terms: One member for one year, one member for two years, one member
31 for three years, one member for four years, and one member for five
32 years, from the date of their appointment, or until their successors
33 are duly appointed and qualified. Every member of the commission shall
34 receive a certificate of appointment from the director and before
35 beginning the member's term of office shall file with the secretary of
36 state a written oath or affirmation for the faithful discharge of the
37 member's official duties. On the expiration of the term of each

1 member, the director shall appoint a successor to serve for a term of
2 five years or until the member's successor has been appointed and
3 qualified.

4 The director may remove any member of the commission for cause.
5 Vacancies in the commission for any reason shall be filled by
6 appointment for the unexpired term.

7 Members shall be compensated in accordance with RCW 43.03.240, and
8 shall be reimbursed for their travel expenses incurred in carrying out
9 the provisions of this chapter in accordance with RCW 43.03.050 and
10 43.03.060.

11 **Sec. 485.** RCW 18.44.901 and 1965 c 153 s 20 are each amended to
12 read as follows:

13 Nothing in this chapter shall be so construed as to authorize any
14 escrow agent, or his or her employees or agents, to engage in the
15 practice of law, and nothing in this chapter shall be so construed as
16 to impose any additional liability on any depository authorized by this
17 chapter and the receipt or acquittance of the persons so paid by such
18 depository shall be a valid and sufficient release and discharge of
19 such depository.

20 **Sec. 486.** RCW 18.51.060 and 1989 c 372 s 8 are each amended to
21 read as follows:

22 (1) In any case in which the department finds that a licensee, or
23 any partner, officer, director, owner of five percent or more of the
24 assets of the nursing home, or managing employee failed or refused to
25 comply with the requirements of this chapter or of chapter 74.42 RCW,
26 or the standards, rules, and regulations established under them or, in
27 the case of a medicaid contractor, failed or refused to comply with the
28 medicaid requirements of Title XIX of the social security act, as
29 amended, and regulations promulgated thereunder, the department may
30 take any or all of the following actions:

31 (a) Suspend, revoke, or refuse to renew a license;

32 (b) Order stop placement;

33 (c) Assess monetary penalties of a civil nature;

34 (d) Deny payment to a nursing home for any medicaid resident
35 admitted after notice to deny payment. Residents who are medicaid

1 recipients shall not be responsible for payment when the department
2 takes action under this subsection;

3 (e) Appoint temporary management as provided in subsection (7) of
4 this section.

5 (2) The department may suspend, revoke, or refuse to renew a
6 license, assess monetary penalties of a civil nature, or both, in any
7 case in which it finds that the licensee, or any partner, officer,
8 director, owner of five percent or more of the assets of the nursing
9 home, or managing employee:

10 (a) Operated a nursing home without a license or under a revoked or
11 suspended license; or

12 (b) Knowingly or with reason to know made a false statement of a
13 material fact in his or her application for license or any data
14 attached thereto, or in any matter under investigation by the
15 department; or

16 (c) Refused to allow representatives or agents of the department to
17 inspect all books, records, and files required to be maintained or any
18 portion of the premises of the nursing home; or

19 (d) Willfully prevented, interfered with, or attempted to impede in
20 any way the work of any duly authorized representative of the
21 department and the lawful enforcement of any provision of this chapter
22 or of chapter 74.42 RCW; or

23 (e) Willfully prevented or interfered with any representative of
24 the department in the preservation of evidence of any violation of any
25 of the provisions of this chapter or of chapter 74.42 RCW or the
26 standards, rules, and regulations adopted under them; or

27 (f) Failed to report patient abuse or neglect in violation of
28 chapter 70.124 RCW; or

29 (g) Fails to pay any civil monetary penalty assessed by the
30 department pursuant to this chapter within ten days after such
31 assessment becomes final.

32 (3) The department shall deny payment to a nursing home having a
33 medicaid contract with respect to any medicaid-eligible individual
34 admitted to the nursing home when:

35 (a) The department finds the nursing home not in compliance with
36 the requirements of Title XIX of the social security act, as amended,
37 and regulations promulgated thereunder, and the facility has not

1 complied with such requirements within three months; in such case, the
2 department shall deny payment until correction has been achieved; or

3 (b) The department finds on three consecutive standard surveys that
4 the nursing home provided substandard quality of care; in such case,
5 the department shall deny payment for new admissions until the facility
6 has demonstrated to the satisfaction of the department that it is in
7 compliance with medicaid requirements and that it will remain in
8 compliance with such requirements.

9 (4)(a) Civil penalties collected under this section or under
10 chapter 74.42 RCW shall be deposited into a special fund administered
11 by the department to be applied to the protection of the health or
12 property of residents of nursing homes found to be deficient, including
13 payment for the costs of relocation of residents to other facilities,
14 maintenance of operation of a facility pending correction of
15 deficiencies or closure, and reimbursement of residents for personal
16 funds lost.

17 (b) Civil monetary penalties, if imposed, may be assessed and
18 collected, with interest, for each day a nursing home is or was out of
19 compliance. Civil monetary penalties shall not exceed three thousand
20 dollars per violation. Each day upon which the same or a substantially
21 similar action occurs is a separate violation subject to the assessment
22 of a separate penalty.

23 (c) Any civil penalty assessed under this section or chapter 74.46
24 RCW shall be a nonreimbursable item under chapter 74.46 RCW.

25 (5)(a) The department shall order stop placement on a nursing home,
26 effective upon oral or written notice, when the department determines:

27 (i) The nursing home no longer substantially meets the requirements
28 of chapter 18.51 or 74.42 RCW, or in the case of medicaid contractors,
29 the requirements of Title XIX of the social security act, as amended,
30 and any regulations promulgated under such statutes; and

31 (ii) The deficiency or deficiencies in the nursing home:

32 (A) Jeopardize the health and safety of the residents, or

33 (B) Seriously limit the nursing home's capacity to provide adequate
34 care.

35 (b) When the department has ordered a stop placement, the
36 department may approve a readmission to the nursing home from a
37 hospital when the department determines the readmission would be in the
38 best interest of the individual seeking readmission.

1 (c) The department shall terminate the stop placement when:

2 (i) The provider states in writing that the deficiencies
3 necessitating the stop placement action have been corrected; and

4 (ii) The department staff confirms in a timely fashion not to
5 exceed fifteen working days that:

6 (A) The deficiencies necessitating stop placement action have been
7 corrected, and

8 (B) The provider exhibits the capacity to maintain adequate care
9 and service.

10 (d) A nursing home provider shall have the right to an informal
11 review to present written evidence to refute the deficiencies cited as
12 the basis for the stop placement. A request for an informal review
13 must be made in writing within ten days of the effective date of the
14 stop placement.

15 (e) A stop placement shall not be delayed or suspended because the
16 nursing home requests a hearing pursuant to chapter 34.05 RCW or an
17 informal review. The stop placement shall remain in effect until:

18 (i) The department terminates the stop placement; or

19 (ii) The stop placement is terminated by a final agency order,
20 after a hearing, pursuant to chapter 34.05 RCW.

21 (6) If the department determines that an emergency exists as a
22 result of a nursing home's failure or refusal to comply with
23 requirements of this chapter or, in the case of a medicaid contractor,
24 its failure or refusal to comply with medicaid requirements of Title
25 XIX of the social security act, as amended, and rules adopted
26 thereunder, the department may suspend the nursing home's license and
27 order the immediate closure of the nursing home, the immediate transfer
28 of residents, or both.

29 (7) If the department determines that the health or safety of
30 residents is immediately jeopardized as a result of a nursing home's
31 failure or refusal to comply with requirements of this chapter or, in
32 the case of a medicaid contractor, its failure or refusal to comply
33 with medicaid requirements of Title XIX of the social security act, as
34 amended, and rules adopted thereunder, the department may appoint
35 temporary management to:

36 (a) Oversee the operation of the facility; and

37 (b) Ensure the health and safety of the facilities residents while:

38 (i) Orderly closure of the facility occurs; or

1 (ii) The deficiencies necessitating temporary management are
2 corrected.

3 (8) The department shall by rule specify criteria as to when and
4 how the sanctions specified in this section shall be applied. Such
5 criteria shall provide for the imposition of incrementally more severe
6 penalties for deficiencies that are repeated, uncorrected, pervasive,
7 or present a threat to the health, safety, or welfare of the residents.

8 **Sec. 487.** RCW 18.51.200 and 1981 1st ex.s. c 2 s 21 are each
9 amended to read as follows:

10 Upon receipt of a complaint, the department shall make a
11 preliminary review of the complaint. Unless the department determines
12 that the complaint is ((~~wilfully~~)) willfully intended to harass a
13 licensee or is without any reasonable basis, or unless the department
14 has sufficient information that corrective action has been taken, it
15 shall make an on-site investigation within a reasonable time after the
16 receipt of the complaint or otherwise ensure complaints are responded
17 to. In either event, the complainant shall be promptly informed of the
18 department's proposed course of action. If the complainant requests
19 the opportunity to do so, the complainant or his or her representative,
20 or both, may be allowed to accompany the inspector to the site of the
21 alleged violations during his or her tour of the facility, unless the
22 inspector determines that the privacy of any patient would be violated
23 thereby.

24 **Sec. 488.** RCW 18.52.040 and 1992 c 53 s 4 are each amended to read
25 as follows:

26 The state board of nursing home administrators shall consist of
27 nine members appointed by the governor. Four members shall be persons
28 licensed under this chapter who have at least four years actual
29 experience in the administration of a licensed nursing home in this
30 state immediately preceding appointment to the board and who are not
31 employed by the state or federal government.

32 Four members shall be representatives of the health care
33 professions providing medical or nursing services in nursing homes who
34 are privately or self-employed; or shall be persons employed by
35 educational institutions who have special knowledge or expertise in the

1 field of health care administration, health care education or long-term
2 care or both, or care of the aged and chronically ill.

3 One member shall be a resident of a nursing home or a family member
4 of a resident or a person eligible for medicare. No member who is a
5 nonadministrator representative shall have any direct or family
6 financial interest in nursing homes while serving as a member of the
7 board. The governor shall consult with and seek the recommendations of
8 the appropriate statewide business and professional organizations and
9 societies primarily concerned with long term health care facilities in
10 the course of considering his or her appointments to the board. Board
11 members currently serving shall continue to serve until the expiration
12 of their appointments.

13 **Sec. 489.** RCW 18.54.030 and 1984 c 279 s 54 are each amended to
14 read as follows:

15 The initial composition of the optometry board includes the three
16 members of the examining committee for optometry plus two more
17 optometrists to be appointed by the governor.

18 The governor must make all appointments to the optometry board.
19 Only optometrists who are citizens of the United States, residents of
20 this state, having been licensed to practice and practicing optometry
21 in this state for a period of at least four years immediately preceding
22 the effective date of appointment, and who have no connection with any
23 school or college embracing the teaching of optometry or with any
24 optical supply business may be appointed.

25 The governor may set the terms of office of the initial board at
26 his or her discretion, to establish the following perpetual succession:
27 The terms of the initial board include one position for one year, two
28 for two years, and two for three years; and upon the expiration of the
29 terms of the initial board, all appointments are for three years.

30 In addition to the members specified in this section, the governor
31 shall appoint a consumer member of the board, who shall serve for a
32 term of three years.

33 In the event that a vacancy occurs on the board in the middle of an
34 appointee's term, the governor must appoint a successor for the
35 unexpired portion of the term only.

1 **Sec. 490.** RCW 18.54.040 and 1963 c 25 s 4 are each amended to read
2 as follows:

3 The board must elect a ((~~chairman~~)) chair and secretary from its
4 members, to serve for a term of one year or until their successors are
5 elected and qualified.

6 **Sec. 491.** RCW 18.54.050 and 1991 c 3 s 139 are each amended to
7 read as follows:

8 The board must meet at least once yearly or more frequently upon
9 call of the ((~~chairman~~)) chair or the secretary of health at such times
10 and places as the ((~~chairman~~)) chair or the secretary of health may
11 designate by giving three days' notice or as otherwise required by RCW
12 42.30.075.

13 **Sec. 492.** RCW 18.59.120 and 1984 c 9 s 13 are each amended to read
14 as follows:

15 (1) There is established a board of occupational therapy practice.
16 The board shall consist of five members appointed by the governor, who
17 may consider the persons who are recommended for appointment by
18 occupational therapy associations of the state. The members of the
19 board shall be residents of the state. Four of the members shall have
20 been engaged in rendering services to the public, teaching, or research
21 in occupational therapy for at least five years immediately preceding
22 their appointment. Three of these four board members shall be
23 occupational therapists who shall at all times be holders of licenses
24 for the practice of occupational therapy in the state, except for the
25 initial members of the board, all of whom shall fulfill the
26 requirements for licensure under this chapter. At least one member of
27 the board shall be an occupational therapy assistant licensed to assist
28 in the practice of occupational therapy, except for the initial member
29 appointed to this position, who shall fulfill the requirements for
30 licensure as a occupational therapy assistant under this chapter. The
31 remaining member of the board shall be a member of the public with an
32 interest in the rights of consumers of health services.

33 (2) The governor shall, within sixty days after June 7, 1984,
34 appoint one member for a term of one year, two members for a term of
35 two years, and two members for a term of three years. Appointments
36 made thereafter shall be for three-year terms, but no person shall be

1 appointed to serve more than two consecutive full terms. Terms shall
2 begin on the first day of the calendar year and end on the last day of
3 the calendar year or until successors are appointed, except for the
4 initial appointed members, who shall serve through the last calendar
5 day of the year in which they are appointed before commencing the terms
6 prescribed by this section. The governor shall make appointments for
7 vacancies in unexpired terms within ninety days after the vacancies
8 occur.

9 (3) The board shall meet during the first month of each calendar
10 year to select a ((~~chairman~~)) chair and for other purposes. At least
11 one additional meeting shall be held before the end of each calendar
12 year. Further meetings may be convened at the call of the ((~~chairman~~))
13 chair or the written request of any two board members. A majority of
14 members of the board constitutes a quorum for all purposes. All
15 meetings of the board shall be open to the public, except that the
16 board may hold closed sessions to prepare, approve, grade, or
17 administer examinations or, upon request of an applicant who fails an
18 examination, to prepare a response indicating the reasons for the
19 applicant's failure.

20 (4) Members of the board shall receive compensation in the amount
21 of fifty dollars for each day's attendance at proper meetings of the
22 committee.

23 **Sec. 493.** RCW 18.64.001 and 1984 c 153 s 1 are each amended to
24 read as follows:

25 There shall be a state board of pharmacy consisting of seven
26 members, to be appointed by the governor by and with the advice and
27 consent of the senate. Five of the members shall be designated as
28 pharmacist members and two of the members shall be designated a public
29 member.

30 Each pharmacist member shall be a citizen of the United States and
31 a resident of this state, and at the time of his or her appointment
32 shall have been a duly registered pharmacist under the laws of this
33 state for a period of at least five consecutive years immediately
34 preceding his or her appointment and shall at all times during his or
35 her incumbency continue to be a duly licensed pharmacist: PROVIDED,
36 That subject to the availability of qualified candidates the governor

1 shall appoint pharmacist members representative of the areas of
2 practice and geographically representative of the state of Washington.

3 The public member shall be a citizen of the United States and a
4 resident of this state. The public member shall be appointed from the
5 public at large, but shall not be affiliated with any aspect of
6 pharmacy.

7 Members of the board shall hold office for a term of four years,
8 and the terms shall be staggered so that the terms of office of not
9 more than two members will expire simultaneously on the third Monday in
10 January of each year.

11 No person who has been appointed to and served for two four year
12 terms shall be eligible for appointment to the board.

13 Each member shall qualify by taking the usual oath of a state
14 officer, which shall be filed with the secretary of state, and each
15 member shall hold office for the term of his or her appointment and
16 until his or her successor is appointed and qualified.

17 In case of the resignation or disqualification of a member, or a
18 vacancy occurring from any cause, the governor shall appoint a
19 successor for the unexpired term.

20 **Sec. 494.** RCW 18.64.050 and 1989 1st ex.s. c 9 s 419 are each
21 amended to read as follows:

22 In the event that a license or certificate issued by the department
23 is lost or destroyed, the person to whom it was issued may obtain a
24 duplicate thereof upon furnishing proof of such fact satisfactory to
25 the department and the payment of a fee determined by the secretary.

26 In the event any person desires any certified document to which he
27 or she is entitled, he or she shall receive the same upon payment of a
28 fee determined by the secretary.

29 **Sec. 495.** RCW 18.64.255 and 1995 c 319 s 7 are each amended to
30 read as follows:

31 Nothing in this chapter shall operate in any manner:

32 (1) To restrict the scope of authorized practice of any
33 practitioner other than a pharmacist, duly licensed as such under the
34 laws of this state. However, a health care entity shall comply with
35 all state and federal laws and rules relating to the dispensing of
36 drugs and the practice of pharmacy; or

1 (2) In the absence of the pharmacist from the hospital pharmacy, to
2 prohibit a registered nurse designated by the hospital and the
3 responsible pharmacist from obtaining from the hospital pharmacy such
4 drugs as are needed in an emergency: PROVIDED, That proper record is
5 kept of such emergency, including the date, time, name of prescriber,
6 the name of the nurse obtaining the drugs, and a list of what drugs and
7 quantities of same were obtained; or

8 (3) To prevent shopkeepers, itinerant vendors, peddlers, or
9 (~~salesmen~~) salespersons from dealing in and selling nonprescription
10 drugs, if such drugs are sold in the original packages of the
11 manufacturer, or in packages put up by a licensed pharmacist in the
12 manner provided by the state board of pharmacy, if such shopkeeper,
13 itinerant vendor, (~~salesman~~) salesperson, or peddler shall have
14 obtained a registration.

15 **Sec. 496.** RCW 18.71.011 and 1975 1st ex.s. c 171 s 15 are each
16 amended to read as follows:

17 A person is practicing medicine if he or she does one or more of
18 the following:

19 (1) Offers or undertakes to diagnose, cure, advise, or prescribe
20 for any human disease, ailment, injury, infirmity, deformity, pain or
21 other condition, physical or mental, real or imaginary, by any means or
22 instrumentality;

23 (2) Administers or prescribes drugs or medicinal preparations to be
24 used by any other person;

25 (3) Severs or penetrates the tissues of human beings;

26 (4) Uses on cards, books, papers, signs, or other written or
27 printed means of giving information to the public, in the conduct of
28 any occupation or profession pertaining to the diagnosis or treatment
29 of human disease or conditions the designation "doctor of medicine,"
30 "physician," "surgeon," "m.d." or any combination thereof unless such
31 designation additionally contains the description of another branch of
32 the healing arts for which a person has a license: PROVIDED HOWEVER,
33 That a person licensed under this chapter shall not engage in the
34 practice of chiropractic as defined in RCW 18.25.005.

35 **Sec. 497.** RCW 18.71.220 and 1971 ex.s. c 305 s 4 are each amended
36 to read as follows:

1 No physician or hospital licensed in this state shall be subject to
2 civil liability, based solely upon failure to obtain consent in
3 rendering emergency medical, surgical, hospital, or health services to
4 any individual regardless of age where its patient is unable to give
5 his or her consent for any reason and there is no other person
6 reasonably available who is legally authorized to consent to the
7 providing of such care: PROVIDED, That such physician or hospital has
8 acted in good faith and without knowledge of facts negating consent.

9 **Sec. 498.** RCW 18.74.125 and 1961 c 64 s 10 are each amended to
10 read as follows:

11 Nothing in this chapter shall prohibit any person licensed in this
12 state under any other act from engaging in the practice for which he or
13 she is licensed. Nothing in this chapter shall prohibit any person
14 who, at any time prior to January 1, 1961, was practicing any healing
15 or manipulative art in the state of Washington and designating the same
16 as physical therapy or physiotherapy, from continuing to do so after
17 the passage of this amendatory act: PROVIDED, That no such person
18 shall represent himself or herself as being registered and shall not
19 use in connection with his or her name the words or letters
20 "registered" or "licensed" or "R.P.T."

21 **Sec. 499.** RCW 18.92.115 and 1991 c 3 s 244 are each amended to
22 read as follows:

23 Any applicant who shall fail to secure the required grade in his or
24 her first examination may take the next regular veterinary examination.
25 The fee for reexamination shall be determined by the secretary as
26 provided in RCW 43.70.250.

27 **Sec. 500.** RCW 18.92.150 and 1941 c 71 s 18 are each amended to
28 read as follows:

29 Every person holding a license under the provisions of this chapter
30 shall conspicuously display it in his or her principal place of
31 business, together with the annual renewal license certificate.

32 **Sec. 501.** RCW 18.96.040 and 2009 c 370 s 5 are each amended to
33 read as follows:

1 (1)(a) There is created a licensure board for landscape architects
2 consisting of five members appointed by the governor.

3 (b) Four members shall be licensed landscape architects who are
4 residents of the state and have at least eight years' experience in the
5 practice of landscape architecture as registered or licensed landscape
6 architects in responsible charge of landscape architectural work or
7 responsible charge of landscape architectural teaching. One member
8 shall be a public member, who is not and has never been a registered or
9 licensed landscape architect and who does not employ and is not
10 employed by or professionally or financially associated with a
11 landscape architect.

12 (c) The term of each newly appointed member shall be six years.

13 (2)(a) Every member of the board shall receive a certificate of
14 appointment from the governor. On the expiration of the term of each
15 member, the governor shall appoint a successor to serve for a term of
16 six years or until the next successor has been appointed.

17 (b) The governor may remove any member of the board for cause.
18 Vacancies in the board for any reason shall be filled by appointment
19 for the unexpired term.

20 (3) The board shall elect a (~~(chairman)~~) chair, a (~~(vice-chairman)~~)
21 vice chair, and a secretary. The secretary may delegate his or her
22 authority to the executive director.

23 (4) Members of the board shall be compensated in accordance with
24 RCW 43.03.240 and shall be reimbursed for travel expenses in accordance
25 with RCW 43.03.050 and 43.03.060.

26 **Sec. 502.** RCW 18.100.070 and 1969 c 122 s 7 are each amended to
27 read as follows:

28 Nothing contained in this chapter shall be interpreted to abolish,
29 repeal, modify, restrict, or limit the law now in effect in this state
30 applicable to the professional relationship and liabilities between the
31 person furnishing the professional services and the person receiving
32 such professional service and the standards for professional conduct.
33 Any director, officer, shareholder, agent, or employee of a corporation
34 organized under this chapter shall remain personally and fully liable
35 and accountable for any negligent or wrongful acts or misconduct
36 committed by him or her or by any person under his or her direct
37 supervision and control, while rendering professional services on

1 behalf of the corporation to the person for whom such professional
2 services were being rendered. The corporation shall be liable for any
3 negligent or wrongful acts of misconduct committed by any of its
4 directors, officers, shareholders, agents, or employees while they are
5 engaged on behalf of the corporation, in the rendering of professional
6 services.

7 **Sec. 503.** RCW 18.100.140 and 1994 sp.s. c 9 s 717 are each amended
8 to read as follows:

9 Nothing in this chapter shall authorize a director, officer,
10 shareholder, agent, or employee of a corporation organized under this
11 chapter, or a corporation itself organized under this chapter, to do or
12 perform any act which would be illegal, unethical, or unauthorized
13 conduct under the provisions of the following acts: (1) Physicians and
14 surgeons, chapter 18.71 RCW; (2) anti-rebating act, chapter 19.68 RCW;
15 (3) state bar act, chapter 2.48 RCW; (4) professional accounting act,
16 chapter 18.04 RCW; (5) professional architects act, chapter 18.08 RCW;
17 (6) professional auctioneers act, chapter 18.11 RCW; (7)
18 cosmetologists, barbers, and manicurists, chapter 18.16 RCW; (8)
19 boarding homes act, chapter 18.20 RCW; (9) podiatric medicine and
20 surgery, chapter 18.22 RCW; (10) chiropractic act, chapter 18.25 RCW;
21 (11) registration of contractors, chapter 18.27 RCW; (12) debt
22 adjusting act, chapter 18.28 RCW; (13) dental hygienist act, chapter
23 18.29 RCW; (14) dentistry, chapter 18.32 RCW; (15) dispensing
24 opticians, chapter 18.34 RCW; (16) naturopathic physicians, chapter
25 18.36A RCW; (17) embalmers and funeral directors, chapter 18.39 RCW;
26 (18) engineers and land surveyors, chapter 18.43 RCW; (19) escrow
27 agents registration act, chapter 18.44 RCW; (20) (~~maternity homes~~)
28 birthing centers, chapter 18.46 RCW; (21) midwifery, chapter 18.50 RCW;
29 (22) nursing homes, chapter 18.51 RCW; (23) optometry, chapter 18.53
30 RCW; (24) osteopathic physicians and surgeons, chapter 18.57 RCW; (25)
31 pharmacists, chapter 18.64 RCW; (26) physical therapy, chapter 18.74
32 RCW; (27) registered nurses, advanced registered nurse practitioners,
33 and practical nurses, chapter 18.79 RCW; (28) psychologists, chapter
34 18.83 RCW; (29) real estate brokers and (~~salesmen~~) salespersons,
35 chapter 18.85 RCW; (30) veterinarians, chapter 18.92 RCW.

1 **Sec. 504.** RCW 18.106.030 and 1997 c 326 s 4 are each amended to
2 read as follows:

3 Any person desiring to be issued a certificate of competency as
4 provided in this chapter shall deliver evidence in a form prescribed by
5 the department affirming that said person has had sufficient experience
6 in as well as demonstrated general competency in the trade of plumbing
7 or specialty plumbing so as to qualify him or her to make an
8 application for a certificate of competency as a journeyman plumber or
9 specialty plumber. Completion of a course of study in the plumbing
10 trade in the armed services of the United States or at a school
11 accredited by the workforce training and education coordinating board
12 shall constitute sufficient evidence of experience and competency to
13 enable such person to make application for a certificate of competency.

14 Any person desiring to be issued a medical gas piping installer
15 endorsement shall deliver evidence in a form prescribed by the
16 department affirming that the person has met the requirements
17 established by the department for a medical gas piping installer
18 endorsement.

19 In addition to supplying the evidence as prescribed in this
20 section, each applicant for a certificate of competency shall submit an
21 application for such certificate on such form and in such manner as
22 shall be prescribed by the director of the department.

23 **Sec. 505.** RCW 18.106.080 and 1973 1st ex.s. c 175 s 8 are each
24 amended to read as follows:

25 No examination shall be required of any applicant for a certificate
26 of competency who, on July 16, 1973, was engaged in a bona fide
27 business or trade of plumbing, or on said date held a valid journeyman
28 plumber's license issued by a political subdivision of the state of
29 Washington and whose license is valid at the time of making his or her
30 application for said certificate. Applicants qualifying under this
31 section shall be issued a certificate by the department upon making an
32 application as provided in RCW 18.106.030 and paying the fee required
33 under RCW 18.106.050: PROVIDED, That no applicant under this section
34 shall be required to furnish such evidence as required by RCW
35 18.106.030.

1 **Sec. 506.** RCW 18.106.130 and 1973 1st ex.s. c 175 s 13 are each
2 amended to read as follows:

3 All moneys received from certificates, permits, or other sources,
4 shall be paid to the state treasurer as ex officio custodian thereof
5 and by him or her placed in a special fund designated as the "plumbing
6 certificate fund." He or she shall pay out upon vouchers duly and
7 regularly issued therefor and approved by the director. The treasurer
8 shall keep an accurate record of payments into said fund, and of all
9 disbursement therefrom. Said fund shall be charged with its pro rata
10 share of the cost of administering said fund.

11 **Sec. 507.** RCW 18.106.140 and 1973 1st ex.s. c 175 s 14 are each
12 amended to read as follows:

13 The director may promulgate rules, make specific decisions, orders,
14 and rulings, including therein demands and findings, and take other
15 necessary action for the implementation and enforcement of his or her
16 duties under this chapter: PROVIDED, That in the administration of
17 this chapter the director shall not enter any controversy arising over
18 work assignments with respect to the trades involved in the
19 construction industry.

20 **Sec. 508.** RCW 19.09.230 and 1994 c 287 s 3 are each amended to
21 read as follows:

22 No charitable organization, commercial fund-raiser, or other entity
23 may knowingly use the identical or deceptively similar name, symbol, or
24 emblem of any other entity for the purpose of soliciting contributions
25 from persons in this state without the written consent of such other
26 entity. If the official name or the "doing business name" being
27 registered is the same or deceptively similar as that of another
28 entity, the secretary may request that a copy of the written consent
29 from that entity be filed with the registration. Such consent may be
30 deemed to have been given by anyone who is a director, trustee, or
31 other authorized officer of that entity. A copy of the written consent
32 must be kept on file by the charitable organization or commercial fund-
33 raiser and made available to the secretary, attorney general, or county
34 prosecutor upon demand.

35 A person may be deemed to have used the name of another person for
36 the purpose of soliciting contributions if such latter person's name is

1 listed on any stationery, advertisement, brochure, or correspondence of
2 the charitable organization or person or if such name is listed or
3 represented to any one who has contributed to, sponsored, or endorsed
4 the charitable organization or person, or its ~~((or))~~, his, or her
5 activities.

6 The secretary may revoke or deny any application for registration
7 that violates this section.

8 **Sec. 509.** RCW 19.16.140 and 1994 c 195 s 4 are each amended to
9 read as follows:

10 Each applicant when submitting his or her application shall pay a
11 licensing fee and an investigation fee determined by the director as
12 provided in RCW 43.24.086. The licensing fee for an out-of-state
13 collection agency shall not exceed fifty percent of the licensing fee
14 for a collection agency. An out-of-state collection agency is exempt
15 from the licensing fee if the agency is licensed or registered in a
16 state that does not require payment of an initial fee by any person who
17 collects debts in the state only by means of interstate communications
18 from the person's location in another state. If a license is not
19 issued in response to the application, the license fee shall be
20 returned to the applicant.

21 An annual license fee determined by the director as provided in RCW
22 43.24.086 shall be paid to the director on or before January first of
23 each year. The annual license fee for an out-of-state collection
24 agency shall not exceed fifty percent of the annual license fee for a
25 collection agency. An out-of-state collection agency is exempt from
26 the annual license fee if the agency is licensed or registered in a
27 state that does not require payment of an annual fee by any person who
28 collects debts in the state only by means of interstate communications
29 from the person's location in another state. If the annual license fee
30 is not paid on or before January first, the licensee shall be assessed
31 a penalty for late payment in an amount determined by the director as
32 provided in RCW 43.24.086. If the fee and penalty are not paid by
33 January thirty-first, it will be necessary for the licensee to submit
34 a new application for a license: PROVIDED, That no license shall be
35 issued upon such new application unless and until all fees and
36 penalties previously accrued under this section have been paid.

1 Any license or branch office certificate issued under the
2 provisions of this chapter shall expire on December thirty-first
3 following the issuance thereof.

4 **Sec. 510.** RCW 19.16.150 and 1985 c 7 s 82 are each amended to read
5 as follows:

6 If a licensee maintains a branch office, he, she, or it shall not
7 operate a collection agency business in such branch office until he,
8 she, or it has secured a branch office certificate therefor from the
9 director. A licensee, so long as his, her, or its license is in full
10 force and effect and in good standing, shall be entitled to branch
11 office certificates for any branch office operated by such licensee
12 upon payment of the fee therefor provided in this chapter.

13 Each licensee when applying for a branch office certificate shall
14 pay a fee determined by the director as provided in RCW 43.24.086. An
15 annual fee determined by the director as provided in RCW 43.24.086 for
16 a branch office certificate shall be paid to the director on or before
17 January first of each year. If the annual fee is not paid on or before
18 January first, a penalty for late payment in an amount determined by
19 the director as provided in RCW 43.24.086 shall be assessed. If the
20 fee and the penalty are not paid by January thirty-first, it will be
21 necessary for the licensee to apply for a new branch office
22 certificate: PROVIDED, That no such new branch office certificate
23 shall be issued unless and until all fees and penalties previously
24 accrued under this section have been paid.

25 **Sec. 511.** RCW 19.16.160 and 1973 1st ex.s. c 20 s 2 are each
26 amended to read as follows:

27 Each license and branch office certificate, when issued, shall be
28 in the form and size prescribed by the director and shall state in
29 addition to any other matter required by the director:

- 30 (1) The name of the licensee;
31 (2) The name under which the licensee will do business;
32 (3) The address at which the collection agency business is to be
33 conducted; and
34 (4) The number and expiration date of the license or branch office
35 certificate.

1 A licensee shall display his, her, or its license in a conspicuous
2 place in his, her, or its principal place of business and, if he, she,
3 or it conducts a branch office, the branch office certificate shall be
4 conspicuously displayed in the branch office.

5 Concurrently with or prior to engaging in any activity as a
6 collection agency, as defined in this chapter, any person shall furnish
7 to his, her, or its client or customer the number indicated on the
8 collection agency license issued to him, her, or it pursuant to this
9 section.

10 **Sec. 512.** RCW 19.16.170 and 1971 ex.s. c 253 s 8 are each amended
11 to read as follows:

12 Whenever a licensee shall contemplate a change of his, her, or its
13 trade name or a change in the location of his, her, or its principal
14 place of business or branch office, he, she, or it shall give written
15 notice of such proposed change to the director. The director shall
16 approve the proposed change and issue a new license or a branch office
17 certificate, as the case may be, reflecting the change.

18 **Sec. 513.** RCW 19.16.180 and 1971 ex.s. c 253 s 9 are each amended
19 to read as follows:

20 (1) Except as provided in subsection (2) of this section, a license
21 or branch office certificate granted under this chapter is not
22 assignable or transferable.

23 (2) Upon the death of an individual licensee, the director shall
24 have the right to transfer the license and any branch office
25 certificate of the decedent to the personal representative of his or
26 her estate for the period of the unexpired term of the license and such
27 additional time, not to exceed one year from the date of death of the
28 licensee, as said personal representative may need in order to settle
29 the deceased's estate or sell the collection agency.

30 **Sec. 514.** RCW 19.16.190 and 1994 c 195 s 5 are each amended to
31 read as follows:

32 (1) Except as limited by subsection (7) of this section, each
33 applicant shall, at the time of applying for a license, file with the
34 director a surety bond in the sum of five thousand dollars. The bond
35 shall be annually renewable on January first of each year, shall be

1 approved by the director as to form and content, and shall be executed
2 by the applicant as principal and by a surety company authorized to do
3 business in this state as surety. Such bond shall run to the state of
4 Washington as obligee for the benefit of the state and conditioned that
5 the licensee shall faithfully and truly perform all agreements entered
6 into with the licensee's clients or customers and shall, within thirty
7 days after the close of each calendar month, account to and pay to his,
8 her, or its client or customer the net proceeds of all collections made
9 during the preceding calendar month and due to each client or customer
10 less any offsets due licensee under RCW 19.16.210 and 19.16.220. The
11 bond required by this section shall remain in effect until canceled by
12 action of the surety or the licensee or the director.

13 (2) An applicant for a license under this chapter may furnish,
14 file, and deposit with the director, in lieu of the surety bond
15 provided for herein, a cash deposit or other negotiable security
16 acceptable to the director. The security deposited with the director
17 in lieu of the surety bond shall be returned to the licensee at the
18 expiration of one year after the collection agency's license has
19 expired or been revoked if no legal action has been instituted against
20 the licensee or on said security deposit at the expiration of said one
21 year.

22 (3) A surety may file with the director notice of his, her, or its
23 withdrawal on the bond of the licensee. Upon filing a new bond or upon
24 the revocation of the collection agency license or upon the expiration
25 of sixty days after the filing of notice of withdrawal as surety by the
26 surety, the liability of the former surety for all future acts of the
27 licensee shall terminate.

28 (4) The director shall immediately cancel the bond given by a
29 surety company upon being advised that the surety company's license to
30 transact business in this state has been revoked.

31 (5) Upon the filing with the director of notice by a surety of his,
32 her, or its withdrawal as the surety on the bond of a licensee or upon
33 the cancellation by the director of the bond of a surety as provided in
34 this section, the director shall immediately give notice to the
35 licensee of the withdrawal or cancellation. The notice shall be sent
36 to the licensee by registered or certified mail with request for a
37 return receipt and addressed to the licensee at his, her, or its main
38 office as shown by the records of the director. At the expiration of

1 thirty days from the date of mailing the notice, the license of the
2 licensee shall be terminated, unless the licensee has filed a new bond
3 with a surety satisfactory to the director.

4 (6) All bonds given under this chapter shall be filed and held in
5 the office of the director.

6 (7) An out-of-state collection agency need not fulfill the bonding
7 requirements under this section if the out-of-state collection agency
8 maintains an adequate bond or legal alternative as required by the
9 state in which the out-of-state collection agency is located.

10 **Sec. 515.** RCW 19.16.200 and 1971 ex.s. c 253 s 11 are each amended
11 to read as follows:

12 In addition to all other legal remedies, an action may be brought
13 in any court of competent jurisdiction upon the bond or cash deposit or
14 security in lieu thereof, required by RCW 19.16.190, by any person to
15 whom the licensee fails to account and pay as set forth in such bond or
16 by any client or customer of the licensee who has been damaged by
17 failure of the licensee to comply with all agreements entered into with
18 such client or customer: PROVIDED, That the aggregate liability of the
19 surety to all such clients or customers shall in no event exceed the
20 sum of such bond.

21 An action upon such bond or security shall be commenced by serving
22 and filing of the complaint within one year from the date of the
23 cancellation of the bond or, in the case of a cash deposit or other
24 security deposited in lieu of the surety bond, within one year of the
25 date of expiration or revocation of license: PROVIDED, That no action
26 shall be maintained upon such bond or such cash deposit or other
27 security for any claim which has been barred by any nonclaim statute or
28 statute of limitations of this state. Two copies of the complaint
29 shall be served by registered or certified mail upon the director at
30 the time the suit is started. Such service shall constitute service on
31 the surety. The director shall transmit one of said copies of the
32 complaint served on him or her to the surety within forty-eight hours
33 after it shall have been received.

34 The director shall maintain a record, available for public
35 inspection, of all suits commenced under this chapter upon surety
36 bonds, or the cash or other security deposited in lieu thereof.

1 In the event of a judgment being entered against the deposit or
2 security referred to in RCW 19.16.190(2), the director shall, upon
3 receipt of a certified copy of a final judgment, pay said judgment from
4 the amount of the deposit or security.

5 **Sec. 516.** RCW 19.16.210 and 1971 ex.s. c 253 s 12 are each amended
6 to read as follows:

7 A licensee shall within thirty days after the close of each
8 calendar month account in writing to his, her, or its customers for all
9 collections made during that calendar month and pay to his, her, or its
10 customers the net proceeds due and payable of all collections made
11 during that calendar month except that a licensee need not account to
12 the customer for:

13 (1) Court costs recovered which were previously advanced by
14 licensee or his, her, or its attorney.

15 (2) Attorneys' fees and interest or other charges incidental to the
16 principal amount of the obligation legally and properly belonging to
17 the licensee, if such charges are retained by the licensee after the
18 principal amount of the obligation has been accounted for and remitted
19 to the customer. When the net proceeds are less than ten dollars at
20 the end of any calendar month, payments may be deferred for a period
21 not to exceed three months.

22 **Sec. 517.** RCW 19.16.220 and 1971 ex.s. c 253 s 13 are each amended
23 to read as follows:

24 Every customer of a licensee shall, within thirty days after the
25 close of each calendar month, account and pay to his, her, or its
26 collection agency all sums owing to the collection agency for payments
27 received by the customer during that calendar month on claims in the
28 hands of the collection agency.

29 If a customer fails to pay a licensee any sums due under this
30 section, the licensee shall, in addition to other remedies provided by
31 law, have the right to offset any moneys due the licensee under this
32 section against any moneys due customer under RCW 19.16.210.

33 **Sec. 518.** RCW 19.16.230 and 1994 c 195 s 6 are each amended to
34 read as follows:

35 (1) Every licensee required to keep and maintain records pursuant

1 to this section, other than an out-of-state collection agency, shall
2 establish and maintain a regular active business office in the state of
3 Washington for the purpose of conducting his, her, or its collection
4 agency business. Said office must be open to the public during
5 reasonable stated business hours, and must be managed by a resident of
6 the state of Washington.

7 (2) Every licensee shall keep a record of all sums collected by
8 him, her, or it and all disbursements made by him, her, or it. All
9 such records shall be kept at the business office referred to in
10 subsection (1) of this section, unless the licensee is an out-of-state
11 collection agency, in which case the record shall be kept at the
12 business office listed on the licensee's license.

13 (3) Licensees shall maintain and preserve accounting records of
14 collections and payments to customers for a period of four years from
15 the date of the last entry thereon.

16 **Sec. 519.** RCW 19.16.245 and 1973 1st ex.s. c 20 s 9 are each
17 amended to read as follows:

18 No licensee shall receive any money from any debtor as a result of
19 the collection of any claim until he, she, or it shall have submitted
20 a financial statement showing the assets and liabilities of the
21 licensee truly reflecting that the licensee's net worth is not less
22 than the sum of seven thousand five hundred dollars, in cash or its
23 equivalent, of which not less than five thousand dollars shall be
24 deposited in a bank, available for the use of the licensee's business.
25 Any money so collected shall be subject to the provisions of RCW
26 19.16.430(2). The financial statement shall be sworn to by the
27 licensee, if the licensee is an individual, or by a partner, officer,
28 or manager in its behalf if the licensee is a partnership, corporation,
29 or unincorporated association. The information contained in the
30 financial statement shall be confidential and not a public record, but
31 is admissible in evidence at any hearing held, or in any action
32 instituted in a court of competent jurisdiction, pursuant to the
33 provisions of this chapter: PROVIDED, That this section shall not
34 apply to those persons holding a valid license issued pursuant to this
35 chapter on July 16, 1973.

1 **Sec. 520.** RCW 19.16.250 and 2001 c 217 s 5 and 2001 c 47 s 2 are
2 each reenacted and amended to read as follows:

3 No licensee or employee of a licensee shall:

4 (1) Directly or indirectly aid or abet any unlicensed person to
5 engage in business as a collection agency in this state or receive
6 compensation from such unlicensed person: PROVIDED, That nothing in
7 this chapter shall prevent a licensee from accepting, as forwarder,
8 claims for collection from a collection agency or attorney whose place
9 of business is outside the state.

10 (2) Collect or attempt to collect a claim by the use of any means
11 contrary to the postal laws and regulations of the United States postal
12 department.

13 (3) Publish or post or cause to be published or posted, any list of
14 debtors commonly known as "bad debt lists" or threaten to do so. For
15 purposes of this chapter, a "bad debt list" means any list of natural
16 persons alleged to fail to honor their lawful debts. However, nothing
17 herein shall be construed to prohibit a licensee from communicating to
18 his, her, or its customers or clients by means of a coded list, the
19 existence of a check dishonored because of insufficient funds, not
20 sufficient funds or closed account by the financial institution
21 servicing the debtor's checking account: PROVIDED, That the debtor's
22 identity is not readily apparent: PROVIDED FURTHER, That the licensee
23 complies with the requirements of subsection (9)(e) of this section.

24 (4) Have in his, her, or its possession or make use of any badge,
25 use a uniform of any law enforcement agency or any simulation thereof,
26 or make any statements which might be construed as indicating an
27 official connection with any federal, state, county, or city law
28 enforcement agency, or any other governmental agency, while engaged in
29 collection agency business.

30 (5) Perform any act or acts, either directly or indirectly,
31 constituting the practice of law.

32 (6) Advertise for sale or threaten to advertise for sale any claim
33 as a means of endeavoring to enforce payment thereof or agreeing to do
34 so for the purpose of soliciting claims, except where the licensee has
35 acquired claims as an assignee for the benefit of creditors or where
36 the licensee is acting under court order.

37 (7) Use any name while engaged in the making of a demand for any

1 claim other than the name set forth on his, her, or its current license
2 issued hereunder.

3 (8) Give or send to any debtor or cause to be given or sent to any
4 debtor, any notice, letter, message, or form which represents or
5 implies that a claim exists unless it shall indicate in clear and
6 legible type:

7 (a) The name of the licensee and the city, street, and number at
8 which he, she, or it is licensed to do business;

9 (b) The name of the original creditor to whom the debtor owed the
10 claim if such name is known to the licensee or employee: PROVIDED,
11 That upon written request of the debtor, the licensee shall make a
12 reasonable effort to obtain the name of such person and provide this
13 name to the debtor;

14 (c) If the notice, letter, message, or form is the first notice to
15 the debtor or if the licensee is attempting to collect a different
16 amount than indicated in his, her, or its first notice to the debtor,
17 an itemization of the claim asserted must be made including:

18 (i) Amount owing on the original obligation at the time it was
19 received by the licensee for collection or by assignment;

20 (ii) Interest or service charge, collection costs, or late payment
21 charges, if any, added to the original obligation by the original
22 creditor, customer, or assignor before it was received by the licensee
23 for collection, if such information is known by the licensee or
24 employee: PROVIDED, That upon written request of the debtor, the
25 licensee shall make a reasonable effort to obtain information on such
26 items and provide this information to the debtor;

27 (iii) Interest or service charge, if any, added by the licensee or
28 customer or assignor after the obligation was received by the licensee
29 for collection;

30 (iv) Collection costs, if any, that the licensee is attempting to
31 collect;

32 (v) Attorneys' fees, if any, that the licensee is attempting to
33 collect on his, her, or its behalf or on the behalf of a customer or
34 assignor;

35 (vi) Any other charge or fee that the licensee is attempting to
36 collect on his, her, or its own behalf or on the behalf of a customer
37 or assignor.

1 (9) Communicate or threaten to communicate, the existence of a
2 claim to a person other than one who might be reasonably expected to be
3 liable on the claim in any manner other than through proper legal
4 action, process, or proceedings except under the following conditions:

5 (a) A licensee or employee of a licensee may inform a credit
6 reporting bureau of the existence of a claim: PROVIDED, That if the
7 licensee or employee of a licensee reports a claim to a credit
8 reporting bureau, the licensee shall upon receipt of written notice
9 from the debtor that any part of the claim is disputed, forward a copy
10 of such written notice to the credit reporting bureau;

11 (b) A licensee or employee in collecting or attempting to collect
12 a claim may communicate the existence of a claim to a debtor's employer
13 if the claim has been reduced to a judgment;

14 (c) A licensee or employee in collecting or attempting to collect
15 a claim that has not been reduced to judgment, may communicate the
16 existence of a claim to a debtor's employer if:

17 (i) The licensee or employee has notified or attempted to notify
18 the debtor in writing at his or her last known address or place of
19 employment concerning the claim and the debtor after a reasonable time
20 has failed to pay the claim or has failed to agree to make payments on
21 the claim in a manner acceptable to the licensee, and

22 (ii) The debtor has not in writing to the licensee disputed any
23 part of the claim: PROVIDED, That the licensee or employee may only
24 communicate the existence of a claim which has not been reduced to
25 judgment to the debtor's employer once unless the debtor's employer has
26 agreed to additional communications.

27 (d) A licensee may for the purpose of locating the debtor or
28 locating assets of the debtor communicate the existence of a claim to
29 any person who might reasonably be expected to have knowledge of the
30 whereabouts of a debtor or the location of assets of the debtor if the
31 claim is reduced to judgment, or if not reduced to judgment, when:

32 (i) The licensee or employee has notified or attempted to notify
33 the debtor in writing at his or her last known address or last known
34 place of employment concerning the claim and the debtor after a
35 reasonable time has failed to pay the claim or has failed to agree to
36 make payments on the claim in a manner acceptable to the licensee, and

37 (ii) The debtor has not in writing disputed any part of the claim.

1 (e) A licensee may communicate the existence of a claim to its
2 customers or clients if the claim is reduced to judgment, or if not
3 reduced to judgment, when:

4 (i) The licensee has notified or attempted to notify the debtor in
5 writing at his or her last known address or last known place of
6 employment concerning the claim and the debtor after a reasonable time
7 has failed to pay the claim or has failed to agree to make payments on
8 the claim in a manner acceptable to the licensee, and

9 (ii) The debtor has not in writing disputed any part of the claim.

10 (10) Threaten the debtor with impairment of his or her credit
11 rating if a claim is not paid.

12 (11) Communicate with the debtor after notification in writing from
13 an attorney representing such debtor that all further communications
14 relative to a claim should be addressed to the attorney: PROVIDED,
15 That if a licensee requests in writing information from an attorney
16 regarding such claim and the attorney does not respond within a
17 reasonable time, the licensee may communicate directly with the debtor
18 until he, she, or it again receives notification in writing that an
19 attorney is representing the debtor.

20 (12) Communicate with a debtor or anyone else in such a manner as
21 to harass, intimidate, threaten, or embarrass a debtor, including but
22 not limited to communication at an unreasonable hour, with unreasonable
23 frequency, by threats of force or violence, by threats of criminal
24 prosecution, and by use of offensive language. A communication shall
25 be presumed to have been made for the purposes of harassment if:

26 (a) It is made with a debtor or spouse in any form, manner, or
27 place, more than three times in a single week;

28 (b) It is made with a debtor at his or her place of employment more
29 than one time in a single week;

30 (c) It is made with the debtor or spouse at his or her place of
31 residence between the hours of 9:00 p.m. and 7:30 a.m.

32 (13) Communicate with the debtor through use of forms or
33 instruments that simulate the form or appearance of judicial process,
34 the form or appearance of government documents, or the simulation of a
35 form or appearance of a telegraphic or emergency message.

36 (14) Communicate with the debtor and represent or imply that the
37 existing obligation of the debtor may be or has been increased by the

1 addition of attorneys' fees, investigation fees, service fees, or any
2 other fees or charges when in fact such fees or charges may not legally
3 be added to the existing obligation of such debtor.

4 (15) Threaten to take any action against the debtor which the
5 licensee cannot legally take at the time the threat is made.

6 (16) Send any telegram or make any telephone calls to a debtor or
7 concerning a debt or for the purpose of demanding payment of a claim or
8 seeking information about a debtor, for which the charges are payable
9 by the addressee or by the person to whom the call is made.

10 (17) In any manner convey the impression that the licensee is
11 vouched for, bonded to or by, or is an instrumentality of the state of
12 Washington or any agency or department thereof.

13 (18) Collect or attempt to collect in addition to the principal
14 amount of a claim any sum other than allowable interest, collection
15 costs or handling fees expressly authorized by statute, and, in the
16 case of suit, attorneys' fees and taxable court costs. A licensee may
17 collect or attempt to collect collection costs and fees, including
18 contingent collection fees, as authorized by a written agreement or
19 contract, between the licensee's client and the debtor, in the
20 collection of a commercial claim. The amount charged to the debtor for
21 collection services shall not exceed thirty-five percent of the
22 commercial claim.

23 (19) Procure from a debtor or collect or attempt to collect on any
24 written note, contract, stipulation, promise, or acknowledgment under
25 which a debtor may be required to pay any sum other than principal,
26 allowable interest, except as noted in subsection (18) of this section,
27 and, in the case of suit, attorneys' fees and taxable court costs.

28 (20) Upon notification by a debtor that the debtor disputes all
29 debts arising from a series of dishonored checks, automated
30 clearinghouse transactions on a demand deposit account, or other
31 preprinted written instruments, initiate oral contact with a debtor
32 more than one time in an attempt to collect from the debtor debts
33 arising from the identified series of dishonored checks, automated
34 clearinghouse transactions on a demand deposit account, or other
35 preprinted written instruments when: (a) Within the previous one
36 hundred eighty days, in response to the licensee's attempt to collect
37 the initial debt assigned to the licensee and arising from the
38 identified series of dishonored checks, automated clearinghouse

1 transactions on a demand deposit account, or other preprinted written
2 instruments, the debtor in writing notified the licensee that the
3 debtor's checkbook or other series of preprinted written instruments
4 was stolen or fraudulently created; (b) the licensee has received from
5 the debtor a certified copy of a police report referencing the theft or
6 fraudulent creation of the checkbook, automated clearinghouse
7 transactions on a demand deposit account, or series of preprinted
8 written instruments; (c) in the written notification to the licensee or
9 in the police report, the debtor identified the financial institution
10 where the account was maintained, the account number, the magnetic ink
11 character recognition number, the full bank routing and transit number,
12 and the check numbers of the stolen checks, automated clearinghouse
13 transactions on a demand deposit account, or other preprinted written
14 instruments, which check numbers included the number of the check that
15 is the subject of the licensee's collection efforts; (d) the debtor
16 provides, or within the previous one hundred eighty days provided, to
17 the licensee a legible copy of a government-issued photo
18 identification, which contains the debtor's signature and which was
19 issued prior to the date of the theft or fraud identified in the police
20 report; and (e) the debtor advised the licensee that the subject debt
21 is disputed because the identified check, automated clearinghouse
22 transaction on a demand deposit account, or other preprinted written
23 instrument underlying the debt is a stolen or fraudulently created
24 check or instrument.

25 The licensee is not in violation of this subsection if the licensee
26 initiates oral contact with the debtor more than one time in an attempt
27 to collect debts arising from the identified series of dishonored
28 checks, automated clearinghouse transactions on a demand deposit
29 account, or other preprinted written instruments when: (i) The
30 licensee acted in good faith and relied on their established practices
31 and procedures for batching, recording, or packeting debtor accounts,
32 and the licensee inadvertently initiates oral contact with the debtor
33 in an attempt to collect debts in the identified series subsequent to
34 the initial debt assigned to the licensee; (ii) the licensee is
35 following up on collection of a debt assigned to the licensee, and the
36 debtor has previously requested more information from the licensee
37 regarding the subject debt; (iii) the debtor has notified the licensee
38 that the debtor disputes only some, but not all the debts arising from

1 the identified series of dishonored checks, automated clearinghouse
2 transactions on a demand deposit account, or other preprinted written
3 instruments, in which case the licensee shall be allowed to initiate
4 oral contact with the debtor one time for each debt arising from the
5 series of identified checks, automated clearinghouse transactions on a
6 demand deposit account, or written instruments and initiate additional
7 oral contact for those debts that the debtor acknowledges do not arise
8 from stolen or fraudulently created checks or written instruments; (iv)
9 the oral contact is in the context of a judicial, administrative,
10 arbitration, mediation, or similar proceeding; or (v) the oral contact
11 is made for the purpose of investigating, confirming, or authenticating
12 the information received from the debtor, to provide additional
13 information to the debtor, or to request additional information from
14 the debtor needed by the licensee to accurately record the debtor's
15 information in the licensee's records.

16 **Sec. 521.** RCW 19.16.260 and 1994 c 195 s 8 are each amended to
17 read as follows:

18 No collection agency or out-of-state collection agency may bring or
19 maintain an action in any court of this state involving the collection
20 of a claim of any third party without alleging and proving that he,
21 she, or it is duly licensed under this chapter and has satisfied the
22 bonding requirements hereof, if applicable: PROVIDED, That in any case
23 where judgment is to be entered by default, it shall not be necessary
24 for the collection agency or out-of-state collection agency to prove
25 such matters.

26 A copy of the current collection agency license or out-of-state
27 collection agency license, certified by the director to be a true and
28 correct copy of the original, shall be prima facie evidence of the
29 licensing and bonding of such collection agency or out-of-state
30 collection agency as required by this chapter.

31 **Sec. 522.** RCW 19.16.270 and 1971 ex.s. c 253 s 18 are each amended
32 to read as follows:

33 In any action brought by licensee to collect the claim of his, her,
34 or its customer, the assignment of the claim to licensee by his, her,
35 or its customer shall be conclusively presumed valid, if the assignment

1 is filed in court with the complaint, unless objection is made thereto
2 by the debtor in a written answer or in writing five days or more prior
3 to trial.

4 **Sec. 523.** RCW 19.16.280 and 1971 ex.s. c 253 s 19 are each amended
5 to read as follows:

6 There is hereby created a board to be known and designated as the
7 "Washington state collection agency board." The board shall consist of
8 five members, one of whom shall be the director and the other four
9 shall be appointed by the governor. The director may delegate his or
10 her duties as a board member to a designee from his or her department.
11 The director or his or her designee shall be the executive officer of
12 the board and its ((~~chairman~~)) chair.

13 At least two but no more than two members of the board shall be
14 licensees hereunder. Each of the licensee members of the board shall
15 be actively engaged in the collection agency business at the time of
16 his or her appointment and must continue to be so engaged and continue
17 to be licensed under this chapter during the term of his or her
18 appointment or he or she will be deemed to have resigned his or her
19 position: PROVIDED, That no individual may be a licensee member of the
20 board unless he or she has been actively engaged as either an owner or
21 executive employee or a combination of both of a collection agency
22 business in this state for a period of not less than five years
23 immediately prior to his or her appointment.

24 No board member shall be employed by or have any interest in,
25 directly or indirectly, as owner, partner, officer, director, agent,
26 stockholder, or attorney, any collection agency in which any other
27 board member is employed by or has such an interest.

28 No member of the board other than the director or his or her
29 designee shall hold any other elective or appointive state or federal
30 office.

31 **Sec. 524.** RCW 19.16.290 and 1971 ex.s. c 253 s 20 are each amended
32 to read as follows:

33 The initial members of the board shall be named by the governor
34 within thirty days after January 1, 1972. At the first meeting of the
35 board, the members appointed by the governor shall determine by lot the
36 period of time from January 1, 1972, that each of them shall serve, one

1 for one year; one for two years; one for three years; and one for four
2 years. In the event of a vacancy on the board, the governor shall
3 appoint a successor for the unexpired term.

4 Each member appointed by the governor shall qualify by taking the
5 usual oath of a state officer, which shall be filed with the secretary
6 of state, and each member shall hold office for the term of his or her
7 appointment and until his or her successor is appointed and qualified.

8 Any member of the board other than the director or his or her
9 designee may be removed by the governor for neglect of duty,
10 misconduct, malfeasance, or misfeasance in office, after being given a
11 written statement of the charges against him or her and sufficient
12 opportunity to be heard thereon.

13 **Sec. 525.** RCW 19.16.300 and 1971 ex.s. c 253 s 21 are each amended
14 to read as follows:

15 The board shall meet as soon as practicable after the governor has
16 appointed the initial members of the board. The board shall meet at
17 least once a year and at such other times as may be necessary for the
18 transaction of its business.

19 The time and place of the initial meeting of the board and the
20 annual meetings shall be at a time and place fixed by the director.
21 Other meetings of the board shall be held upon written request of the
22 director at a time and place designated by him or her, or upon the
23 written request of any two members of the board at a time and place
24 designated by them.

25 A majority of the board shall constitute a quorum.

26 A vacancy in the board membership shall not impair the right of the
27 remaining members of the board to exercise any power or to perform any
28 duty of the board, so long as the power is exercised or the duty
29 performed by a quorum of the board.

30 **Sec. 526.** RCW 19.16.340 and 1971 ex.s. c 253 s 25 are each amended
31 to read as follows:

32 All records of the board shall be kept in the office of the
33 director. Copies of all records and papers of the board, certified to
34 be true copies by the director, shall be received in evidence in all
35 cases with like effect as the originals. All actions by the board

1 which require publication, or any writing shall be over the signature
2 of the director or his or her designee.

3 **Sec. 527.** RCW 19.16.430 and 1994 c 195 s 10 are each amended to
4 read as follows:

5 (1) Any person who knowingly operates as a collection agency or
6 out-of-state collection agency without a license or knowingly aids and
7 abets such violation is punishable by a fine not exceeding five hundred
8 dollars or by imprisonment not exceeding one year or both.

9 (2) Any person who operates as a collection agency or out-of-state
10 collection agency in the state of Washington without a valid license
11 issued pursuant to this chapter shall not charge or receive any fee or
12 compensation on any moneys received or collected while operating
13 without a license or on any moneys received or collected while
14 operating with a license but received or collected as a result of his,
15 her, or its acts as a collection agency or out-of-state collection
16 agency while not licensed hereunder. All such moneys collected or
17 received shall be forthwith returned to the owners of the accounts on
18 which the moneys were paid.

19 **Sec. 528.** RCW 19.16.470 and 1971 ex.s. c 253 s 38 are each amended
20 to read as follows:

21 The attorney general may accept an assurance of discontinuance of
22 any act or practice deemed in violation of this chapter from any person
23 engaging in or who has engaged in such act or practice. Any such
24 assurance shall be in writing and be filed with and subject to the
25 approval of the superior court of the county in which the alleged
26 violator resides or has his, her, or its principal place of business,
27 or in the alternative, in Thurston county.

28 Such assurance of discontinuance shall not be considered an
29 admission of a violation for any purpose; however, proof of failure to
30 perform the terms of any such assurance shall constitute prima facie
31 proof of a violation of this chapter for the purpose of securing an
32 injunction as provided for in RCW 19.16.460: PROVIDED, That after
33 commencement of any action by a prosecuting attorney, as provided
34 therein, the attorney general may not accept an assurance of
35 discontinuance without the consent of said prosecuting attorney.

1 **Sec. 529.** RCW 19.28.311 and 2005 c 280 s 1 are each amended to
2 read as follows:

3 There is hereby created an electrical board, consisting of fifteen
4 members to be appointed by the governor with the advice of the director
5 of labor and industries as herein provided. It shall be the purpose
6 and function of the board to advise the director on all matters
7 pertaining to the enforcement of this chapter including, but not
8 limited to, standards of electrical and telecommunications
9 installation, minimum inspection procedures, and the adoption of rules
10 pertaining to the electrical inspection division: PROVIDED, HOWEVER,
11 That no rules shall be amended or repealed until the electrical board
12 has first had an opportunity to consider any proposed amendments or
13 repeals and had an opportunity to make recommendations to the director
14 relative thereto. The members of the electrical board shall be
15 selected and appointed as follows: One member shall be an employee or
16 officer of a corporation or public agency generating or distributing
17 electric power; one member must be an employee or officer of a
18 facilities-based telecommunications service provider regulated by the
19 Washington state utilities and transportation commission; three members
20 shall be licensed electrical contractors: PROVIDED, That one of these
21 members may be a representative of a trade association in the
22 electrical industry; one member shall be a licensed telecommunications
23 contractor; one member shall be an employee, or officer, or
24 representative of a corporation or firm engaged in the business of
25 manufacturing or distributing electrical and telecommunications
26 materials, equipment, or devices; one member shall be a person with
27 knowledge of the electrical industry, not related to the electrical
28 industry, to represent the public; three members shall be certified
29 electricians; one member shall be a telecommunications worker; one
30 member shall be a licensed professional electrical engineer qualified
31 to do business in the state of Washington and designated as a
32 registered communications distribution designer; one member shall be an
33 outside line worker; and one nonvoting member must be a building
34 official from an incorporated city or town with an electrical
35 inspection program established under RCW 19.28.141. The regular term
36 of each member shall be four years: PROVIDED, HOWEVER, The original
37 board shall be appointed on June 9, 1988, for the following terms: The
38 first term of the member representing a corporation or public agency

1 generating or distributing electric power shall serve four years; two
2 members representing licensed electrical contractors shall serve three
3 years; the member representing a manufacturer or distributor of
4 electrical equipment or devices shall serve three years; the member
5 representing the public and one member representing licensed electrical
6 contractors shall serve two years; the three members selected as
7 certified electricians shall serve for terms of one, two, and three
8 years, respectively; the member selected as the licensed professional
9 electrical engineer shall serve for one year. In appointing the
10 original board, the governor shall give due consideration to the value
11 of continuity in membership from predecessor boards. Thereafter, the
12 governor shall appoint or reappoint board members for terms of four
13 years and to fill vacancies created by the completion of the terms of
14 the original members. When new positions are created, the governor may
15 appoint the initial members to the new positions to staggered terms of
16 one to three years. The governor shall also fill vacancies caused by
17 death, resignation, or otherwise for the unexpired term of such members
18 by appointing their successors from the same business classification.
19 The same procedure shall be followed in making such subsequent
20 appointments as is provided for the original appointments. The board,
21 at this first meeting shall elect one of its members to serve as
22 ((~~chairman~~)) chair. Any person acting as the chief electrical
23 inspector shall serve as secretary of the board during his or her
24 tenure as chief state inspector. Meetings of the board shall be held
25 at least quarterly in accordance with a schedule established by the
26 board. Each member of the board shall receive compensation in
27 accordance with RCW 43.03.240 and shall be reimbursed for travel
28 expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be
29 paid out of the electrical license fund, upon vouchers approved by the
30 director of labor and industries.

31 **Sec. 530.** RCW 19.29.010 and 2007 c 218 s 81 are each amended to
32 read as follows:

33 It shall be unlawful from and after the passage of this chapter for
34 any officer, agent, or employee of the state of Washington, or of any
35 county, city, or other political subdivision thereof, or for any other
36 person, firm or corporation, or its officers, agents or employees, to

1 run, place, erect, maintain, or use any electrical apparatus or
2 construction, except as provided in the rules of this chapter.

3 Rule 1. No wire or cable, except the neutral, carrying a current
4 of less than seven hundred fifty volts of electricity within the
5 corporate limits of any city or town shall be run, placed, erected,
6 maintained, or used on any insulator the center of which is less than
7 thirteen inches from the center line of any pole. And no such wire,
8 except the neutral, shall be run past any pole to which it is not
9 attached at a distance of less than thirteen inches from the center
10 line thereof. This rule shall not apply to any wire or cable where the
11 same is run from under ground and placed vertically on the pole; nor to
12 any wire or cable where the same is attached to the top of the pole;
13 nor to a pole top fixture as between it and the same pole; nor to any
14 wire or cable between the points where the same is made to leave any
15 pole or fixture thereon for the purpose of entering any building or
16 other structure and the point of attachment to such building or
17 structure; nor to any jumper wire or cable carrying a current or
18 connected with a transformer or other appliance on the same pole; nor
19 to bridle or jumper wires on any pole which are attached to or
20 connected with signal wires on the same pole; nor to any aerial cable
21 as between such cable and any pole upon which it originates or
22 terminates; nor to exclusive telephone or telegraph toll lines; nor to
23 aerial cables containing telephone, telegraph, or signal wires, or
24 wires continuing from same, where the cable is attached to poles on
25 which no wires or cables other than the wires continuing from said
26 cable are maintained, provided, that electric light or power wires or
27 cables are in no case maintained on the same side of the street or
28 highway on which said aerial cable is placed.

29 Rule 2. No wire or cable used to carry a current of over seven
30 hundred fifty volts of electricity within the incorporate limits of any
31 city or town shall be run, placed, erected, maintained, or used on any
32 insulator the center of which is nearer than twenty-four inches to the
33 center line of any pole. And no such wire or cable shall be run past
34 any pole to which it is not attached at a distance of less than twenty-
35 four inches from the center line thereof: PROVIDED, That this shall
36 not apply to any wire or cable where the same is run from under ground
37 and placed vertically on the pole; nor to any wire or cable where the
38 same is attached to the top of the pole; nor to a pole top fixture, as

1 between it and the same pole; nor to any wire or cable between the
2 points where the same is made to leave any pole or fixture thereon for
3 the purpose of entering any building or other structure, and the point
4 of attachment to said building or structure; nor to any jumper wire or
5 cable carrying a current or connected with transformers or other
6 appliances on the same pole: PROVIDED FURTHER, That where said wire or
7 cable is run vertically, it shall be rigidly supported and where
8 possible run on the ends of the cross-arms.

9 Rule 3. No wire or cable carrying a current of more than seven
10 hundred fifty volts, and less than seventy-five hundred volts of
11 electricity, shall be run, placed, erected, maintained, or used within
12 three feet of any wire or cable carrying a current of seven hundred
13 fifty volts or less of electricity; and no wire or cable carrying a
14 current of more than seventy-five hundred volts of electricity shall be
15 run, placed, erected, maintained, or used within seven feet of any wire
16 or cable carrying less than seventy-five hundred volts: PROVIDED, That
17 the foregoing provisions of this paragraph shall not apply to any wire
18 or cable within buildings or other structures; nor where the same are
19 run from under ground and placed vertically upon the pole; nor to any
20 service wire or cable where the same is made to leave any pole or
21 fixture thereon for the purpose of entering any building or other
22 structure, and the point of attachment to said building or structure;
23 nor to any jumper wire or cable carrying a current or connected with a
24 transformer or other appliance on the same pole: PROVIDED, That where
25 run vertically, wires or cables shall be rigidly supported, and where
26 possible run on the ends of the cross-arms: PROVIDED FURTHER, That as
27 between any two wires or cables mentioned in Rules 1, 2, and 3 of this
28 section, only the wires or cables last in point of time so run, placed,
29 erected, or maintained, shall be held to be in violation of the
30 provisions thereof.

31 Rule 4. No wire or cable used for telephone, telegraph, district
32 messenger, or call bell circuit, fire or burglar alarm, or any other
33 similar system, shall be run, placed, erected, maintained, or used on
34 any pole at a distance of less than three feet from any wire or cable
35 carrying a current of over three hundred volts of electricity; and in
36 all cases (except those mentioned in exceptions to Rules 1, 2, and 3)
37 where such wires or cables are run, above or below, or cross over or
38 under electric light or power wires, or a trolley wire, a suitable

1 method of construction, or insulation or protection to prevent contact
2 shall be maintained as between such wire or cable and such electric
3 light, power or trolley wire; and said methods of construction,
4 insulation, or protection shall be installed by, or at the expense of
5 the person owning the wire last placed in point of time: PROVIDED,
6 That telephone, telegraph, or signal wires or cables operated for
7 private use and not furnishing service to the public, may be placed
8 less than three feet from any line carrying a voltage of less than
9 seven hundred and fifty volts.

10 Rule 5. Transformers, either single or in bank, that exceed a
11 total capacity of over ten K.W. shall be supported by a double cross-
12 arm, or some fixture equally as strong. No transformer shall be
13 placed, erected, maintained, or used on any cross-arm or other
14 appliance on a pole upon which is placed a series electric arc lamp or
15 arc light: PROVIDED, This shall not apply to a span wire supporting a
16 lamp only. All aerial and underground transformers used for low
17 potential distribution shall be subjected to an insulation test in
18 accordance with the standardized rules of the American institute of
19 electrical engineers. In addition to this each transformer shall be
20 tested at rated line voltage prior to each installation and shall have
21 attached to it a tag showing the date on which the test was made, and
22 the name of the person making the test.

23 Rule 6. No wire or cable, other than ground wires, used to conduct
24 or carry electricity, shall be placed, run, erected, maintained, or
25 used vertically on any pole without causing such wire or cable to be at
26 all times sufficiently insulated the full length thereof to insure the
27 protection of anyone coming in contact with said wire or cable.

28 Rule 7. The neutral point or wire of all transformer secondaries
29 strung or erected for use in low potential distributing systems shall
30 be grounded in all cases where the normal maximum difference of
31 potential between the ground and any point in the secondary circuit
32 will not exceed one hundred and fifty volts. When no neutral point or
33 wire is accessible one side of the secondary circuit shall be grounded
34 in the case of single phase transformers, and any one common point in
35 the case of interconnected polyphase bank or banks of transformers.
36 Where the maximum difference of potential between the ground and any
37 point in the secondary circuit will, when grounded, exceed one hundred

1 fifty volts, grounding shall be permitted. Such grounding shall be
2 done in the manner provided in Rule 30.

3 Rule 8. In all cases where a wire or cable larger than No. 14
4 B.W.G. originates or terminates on insulators attached to any pin or
5 other appliance, said wire or cable shall be attached to at least two
6 insulators: PROVIDED HOWEVER, That this section shall not apply to
7 service wires to buildings; nor to wires run vertically on a pole; nor
8 to wires originating or terminating on strain insulators or circuit
9 breakers; nor to telephone, telegraph or signal wires outside the
10 limits of any incorporated city or town.

11 Rule 9. Fixtures placed or erected for the support of wires on the
12 roofs of buildings shall be of sufficient strength to withstand all
13 strains to which they may be subjected, due to the breaking of all
14 wires on one side thereof, and except where insulated wires or cables
15 are held close to fire walls by straps or rings, shall be of such
16 height and so placed that all of the wires supported by such fixtures
17 shall be at least seven feet above any point of roofs less than one-
18 quarter pitch over which they pass or may be attached, and no roof
19 fixtures or wire shall be so placed that they will interfere with the
20 free passage of persons upon, over, to or from the roofs.

21 Rule 10. No guy wire or cable shall be placed, run, erected,
22 maintained, or used within the incorporate limits of any city or town
23 on any pole or appliance to which is attached any wire or cable used to
24 conduct electricity without causing said guy wire or cable to be
25 efficiently insulated with circuit breakers at all times at a distance
26 of not less than eight feet nor more than ten feet measured along the
27 line of said guy wire or cable from each end thereof: PROVIDED, No
28 circuit breaker shall be required at the lower end of the guy wire or
29 cable where the same is attached to a ground anchor, nor shall any
30 circuit breaker be required where said guy wire or cable runs direct
31 from a grounded messenger wire to a grounded anchor rod.

32 Rule 11. In all span wires used for the purpose of supporting
33 trolley wires or series arc lamps there shall be at least two circuit
34 breakers, one of which shall at all times be maintained no less than
35 four feet nor more than six feet distant from the trolley wire or
36 series arc lamp, and in cases where the same is supported by a building
37 or metallic pole, the other circuit breaker shall be maintained at the
38 building or at the pole: PROVIDED, That in span wires which support

1 two or more trolley wires no circuit breaker shall be required in the
2 span wire between any two of the trolley wires: PROVIDED FURTHER, That
3 in span wires supporting trolley wires attached to wooden poles only
4 the circuit breaker adjacent to the trolley wire shall be required.

5 Rule 12. At all points where in case of a breakdown of trolley
6 span wires, the trolley wire would be liable to drop within seven feet
7 of the ground, there shall be double span wires and hangers placed at
8 such points.

9 Rule 13. All energized wires or appliances installed inside of any
10 building or vault, for the distribution of electrical energy, shall be
11 sufficiently insulated, or so guarded, located, or arranged as to
12 protect any person from injury.

13 Rule 14. The secondary circuit of current transformers, the
14 casings of all potential regulators and arc light transformers, all
15 metal frames of all switch boards, metal oil tanks used on oil switches
16 except where the tank is part of the conducting system, all motor and
17 generator frames, the entire frame of the crane and the tracks of all
18 traveling cranes and hoisting devices, shall be thoroughly grounded, as
19 provided in Rule 30.

20 Rule 15. All generators and motors having a potential of more than
21 three hundred volts shall be provided with a suitable insulated
22 platform or mat so arranged as to permit the attendant to stand upon
23 such platform or mat when working upon the live parts of such
24 generators or motors.

25 Rule 16. Suitable insulated platforms or mats shall be provided
26 for the use of all persons while working on any live part of
27 switchboards on which any wire or appliance carries a potential in
28 excess of three hundred volts.

29 Rule 17. Every generator, motor, transformer, switch, or other
30 similar piece of apparatus and device used in the generation,
31 transmission or distribution of electrical energy in stations or
32 substations, shall be either provided with a name plate giving the
33 capacity in volts and amperes, or have this information stamped thereon
34 in such a manner as to be clearly legible.

35 Rule 18. When lines of seven hundred fifty volts or over are cut
36 out at the station or substation to allow employees to work upon them,
37 they shall be short-circuited and grounded at the station, and shall in

1 addition, if the line wires are bare, be short-circuited, and where
2 possible grounded at the place where the work is being done.

3 Rule 19. All switches installed with overload protection devices,
4 and all automatic overload circuit breakers must have the trip coils so
5 adjusted as to afford complete protection against overloads and short
6 circuits, and the same must be so arranged that no pole can be opened
7 manually without opening all the poles, and the trip coils shall be
8 instantly operative upon closing.

9 Rule 20. All feeders for electric railways must, before leaving
10 the plant or substation, be protected by an approved circuit breaker
11 which will cut off the circuit in case of an accidental ground or short
12 circuit.

13 Rule 21. There shall be provided in all distributing stations a
14 ground detecting device.

15 Rule 22. There shall be provided in all stations, plants, and
16 buildings herein specified warning cards printed on red cardboard not
17 less than two and one-quarter by four and one-half inches in size,
18 which shall be attached to all switches opened for the purpose of
19 lineworkers or other employees working on the wires. The person
20 opening any line switch shall enter upon said card the name of the
21 person ordering the switch opened, the time opened, the time line was
22 reported clear and by whom, and shall sign his or her own name.

23 Rule 23. No manhole containing any wire carrying a current of over
24 three hundred volts shall be less than six feet from floor to inside of
25 roof; if circular in shape it shall not be less than six feet in
26 diameter; if square it shall be six feet from wall to wall: PROVIDED
27 HOWEVER, That this paragraph shall not apply to any manhole in which it
28 shall not be required that any person enter to perform work: PROVIDED
29 FURTHER, That the foregoing provisions of this paragraph shall not
30 apply where satisfactory proof shall be submitted to the proper
31 authorities that it is impracticable or physically impossible to comply
32 with this law within the space or location designated by the proper
33 authorities.

34 Rule 24. All manholes containing any wires or appliances carrying
35 electrical current shall be kept in a sanitary condition, free from
36 stagnant water or seepage or other drainage which is offensive or
37 dangerous to health, either by sewer connection or otherwise, while any
38 person is working in the same.

1 Rule 25. No manhole shall have an opening to the outer air of less
2 than twenty-six inches in diameter, and the cover of same shall be
3 provided with vent hole or holes equivalent to three square inches in
4 area.

5 Rule 26. No manhole shall have an opening which is, at the surface
6 of the ground, within a distance of three feet at any point from any
7 rail of any railway or streetcar track: PROVIDED, That this shall not
8 apply where satisfactory proof shall be submitted to the proper
9 authorities that it is impracticable or physically impossible to comply
10 with the provisions of this paragraph: PROVIDED, That in complying
11 with the provisions of this rule only the construction last in point of
12 time performed, placed, or erected shall be held to be in violation
13 thereof.

14 Rule 27. Whenever persons are working in any manhole whose opening
15 to the outer air is less than three feet from the rail of any railway
16 or streetcar track, a watchperson or attendant shall be stationed on
17 the surface at the entrance of such manhole at all times while work is
18 being performed therein.

19 Rule 28. All persons employed in manholes shall be furnished with
20 insulated platforms so as to protect the workers while at work in the
21 manholes: PROVIDED, That this paragraph shall not apply to manholes
22 containing only telephone, telegraph, or signal wires or cables.

23 Rule 29. No work shall be permitted to be done on any live wire,
24 cable, or appliance carrying more than seven hundred fifty volts of
25 electricity by less than two competent and experienced persons, who, at
26 all times while performing such work shall be in the same room,
27 chamber, manhole or other place in which, or on the same pole on which,
28 such work is being done: PROVIDED, That in districts where only one
29 competent and experienced person is regularly employed, and a second
30 competent and experienced person cannot be obtained without delay at
31 prevailing rate of pay in said district, such work shall be permitted
32 to be done by one competent and experienced person and a helper who
33 need not be on the same pole on which said work is being done.

34 No work shall be permitted to be done in any manhole or subway on
35 any live wire, cable, or appliance carrying more than three hundred
36 volts of electricity by less than two competent and experienced
37 persons, who at all times while performing such work shall be in the
38 same manhole or subway in which such work is being done.

1 Rule 30. The grounding provided for in these rules shall be done
2 in the following manner: By connecting a wire or wires not less than
3 No. 6 B.&S. gauge to a water pipe of a metallic system outside of the
4 meter, if there is one, or to a copper plate one-sixteenth inch thick
5 and not less than three feet by six feet area buried in coke below the
6 permanent moisture level, or to other device equally as efficient. The
7 ground wire or wires of a direct current system of three or more wires
8 shall not be smaller than the neutral wire at the central station, and
9 not smaller than a No. 6 B.&S. gauge elsewhere: PROVIDED, That the
10 maximum cross section area of any ground wire or wires at the central
11 station need not exceed one million circular mils. The ground wires
12 shall be carried in as nearly a straight line as possible, and kinks,
13 coils, and short bends shall be avoided: PROVIDED, That the provisions
14 of this rule shall not apply as to size to ground wires run from
15 instrument transformers or meters.

16 **Sec. 531.** RCW 19.31.020 and 1998 c 228 s 1 are each amended to
17 read as follows:

18 Unless a different meaning is clearly required by the context, the
19 following words and phrases, as hereinafter used in this chapter, shall
20 have the following meanings:

21 (1) "Employment agency" is synonymous with "agency" and shall mean
22 any business in which any part of the business gross or net income is
23 derived from a fee received from applicants, and in which any of the
24 following activities are engaged in:

25 (a) The offering, promising, procuring, or attempting to procure
26 employment for applicants;

27 (b) The giving of information regarding where and from whom
28 employment may be obtained; or

29 (c) The sale of a list of jobs or a list of names of persons or
30 companies accepting applications for specific positions, in any form.

31 In addition the term "employment agency" shall mean and include any
32 person, bureau, employment listing service, employment directory,
33 organization, or school which for profit, by advertisement or
34 otherwise, offers, as one of its main objects or purposes, to procure
35 employment for any person who pays for its services, or which collects
36 tuition, or charges for service of any nature, where the main object of
37 the person paying the same is to secure employment. It also includes

1 any business that provides a resume to an individual and provides that
2 person with a list of names to whom the resume may be sent or provides
3 that person with preaddressed envelopes to be mailed by the individual
4 or by the business itself, if the list of names or the preaddressed
5 envelopes have been compiled and are represented by the business as
6 having job openings. The term "employment agency" shall not include
7 labor union organizations, temporary service contractors, proprietary
8 schools operating within the scope of activities for which the school
9 is licensed under chapter 28C.10 RCW, nonprofit schools and colleges,
10 career guidance and counseling services, employment directories that
11 are sold in a manner that allows the applicant to examine the directory
12 before purchase, theatrical agencies, farm labor contractors, or the
13 Washington state employment agency.

14 (2) "Temporary service contractors" shall mean any person, firm,
15 association, or corporation conducting a business which consists of
16 employing individuals directly for the purpose of furnishing such
17 individuals on a part time or temporary help basis to others.

18 (3) "Theatrical agency" means any person who, for a fee or
19 commission, procures on behalf of an individual or individuals,
20 employment or engagements for circus, vaudeville, the variety field,
21 the legitimate theater, motion pictures, radio, television, phonograph
22 recordings, transcriptions, opera, concert, ballet, modeling, or other
23 entertainments, exhibitions, or performances. The term "theatrical
24 agency" does not include any person charging an applicant a fee prior
25 to or in advance of:

26 (a) Procuring employment for the applicant;

27 (b) Giving or providing the applicant information regarding where
28 or from whom employment may be obtained;

29 (c) Allowing or requiring the applicant to participate in any
30 instructional class, audition, or career guidance or counseling; or

31 (d) Allowing the applicant to be eligible for employment through
32 the person.

33 (4) "Farm labor contractor" means any person, or his or her agent,
34 who, for a fee, employs workers to render personal services in
35 connection with the production of any farm products, to, for, or under
36 the direction of an employer engaged in the growing, producing, or
37 harvesting of farm products, or who recruits, solicits, supplies, or
38 hires workers on behalf of an employer engaged in the growing,

1 producing, or harvesting of farm products or who provides in connection
2 with recruiting, soliciting, supplying, or hiring workers engaged in
3 the growing, producing, or harvesting of farm products, one or more of
4 the following services: Furnishes board, lodging, or transportation
5 for such workers, supervises, times, checks, counts, sizes, or
6 otherwise directs or measures their work; or disburses wage payments to
7 such persons.

8 (5) "Employer" means any person, firm, corporation, partnership, or
9 association employing or seeking to enter into an arrangement to employ
10 a person through the medium or service of an employment agency.

11 (6) "Applicant," except when used to describe an applicant for an
12 employment agency license, means any person, whether employed or
13 unemployed, seeking or entering into any arrangement for his or her
14 employment or change of his or her employment through the medium or
15 service of an employment agency.

16 (7) "Person" includes any individual, firm, corporation,
17 partnership, association, company, society, manager, contractor,
18 subcontractor, bureau, agency, service, office, or an agent or employee
19 of any of the foregoing.

20 (8) "Director" shall mean the director of licensing.

21 (9) "Resume" means a document of the applicant's employment history
22 that is approved, received, and paid for by the applicant.

23 (10) "Fee" means anything of value. The term includes money or
24 other valuable consideration or services or the promise of money or
25 other valuable consideration or services, received directly or
26 indirectly by an employment agency from a person seeking employment, in
27 payment for the service.

28 (11) "Employment listing service" means any business operated by
29 any person that provides in any form, including written or verbal,
30 lists of specified positions of employment available with any employer
31 other than itself or that holds itself out to applicants as able to
32 provide information about specific positions of employment available
33 with any employer other than itself, and that charges a fee to the
34 applicant for its services and does not set up interviews or otherwise
35 intercede between employer and applicant.

36 (12) "Employment directory" means any business operated by any
37 person that provides in any form, including written or verbal, lists of
38 employers, does not provide lists of specified positions of employment,

1 that holds itself out to applicants as able to provide information on
2 employment in specific industries or geographical areas, and that
3 charges a fee to the applicant for its services.

4 (13) "Career guidance and counseling service" means any person,
5 firm, association, or corporation conducting a business that engages in
6 any of the following activities:

7 (a) Career assessment, planning, or testing through individual
8 counseling or group seminars, classes, or workshops;

9 (b) Skills analysis, resume writing, and preparation through
10 individual counseling or group seminars, classes, or workshops;

11 (c) Training in job search or interviewing skills through
12 individual counseling or group seminars, classes, or workshops:
13 PROVIDED, That the career guidance and counseling service does not
14 engage in any of the following activities:

15 (i) Contacts employers on behalf of an applicant or in any way
16 intercedes between employer and applicant;

17 (ii) Provides information on specific job openings;

18 (iii) Holds itself out as able to provide referrals to specific
19 companies or individuals who have specific job openings.

20 **Sec. 532.** RCW 19.31.080 and 1969 ex.s. c 228 s 8 are each amended
21 to read as follows:

22 It shall be a misdemeanor for any person to conduct an employment
23 agency business in this state unless he or she has an employment agency
24 license issued pursuant to the provisions of this chapter.

25 **Sec. 533.** RCW 19.31.090 and 1977 ex.s. c 51 s 4 are each amended
26 to read as follows:

27 (1) Before conducting any business as an employment agency each
28 licensee shall file with the director a surety bond in the sum of two
29 thousand dollars running to the state of Washington, for the benefit of
30 any person injured or damaged as a result of any violation by the
31 licensee or his or her agent of any of the provisions of this chapter
32 or of any rule or regulation adopted by the director pursuant to RCW
33 19.31.070(1).

34 (2) In lieu of the surety bond required by this section the license
35 applicant may file with the director a cash deposit or other negotiable
36 security acceptable to the director: PROVIDED, HOWEVER, If the license

1 applicant has filed a cash deposit, the director shall deposit such
2 funds with the state treasurer. If the license applicant has deposited
3 cash or other negotiable security with the director, the same shall be
4 returned to the licensee at the expiration of one year after the
5 employment agency's license has expired or been revoked, if no legal
6 action has been instituted against the licensee or the surety deposit
7 at the expiration of the year.

8 (3) Any person having a claim against an employment agency for any
9 violation of the provisions of this chapter or any rule or regulation
10 promulgated thereunder may bring suit upon such bond or deposit in an
11 appropriate court of the county where the office of the employment
12 agency is located or of any county in which jurisdiction of the
13 employment agency may be had. Action upon such bond or deposit shall
14 be commenced by serving and filing of the complaint within one year
15 from the date of expiration of the employment agency license in force
16 at the time the act for which the suit is brought occurred. A copy of
17 the complaint shall be served by registered or certified mail upon the
18 director at the time the suit is started, and the director shall
19 maintain a record, available for public inspection, of all suits so
20 commenced. Such service on the director shall constitute service on
21 the surety and the director shall transmit the complaint or a copy
22 thereof to the surety within five business days after it shall have
23 been received. The surety upon the bond shall not be liable in an
24 aggregate amount in excess of the amount named in the bond, but in case
25 claims pending at any one time exceed the amount of the bond, claims
26 shall be satisfied in the order of judgment rendered. In the event
27 that any final judgment shall impair the liability of the surety upon
28 bond so furnished or the amount of the deposit so that there shall not
29 be in effect a bond undertaking or deposit in the full amount
30 prescribed in this section, the director shall suspend the license of
31 such employment agency until the bond undertaking or deposit in the
32 required amount, unimpaired by unsatisfied judgment claims, shall have
33 been furnished.

34 (4) In the event of a final judgment being entered against the
35 deposit or security referred to in subsection (2) of this section, the
36 director shall, upon receipt of a certified copy of the final judgment,
37 order said judgment to be paid from the amount of the deposit or
38 security.

1 **Sec. 534.** RCW 19.31.170 and 1993 c 499 s 6 are each amended to
2 read as follows:

3 (1) If an applicant accepts employment by agreement with an
4 employer and thereafter never reports for work, the gross fee charged
5 to the applicant shall not exceed: (a) Ten percent of what the first
6 month's gross salary or wages would be, if known; or (b) ten percent of
7 the first month's drawing account. If the employment was to have been
8 on a commission basis without any drawing account, then no fee may be
9 charged in the event that the applicant never reports for work.

10 (2) If an applicant accepts employment on a commission basis
11 without any drawing account, then the gross fee charged such applicant
12 shall be a percentage of commissions actually earned.

13 (3) If an applicant accepts employment and if within sixty days of
14 his or her reporting for work the employment is terminated, then the
15 gross fee charged such applicant shall not exceed twenty percent of the
16 gross salary, wages, or commission received by him or her.

17 (4) If an applicant accepts temporary employment as a domestic,
18 household employee, baby sitter, agricultural worker, or day laborer,
19 then the gross fee charged such applicant shall not be in excess of
20 twenty-five percent of the first full month's gross salary or wages:
21 PROVIDED, That where an applicant accepts employment as a domestic or
22 household employee for a period of less than one month, then the gross
23 fee charged such applicant shall not exceed twenty-five percent of the
24 gross salary or wages paid.

25 (5) Any applicant requesting a refund of a fee paid to an
26 employment agency in accordance with the terms of the approved fee
27 schedule of the employment agency pursuant to this section shall file
28 with the employment agency a form requesting such refund on which shall
29 be set forth information reasonably needed and requested by the
30 employment agency, including but not limited to the following:
31 Circumstances under which employment was terminated, dates of
32 employment, and gross earnings of the applicant.

33 (6) Refund requests which are not in dispute shall be made by the
34 employment agency within thirty days of receipt.

35 (7) Subsections (1) through (6) of this section do not apply to
36 employment listing services or employment directories.

1 **Sec. 535.** RCW 19.31.180 and 1969 ex.s. c 228 s 18 are each amended
2 to read as follows:

3 Each licensee shall post the following in a conspicuous place in
4 each office in which it conducts business: (1) The substance of RCW
5 19.31.150 through 19.31.170; and (2) a name and address provided by the
6 director, in a form prescribed by him or her, of a person to whom
7 complaints concerning possible violation of this chapter may be made.
8 All words required to be posted pursuant to this section shall be
9 printed in ten point bold face type.

10 **Sec. 536.** RCW 19.31.190 and 1993 c 499 s 7 are each amended to
11 read as follows:

12 In addition to the other provisions of this chapter the following
13 rules shall govern each and every employment agency:

14 (1) Every license or a verified copy thereof shall be displayed in
15 a conspicuous place in each office of the employment agency;

16 (2) No fee shall be solicited or accepted as an application or
17 registration fee by any employment agency solely for the purpose of
18 being registered as an applicant for employment;

19 (3) No licensee or agent of the licensee shall solicit, persuade,
20 or induce an employee to leave any employment in which the licensee or
21 agent of the licensee has placed the employee; nor shall any licensee
22 or agent of the licensee persuade or induce or solicit any employer to
23 discharge any employee;

24 (4) No employment agency shall knowingly cause to be printed or
25 published a false or fraudulent notice or advertisement for obtaining
26 work or employment. All advertising by a licensee shall signify that
27 it is an employment agency solicitation except an employment listing
28 service shall advertise it is an employment listing service;

29 (5) An employment directory shall include the following on all
30 advertisements:

31 "Directory provides information on possible employers and general
32 employment information but does not list actual job openings.";

33 (6) No licensee shall fail to state in any advertisement, proposal,
34 or contract for employment that there is a strike or lockout at the
35 place of proposed employment, if he or she has knowledge that such
36 condition exists;

1 (7) No licensee or agent of a licensee shall directly or indirectly
2 split, divide, or share with an employer any fee, charge, or
3 compensation received from any applicant who has obtained employment
4 with such employer or with any other person connected with the business
5 of such employer;

6 (8) When an applicant is referred to the same employer by two
7 licensees, the fee shall be paid to the licensee who first contacted
8 the applicant concerning the position for that applicant: PROVIDED,
9 That the licensee has given the name of the employer to the applicant
10 and has within five working days arranged an interview with the
11 employer and the applicant was hired as the result of that interview;

12 (9) No licensee shall require in any manner that a potential
13 employee or an employee of an employer make any contract with any
14 lending agency for the purpose of fulfilling a financial obligation to
15 the licensee;

16 (10) All job listings must be bona fide job listings. To qualify
17 as a bona fide job listing the following conditions must be met:

18 (a) A bona fide job listing must be obtained from a representative
19 of the employer that reflects an actual current job opening;

20 (b) A representative of the employer must be aware of the fact that
21 the job listing will be made available to applicants by the employment
22 listing service and that applicants will be applying for the job
23 listing;

24 (c) All job listings and referrals must be current. To qualify as
25 a current job listing the employment listing service shall contact the
26 employer and verify the availability of the job listing no less than
27 once per week;

28 (11) All listings for employers listed in employment directories
29 shall be current. To qualify as a current employer, the employment
30 directory must contact the employer at least once per month and verify
31 that the employer is currently hiring;

32 (12) Any aggrieved person, firm, corporation, or public officer may
33 submit a written complaint to the director charging the holder of an
34 employment agency license with violation of this chapter and/or the
35 rules and regulations adopted pursuant to this chapter.

36 **Sec. 537.** RCW 19.31.210 and 1969 ex.s. c 228 s 21 are each amended
37 to read as follows:

1 The director may refer such evidence as may be available to him or
2 her concerning violations of this chapter or of any rule or regulation
3 adopted hereunder to the attorney general or the prosecuting attorney
4 of the county wherein the alleged violation arose, who may, in their
5 discretion, with or without such a reference, in addition to any other
6 action they might commence, bring an action in the name of the state
7 against any person to restrain and prevent the doing of any act or
8 practice prohibited by this chapter: PROVIDED, That this chapter shall
9 be considered in conjunction with chapters 9.04 and 19.86 RCW, as now
10 or hereafter amended, and the powers and duties of the attorney general
11 and the prosecuting attorney as they may appear in the aforementioned
12 chapters, shall apply against all persons subject to this chapter.

13 **Sec. 538.** RCW 19.31.220 and 1969 ex.s. c 228 s 22 are each amended
14 to read as follows:

15 In the enforcement of this chapter, the attorney general and/or any
16 said prosecuting attorney may accept an assurance of discontinuance
17 from any person deemed in violation of any provisions of this chapter.
18 Any such assurance shall be in writing and shall be filed with and
19 subject to the approval of the superior court of the county in which
20 the alleged violator resides or has his or her principal place of
21 business, or in Thurston county.

22 **Sec. 539.** RCW 19.31.240 and 1969 ex.s. c 228 s 24 are each amended
23 to read as follows:

24 Personal service of any process in an action under this chapter may
25 be made upon any person outside the state if such person has engaged in
26 conduct in violation of this chapter which conduct has had impact in
27 this state which this chapter reprehends. Such person shall be deemed
28 to have thereby submitted himself or herself to the jurisdiction of the
29 courts of this state within the meaning of RCW 4.28.180 and 4.28.185,
30 as now or hereafter amended.

31 **Sec. 540.** RCW 19.36.010 and 1905 c 58 s 1 are each amended to read
32 as follows:

33 In the following cases, specified in this section, any agreement,
34 contract, and promise shall be void, unless such agreement, contract,
35 or promise, or some note or memorandum thereof, be in writing, and

1 signed by the party to be charged therewith, or by some person
2 thereunto by him or her lawfully authorized, that is to say: (1) Every
3 agreement that by its terms is not to be performed in one year from the
4 making thereof; (2) every special promise to answer for the debt,
5 default, or misdoings of another person; (3) every agreement, promise,
6 or undertaking made upon consideration of marriage, except mutual
7 promises to marry; (4) every special promise made by an executor or
8 administrator to answer damages out of his or her own estate; (5) an
9 agreement authorizing or employing an agent or broker to sell or
10 purchase real estate for compensation or a commission.

11 **Sec. 541.** RCW 19.48.070 and 1929 c 216 s 3 are each amended to
12 read as follows:

13 Except as provided for in RCW 19.48.030, the proprietor, keeper,
14 owner, operator, lessee, or manager, whether individual, partnership,
15 or corporation, of a hotel, lodging house, or inn, shall not be liable
16 for the loss or destruction of, or damage to any personal property
17 brought or sent into such hotel, lodging house, or inn, by or for any
18 of the guests, boarders, or lodgers thereof, unless such loss,
19 destruction, or damage is occasioned by the gross negligence of such
20 proprietor, keeper, owner, operator, lessee, or manager, or his, her,
21 their, or its agents, servants, or employees; but in no event shall
22 such liability exceed the sum of two hundred dollars, unless such
23 proprietor, keeper, owner, operator, lessee, or manager, shall have
24 contracted in writing with such guest, boarder, or lodger to assume a
25 greater liability: PROVIDED, HOWEVER, That in no event shall liability
26 of the proprietor, keeper, owner, operator, lessee, or manager, or his,
27 her, their, or its agents, servants or employees, of a hotel, lodging
28 house, or inn exceed the following: For a guest, boarder, or lodger,
29 paying twenty-five cents per day, for lodging, or for any person who is
30 not a guest, boarder, or lodger, the liability for loss, destruction,
31 or damage, shall not exceed the sum of fifty dollars for a trunk and
32 contents, ten dollars for a suitcase or valise and contents, five
33 dollars for a box, bundle, or package, and ten dollars for wearing
34 apparel or miscellaneous effects. For a guest, boarder, or lodger,
35 paying fifty cents a day for lodging, the liability for loss,
36 destruction, or damage shall not exceed seventy-five dollars for a
37 trunk and contents, twenty dollars for a suitcase or valise and

1 contents, ten dollars for a box, bundle, or package and contents, and
2 twenty dollars for wearing apparel and miscellaneous effects. For a
3 guest, boarder, or lodger paying more than fifty cents per day for
4 lodging, the liability for loss, destruction, or damage shall not
5 exceed one hundred fifty dollars for a trunk and contents, fifty
6 dollars for a suitcase or valise and contents, ten dollars for a box,
7 bundle, or package and contents, and fifty dollars for wearing apparel
8 and miscellaneous effects, unless in such case such proprietor, keeper,
9 owner, operator, lessee, or manager of such hotel, lodging house, or
10 inn, shall have consented in writing to assume a greater liability:
11 AND PROVIDED FURTHER, Whenever any person shall suffer his or her
12 baggage or property to remain in any hotel, lodging house, or inn,
13 after leaving the same as a guest, boarder, or lodger, and after the
14 relation of guest, boarder, or lodger between such person and the
15 proprietor, keeper, owner, operator, lessee, or manager of such hotel,
16 lodging house, or inn, has ceased, or shall forward or deliver the same
17 to such hotel, lodging house, or inn, before, or without, becoming a
18 guest, boarder, or lodger thereof, and the same shall be received into
19 such hotel, lodging house, or inn, the liability of such proprietor,
20 keeper, owner, operator, lessee, or manager thereof shall in no event
21 exceed the sum of one hundred dollars, and such proprietor, keeper,
22 owner, operator, lessee, or manager, may at his, her, their or its
23 option, hold such baggage or property at the risk of such owner
24 thereof; and when any baggage or property has been kept or stored by
25 such hotel, lodging house, or inn, for six months after such relation
26 of guest, boarder, or lodger has ceased, or when such relation does not
27 exist, after six months from the receipt of such baggage or property in
28 such hotel, lodging house, or inn, such proprietor, keeper, owner,
29 operator, lessee, or manager, may, if he, she, they or it so desires,
30 sell the same at public auction in the manner now or hereinafter
31 provided by law for the sale of property to satisfy a hotel keeper's
32 lien, and from the proceeds of such sale pay or reimburse himself or
33 herself the expenses incurred for advertisement and sale, as well as
34 any storage that may have accrued, and any other amounts owing by such
35 person to said hotel, lodging house, or inn: PROVIDED, That when any
36 such baggage or property is received, kept, or stored therein after
37 such relation does not exist, such proprietor, keeper, owner, operator,
38 lessee, or manager, may, if he, she, or it, so desires, deliver the

1 same at any time to a storage or warehouse company for storage, and in
2 such event all responsibility or liability of such hotel, lodging
3 house, or inn, for such baggage or property, or for storage charges
4 thereon, shall thereupon cease and terminate.

5 **Sec. 542.** RCW 19.52.010 and 1992 c 134 s 13 are each amended to
6 read as follows:

7 (1) Every loan or forbearance of money, goods, or thing in action
8 shall bear interest at the rate of twelve percent per annum where no
9 different rate is agreed to in writing between the parties: PROVIDED,
10 That with regard to any transaction heretofore or hereafter entered
11 into subject to this section, if an agreement in writing between the
12 parties evidencing such transaction provides for the payment of money
13 at the end of an agreed period of time or in installments over an
14 agreed period of time, then such agreement shall constitute a writing
15 for purposes of this section and satisfy the requirements thereof. The
16 discounting of commercial paper, where the borrower makes himself or
17 herself liable as maker, guarantor, or indorser, shall be considered as
18 a loan for the purposes of this chapter.

19 (2) A lease shall not be considered a loan or forbearance for the
20 purposes of this chapter if:

- 21 (a) It constitutes a "consumer lease" as defined in RCW 63.10.020;
22 (b) It constitutes a lease-purchase agreement under chapter 63.19
23 RCW; or
24 (c) It would constitute such "consumer lease" but for the fact
25 that:
26 (i) The lessee was not a natural person;
27 (ii) The lease was not primarily for personal, family, or household
28 purposes; or
29 (iii) The total contractual obligation exceeded twenty-five
30 thousand dollars.

31 **Sec. 543.** RCW 19.64.010 and 1943 c 229 s 1 are each amended to
32 read as follows:

33 Where the owner, licensee, or operator of a radio or television
34 broadcasting station, or the agents or employees thereof, has required
35 a person speaking over said station to submit a written copy of his or
36 her script prior to such broadcast and has cut such speaker off the air

1 as soon as reasonably possible in the event such speaker deviates from
2 such written script, said owner, licensee, or operator, or the agents
3 or employees thereof, shall not be liable for any damages, for any
4 defamatory statement published or uttered by such person in or as a
5 part of such radio or television broadcast unless such defamatory
6 statements are contained in said written script.

7 **Sec. 544.** RCW 19.64.020 and 1943 c 229 s 2 are each amended to
8 read as follows:

9 Nothing contained shall be construed as limiting the liability of
10 any speaker or his or her sponsor or sponsors for defamatory statements
11 made by such speaker in or as a part of any such broadcast.

12 **Sec. 545.** RCW 19.68.030 and 1965 ex.s. c 58 s 3 are each amended
13 to read as follows:

14 The license of any person so licensed may be revoked or suspended
15 if he or she has directly or indirectly requested, received, or
16 participated in the division, transference, assignment, rebate,
17 splitting, or refunding of a fee for, or has directly or indirectly
18 requested, received, or profited by means of a credit or other valuable
19 consideration as a commission, discount, or gratuity in connection with
20 the furnishing of medical, surgical, or dental care, diagnosis or
21 treatment or service, including X-ray examination and treatment, or for
22 or in connection with the sale, rental, supplying or furnishing of
23 clinical laboratory service or supplies, X-ray services or supplies,
24 inhalation therapy service or equipment, ambulance service, hospital or
25 medical supplies, physiotherapy or other therapeutic service or
26 equipment, artificial limbs, teeth, or eyes, orthopedic or surgical
27 appliances or supplies, optical appliances, supplies or equipment,
28 devices for aid of hearing, drugs, medication or medical supplies or
29 any other goods, services or supplies prescribed for medical diagnosis,
30 care or treatment, except payment, not to exceed thirty-three and one-
31 third percent of any fee received for X-ray examination, diagnosis, or
32 treatment, to any hospital furnishing facilities for such examination,
33 diagnosis, or treatment.

34 **Sec. 546.** RCW 19.72.070 and Code 1881 s 648 are each amended to
35 read as follows:

1 When any defendant, surety in a judgment or special bail or
2 replevin or surety in a delivery bond or replevin bond, or any person
3 being surety in any bond whatever, has been or shall be compelled to
4 pay any judgment or any part thereof, or shall make any payment which
5 is applied upon such judgment by reason of such suretyship, or when any
6 sheriff or other officer or other surety upon his or her official bond
7 shall be compelled to pay any judgment or any part thereof by reason of
8 any default of such officer, except for failing to pay over money
9 collected, or for wasting property levied upon, the judgment shall not
10 be discharged by such payment, but shall remain in force for the use of
11 the bail, surety, officer, or other person making such payment, and
12 after the plaintiff is paid, so much of the judgment as remains
13 unsatisfied may be prosecuted to execution for his or her use.

14 **Sec. 547.** RCW 19.72.090 and Code 1881 s 650 are each amended to
15 read as follows:

16 No surety or his or her representative shall confess judgment or
17 suffer judgment by default in any case where he or she is notified that
18 there is a valid defense, if the principal will enter himself or
19 herself defendant to the action and tender to the surety or his or her
20 representatives good security to indemnify him or her, to be approved
21 by the court.

22 **Sec. 548.** RCW 19.72.101 and Code 1881 s 645 are each amended to
23 read as follows:

24 If the creditor or obligee shall not proceed within a reasonable
25 time to bring his or her action upon such contract, and prosecute the
26 same to judgment and execution, the surety shall be discharged from all
27 liability thereon.

28 **Sec. 549.** RCW 19.72.130 and 1937 c 145 s 3 are each amended to
29 read as follows:

30 On and after the date fixed in the notice as the termination date
31 the surety shall be released from subsequent liability on such bond;
32 and, unless before the date fixed in such notice as the termination
33 date by the surety, a new bond shall be filed with sufficient and
34 satisfactory surety as required by law under which the bond was
35 originally furnished and filed, the office, position, or trust in the

1 case of a public office, guardian, executor, administrator, receiver,
2 or trustee shall become vacant and a successor shall be appointed as
3 provided by law; and in case of a license, certificate, permit, or
4 franchise, the same shall become null and void: PROVIDED, HOWEVER,
5 That no surety shall be released on the bond of any guardian, executor,
6 administrator, receiver, or trustee until such fiduciary shall have
7 furnished a new bond with surety approved by the court, or until his or
8 her successor has been appointed and has qualified and taken over the
9 fiduciary assets. Said notice of withdrawal shall be final and not
10 subject to cancellation by said surety and said license, certificate,
11 permit, or franchise can only be continued upon filing a new bond as
12 above provided.

13 **Sec. 550.** RCW 19.72.160 and 1953 c 46 s 1 are each amended to read
14 as follows:

15 It shall be lawful for any party of whom a bond, undertaking, or
16 other obligation is required, to agree with his or her surety or
17 sureties for the deposit of any or all moneys and assets for which he
18 or she and his or her surety or sureties are or may be held
19 responsible, with a bank, savings bank, savings and loan association,
20 safe deposit or trust company, authorized by law to do business as
21 such, or with other depository approved by the court or a judge
22 thereof, if such deposit is otherwise proper, for the safekeeping
23 thereof, and in such manner as to prevent the withdrawal of such money
24 or assets or any part thereof, without the written consent of such
25 surety or sureties, or an order of court, or a judge thereof made on
26 such notice to such surety or sureties as such court or judge may
27 direct: PROVIDED, HOWEVER, That such agreement shall not in any manner
28 release from or change the liability of the principal or sureties as
29 established by the terms of said bond.

30 **Sec. 551.** RCW 19.77.030 and 2010 1st sp.s. c 29 s 9 are each
31 amended to read as follows:

32 (1) Subject to the limitations set forth in this chapter, any
33 person who has adopted and is using a trademark in this state may file
34 in the office of the secretary of state, on a form to be furnished by
35 the secretary of state, an application for registration of that
36 trademark setting forth, but not limited to, the following information:

1 (a) The name and business address of the applicant, and, if the
2 applicant is a corporation, its state of incorporation;

3 (b) The particular goods or services in connection with which the
4 trademark is used and the class in which such goods or services fall;

5 (c) The manner in which the trademark is placed on or affixed to
6 the goods or containers, or displayed in connection with such goods, or
7 used in connection with the sale or advertising of the services;

8 (d) The date when the trademark was first used with such goods or
9 services anywhere and the date when it was first used with such goods
10 or services in this state by the applicant or his or her predecessor in
11 business;

12 (e) A statement that the trademark is presently in use in this
13 state by the applicant;

14 (f) A statement that the applicant believes himself or herself to
15 be the owner of the trademark and believes that no other person has the
16 right to use such trademark in connection with the same or similar
17 goods or services in this state either in the identical form or in such
18 near resemblance thereto as to be likely, when used on or in connection
19 with the goods or services of such other person, to cause confusion or
20 mistake or to deceive; and

21 (g) Such additional information or documents as the secretary of
22 state may reasonably require.

23 (2) A single application for registration of a trademark may
24 specify all goods or services in a single class or in multiple classes
25 for which the trademark is actually being used.

26 (3) The application must be signed by the applicant individual, or
27 by a member of the applicant firm, or by an officer of the applicant
28 corporation, association, union, or other organization.

29 (4) The application must be accompanied by three specimens or
30 facsimiles of the trademark for each of the goods or services for which
31 its registration is requested, and a filing fee, as set by rule by the
32 secretary of state, payable to the secretary of state. The fee
33 established by the secretary may vary based upon the number of
34 categories listed in the application.

35 (5) An applicant may correct an application previously filed by the
36 secretary of state, within ninety days of the original filing, if the
37 application contains an incorrect statement or the application was
38 defectively executed, signed, or acknowledged. An application is

1 corrected by filing a form provided by the secretary of state, and
2 accompanied by a filing fee established by the secretary by rule. The
3 correction may not change the mark itself. A corrected application is
4 effective on the effective date of the document it corrects, except
5 that it is effective on the date the correction is filed as to persons
6 relying on the uncorrected document and adversely affected by the
7 correction.

8 (6) An applicant may amend an application previously filed by the
9 secretary of state if the applicant changes the categories in which it
10 does business. An application is amended by filing a form provided by
11 the secretary of state, accompanied by three specimens or facsimiles of
12 the trademark for any new or additional goods or services for which the
13 amendment is requested, and a filing fee established by the secretary
14 by rule. The amendment or correction may not change the mark itself.
15 An amended application is effective on the date it is filed.

16 (7) If the secretary of state determines within ninety days of
17 issuance, that a certificate of registration was issued in error, then
18 the secretary may cancel the certificate of registration. The
19 secretary shall promptly notify the registrant of the cancellation in
20 writing. The registrant may petition the superior court of Thurston
21 county for review of the cancellation within sixty days.

22 **Sec. 552.** RCW 19.77.130 and 1989 c 72 s 8 are each amended to read
23 as follows:

24 Any person who shall for himself or herself, or on behalf of any
25 other person, procure the registration of any trademark by the
26 secretary of state under the provisions of this chapter, by knowingly
27 making any false or fraudulent representation or declaration, or by any
28 other fraudulent means, shall be liable to pay all damages sustained in
29 consequence of such registration, to be recovered by or on behalf of
30 the party injured thereby in any court of competent jurisdiction,
31 together with costs of such action including reasonable attorneys'
32 fees.

33 **Sec. 553.** RCW 19.83.020 and 1913 c 134 s 2 are each amended to
34 read as follows:

35 In order to obtain such license the person applying therefor shall
36 pay to the county treasurer of the county for which the license is

1 sought the sum of six thousand dollars, and upon such payment being
2 made to the county treasurer he or she shall issue his or her receipt
3 therefor which shall be presented to the auditor of the county, who
4 shall upon the presentation thereof issue to the person making such
5 payment a license to furnish or sell, or a license to use, for one
6 year, trading stamps, coupons, tickets, certificates, cards, or other
7 similar devices. Such license shall contain the name of the licensee,
8 the date of its issue, the date of its expiration, the city or town in
9 which and the location at which the same shall be used, and the license
10 shall be used at no place other than that mentioned therein.

11 **Sec. 554.** RCW 19.83.040 and 1983 c 40 s 1 are each amended to read
12 as follows:

13 (1) Nothing in this chapter, or in any other statute or ordinance
14 of this state, shall apply to:

15 (a) The issuance and direct redemption by a manufacturer of a
16 premium coupon, certificate, or similar device; or prevent him or her
17 from issuing and directly redeeming such premium coupon, certificate,
18 or similar device, which, however, shall not be issued, circulated, or
19 distributed by retail vendors except when contained in or attached to
20 an original package;

21 (b) The publication by, or distribution through, newspapers or
22 other publications of coupons, certificates, or similar devices; or

23 (c) A coupon, certificate, or similar device which is within,
24 attached to, or a part of a package or container as packaged by the
25 original manufacturer and which is to be redeemed by another
26 manufacturer, if:

27 (i) The coupon, certificate, or similar device clearly states the
28 names and addresses of both the issuing manufacturer and the redeeming
29 manufacturer; and

30 (ii) The issuing manufacturer is responsible for redemption of the
31 coupon, certificate, or similar device if the redeeming manufacturer
32 fails to do so.

33 (2) The term "manufacturer," as used in this section, means any
34 vendor of an article of merchandise which is put up by or for him or
35 her in an original package and which is sold under his, her, or its
36 trade name, brand, or mark.

1 **Sec. 555.** RCW 19.84.030 and 1907 c 253 s 3 are each amended to
2 read as follows:

3 Any person engaged in any trade, business, or profession who shall
4 distribute, deliver, or present to any person dealing with him or her,
5 in consideration of any article or thing purchased, any stamp, trading
6 stamp, cash discount stamp, check, ticket, coupon, or other similar
7 device, which will entitle the holder thereof, on presentation thereof,
8 either singly or in definite number, to receive, either directly from
9 the person issuing or selling the same, as set forth in RCW 19.84.020,
10 or indirectly through any other person, shall, upon the refusal or
11 failure of the said person issuing or selling same to redeem the same,
12 as set forth in RCW 19.84.020, be liable to the holder thereof for the
13 face value thereof, and shall upon presentation redeem the same, either
14 in goods, wares, or merchandise, or in cash, good and lawful money of
15 the United States of America, at the option of the holder thereof, and
16 in such case any number of such stamps, trading stamps, cash discount
17 stamps, checks, tickets, coupons, or other similar devices, shall be
18 redeemed as hereinbefore set forth, at the value in cents printed upon
19 the face thereof, and it shall not be necessary for the holder thereof
20 to have any stipulated number of the same before demand for redemption
21 may be made, but they shall be redeemed in any number, when presented,
22 at the value in cents printed upon the face thereof, as hereinbefore
23 provided.

24 **Sec. 556.** RCW 19.86.100 and 1970 ex.s. c 26 s 3 are each amended
25 to read as follows:

26 In the enforcement of this chapter, the attorney general may accept
27 an assurance of discontinuance of any act or practice deemed in
28 violation of this chapter, from any person engaging in, or who has
29 engaged in, such act or practice. Any such assurance shall be in
30 writing and be filed with and subject to the approval of the superior
31 court of the county in which the alleged violator resides or has his or
32 her principal place of business, or in Thurston county.

33 Such assurance of discontinuance shall not be considered an
34 admission of a violation for any purpose; however, proof of failure to
35 comply with the assurance of discontinuance shall be prima facie
36 evidence of a violation of this chapter.

1 **Sec. 557.** RCW 19.86.110 and 1993 c 125 s 1 are each amended to
2 read as follows:

3 (1) Whenever the attorney general believes that any person (a) may
4 be in possession, custody, or control of any original or copy of any
5 book, record, report, memorandum, paper, communication, tabulation,
6 map, chart, photograph, mechanical transcription, or other tangible
7 document or recording, wherever situate, which he or she believes to be
8 relevant to the subject matter of an investigation of a possible
9 violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or
10 19.86.060, or federal statutes dealing with the same or similar matters
11 that the attorney general is authorized to enforce, or (b) may have
12 knowledge of any information which the attorney general believes
13 relevant to the subject matter of such an investigation, he or she may,
14 prior to the institution of a civil proceeding thereon, execute in
15 writing and cause to be served upon such a person, a civil
16 investigative demand requiring such person to produce such documentary
17 material and permit inspection and copying, to answer in writing
18 written interrogatories, to give oral testimony, or any combination of
19 such demands pertaining to such documentary material or information:
20 PROVIDED, That this section shall not be applicable to criminal
21 prosecutions.

22 (2) Each such demand shall:

23 (a) State the statute and section or sections thereof, the alleged
24 violation of which is under investigation, and the general subject
25 matter of the investigation;

26 (b) If the demand is for the production of documentary material,
27 describe the class or classes of documentary material to be produced
28 thereunder with reasonable specificity so as fairly to indicate the
29 material demanded;

30 (c) Prescribe a return date within which the documentary material
31 is to be produced, the answers to written interrogatories are to be
32 made, or a date, time, and place at which oral testimony is to be
33 taken; and

34 (d) Identify the members of the attorney general's staff to whom
35 such documentary material is to be made available for inspection and
36 copying, to whom answers to written interrogatories are to be made, or
37 who are to conduct the examination for oral testimony.

38 (3) No such demand shall:

1 (a) Contain any requirement which would be unreasonable or improper
2 if contained in a subpoena duces tecum, a request for answers to
3 written interrogatories, or a request for deposition upon oral
4 examination issued by a court of this state; or

5 (b) Require the disclosure of any documentary material which would
6 be privileged, or which for any other reason would not be required by
7 a subpoena duces tecum issued by a court of this state.

8 (4) Service of any such demand may be made by:

9 (a) Delivering a duly executed copy thereof to the person to be
10 served, or, if such person is not a natural person, to any officer or
11 managing agent of the person to be served; or

12 (b) Delivering a duly executed copy thereof to the principal place
13 of business in this state of the person to be served; or

14 (c) Mailing by registered or certified mail a duly executed copy
15 thereof addressed to the person to be served at the principal place of
16 business in this state, or, if said person has no place of business in
17 this state, to his or her principal office or place of business.

18 (5)(a) Documentary material demanded pursuant to the provisions of
19 this section shall be produced for inspection and copying during normal
20 business hours at the principal office or place of business of the
21 person served, or at such other times and places as may be agreed upon
22 by the person served and the attorney general;

23 (b) Written interrogatories in a demand served under this section
24 shall be answered in the same manner as provided in the civil rules for
25 superior court;

26 (c) The oral testimony of any person obtained pursuant to a demand
27 served under this section shall be taken in the same manner as provided
28 in the civil rules for superior court for the taking of depositions.
29 In the course of the deposition, the assistant attorney general
30 conducting the examination may exclude from the place where the
31 examination is held all persons other than the person being examined,
32 the person's counsel, and the officer before whom the testimony is to
33 be taken;

34 (d) Any person compelled to appear pursuant to a demand for oral
35 testimony under this section may be accompanied by counsel;

36 (e) The oral testimony of any person obtained pursuant to a demand
37 served under this section shall be taken in the county within which the

1 person resides, is found, or transacts business, or in such other place
2 as may be agreed upon between the person served and the attorney
3 general.

4 (6) If, after prior court approval, a civil investigative demand
5 specifically prohibits disclosure of the existence or content of the
6 demand, unless otherwise ordered by a superior court for good cause
7 shown, it shall be a misdemeanor for any person if not a bank, trust
8 company, mutual savings bank, credit union, or savings and loan
9 association organized under the laws of the United States or of any one
10 of the United States to disclose to any other person the existence or
11 content of the demand, except for disclosure to counsel for the
12 recipient of the demand or unless otherwise required by law.

13 (7) No documentary material, answers to written interrogatories, or
14 transcripts of oral testimony produced pursuant to a demand, or copies
15 thereof, shall, unless otherwise ordered by a superior court for good
16 cause shown, be produced for inspection or copying by, nor shall the
17 contents thereof be disclosed to, other than an authorized employee of
18 the attorney general, without the consent of the person who produced
19 such material, answered written interrogatories, or gave oral
20 testimony, except as otherwise provided in this section: PROVIDED,
21 That:

22 (a) Under such reasonable terms and conditions as the attorney
23 general shall prescribe, the copies of such documentary material,
24 answers to written interrogatories, or transcripts of oral testimony
25 shall be available for inspection and copying by the person who
26 produced such material, answered written interrogatories, or gave oral
27 testimony, or any duly authorized representative of such person;

28 (b) The attorney general may provide copies of such documentary
29 material, answers to written interrogatories, or transcripts of oral
30 testimony to an official of this state, the federal government, or
31 other state, who is charged with the enforcement of federal or state
32 antitrust or consumer protection laws, if before the disclosure the
33 receiving official agrees in writing that the information may not be
34 disclosed to anyone other than that official or the official's
35 authorized employees. The material provided under this subsection
36 (7)(b) is subject to the confidentiality restrictions set forth in this
37 section and may not be introduced as evidence in a criminal
38 prosecution; and

1 (c) The attorney general or any assistant attorney general may use
2 such copies of documentary material, answers to written
3 interrogatories, or transcripts of oral testimony as he or she
4 determines necessary in the enforcement of this chapter, including
5 presentation before any court: PROVIDED, That any such material,
6 answers to written interrogatories, or transcripts of oral testimony
7 which contain trade secrets shall not be presented except with the
8 approval of the court in which action is pending after adequate notice
9 to the person furnishing such material, answers to written
10 interrogatories, or oral testimony.

11 (8) At any time before the return date specified in the demand, or
12 within twenty days after the demand has been served, whichever period
13 is shorter, a petition to extend the return date for, or to modify or
14 set aside a demand issued pursuant to subsection (1) of this section,
15 stating good cause, may be filed in the superior court for Thurston
16 county, or in such other county where the parties reside. A petition,
17 by the person on whom the demand is served, stating good cause, to
18 require the attorney general or any person to perform any duty imposed
19 by the provisions of this section, and all other petitions in
20 connection with a demand, may be filed in the superior court for
21 Thurston county, or in the county where the parties reside. The court
22 shall have jurisdiction to impose such sanctions as are provided for in
23 the civil rules for superior court with respect to discovery motions.

24 (9) Whenever any person fails to comply with any civil
25 investigative demand for documentary material, answers to written
26 interrogatories, or oral testimony duly served upon him or her under
27 this section, or whenever satisfactory copying or reproduction of any
28 such material cannot be done and such person refuses to surrender such
29 material, the attorney general may file, in the trial court of general
30 jurisdiction of the county in which such person resides, is found, or
31 transacts business, and serve upon such person a petition for an order
32 of such court for the enforcement of this section, except that if such
33 person transacts business in more than one county such petition shall
34 be filed in the county in which such person maintains his or her
35 principal place of business, or in such other county as may be agreed
36 upon by the parties to such petition. Whenever any petition is filed
37 in the trial court of general jurisdiction of any county under this
38 section, such court shall have jurisdiction to hear and determine the

1 matter so presented and to enter such order or orders as may be
2 required to carry into effect the provisions of this section, and may
3 impose such sanctions as are provided for in the civil rules for
4 superior court with respect to discovery motions.

5 **Sec. 558.** RCW 19.100.050 and 1972 ex.s. c 116 s 4 are each amended
6 to read as follows:

7 The director may by rule or order require as a condition to the
8 effectiveness of the registration the escrow or impound of franchise
9 fees if he or she finds that such requirement is necessary and
10 appropriate to protect prospective franchisees. At any time after the
11 issuance of such rule or order under this section the franchisor may in
12 writing request the rule or order be rescinded. Upon receipt of such
13 a written request, the matter shall be set down for hearing to commence
14 within fifteen days after such receipt unless the person making the
15 request consents to a later date. After such hearing, which shall be
16 conducted in accordance with the provisions of the administrative
17 procedure act, chapter 34.05 RCW, the director shall determine whether
18 to affirm and to continue or to rescind such order and the director
19 shall have all powers granted under such act.

20 **Sec. 559.** RCW 19.100.120 and 1972 ex.s. c 116 s 8 are each amended
21 to read as follows:

22 The director may issue a stop order denying effectiveness to or
23 suspending or revoking the effectiveness of any registration statement
24 if he or she finds that the order is in the public interest and that:

25 (1) The registration statement as of its effective date, or as of
26 any earlier date in the case of an order denying effectiveness, is
27 incomplete in any material respect or contains any statement which was
28 in the light of the circumstances under which it was made false or
29 misleading with respect to any material fact;

30 (2) Any provision of this chapter or any rule or order or condition
31 lawfully imposed under this chapter has been violated in connection
32 with the offering by:

33 (a) The person filing the registration statement but only if such
34 person is directly or indirectly controlled by or acting for the
35 franchisor; or

1 (b) The franchisor, any partner, officer, or director of a
2 franchisor, or any person occupying a similar status or performing
3 similar functions or any person directly or indirectly controlling or
4 controlled by the franchisor.

5 (3) The franchise offering registered or sought to be registered is
6 the subject of a permanent or temporary injunction of any court of
7 competent jurisdiction entered under any federal or state act
8 applicable to the offering but the director may not:

9 (a) Institute a proceeding against an effective registration
10 statement under this clause more than one year from the date of the
11 injunctive relief thereon unless the injunction is thereafter violated;
12 and

13 (b) Enter an order under this clause on the basis of an injunction
14 entered under any other state act unless that order or injunction is
15 based on facts that currently constitute a ground for stop order under
16 this section;

17 (4) A franchisor's enterprise or method of business includes or
18 would include activities which are illegal where performed;

19 (5) The offering has worked or tended to work a fraud upon
20 purchasers or would so operate;

21 (6) The applicant has failed to comply with any rule or order of
22 the director issued pursuant to RCW 19.100.050.

23 (7) The applicant or registrant has failed to pay the proper
24 registration fee but the director may enter only a denial order under
25 this subsection and he or she shall vacate such order when the
26 deficiency has been corrected.

27 **Sec. 560.** RCW 19.100.130 and 1971 ex.s. c 252 s 13 are each
28 amended to read as follows:

29 Upon the entry of a stop order under any part of RCW 19.100.120,
30 the director shall promptly notify the applicant that the order has
31 been entered and that the reasons therefor and that within fifteen days
32 after receipt of a written request, the matter will be set down for
33 hearing. If no hearing is requested within fifteen days and none is
34 ordered by the director, the director shall enter his or her written
35 findings of fact and conclusions of law and the order will remain in
36 effect until it is modified or vacated by the director. If a hearing
37 is requested or ordered, the director after notice of an opportunity

1 for hearings to the issuer and to the applicant or registrant shall
2 enter his or her written findings of fact and conclusions of law and
3 may modify or vacate the order. The director may modify or vacate a
4 stop order if he or she finds that the conditions which prompted his or
5 her entry have changed or that it is otherwise in the public interest
6 to do so.

7 **Sec. 561.** RCW 19.100.160 and 1991 c 226 s 9 are each amended to
8 read as follows:

9 Any person who is engaged or hereafter engaged directly or
10 indirectly in the sale or offer to sell a franchise or a subfranchise
11 or in business dealings concerning a franchise, either in person or in
12 any other form of communication, shall be subject to the provisions of
13 this chapter, shall be amenable to the jurisdiction of the courts of
14 this state and shall be amenable to the service of process under RCW
15 4.28.180, 4.28.185, and 19.86.160. Every applicant for registration of
16 a franchise under this law (by other than a Washington corporation)
17 shall file with the director in such form as he or she by rule
18 prescribed, an irrevocable consent appointing the director or his or
19 her successor in office to be his or her attorney, to receive service
20 or any lawful process in any noncriminal suit, action, or proceeding
21 against him or her or his or her successors, executor, or administrator
22 which arises under this law or any rule or order hereunder after the
23 consent has been filed, with the same force and validity as if served
24 personally on the person filing consent. A person who has filed such
25 a consent in connection with a previous registration under this law
26 need not file another. Service may be made by leaving a copy of the
27 process in the office of the director but it is not as effective
28 unless:

29 (1) The plaintiff, who may be the director, in a suit, action, or
30 proceeding instituted by him or her forthwith sends notice of the
31 service and a copy of the process by registered or certified mail to
32 the defendant or respondent at his or her last address on file with the
33 director; and

34 (2) The plaintiff's affidavit of compliance with this section is
35 filed in the case on or before the return day of the process, if any,
36 or within such further times the court allows.

1 **Sec. 562.** RCW 19.100.180 and 1991 c 226 s 11 are each amended to
2 read as follows:

3 Without limiting the other provisions of this chapter, the
4 following specific rights and prohibitions shall govern the relation
5 between the franchisor or subfranchisor and the franchisees:

6 (1) The parties shall deal with each other in good faith.

7 (2) For the purposes of this chapter and without limiting its
8 general application, it shall be an unfair or deceptive act or practice
9 or an unfair method of competition and therefore unlawful and a
10 violation of this chapter for any person to:

11 (a) Restrict or inhibit the right of the franchisees to join an
12 association of franchisees.

13 (b) Require a franchisee to purchase or lease goods or services of
14 the franchisor or from approved sources of supply unless and to the
15 extent that the franchisor satisfies the burden of proving that such
16 restrictive purchasing agreements are reasonably necessary for a lawful
17 purpose justified on business grounds, and do not substantially affect
18 competition: PROVIDED, That this provision shall not apply to the
19 initial inventory of the franchise. In determining whether a
20 requirement to purchase or lease goods or services constitutes an
21 unfair or deceptive act or practice or an unfair method of competition
22 the courts shall be guided by the decisions of the courts of the United
23 States interpreting and applying the anti-trust laws of the United
24 States.

25 (c) Discriminate between franchisees in the charges offered or made
26 for royalties, goods, services, equipment, rentals, advertising
27 services, or in any other business dealing, unless and to the extent
28 that the franchisor satisfies the burden of proving that any
29 classification of or discrimination between franchisees is: (i)
30 Reasonable, (ii) based on franchises granted at materially different
31 times and such discrimination is reasonably related to such difference
32 in time, or is based on other proper and justifiable distinctions
33 considering the purposes of this chapter, and (iii) is not arbitrary.
34 However, nothing in (c) of this subsection precludes negotiation of the
35 terms and conditions of a franchise at the initiative of the
36 franchisees.

37 (d) Sell, rent, or offer to sell to a franchisee any product or
38 service for more than a fair and reasonable price.

1 (e) Obtain money, goods, services, anything of value, or any other
2 benefit from any other person with whom the franchisee does business on
3 account of such business unless such benefit is disclosed to the
4 franchisee.

5 (f) If the franchise provides that the franchisee has an exclusive
6 territory, which exclusive territory shall be specified in the
7 franchise agreement, for the franchisor or subfranchisor to compete
8 with the franchisee in an exclusive territory or to grant competitive
9 franchises in the exclusive territory area previously granted to
10 another franchisee.

11 (g) Require franchisee to assent to a release, assignment,
12 novation, or waiver which would relieve any person from liability
13 imposed by this chapter, except as otherwise permitted by RCW
14 19.100.220.

15 (h) Impose on a franchisee by contract, rule, or regulation,
16 whether written or oral, any standard of conduct unless the person so
17 doing can sustain the burden of proving such to be reasonable and
18 necessary.

19 (i) Refuse to renew a franchise without fairly compensating the
20 franchisee for the fair market value, at the time of expiration of the
21 franchise, of the franchisee's inventory, supplies, equipment, and
22 furnishings purchased from the franchisor, and good will, exclusive of
23 personalized materials which have no value to the franchisor, and
24 inventory, supplies, equipment, and furnishings not reasonably required
25 in the conduct of the franchise business: PROVIDED, That compensation
26 need not be made to a franchisee for good will if (i) the franchisee
27 has been given one year's notice of nonrenewal and (ii) the franchisor
28 agrees in writing not to enforce any covenant which restrains the
29 franchisee from competing with the franchisor: PROVIDED FURTHER, That
30 a franchisor may offset against amounts owed to a franchisee under this
31 subsection any amounts owed by such franchisee to the franchisor.

32 (j) Terminate a franchise prior to the expiration of its term
33 except for good cause. Good cause shall include, without limitation,
34 the failure of the franchisee to comply with lawful material provisions
35 of the franchise or other agreement between the franchisor and the
36 franchisee and to cure such default after being given written notice
37 thereof and a reasonable opportunity, which in no event need be more
38 than thirty days, to cure such default, or if such default cannot

1 reasonably be cured within thirty days, the failure of the franchisee
2 to initiate within thirty days substantial and continuing action to
3 cure such default: PROVIDED, That after three willful and material
4 breaches of the same term of the franchise agreement occurring within
5 a twelve-month period, for which the franchisee has been given notice
6 and an opportunity to cure as provided in this subsection, the
7 franchisor may terminate the agreement upon any subsequent willful and
8 material breach of the same term within the twelve-month period without
9 providing notice or opportunity to cure: PROVIDED FURTHER, That a
10 franchisor may terminate a franchise without giving prior notice or
11 opportunity to cure a default if the franchisee: (i) Is adjudicated a
12 bankrupt or insolvent; (ii) makes an assignment for the benefit of
13 creditors or similar disposition of the assets of the franchise
14 business; (iii) voluntarily abandons the franchise business; or (iv) is
15 convicted of or pleads guilty or no contest to a charge of violating
16 any law relating to the franchise business. Upon termination for good
17 cause, the franchisor shall purchase from the franchisee at a fair
18 market value at the time of termination, the franchisee's inventory and
19 supplies, exclusive of (i) personalized materials which have no value
20 to the franchisor; (ii) inventory and supplies not reasonably required
21 in the conduct of the franchise business; and (iii), if the franchisee
22 is to retain control of the premises of the franchise business, any
23 inventory and supplies not purchased from the franchisor or on his or
24 her express requirement: PROVIDED, That a franchisor may offset
25 against amounts owed to a franchisee under this subsection any amounts
26 owed by such franchisee to the franchisor.

27 **Sec. 563.** RCW 19.100.190 and 1972 ex.s. c 116 s 11 are each
28 amended to read as follows:

29 (1) The commission of any unfair or deceptive acts or practices or
30 unfair methods of competition prohibited by RCW 19.100.180 as now or
31 hereafter amended shall constitute an unfair or deceptive act or
32 practice under the provisions of chapter 19.86 RCW.

33 (2) Any person who sells or offers to sell a franchise in violation
34 of this chapter shall be liable to the franchisee or subfranchisor who
35 may sue at law or in equity for damages caused thereby for rescission
36 or other relief as the court may deem appropriate. In the case of a
37 violation of RCW 19.100.170 rescission is not available to the

1 plaintiff if the defendant proves that the plaintiff knew the facts
2 concerning the untruth or omission or that the defendant exercised
3 reasonable care and did not know or if he or she had exercised
4 reasonable care would not have known of the untruth or omission.

5 (3) The suit authorized under subsection (2) of this section may be
6 brought to recover the actual damages sustained by the plaintiff and
7 the court may in its discretion increase the award of damages to an
8 amount not to exceed three times the actual damages sustained:
9 PROVIDED, That the prevailing party may in the discretion of the court
10 recover the costs of said action including a reasonable attorneys' fee.

11 (4) Any person who becomes liable to make payments under this
12 section may recover contributions as in cases of contracts from any
13 persons who, if sued separately, would have been liable to make the
14 same payment.

15 (5) A final judgment, order, or decree heretofore or hereafter
16 rendered against a person in any civil, criminal, or administrative
17 proceedings under the United States anti-trust laws, under the federal
18 trade commission act, under the Washington state consumer protection
19 act, or this chapter shall be regarded as evidence against such persons
20 in any action brought by any party against such person under
21 subsections (1) and (2) of this section as to all matters which said
22 judgment or decree would be an estoppel between the parties thereto.

23 **Sec. 564.** RCW 19.100.230 and 1971 ex.s. c 252 s 23 are each
24 amended to read as follows:

25 The director may refer such evidence as may be available concerning
26 violations of this chapter or any rule or order hereunder to the
27 attorney general or the proper prosecuting attorney who may in his or
28 her discretion with or without such a reference institute the
29 appropriate criminal proceeding under this chapter.

30 **Sec. 565.** RCW 19.100.250 and 1972 ex.s. c 116 s 15 are each
31 amended to read as follows:

32 The director may from time to time make, amend, and rescind such
33 rules, forms, and orders as are necessary to carry out the provisions
34 of this chapter including rules and forms governing applications and
35 reports and defining any terms whether or not used in this chapter

1 insofar as the definitions are consistent with this chapter. The
2 director in his or her discretion may honor requests from interested
3 persons for interpretive opinions.

4 **Sec. 566.** RCW 19.105.490 and 1982 c 69 s 20 are each amended to
5 read as follows:

6 The director may refer such evidence as may be available concerning
7 violations of this chapter or of any rule or order under this chapter
8 to the attorney general or the proper prosecuting attorney who may in
9 his or her discretion, with or without such a reference, institute the
10 appropriate civil or criminal proceedings under this chapter.

11 **Sec. 567.** RCW 19.120.090 and 1986 c 320 s 10 are each amended to
12 read as follows:

13 (1) Any person who sells or offers to sell a motor fuel franchise
14 in violation of this chapter shall be liable to the motor fuel retailer
15 or motor fuel refiner-supplier who may sue at law or in equity for
16 damages caused thereby for rescission or other relief as the court may
17 deem appropriate. In the case of a violation of RCW 19.120.070
18 rescission is not available to the plaintiff if the defendant proves
19 that the plaintiff knew the facts concerning the untruth or omission or
20 that the defendant exercised reasonable care and did not know or if he
21 or she had exercised reasonable care would not have known of the
22 untruth or omission.

23 (2) The suit authorized under subsection (1) of this section may be
24 brought to recover the actual damages sustained by the plaintiff:
25 PROVIDED, That the prevailing party may in the discretion of the court
26 recover the costs of said action including a reasonable attorneys' fee.

27 (3) Any person who becomes liable to make payments under this
28 section may recover contributions as in cases of contracts from any
29 persons who, if sued separately, would have been liable to make the
30 same payment.

31 (4) A final judgment, order, or decree heretofore or hereafter
32 rendered against a person in any civil, criminal, or administrative
33 proceedings under the United States anti-trust laws, under the federal
34 trade commission act, or this chapter shall be regarded as evidence
35 against such persons in any action brought by any party against such

1 person under subsection (1) of this section as to all matters which
2 said judgment or decree would be an estoppel between the parties
3 thereto.

4 **Sec. 568.** RCW 20.01.010 and 2004 c 212 s 1 are each amended to
5 read as follows:

6 As used in this title the terms defined in this section have the
7 meanings indicated unless the context clearly requires otherwise.

8 (1) "Director" means the director of agriculture or a duly
9 authorized representative.

10 (2) "Person" means any natural person, firm, partnership, exchange,
11 association, trustee, receiver, corporation, and any member, officer,
12 or employee thereof or assignee for the benefit of creditors.

13 (3) "Agricultural product" means any unprocessed horticultural,
14 vermicultural and its by-products, viticultural, berry, poultry,
15 poultry product, grain, bee, or other agricultural products.
16 "Agricultural product" also includes (a) mint or mint oil processed by
17 or for the producer thereof, hay and straw baled or prepared for market
18 in any manner or form and livestock; and (b) agricultural seed, flower
19 seed, vegetable seed, other crop seed, and seeds, as defined in chapter
20 15.49 RCW, however, any disputes regarding responsibilities for seed
21 clean out are governed exclusively by contracts between the producers
22 of the seed and conditioners or processors of the seed.

23 (4) "Producer" means any person engaged in the business of growing
24 or producing any agricultural product, whether as the owner of the
25 products, or producing the products for others holding the title
26 thereof.

27 (5) "Consignor" means any producer, person, or his or her agent who
28 sells, ships, or delivers to any commission merchant, dealer, cash
29 buyer, or agent, any agricultural product for processing, handling,
30 sale, or resale.

31 (6) "Commission merchant" means any person who receives on
32 consignment for sale or processing and sale from the consignor thereof
33 any agricultural product for sale on commission on behalf of the
34 consignor, or who accepts any farm product in trust from the consignor
35 thereof for the purpose of resale, or who sells or offers for sale on
36 commission any agricultural product, or who in any way handles for the

1 account of or as an agent of the consignor thereof, any agricultural
2 product.

3 (7) "Dealer" means any person other than a cash buyer, as defined
4 in subsection (10) of this section, who solicits, contracts for, or
5 obtains from the consignor thereof for reselling or processing, title,
6 possession, or control of any agricultural product, or who buys or
7 agrees to buy any agricultural product from the consignor thereof for
8 sale or processing and includes any person, other than one who acts
9 solely as a producer, who retains title in an agricultural product and
10 delivers it to a producer for further production or increase. For the
11 purposes of this chapter, the term dealer includes any person who
12 purchases livestock on behalf of and for the account of another, or who
13 purchases cattle in another state or country and imports these cattle
14 into this state for resale.

15 (8) "Limited dealer" means any person who buys, agrees to buy, or
16 pays for the production or increase of any agricultural product by
17 paying to the consignor at the time of obtaining possession or control
18 of any agricultural product the full agreed price of the agricultural
19 product and who operates under the alternative bonding provision in RCW
20 20.01.211.

21 (9) "Broker" means any person other than a commission merchant,
22 dealer, or cash buyer who negotiates the purchase or sale of any
23 agricultural product, but no broker may handle the agricultural
24 products involved or proceeds of the sale.

25 (10) "Cash buyer" means any person other than a commission
26 merchant, dealer, or broker, who obtains from the consignor thereof for
27 the purpose of resale or processing, title, possession, or control of
28 any agricultural product or who contracts for the title, possession, or
29 control of any agricultural product, or who buys or agrees to buy for
30 resale any agricultural product by paying to the consignor at the time
31 of obtaining possession or control of any agricultural product the full
32 agreed price of the agricultural product, in coin or currency, lawful
33 money of the United States. However, a cashier's check, certified
34 check, credit card, or bankdraft may be used for the payment. For the
35 purposes of this subsection, "agricultural product," does not include
36 hay, grain, straw, or livestock.

37 (11) "Agent" means any person who, on behalf of any commission
38 merchant, dealer, broker, or cash buyer, acts as liaison between a

1 consignor and a principal, or receives, contracts for, or solicits any
2 agricultural product from the consignor thereof or who negotiates the
3 consignment or purchase of any agricultural product on behalf of any
4 commission merchant, dealer, broker, or cash buyer and who transacts
5 all or a portion of that business at any location other than at the
6 principal place of business of his or her employer. With the exception
7 of an agent for a commission merchant or dealer handling horticultural
8 products, an agent may operate only in the name of one principal and
9 only to the account of that principal.

10 (12) "Retail merchant" means any person operating from a bona fide
11 or established place of business selling agricultural products twelve
12 months of each year.

13 (13) "Fixed or established place of business" for the purpose of
14 this chapter means any permanent warehouse, building, or structure, at
15 which necessary and appropriate equipment and fixtures are maintained
16 for properly handling those agricultural products generally dealt in,
17 and at which supplies of the agricultural products being usually
18 transported are stored, offered for sale, sold, delivered, and
19 generally dealt with in quantities reasonably adequate for and usually
20 carried for the requirements of such a business, and that is recognized
21 as a permanent business at such place, and carried on as such in good
22 faith and not for the purpose of evading this chapter, and where
23 specifically designated personnel are available to handle transactions
24 concerning those agricultural products generally dealt in, which
25 personnel are available during designated and appropriate hours to that
26 business, and shall not mean a residence, barn, garage, tent, temporary
27 stand or other temporary quarters, any railway car, or permanent
28 quarters occupied pursuant to any temporary arrangement.

29 (14) "Processor" means any person, firm, company, or other
30 organization that purchases agricultural crops from a consignor and
31 that cans, freezes, dries, dehydrates, cooks, presses, powders, or
32 otherwise processes those crops in any manner whatsoever for eventual
33 resale.

34 (15) "Pooling contract" means any written agreement whereby a
35 consignor delivers a horticultural product to a commission merchant
36 under terms whereby the commission merchant may commingle the
37 consignor's horticultural products for sale with others similarly
38 agreeing, which must include all of the following:

1 (a) A delivery receipt for the consignor that indicates the variety
2 of horticultural product delivered, the number of containers, or the
3 weight and tare thereof;

4 (b) Horticultural products received for handling and sale in the
5 fresh market shall be accounted for to the consignor with individual
6 pack-out records that shall include variety, grade, size, and date of
7 delivery. Individual daily packing summaries shall be available within
8 forty-eight hours after packing occurs. However, platform inspection
9 shall be acceptable by mutual contract agreement on small deliveries to
10 determine variety, grade, size, and date of delivery;

11 (c) Terms under which the commission merchant may use his or her
12 judgment in regard to the sale of the pooled horticultural product;

13 (d) The charges to be paid by the consignor as filed with the state
14 of Washington;

15 (e) A provision that the consignor shall be paid for his or her
16 pool contribution when the pool is in the process of being marketed in
17 direct proportion, not less than eighty percent of his or her interest
18 less expenses directly incurred, prior liens, and other advances on the
19 grower's crop unless otherwise mutually agreed upon between grower and
20 commission merchant.

21 (16) "Date of sale" means the date agricultural products are
22 delivered to the person buying the products.

23 (17) "Conditioner" means any person, firm, company, or other
24 organization that receives seeds from a consignor for drying or
25 cleaning.

26 (18) "Seed bailment contract" means any contract meeting the
27 requirements of chapter 15.48 RCW.

28 (19) "Proprietary seed" means any seed that is protected under the
29 Federal Plant Variety Protection Act.

30 (20) "Licensed public weighmaster" means any person, licensed under
31 the provisions of chapter 15.80 RCW, who weighs, measures, or counts
32 any commodity or thing and issues therefor a signed certified
33 statement, ticket, or memorandum of weight, measure, or count upon
34 which the purchase or sale of any commodity or upon which the basic
35 charge of payment for services rendered is based.

36 (21) "Certified weight" means any signed certified statement or
37 memorandum of weight, measure or count issued by a licensed public
38 weighmaster in accordance with the provisions of chapter 15.80 RCW.

1 (22) "Licensee" means any person or business licensed under this
2 chapter as a commission merchant, dealer, limited dealer, broker, cash
3 buyer, or agent.

4 (23) "Seed" means agricultural seed, flower seed, vegetable seed,
5 other crop seed, and seeds, as defined in chapter 15.49 RCW.

6 (24) "Seed clean out" means the process of removing impurities from
7 raw seed product.

8 **Sec. 569.** RCW 20.01.020 and 1959 c 139 s 2 are each amended to
9 read as follows:

10 The director, but not his or her duly authorized representative,
11 may adopt such rules and regulations as are necessary to carry out the
12 purpose of this chapter. It shall be the duty of the director to
13 enforce and carry out the provisions of this chapter, rules and
14 regulations adopted hereunder. No person shall interfere with the
15 director when he or she is performing or carrying out duties imposed on
16 him or her by this chapter, rules and regulations adopted hereunder.

17 **Sec. 570.** RCW 20.01.030 and 1993 c 104 s 1 are each amended to
18 read as follows:

19 This chapter does not apply to:

20 (1) Any cooperative marketing associations or federations
21 incorporated under, or whose articles of incorporation and bylaws are
22 equivalent to, the requirements of chapter 23.86 RCW, except as to that
23 portion of the activities of the association or federation that involve
24 the handling or dealing in the agricultural products of nonmembers of
25 the organization: PROVIDED, That the associations or federations may
26 purchase up to fifteen percent of their gross from nonmembers for the
27 purpose of filling orders: PROVIDED FURTHER, That if the cooperative
28 or association acts as a processor as defined in RCW 20.01.500(2) and
29 markets the processed agricultural crops on behalf of the grower or its
30 own behalf, the association or federation is subject to the provisions
31 of RCW 20.01.500 through 20.01.560 and the license provision of this
32 chapter excluding bonding provisions: PROVIDED FURTHER, That none of
33 the foregoing exemptions in this subsection apply to any such
34 cooperative or federation dealing in or handling grain in any manner,
35 and not licensed under the provisions of chapter 22.09 RCW;

1 (2) Any person who sells exclusively his or her own agricultural
2 products as the producer thereof;

3 (3) Any public livestock market operating under a bond required by
4 law or a bond required by the United States to secure the performance
5 of the public livestock market's obligation. However, any such market
6 operating as a livestock dealer or order buyer, or both, is subject to
7 all provisions of this chapter except for the payment of the license
8 fee required in RCW 20.01.040;

9 (4) Any retail merchant having a bona fide fixed or permanent place
10 of business in this state, but only for the retail merchant's retail
11 business conducted at such fixed or established place of business;

12 (5) Any person buying farm products for his or her own use or
13 consumption;

14 (6) Any (~~warehouseman~~) warehouse operator or grain dealer
15 licensed under the state grain warehouse act, chapter 22.09 RCW, with
16 respect to his or her handling of any agricultural product as defined
17 under that chapter;

18 (7) Any nurseryman who is required to be licensed under the
19 horticultural laws of the state with respect to his or her operations
20 as such licensee;

21 (8) Any person licensed under the now existing dairy laws of the
22 state with respect to his or her operations as such licensee;

23 (9) Any producer who purchases less than fifteen percent of his or
24 her volume to complete orders;

25 (10) Any person, association, or corporation regulated under
26 chapter 67.16 RCW and the rules adopted thereunder while performing
27 acts regulated by that chapter and the rules adopted thereunder;

28 (11) Any domestic winery, as defined in RCW 66.04.010, licensed
29 under Title 66 RCW, with respect to its transactions involving
30 agricultural products used by the domestic winery in making wine.

31 **Sec. 571.** RCW 20.01.100 and 1959 c 139 s 10 are each amended to
32 read as follows:

33 The director, upon his or her satisfaction that the applicant has
34 met the requirements of this chapter and rules and regulations adopted
35 hereunder, shall issue a license entitling the applicant to carry on
36 the business described on the application. Such license shall expire
37 on December 31st following the issuance of the license, provided that

1 it has not been revoked or suspended prior thereto, by the director,
2 after due notice and hearing. Fraud and misrepresentation in making an
3 application for a license shall be cause for refusal to grant a license
4 or revocation of license granted pursuant to a fraudulent application
5 after due notice and hearing.

6 **Sec. 572.** RCW 20.01.110 and 1959 c 139 s 11 are each amended to
7 read as follows:

8 The director may publish a list, as often as he or she deems
9 necessary, of all persons licensed under this chapter together with all
10 the necessary rules and regulations concerning the enforcement of this
11 chapter. Each person licensed under (~~(the)~~) the provisions of this
12 chapter shall post his or her license or a copy thereof in his or her
13 place or places of business in plain view of the public.

14 **Sec. 573.** RCW 20.01.120 and 1959 c 139 s 12 are each amended to
15 read as follows:

16 The licensee shall prominently display license plates issued by the
17 director on the front and back of any vehicle used by the licensee to
18 transport upon public highways unprocessed agricultural products which
19 he or she has not produced as a producer of such agricultural products.
20 If the licensee operates more than one vehicle to transport unprocessed
21 agricultural products on public highways he or she shall apply to the
22 director for license plates for each such additional vehicle. Such
23 additional license plates shall be issued to the licensee at the actual
24 cost to the department for such license plates and necessary handling
25 charges. Such license plates are not transferable to any other person
26 and may be used only on the licensee's vehicle or vehicles. The
27 display of such license plates on the vehicle or vehicles of a person
28 whose license has been revoked, or the failure to surrender such
29 license plates forthwith to the department after such revocation, shall
30 be deemed a violation of this chapter.

31 **Sec. 574.** RCW 20.01.150 and 1959 c 139 s 15 are each amended to
32 read as follows:

33 The director is authorized to deny, suspend, or revoke a license or
34 issue conditional or probationary orders in the manner prescribed

1 herein, in any case in which he or she finds that there has been a
2 failure and/or refusal to comply with the requirements of this chapter,
3 rules or regulations adopted hereunder.

4 **Sec. 575.** RCW 20.01.170 and 1963 c 232 s 2 are each amended to
5 read as follows:

6 The director may issue subpoenas to compel the attendance of
7 witnesses, and/or the production of books or documents, anywhere in the
8 state. The licensee or applicant shall have opportunity to make his or
9 her defense, and may have such subpoenas issued as he or she desires.
10 Subpoenas shall be served in the same manner as in civil cases in the
11 superior court. Witnesses shall testify under oath which may be
12 administered by the director. Testimony shall be recorded and may be
13 taken by deposition under such rules as the director may prescribe.
14 Witnesses, except complaining witnesses, shall be entitled to fees for
15 attendance and travel, as provided for in chapter 2.40 RCW, as enacted
16 or hereafter amended.

17 **Sec. 576.** RCW 20.01.180 and 1959 c 139 s 18 are each amended to
18 read as follows:

19 The director shall hear and determine the charges, make findings
20 and conclusions upon the evidence produced, and file them in his or her
21 office, together with a record of all of the evidence, and serve upon
22 the accused a copy of such findings and conclusions.

23 **Sec. 577.** RCW 20.01.190 and 1959 c 139 s 19 are each amended to
24 read as follows:

25 The revocation, suspension or denial of a license, or the issuance
26 of conditional or probationary orders, shall be in writing signed by
27 the director, stating the grounds upon which such order is based and
28 the aggrieved person shall have the right to appeal from such order
29 within fifteen days after a copy thereof is served upon him or her, to
30 the superior court of Thurston county or the county in which the
31 hearing was held. A copy of such findings shall be mailed to the
32 licensee's surety. In such appeal the entire record shall be certified
33 by the director to the court, and the review on appeal shall be
34 confined to the evidence adduced at the hearing before the director.

1 **Sec. 578.** RCW 20.01.212 and 1991 c 109 s 19 are each amended to
2 read as follows:

3 If an applicant for a commission merchant's and/or dealer's license
4 is bonded as a livestock dealer or packer under the provisions of the
5 packers and stockyards act of 1921 (7 U.S.C. 181), as amended, on June
6 13, 1963, and acts as a commission merchant, packer, and/or a dealer
7 only in livestock as defined in said packers and stockyards act of 1921
8 (7 U.S.C. 181), the director may accept such bond in lieu of the bond
9 required in RCW 20.01.210 as good and sufficient and issue the
10 applicant a license limited solely to dealing in livestock. A dealer
11 buying and selling livestock who has furnished a bond as required by
12 the packers and stockyards administration to cover acting as order
13 buyer as well as dealer may also act as an order buyer for others under
14 the provisions of this chapter, and all persons who act as order buyers
15 of livestock shall license under this chapter as a livestock dealer:
16 PROVIDED, That the applicant shall furnish the director with a bond
17 approved by the United States secretary of agriculture. Such bond
18 shall be in a minimum amount of ten thousand dollars. It shall be a
19 violation for the licensee to act as a commission merchant and/or
20 dealer in any other agricultural commodity without first having
21 notified the director and furnishing him or her with a bond as required
22 under the provisions of RCW 20.01.210, and failure to furnish the
23 director with such bond shall be cause for the immediate suspension of
24 the licensee's license, and revocation subject to a hearing.

25 **Sec. 579.** RCW 20.01.240 and 2003 c 395 s 5 are each amended to
26 read as follows:

27 (1) Any consignor who believes he or she has a valid claim against
28 the bond of a commission merchant or dealer shall file a claim with the
29 director.

30 (2) In the case of a claim against the bond of a commission
31 merchant or dealer in hay or straw, default occurs when the licensee
32 fails to make payment within thirty days of the date the licensee took
33 possession of the hay or straw or at a date agreed to by both the
34 consignor and commission merchant or dealer in written contract. In
35 the case of a claim against a limited dealer in hay or straw, default
36 occurs when the licensee fails to make payment upon taking possession
37 of the hay or straw.

1 (3) Upon the filing of a claim under this subsection against any
2 commission merchant or dealer handling any agricultural product, the
3 director may, after investigation, proceed to ascertain the names and
4 addresses of all consignor creditors of such commission merchant and
5 dealer, together with the amounts due and owing to them by such
6 commission merchant and dealer, and shall request all such consignor
7 creditors to file a verified statement of their respective claims with
8 the director. Such request shall be addressed to each known consignor
9 creditor at his or her last known address.

10 (4) For claims against a bond that have been filed by consignors
11 prior to the sixty-day deadline established in RCW 20.01.250, the
12 director shall investigate the claims and, within thirty days of
13 verifying the claims, demand payment for the valid claims by the
14 licensee's surety. The director shall distribute the proceeds of the
15 valid bond claims to the claimants on a pro rata basis within the
16 limits of the claims and the availability of the bond proceeds. If a
17 claim is filed after the sixty-day deadline established in RCW
18 20.01.250, the director may investigate the claim and may demand
19 payment for a valid claim. The director shall distribute the proceeds
20 of any such payment made by the surety to the claimant on a first-to-
21 file, first-to-be-paid basis within the limits of the claim and the
22 availability of any bond proceeds remaining after the pro rata
23 distribution. All distributions made by the director under this
24 subsection are subject to RCW 20.01.260.

25 **Sec. 580.** RCW 20.01.250 and 1959 c 139 s 25 are each amended to
26 read as follows:

27 If a consignor creditor so addressed fails, refuses or neglects to
28 file in the office of the director his or her verified claim as
29 requested by the director within sixty days from the date of such
30 request, the director shall thereupon be relieved of further duty or
31 action hereunder on behalf of said consignor creditor.

32 **Sec. 581.** RCW 20.01.260 and 1959 c 139 s 26 are each amended to
33 read as follows:

34 Where by reason of the absence of records, or other circumstances
35 making it impossible or unreasonable for the director to ascertain the
36 names and addresses of all said consignor creditors, the director after

1 exerting due diligence and making reasonable inquiry to secure said
2 information from all reasonable and available sources, may make demand
3 on said bond on the basis of information then in his or her possession,
4 and thereafter shall not be liable or responsible for claims or the
5 handling of claims which may subsequently appear or be discovered.

6 **Sec. 582.** RCW 20.01.280 and 1959 c 139 s 28 are each amended to
7 read as follows:

8 Upon the refusal of the surety company to pay the demand the
9 director may thereupon bring an action on the bond in behalf of said
10 consignor creditors. Upon any action being commenced on said bond the
11 director may require the filing of a new bond and immediately upon the
12 recovery in any action on such bond such commission merchant and/or
13 dealer shall file a new bond and upon failure to file the same within
14 ten days in either case such failure shall constitute grounds for the
15 suspension or revocation of his or her license.

16 **Sec. 583.** RCW 20.01.310 and 1959 c 139 s 31 are each amended to
17 read as follows:

18 The director or his or her authorized agents are empowered to
19 administer oaths of verification on said complaints. He or she shall
20 have full authority to administer oaths and take testimony thereunder,
21 to issue subpoenas in the manner prescribed in RCW 20.01.170 requiring
22 attendance of witnesses before him or her, together with all books,
23 memoranda, papers, and other documents, articles, or instruments; to
24 compel the disclosure by such witnesses of all facts known to them
25 relative to the matters under investigation, and all parties disobeying
26 the orders or subpoenas of said director shall be guilty of contempt
27 and shall be certified to the superior court of the state for
28 punishment for such contempt. Copies of records, audits and reports of
29 audits, inspection certificates, certified reports, findings, and all
30 papers on file in the office of the director shall be prima facie
31 evidence of the matters therein contained, and may be admitted into
32 evidence in any hearing provided in this chapter.

33 **Sec. 584.** RCW 20.01.330 and 1989 c 354 s 40 are each amended to
34 read as follows:

35 The director may refuse to grant a license or renew a license and

1 may revoke or suspend a license or issue a conditional or probationary
2 order if he or she is satisfied after a hearing, as herein provided, of
3 the existence of any of the following facts, which are hereby declared
4 to be a violation of this chapter:

5 (1) That fraudulent charges or returns have been made by the
6 applicant, or licensee, for the handling, sale or storage of, or for
7 rendering of any service in connection with the handling, sale or
8 storage of any agricultural product.

9 (2) That the applicant, or licensee, has failed or refused to
10 render a true account of sales, or to make a settlement thereon, or to
11 pay for agricultural products received, within the time and in the
12 manner required by this chapter.

13 (3) That the applicant, or licensee, has made any false statement
14 as to the condition, quality, or quantity of agricultural products
15 received, handled, sold, or stored by him or her.

16 (4) That the applicant, or licensee, directly or indirectly has
17 purchased for his or her own account agricultural products received by
18 him or her upon consignment without prior authority from the consignor
19 together with the price fixed by consignor or without promptly
20 notifying the consignor of such purchase. This shall not prevent any
21 commission merchant from taking to account of sales, in order to close
22 the day's business, miscellaneous lots or parcels of agricultural
23 products remaining unsold, if such commission merchant shall forthwith
24 enter such transaction on his or her account of sales.

25 (5) That the applicant, or licensee, has intentionally made any
26 false or misleading statement as to the conditions of the market for
27 any agricultural products.

28 (6) That the applicant, or licensee, has made fictitious sales or
29 has been guilty of collusion to defraud the consignor.

30 (7) That a commission merchant to whom any consignment is made has
31 reconsigned such consignment to another commission merchant and has
32 received, collected, or charged by such means more than one commission
33 for making the sale thereof, for the consignor, unless by written
34 consent of such consignor.

35 (8) That the licensee was guilty of fraud or deception in the
36 procurement of such license.

37 (9) That the licensee or applicant has failed or refused to file
38 with the director a schedule of his or her charges for services in

1 connection with agricultural products handled on account of or as an
2 agent of another, or that the applicant, or licensee, has indulged in
3 any unfair practice.

4 (10) That the licensee has rejected, without reasonable cause, or
5 has failed or refused to accept, without reasonable cause, any
6 agricultural product bought or contracted to be bought from a consignor
7 by such licensee; or failed or refused, without reasonable cause, to
8 furnish or provide boxes or other containers, or hauling, harvesting,
9 or any other service contracted to be done by licensee in connection
10 with the acceptance, harvesting, or other handling of said agricultural
11 products bought or handled or contracted to be bought or handled; or
12 has used any other device to avoid acceptance or unreasonably to defer
13 acceptance of agricultural products bought or handled or contracted to
14 be bought or handled.

15 (11) That the licensee has otherwise violated any provision of this
16 chapter and/or rules and regulations adopted hereunder.

17 (12) That the licensee has knowingly employed an agent, as defined
18 in this chapter, without causing said agent to comply with the
19 licensing requirements of this chapter applicable to agents.

20 (13) That the applicant or licensee has, in the handling of any
21 agricultural products, been guilty of fraud, deceit, or negligence.

22 (14) That the licensee has failed or refused, upon demand, to
23 permit the director or his or her agents to make the investigations,
24 examination, or audits, as provided in this chapter, or that the
25 licensee has removed or sequestered any books, records, or papers
26 necessary to any such investigations, examination, or audits, or has
27 otherwise obstructed the same.

28 (15) That the licensee, without reasonable cause, has failed or
29 refused to execute or carry out a lawful contract with a consignor.

30 (16) That the licensee has failed or refused to keep and maintain
31 the records as required by this chapter and/or rules and regulations
32 adopted hereunder.

33 (17) That the licensee has attempted payment by a check the
34 licensee knows not to be backed by sufficient funds to cover such
35 check.

36 (18) That the licensee has been guilty of fraud or deception in his
37 or her dealings with purchasers including misrepresentation of goods as

1 to grade, quality, weights, quantity, or any other essential fact in
2 connection therewith.

3 (19) That the licensee has permitted a person to in fact operate
4 his or her own separate business under cover of the licensee's license
5 and bond.

6 (20) That a commission merchant or dealer has failed to furnish
7 additional bond coverage within fifteen days of when it was requested
8 in writing by the director.

9 (21) That the licensee has discriminated in the licensee's dealings
10 with consignors on the basis of race, creed, color, national origin,
11 sex, or the presence of any sensory, mental, or physical handicap.

12 **Sec. 585.** RCW 20.01.340 and 1959 c 139 s 34 are each amended to
13 read as follows:

14 Previous violation by the applicant or licensee, or by any person
15 connected with him or her, of any of the provisions of this chapter
16 and/or rules and regulations adopted hereunder, shall be good and
17 sufficient ground for denial, suspension or revocation of a license, or
18 the issuance of a conditional or probationary order.

19 **Sec. 586.** RCW 20.01.350 and 1959 c 139 s 35 are each amended to
20 read as follows:

21 The director, after hearing or investigation, may refuse to grant
22 a license or renewal thereof and may revoke or suspend any license or
23 issue a conditional or probationary order, as the case may require,
24 when he or she is satisfied that the licensee has executory or executed
25 contracts for the purchase of agricultural products, or for the
26 handling of agricultural products on consignment.

27 In such cases, if the director is satisfied that to permit the
28 dealer or commission merchant to continue to purchase or to receive
29 further shipments or deliveries of agricultural products would be
30 likely to cause serious and irreparable loss to said consignor-
31 creditors, or to consignors with whom the said dealer or commission
32 merchant has said contracts, then the director within his or her
33 discretion may thereupon and forthwith shorten the time herein provided
34 for hearing upon an order to show cause why the license of said dealer
35 or commission merchant should not be forthwith suspended, or revoked:
36 PROVIDED, That the time of notice of said hearing, shall in no event be

1 less than twenty-four hours, and the director shall, within that
2 period, call a hearing at which the dealer or commission merchant
3 proceeded against shall be ordered to show cause why the license should
4 not be suspended, or revoked, or continued under such conditions and
5 provisions, if any, as the director may consider just and proper and
6 for the protection of the best interests of the producer-creditors
7 involved. Said hearing, in the case of such emergency, may be called
8 upon written notice, said notice to be served personally or by mail on
9 the dealer or commission merchant involved, and may be held at the
10 nearest office of the director or at such place as may be most
11 convenient at the discretion of the director, for the attendance of all
12 parties involved.

13 **Sec. 587.** RCW 20.01.390 and 1982 c 20 s 2 are each amended to read
14 as follows:

15 (1) Every dealer must pay for agricultural products, except
16 livestock, delivered to him or her at the time and in the manner
17 specified in the contract with the producer, but if no time is set by
18 such contract, or at the time of said delivery, then within thirty days
19 from the delivery or taking possession of such agricultural products.

20 (2) Every dealer must pay for livestock delivered to him or her at
21 the time and in the manner specified in the contract, but if no time is
22 set by such contract, or at the time of said delivery, then within
23 seven days from the delivery or taking possession of such livestock.
24 Where payment for livestock is made by mail, payment is timely if
25 mailed within seven days of the date of sale.

26 **Sec. 588.** RCW 20.01.440 and 1991 c 109 s 23 are each amended to
27 read as follows:

28 Every commission merchant shall retain a copy of all records
29 covering each transaction for a period of three years from the date
30 thereof, which copy shall at all times be available for, and open to,
31 the confidential inspection of the director and the consignor, or
32 authorized representative of either. In the event of any dispute or
33 disagreement between a consignor and a commission merchant arising at
34 the time of delivery as to condition, quality, grade, pack, quantity,
35 or weight of any lot, shipment, or consignment of agricultural
36 products, the department shall furnish, upon the payment of a

1 reasonable fee therefor by the requesting party, a certificate
2 establishing the condition, quality, grade, pack, quantity, or weight
3 of such lot, shipment, or consignment. Such certificate shall be prima
4 facie evidence in all courts of this state as to the recitals thereof.
5 The burden of proof shall be upon the commission merchant to prove the
6 correctness of his or her accounting as to any transaction which may be
7 questioned.

8 **Sec. 589.** RCW 20.01.510 and 1971 ex.s. c 182 s 16 are each amended
9 to read as follows:

10 In order to carry out the purposes of this 1971 amendatory act, the
11 director may require a processor to annually complete a form prescribed
12 by the director, which, when completed, will show the maximum
13 processing capacity of each plant operated by the processor in the
14 state of Washington. Such completed form shall be returned to the
15 director by a date prescribed by him or her.

16 **Sec. 590.** RCW 20.01.520 and 1971 ex.s. c 182 s 17 are each amended
17 to read as follows:

18 By a date or dates prescribed prior to planting time by the
19 director, the director, in order to carry out the purposes of this 1971
20 amendatory act, may require a processor to have filed with him or her:

21 (1) A copy of each contract he or she has entered into with a
22 grower for the purchase of acres of crops and/or quantity of crops to
23 be harvested during the present or next growing season; and

24 (2) A notice of each oral commitment he or she has given to growers
25 for the purchase of acres of crops and/or quantity of crops to be
26 harvested during the present or next growing season, and such notice
27 shall disclose the amount of acres and/or quantity to which the
28 processor has committed himself or herself.

29 **Sec. 591.** RCW 20.01.530 and 1971 ex.s. c 182 s 18 are each amended
30 to read as follows:

31 Any grower may file with the director on a form prescribed by him
32 or her the acres of crops and/or quantity of crops to be harvested
33 during the present or next growing season, which he or she understands
34 a processor has orally committed himself or herself to purchase.

1 **Sec. 592.** RCW 20.01.540 and 1971 ex.s. c 182 s 19 are each amended
2 to read as follows:

3 Any processor who, from the information filed with the director,
4 appears to or has committed himself or herself either orally or in
5 writing to purchase more crops than his or her plants are capable of
6 processing shall be in violation of this chapter and his or her
7 dealer's license subject to denial, suspension, or revocation as
8 provided for in RCW 20.01.330.

9 **Sec. 593.** RCW 20.01.550 and 1977 ex.s. c 304 s 15 are each amended
10 to read as follows:

11 Any processor who discriminates between growers with whom he or she
12 contracts as to price, conditions for production, harvesting, and
13 delivery of crops which is not supportable by economic cost factors
14 shall be in violation of this chapter and the director may subsequent
15 to a hearing deny, suspend, or revoke such processor's license to act
16 as a dealer.

17 **Sec. 594.** RCW 21.20.005 and 2002 c 65 s 1 are each amended to read
18 as follows:

19 The definitions set forth in this section shall apply throughout
20 this chapter, unless the context otherwise requires:

21 (1) "Director" means the director of financial institutions of this
22 state.

23 (2) "Salesperson" means any individual other than a broker-dealer
24 who represents a broker-dealer or issuer in effecting or attempting to
25 effect sales of securities. "Salesperson" does not include an
26 individual who represents an issuer in (a) effecting a transaction in
27 a security exempted by RCW 21.20.310 (1), (2), (3), (4), (9), (10),
28 (11), (12), or (13), (b) effecting transactions exempted by RCW
29 21.20.320 unless otherwise expressly required by the terms of the
30 exemption, or (c) effecting transactions with existing employees,
31 partners, or directors of the issuer if no commission or other
32 remuneration is paid or given directly or indirectly for soliciting any
33 person in this state.

34 (3) "Broker-dealer" means any person engaged in the business of
35 effecting transactions in securities for the account of others or for
36 that person's own account. "Broker-dealer" does not include (a) a

1 salesperson, issuer, bank, savings institution, or trust company, (b)
2 a person who has no place of business in this state if the person
3 effects transactions in this state exclusively with or through the
4 issuers of the securities involved in the transactions, other broker-
5 dealers, or banks, savings institutions, trust companies, insurance
6 companies, investment companies as defined in the investment company
7 act of 1940, pension or profit-sharing trusts, or other financial
8 institutions or institutional buyers, whether acting for themselves or
9 as trustees, or (c) a person who has no place of business in this state
10 if during any period of twelve consecutive months that person does not
11 direct more than fifteen offers to sell or to buy into or make more
12 than five sales in this state in any manner to persons other than those
13 specified in (b) of this subsection.

14 (4) "Guaranteed" means guaranteed as to payment of principal,
15 interest, or dividends.

16 (5) "Full business day" means all calendar days, excluding
17 therefrom Saturdays, Sundays, and all legal holidays, as defined by
18 statute.

19 (6) "Investment adviser" means any person who, for compensation,
20 engages in the business of advising others, either directly or through
21 publications or writings, as to the value of securities or as to the
22 advisability of investing in, purchasing, or selling securities, or
23 who, for compensation and as a part of a regular business, issues or
24 promulgates analyses or reports concerning securities. "Investment
25 adviser" also includes financial planners and other persons who, as an
26 integral component of other financially related services, (a) provide
27 the foregoing investment advisory services to others for compensation
28 as part of a business or (b) hold themselves out as providing the
29 foregoing investment advisory services to others for compensation.
30 Investment adviser shall also include any person who holds himself or
31 herself out as a financial planner.

32 "Investment adviser" does not include (a) a bank, savings
33 institution, or trust company, (b) a lawyer, accountant, certified
34 public accountant licensed under chapter 18.04 RCW, engineer, or
35 teacher whose performance of these services is solely incidental to the
36 practice of his or her profession, (c) a broker-dealer or its
37 salesperson whose performance of these services is solely incidental to
38 the conduct of its business as a broker-dealer and who receives no

1 special compensation for them, (d) a publisher of any bona fide
2 newspaper, news magazine, news column, newsletter, or business or
3 financial publication or service, whether communicated in hard copy
4 form, by electronic means, or otherwise, that does not consist of the
5 rendering of advice on the basis of the specific investment situation
6 of each client, (e) a radio or television station, (f) a person whose
7 advice, analyses, or reports relate only to securities exempted by RCW
8 21.20.310(1), (g) an investment adviser representative, or (h) such
9 other persons not within the intent of this paragraph as the director
10 may by rule or order designate.

11 (7) "Issuer" means any person who issues or proposes to issue any
12 security, except that with respect to certificates of deposit, voting
13 trust certificates, or collateral-trust certificates, or with respect
14 to certificates of interest or shares in an unincorporated investment
15 trust not having a board of directors (or persons performing similar
16 functions) or of the fixed, restricted management, or unit type; the
17 term "issuer" means the person or persons performing the acts and
18 assuming the duties of depositor or manager pursuant to the provisions
19 of the trust or other agreement or instrument under which the security
20 is issued.

21 (8) "Nonissuer" means not directly or indirectly for the benefit of
22 the issuer.

23 (9) "Person" means an individual, a corporation, a partnership, a
24 limited liability company, a limited liability partnership, an
25 association, a joint-stock company, a trust where the interest of the
26 beneficiaries are evidenced by a security, an unincorporated
27 organization, a government, or a political subdivision of a government.

28 (10) "Sale" or "sell" includes every contract of sale of, contract
29 to sell, or disposition of, a security or interest in a security for
30 value. "Offer" or "offer to sell" includes every attempt or offer to
31 dispose of, or solicitation of an offer to buy, a security or interest
32 in a security for value.

33 Any security given or delivered with, or as a bonus on account of,
34 any purchase of securities or any other thing is considered to
35 constitute part of the subject of the purchase and to have been offered
36 and sold for value. A purported gift of assessable stock is considered
37 to involve an offer and sale. Every sale or offer of a warrant or
38 right to purchase or subscribe to another security of the same or

1 another issuer, as well as every sale or offer of a security which
2 gives the holder a present or future right or privilege to convert into
3 another security of the same or another issuer, is considered to
4 include an offer of the other security.

5 (11) "Securities act of 1933," "securities exchange act of 1934,"
6 "public utility holding company act of 1935," "investment company act
7 of 1940," and "investment advisers act of 1940" means the federal
8 statutes of those names as amended before or after June 10, 1959.

9 (12)(a) "Security" means any note; stock; treasury stock; bond;
10 debenture; evidence of indebtedness; certificate of interest or
11 participation in any profit-sharing agreement; collateral-trust
12 certificate; preorganization certificate or subscription; transferable
13 share; investment contract; investment of money or other consideration
14 in the risk capital of a venture with the expectation of some valuable
15 benefit to the investor where the investor does not receive the right
16 to exercise practical and actual control over the managerial decisions
17 of the venture; voting-trust certificate; certificate of deposit for a
18 security; fractional undivided interest in an oil, gas, or mineral
19 lease or in payments out of production under a lease, right, or
20 royalty; charitable gift annuity; any put, call, straddle, option, or
21 privilege on any security, certificate of deposit, or group or index of
22 securities, including any interest therein or based on the value
23 thereof; or any put, call, straddle, option, or privilege entered into
24 on a national securities exchange relating to foreign currency; or, in
25 general, any interest or instrument commonly known as a "security," or
26 any certificate of interest or participation in, temporary or interim
27 certificate for, receipt for, guarantee of, or warrant or right to
28 subscribe to or purchase, any security under this subsection. This
29 subsection applies whether or not the security is evidenced by a
30 written document.

31 (b) "Security" does not include: (i) Any insurance or endowment
32 policy or annuity contract under which an insurance company promises to
33 pay a fixed sum of money either in a lump sum or periodically for life
34 or some other specified period; or (ii) an interest in a contributory
35 or noncontributory pension or welfare plan subject to the employee
36 retirement income security act of 1974.

37 (13) "State" means any state, territory, or possession of the
38 United States, as well as the District of Columbia and Puerto Rico.

1 (14) "Investment adviser representative" means any partner,
2 officer, director, or a person occupying similar status or performing
3 similar functions, or other individual, who is employed by or
4 associated with an investment adviser, and who does any of the
5 following:

6 (a) Makes any recommendations or otherwise renders advice regarding
7 securities;

8 (b) Manages accounts or portfolios of clients;

9 (c) Determines which recommendation or advice regarding securities
10 should be given;

11 (d) Solicits, offers, or negotiates for the sale of or sells
12 investment advisory services; or

13 (e) Supervises employees who perform any of the functions under (a)
14 through (d) of this subsection.

15 (15) "Relatives," as used in RCW 21.20.310(11) includes:

16 (a) A member's spouse;

17 (b) Parents of the member or the member's spouse;

18 (c) Grandparents of the member or the member's spouse;

19 (d) Natural or adopted children of the member or the member's
20 spouse;

21 (e) Aunts and uncles of the member or the member's spouse; and

22 (f) First cousins of the member or the member's spouse.

23 (16) "Customer" means a person other than a broker-dealer or
24 investment adviser.

25 (17) "Federal covered security" means any security defined as a
26 covered security in the securities act of 1933.

27 (18) "Federal covered adviser" means any person registered as an
28 investment adviser under section 203 of the investment advisers act of
29 1940.

30 **Sec. 595.** RCW 21.20.050 and 1998 c 15 s 4 are each amended to read
31 as follows:

32 (1) A broker-dealer, salesperson, investment adviser, or investment
33 adviser representative may apply for registration by filing with the
34 director or his or her authorized agent an application together with a
35 consent to service of process in such form as the director shall
36 prescribe and payment of the fee prescribed in RCW 21.20.340.

1 (2) A federal covered adviser shall file such documents as the
2 director may, by rule or otherwise, require together with a consent to
3 service of process and the payment of the fee prescribed in RCW
4 21.20.340.

5 **Sec. 596.** RCW 21.20.520 and 1979 ex.s. c 68 s 37 are each amended
6 to read as follows:

7 Upon request and at such reasonable charges as the director
8 prescribes, the director shall furnish to any person photostatic or
9 other copies (certified under his or her seal of office if requested)
10 of any entry in the register or any document which is a matter of
11 public record. In any proceeding or prosecution under this chapter,
12 any copy so certified is prima facie evidence of the contents of the
13 entry or document certified.

14 **Sec. 597.** RCW 21.30.090 and 1986 c 14 s 9 are each amended to read
15 as follows:

16 (1) For the purpose of RCW 21.30.080, an offer to sell or to buy is
17 not made in this state when the publisher circulates or there is
18 circulated on his or her behalf in this state in any bona fide
19 newspaper or other publication of general, regular, and paid
20 circulation, which is not published in this state, an offer to sell or
21 to buy that is reasonably calculated to solicit only persons outside
22 this state and not to solicit persons in this state.

23 (2) For the purpose of RCW 21.30.080, an offer to sell or to buy is
24 not made in this state when a radio or television program or other
25 electronic communication originating outside this state is received in
26 this state and the offer to sell or to buy is reasonably calculated to
27 solicit only persons outside this state and not to solicit persons in
28 this state.

29 **Sec. 598.** RCW 22.09.011 and 1994 c 46 s 3 are each amended to read
30 as follows:

31 The definitions set forth in this section apply throughout this
32 chapter unless the context clearly requires otherwise.

33 (1) "Department" means the department of agriculture of the state
34 of Washington.

1 (2) "Director" means the director of the department or his or her
2 duly authorized representative.

3 (3) "Person" means a natural person, individual, firm, partnership,
4 corporation, company, society, association, cooperative, two or more
5 persons having a joint or common interest, or any unit or agency of
6 local, state, or federal government.

7 (4) "Agricultural commodities," or "commodities," means: (a)
8 Grains for which inspection standards have been established under the
9 United States grain standards act; (b) pulses and similar commodities
10 for which inspection standards have been established under the
11 agricultural marketing act of 1946; and (c) other similar agricultural
12 products for which inspection standards have been established or which
13 have been otherwise designated by the department by rule for inspection
14 services or the warehousing requirements of this chapter.

15 (5) "Warehouse," also referred to as a public warehouse, means any
16 elevator, mill, subterminal grain warehouse, terminal warehouse,
17 country warehouse, or other structure or enclosure located in this
18 state that is used or useable for the storage of agricultural products,
19 and in which commodities are received from the public for storage,
20 handling, conditioning, or shipment for compensation. The term does
21 not include any warehouse storing or handling fresh fruits and/or
22 vegetables, any warehouse used exclusively for cold storage, or any
23 warehouse that conditions yearly less than three hundred tons of an
24 agricultural commodity for compensation.

25 (6) "Terminal warehouse" means any warehouse designated as a
26 terminal by the department, and located at an inspection point where
27 inspection facilities are maintained by the department and where
28 commodities are ordinarily received and shipped by common carrier.

29 (7) "Subterminal warehouse" means any warehouse that performs an
30 intermediate function in which agricultural commodities are customarily
31 received from dealers rather than producers and where the commodities
32 are accumulated before shipment to a terminal warehouse.

33 (8) "Station" means two or more warehouses between which
34 commodities are commonly transferred in the ordinary course of business
35 and that are (a) immediately adjacent to each other, or (b) located
36 within the corporate limits of any city or town and subject to the same
37 transportation tariff zone, or (c) at any railroad siding or switching
38 area and subject to the same transportation tariff zone, or (d) at one

1 location in the open country off rail, or (e) in any area that can be
2 reasonably audited by the department as a station under this chapter
3 and that has been established as such by the director by rule adopted
4 under chapter 34.05 RCW, or (f) within twenty miles of each other but
5 separated by the border between Washington and Idaho or Oregon when the
6 books and records for the station are maintained at the warehouse
7 located in Washington.

8 (9) "Inspection point" means a city, town, or other place wherein
9 the department maintains inspection and weighing facilities.

10 (10) (~~"Warehouseman"~~) "Warehouse operator" means any person
11 owning, operating, or controlling a warehouse in the state of
12 Washington.

13 (11) "Depositor" means (a) any person who deposits a commodity with
14 a Washington state licensed (~~warehouseman~~) warehouse operator for
15 storage, handling, conditioning, or shipment, or (b) any person who is
16 the owner or legal holder of a warehouse receipt, outstanding scale
17 weight ticket, or other evidence of the deposit of a commodity with a
18 Washington state licensed (~~warehouseman~~) warehouse operator or (c)
19 any producer whose agricultural commodity has been sold to a grain
20 dealer through the dealer's place of business located in the state of
21 Washington, or any Washington producer whose agricultural commodity has
22 been sold to or is under the control of a grain dealer, whose place of
23 business is located outside the state of Washington.

24 (12) "Historical depositor" means any person who in the normal
25 course of business operations has consistently made deposits in the
26 same warehouse of commodities produced on the same land. In addition
27 the purchaser, lessee, and/or inheritor of such land from the original
28 historical depositor with reference to the land shall be considered a
29 historical depositor with regard to the commodities produced on the
30 land.

31 (13) "Grain dealer" means any person who, through his or her place
32 of business located in the state of Washington, solicits, contracts
33 for, or obtains from a producer, title, possession, or control of any
34 agricultural commodity for purposes of resale, or any person who
35 solicits, contracts for, or obtains from a Washington producer, title,
36 possession, or control of any agricultural commodity for purposes of
37 resale.

1 (14) "Producer" means any person who is the owner, tenant, or
2 operator of land who has an interest in and is entitled to receive all
3 or any part of the proceeds from the sale of a commodity produced on
4 that land.

5 (15) "Warehouse receipt" means a negotiable or nonnegotiable
6 warehouse receipt as provided for in Article 7 of Title 62A RCW.

7 (16) "Scale weight ticket" means a load slip or other evidence of
8 deposit, serially numbered, not including warehouse receipts as defined
9 in subsection (15) of this section, given a depositor on request upon
10 initial delivery of the commodity to the warehouse and showing the
11 warehouse's name and state number, type of commodity, weight thereof,
12 name of depositor, and the date delivered.

13 (17) "Put through" means agricultural commodities that are
14 deposited in a warehouse for receiving, handling, conditioning, or
15 shipping, and on which the depositor has concluded satisfactory
16 arrangements with the ((warehouseman)) warehouse operator for the
17 immediate or impending shipment of the commodity.

18 (18) "Conditioning" means, but is not limited to, the drying or
19 cleaning of agricultural commodities.

20 (19) "Deferred price contract" means a contract for the sale of
21 commodities that conveys the title and all rights of ownership to the
22 commodities represented by the contract to the buyer, but allows the
23 seller to set the price of the commodities at a later date based on an
24 agreed upon relationship to a future month's price or some other
25 mutually agreeable method of price determination. Deferred price
26 contracts include but are not limited to those contracts commonly
27 referred to as delayed price, price later contracts, or open price
28 contracts.

29 (20) "Shortage" means that a ((warehouseman)) warehouse operator
30 does not have in his or her possession sufficient commodities at each
31 of his or her stations to cover the outstanding warehouse receipts,
32 scale weight tickets, or other evidence of storage liability issued or
33 assumed by him or her for the station.

34 (21) "Failure" means:

35 (a) An inability to financially satisfy claimants in accordance
36 with this chapter and the time limits provided for in it;

37 (b) A public declaration of insolvency;

1 (c) A revocation of license and the leaving of an outstanding
2 indebtedness to a depositor;

3 (d) A failure to redeliver any commodity to a depositor or to pay
4 depositors for commodities purchased by a licensee in the ordinary
5 course of business and where a bona fide dispute does not exist between
6 the licensee and the depositor;

7 (e) A failure to make application for license renewal within sixty
8 days after the annual license renewal date; or

9 (f) A denial of the application for a license renewal.

10 (22) "Original inspection" means an initial, official inspection of
11 a grain or commodity.

12 (23) "Reinspection" means an official review of the results of an
13 original inspection service by an inspection office that performed that
14 original inspection service. A reinspection may be performed either on
15 the basis of the official file sample or a new sample obtained by the
16 same means as the original if the lot remains intact.

17 (24) "Appeal inspection" means, for commodities covered by federal
18 standards, a review of original inspection or reinspection results by
19 an authorized United States department of agriculture inspector. For
20 commodities covered under state standards, an appeal inspection means
21 a review of original or reinspection results by a supervising
22 inspector. An appeal inspection may be performed either on the basis
23 of the official file sample or a new sample obtained by the same means
24 as the original if the lot remains intact.

25 (25) "Exempt grain dealer" means a grain dealer who purchases less
26 than one hundred thousand dollars of covered commodities annually from
27 producers, and operates under the provisions of RCW 22.09.060.

28 **Sec. 599.** RCW 22.09.020 and 1989 c 354 s 45 are each amended to
29 read as follows:

30 The department shall administer and carry out the provisions of
31 this chapter and rules adopted hereunder, and it has the power and
32 authority to:

33 (1) Supervise the receiving, handling, conditioning, weighing,
34 storage, and shipping of all commodities;

35 (2) Supervise the inspection and grading of commodities;

36 (3) Approve or disapprove the facilities, including scales, of all
37 warehouses;

1 (4) Approve or disapprove all rates and charges for the handling,
2 storage, and shipment of all commodities;

3 (5) Investigate all complaints of fraud in the operation of any
4 warehouse;

5 (6) Examine, inspect, and audit, during ordinary business hours,
6 any warehouse licensed under this chapter, including all commodities
7 therein and examine, inspect, audit, or record all books, documents,
8 and records;

9 (7) Examine, inspect, and audit during ordinary business hours, all
10 books, documents, and records, and examine, inspect, audit, or record
11 records of any grain dealer licensed hereunder at the grain dealer's
12 principal office or headquarters;

13 (8) Inspect at reasonable times any warehouse or storage facility
14 where commodities are received, handled, conditioned, stored, or
15 shipped, including all commodities stored therein and all books,
16 documents, and records in order to determine whether or not such
17 facility should be licensed pursuant to this chapter;

18 (9) Inspect at reasonable times any grain dealer's books,
19 documents, and records in order to determine whether or not the grain
20 dealer should be licensed under this chapter;

21 (10) Administer oaths and issue subpoenas to compel the attendance
22 of witnesses, and/or the production of books, documents, and records
23 anywhere in the state pursuant to a hearing relative to the purpose and
24 provisions of this chapter. Witnesses shall be entitled to fees for
25 attendance and travel, as provided in chapter 2.40 RCW;

26 (11) Adopt rules establishing inspection standards and procedures
27 for grains and commodities;

28 (12) Adopt rules regarding the identification of commodities by the
29 use of confetti or other similar means so that such commodities may be
30 readily identified if stolen or removed in violation of the provisions
31 of this chapter from a warehouse or if otherwise unlawfully
32 transported;

33 (13) Adopt all the necessary rules for carrying out the purpose and
34 provisions of this chapter. The adoption of rules under the provisions
35 of this chapter shall be subject to the provisions of chapter 34.05
36 RCW, the Administrative Procedure Act. When adopting rules in respect
37 to the provisions of this chapter, the director shall hold a public
38 hearing and shall to the best of his or her ability consult with

1 persons and organizations or interests who will be affected thereby,
2 and any final rule adopted as a result of the hearing shall be designed
3 to promote the provisions of this chapter and shall be reasonable and
4 necessary and based upon needs and conditions of the industry, and
5 shall be for the purpose of promoting the well-being of the industry to
6 be regulated and the general welfare of the people of the state.

7 **Sec. 600.** RCW 22.09.040 and 1987 c 393 s 17 are each amended to
8 read as follows:

9 Application for a license to operate a warehouse under the
10 provisions of this chapter shall be on a form prescribed by the
11 department and shall include:

12 (1) The full name of the person applying for the license and
13 whether the applicant is an individual, partnership, association,
14 corporation, or other entity;

15 (2) The full name of each member of the firm or partnership, or the
16 names of the officers of the company, society, cooperative association,
17 or corporation;

18 (3) The principal business address of the applicant in the state
19 and elsewhere;

20 (4) The name or names of the person or persons authorized to
21 receive and accept service of summons and legal notices of all kinds
22 for the applicant;

23 (5) Whether the applicant has also applied for or has been issued
24 a grain dealer license under the provisions of this chapter;

25 (6) The location of each warehouse the applicant intends to operate
26 and the location of the headquarters or main office of the applicant;

27 (7) The bushel storage capacity of each such warehouse to be
28 licensed;

29 (8) The schedule of fees to be charged at each warehouse for the
30 handling, conditioning, storage, and shipment of all commodities during
31 the licensing period;

32 (9) A financial statement to determine the net worth of the
33 applicant to determine whether or not the applicant meets the minimum
34 net worth requirements established by the director pursuant to chapter
35 34.05 RCW. All financial statement information required by this
36 subsection shall be confidential information not subject to public
37 disclosure;

1 (10) Whether the application is for a terminal, subterminal, or
2 country warehouse license;

3 (11) Whether the applicant has previously been denied a grain
4 dealer or ((~~warehouseman~~)) warehouse operator license or whether the
5 applicant has had either license suspended or revoked by the
6 department;

7 (12) Any other reasonable information the department finds
8 necessary to carry out the purpose and provisions of this chapter.

9 **Sec. 601.** RCW 22.09.045 and 1987 c 393 s 18 are each amended to
10 read as follows:

11 Application for a license to operate as a grain dealer under the
12 provisions of this chapter shall be on a form prescribed by the
13 department and shall include:

14 (1) The full name of the person applying for the license and
15 whether the applicant is an individual, partnership, association,
16 corporation, or other entity;

17 (2) The full name of each member of the firm or partnership, or the
18 names of the officers of the company, society, cooperative association,
19 or corporation;

20 (3) The principal business address of the applicant in the state
21 and elsewhere;

22 (4) The name or names of the person or persons in this state
23 authorized to receive and accept service of summons and legal notices
24 of all kinds for the applicant;

25 (5) Whether the applicant has also applied for or has been issued
26 a warehouse license under this chapter;

27 (6) The location of each business location from which the applicant
28 intends to operate as a grain dealer in the state of Washington whether
29 or not the business location is physically within the state of
30 Washington, and the location of the headquarters or main office of the
31 application;

32 (7) A financial statement to determine the net worth of the
33 applicant to determine whether or not the applicant meets the minimum
34 net worth requirements established by the director under chapter 34.05
35 RCW. However, if the applicant is a subsidiary of a larger company,
36 corporation, society, or cooperative association, both the parent
37 company and the subsidiary company must submit a financial statement to

1 determine whether or not the applicant meets the minimum net worth
2 requirements established by the director under chapter 34.05 RCW. All
3 financial statement information required by this subsection shall be
4 confidential information not subject to public disclosure;

5 (8) Whether the applicant has previously been denied a grain dealer
6 or ((~~warehouseman~~)) warehouse operator license or whether the applicant
7 has had either license suspended or revoked by the department;

8 (9) Any other reasonable information the department finds necessary
9 to carry out the purpose and provisions of this chapter.

10 **Sec. 602.** RCW 22.09.050 and 1997 c 303 s 6 are each amended to
11 read as follows:

12 Any application for a license to operate a warehouse shall be
13 accompanied by a license fee of one thousand three hundred fifty
14 dollars for a terminal warehouse, one thousand fifty dollars for a
15 subterminal warehouse, and five hundred dollars for a country
16 warehouse. If a licensee operates more than one warehouse under one
17 state license as provided for in RCW 22.09.030, the license fee shall
18 be computed by multiplying the number of physically separated
19 warehouses within the station by the applicable terminal, subterminal,
20 or country warehouse license fee.

21 If an application for renewal of a warehouse license or licenses is
22 not received by the department prior to the renewal date or dates
23 established by the director by rule, a penalty of fifty dollars for the
24 first week and one hundred dollars for each week thereafter shall be
25 assessed and added to the original fee and shall be paid by the
26 applicant before the renewal license may be issued. This penalty does
27 not apply if the applicant furnishes an affidavit certifying that he or
28 she has not acted as a ((~~warehouseman~~)) warehouse operator subsequent
29 to the expiration of his or her prior license.

30 **Sec. 603.** RCW 22.09.055 and 1997 c 303 s 7 are each amended to
31 read as follows:

32 An application for a license to operate as a grain dealer shall be
33 accompanied by a license fee of seven hundred fifty dollars. The
34 license fee for exempt grain dealers shall be three hundred dollars.

35 If an application for renewal of a grain dealer or exempt grain
36 dealer license is not received by the department before the renewal

1 date or dates established by the director by rule, a penalty of fifty
2 dollars for the first week and one hundred dollars for each week
3 thereafter shall be assessed and added to the original fee and shall be
4 paid by the applicant before the renewal license may be issued. This
5 penalty does not apply if the applicant furnishes an affidavit
6 certifying that he or she has not acted as a grain dealer or exempt
7 grain dealer after the expiration of his or her prior license.

8 **Sec. 604.** RCW 22.09.090 and 1987 c 509 s 2 are each amended to
9 read as follows:

10 (1) An applicant for a warehouse or grain dealer license pursuant
11 to the provisions of this chapter shall give a bond to the state of
12 Washington executed by the applicant as the principal and by a
13 corporate surety licensed to do business in this state as surety.

14 (2) The bond required under this section for the issuance of a
15 warehouse license shall be in the sum of not less than fifty thousand
16 dollars nor more than seven hundred fifty thousand dollars. The
17 department shall, after holding a public hearing, determine the amount
18 that will be required for the warehouse bond which shall be computed at
19 a rate of not less than fifteen cents nor more than thirty cents per
20 bushel multiplied by the number of bushels of licensed commodity
21 storage capacity of the warehouses of the applicant furnishing the
22 bond. The applicant for a warehouse license may give a single bond
23 meeting the requirements of this chapter, and all warehouses operated
24 by the ((~~warehouseman~~)) warehouse operator are deemed to be one
25 warehouse for the purpose of the amount of the bond required under this
26 subsection. Any change in the capacity of a warehouse or addition of
27 any new warehouse involving a change in bond liability under this
28 chapter shall be immediately reported to the department.

29 (3) The bond required under this section for the issuance of a
30 grain dealer license shall be in the sum of not less than fifty
31 thousand dollars nor more than seven hundred fifty thousand dollars.
32 The department shall, after holding a public hearing, determine the
33 amount that will be required for the dealer bond which shall be
34 computed at a rate not less than six percent nor more than twelve
35 percent of the sales of agricultural commodities purchased by the
36 dealer from producers during the dealer's last completed fiscal year or
37 in the case of a grain dealer who has been engaged in business as a

1 grain dealer less than one year, the estimated aggregate dollar amount
2 to be paid by the dealer to producers for agricultural commodities to
3 be purchased by the dealer during the dealer's first fiscal year.

4 (4) An applicant making application for both a warehouse license
5 and a grain dealer license may satisfy the bonding requirements set
6 forth in subsections (2) and (3) of this section by giving to the state
7 of Washington a single bond for the issuance of both licenses, which
8 bond shall be in the sum of not less than fifty thousand dollars nor
9 more than seven hundred fifty thousand dollars. The department shall,
10 after holding a public hearing, determine the amount of the bond which
11 shall be computed at a rate of not less than fifteen cents nor more
12 than thirty cents per bushel multiplied by the number of bushels of
13 licensed commodity storage capacity of the warehouses of the applicant
14 furnishing the bond, or at the rate of not less than six percent nor
15 more than twelve percent of the gross sales of agricultural commodities
16 of the applicant whichever is greater.

17 (5) The bonds required under this chapter shall be approved by the
18 department and shall be conditioned upon the faithful performance by
19 the licensee of the duties imposed upon him or her by this chapter. If
20 a person has applied for warehouse licenses to operate two or more
21 warehouses in this state, the assets applicable to all warehouses, but
22 not the deposits except in case of a station, are subject to the
23 liabilities of each. The total and aggregate liability of the surety
24 for all claims upon the bond is limited to the face amount of the bond.

25 (6) Any person required to submit a bond to the department under
26 this chapter has the option to give the department a certificate of
27 deposit or other security acceptable to the department payable to the
28 director as trustee, in lieu of a bond or a portion thereof. The
29 principal amount of the certificate or other security shall be the same
30 as that required for a surety bond under this chapter or may be in an
31 amount which, when added to the bond, will satisfy the licensee's
32 requirements for a surety bond under this chapter, and the interest
33 thereon shall be made payable to the purchaser of the certificate or
34 other security. The certificate of deposit or other security shall
35 remain on deposit until it is released, canceled, or discharged as
36 provided for by rule of the department. The provisions of this chapter
37 that apply to a bond required under this chapter apply to each
38 certificate of deposit or other security given in lieu of such a bond.

1 (7) The department may, when it has reason to believe that a grain
2 dealer does not have the ability to pay producers for grain purchased,
3 or when it determines that the grain dealer does not have a sufficient
4 net worth to outstanding financial obligations ratio, or when it
5 believes there may be claims made against the bond in excess of the
6 face amount of the bond, require a grain dealer to post an additional
7 bond in a dollar amount deemed appropriate by the department or may
8 require an additional certificate of deposit or other security. The
9 additional bonding or other security may exceed the maximum amount of
10 the bond otherwise required under this chapter. Failure to post the
11 additional bond, certificate of deposit, or other security constitutes
12 grounds for suspension or revocation of a license issued under this
13 chapter.

14 (8) Notwithstanding any other provisions of this chapter, the
15 license of a (~~warehouseman~~) warehouse operator or grain dealer shall
16 automatically be suspended in accordance with RCW 22.09.100 for failure
17 at any time to have or to maintain a bond, certificate of deposit, or
18 other security or combination thereof in the amount and type required
19 by this chapter. The department shall remove the suspension or issue
20 a license as the case may be, when the required bond, certificate of
21 deposit, or other security has been obtained.

22 **Sec. 605.** RCW 22.09.100 and 1987 c 509 s 4 are each amended to
23 read as follows:

24 (1) Every bond filed with and approved by the department shall
25 without the necessity of periodic renewal remain in force and effect
26 until such time as the (~~warehouseman~~) warehouse operator or grain
27 dealer license of each principal on the bond is revoked or otherwise
28 canceled.

29 (2) The surety on a bond, as provided in this chapter, shall be
30 released and discharged from all liability to the state, as to a
31 principal whose license is revoked or canceled, which liability accrues
32 after the expiration of thirty days from the effective date of the
33 revocation or cancellation of the license. The surety on a bond under
34 this chapter shall be released and discharged from all liability to the
35 state accruing on the bond after the expiration of ninety days from the
36 date upon which the surety lodges with the department a written request
37 to be released and discharged. Nothing in this section shall operate

1 to relieve, release, or discharge the surety from any liability which
2 accrues before the expiration of the respective thirty or ninety-day
3 period. In the event of a cancellation by the surety, the surety shall
4 simultaneously send the notification of cancellation in writing to any
5 other governmental agency requesting it. Upon receiving any such
6 request, the department shall promptly notify the principal or
7 principals who furnished the bond, and unless the principal or
8 principals file a new bond on or before the expiration of the
9 respective thirty or ninety-day period, the department shall forthwith
10 cancel the license of the principal or principals whose bond has been
11 canceled.

12 **Sec. 606.** RCW 22.09.110 and 1983 c 305 s 29 are each amended to
13 read as follows:

14 All commodities in storage in a warehouse shall be kept fully
15 insured for the current market value of the commodity for the license
16 period against loss by fire, lightning, internal explosion, windstorm,
17 cyclone, and tornado. Evidence of the insurance coverage in the form
18 of a certificate of insurance approved by the department shall be filed
19 by the ((~~warehouseman~~)) warehouse operator with the department at the
20 time of making application for an annual license to operate a warehouse
21 as required by this chapter. The department shall not issue a license
22 until the certificate of insurance is received.

23 **Sec. 607.** RCW 22.09.130 and 1983 c 305 s 30 are each amended to
24 read as follows:

25 (1) Every ((~~warehouseman~~)) warehouse operator shall receive for
26 handling, conditioning, storage, or shipment, so far as the capacity
27 and facilities of his or her warehouse will permit, all commodities
28 included in the provisions of this chapter, in suitable condition for
29 storage, tendered him or her in the usual course of business from
30 historical depositors and shall issue therefor a warehouse receipt or
31 receipts in a form prescribed by the department as provided in this
32 chapter or a scale weight ticket. ((~~Warehousemen~~)) Warehouse operators
33 may accept agricultural commodities from new depositors who qualify to
34 the extent of the capacity of that warehouse. The deposit for
35 handling, conditioning, storage, or shipment of the commodity must be
36 credited to the depositor in the books of the ((~~warehouseman~~))

1 warehouse operator as soon as possible, but in no event later than
2 seven days from the date of the deposit. If the commodity has been
3 graded a warehouse receipt shall be issued within ten days after demand
4 by the owner.

5 (2) If requested by the depositor, each lot of his or her commodity
6 shall be kept in a special pile or special bin, if available, but in
7 the case of a bulk commodity, if the lot or any portion of it does not
8 equal the capacity of any available bin, the depositor may exercise his
9 or her option to require the commodity to be specially binned only on
10 agreement to pay charges based on the capacity of the available bin
11 most nearly approximating the required capacity.

12 (3) A (~~warehouseman~~) warehouse operator may refuse to accept for
13 storage, commodities that are wet, damaged, insect-infested, or in
14 other ways unsuitable for storage.

15 (4) Terminal and subterminal (~~warehousemen~~) warehouse operators
16 shall receive put through agricultural commodities to the extent
17 satisfactory transportation arrangements can be made, but may not be
18 required to receive agricultural commodities for storage.

19 **Sec. 608.** RCW 22.09.140 and 1963 c 124 s 14 are each amended to
20 read as follows:

21 (~~(1)~~) When partial withdrawal of his or her commodity is made by
22 a depositor, the (~~warehouseman~~) warehouse operator shall make
23 appropriate notation thereof on the depositor's nonnegotiable receipt
24 or on other records, or, if the (~~warehouseman~~) warehouse operator has
25 issued a negotiable receipt to the depositor, he or she shall claim,
26 cancel, and replace it with a negotiable receipt showing the amount of
27 such depositor's commodity remaining in the warehouse, and for his or
28 her failure to claim and cancel, upon delivery to the owner of a
29 commodity stored in his or her warehouse, a negotiable receipt issued
30 by him or her, the negotiation of which would transfer the right to
31 possession of such commodity, a (~~warehouseman~~) warehouse operator
32 shall be liable to anyone who purchases such receipt for value and in
33 good faith, for failure to deliver to him or her all the commodity
34 specified in the receipt, whether such purchaser acquired title to the
35 negotiable receipt before or after delivery of any part of the
36 commodity by the (~~warehouseman~~) warehouse operator.

1 **Sec. 609.** RCW 22.09.150 and 1983 c 305 s 31 are each amended to
2 read as follows:

3 (1) The duty of the ((~~warehouseman~~)) warehouse operator to deliver
4 the commodities in storage is governed by the provisions of this
5 chapter and the requirements of Article 7 of Title 62A RCW. Upon the
6 return of the receipt to the proper ((~~warehouseman~~)) warehouse
7 operator, properly endorsed, and upon payment or tender of all advances
8 and legal charges, the ((~~warehouseman~~)) warehouse operator shall
9 deliver commodities of the grade and quantity named upon the receipt to
10 the holder of the receipt, except as provided by Article 7 of Title 62A
11 RCW.

12 (2) A ((~~warehouseman's~~)) warehouse operator's duty to deliver any
13 commodity is fulfilled if delivery is made pursuant to the contract
14 with the depositor or if no contract exists, then to the several owners
15 in the order of demand as rapidly as it can be done by ordinary
16 diligence. Where delivery is made within forty-eight hours excluding
17 Saturdays, Sundays, and legal holidays after facilities for receiving
18 the commodity are provided, the delivery is deemed to comply with this
19 subsection.

20 (3) No ((~~warehouseman~~)) warehouse operator may fail to deliver a
21 commodity as provided in this section, and delivery shall be made at
22 the warehouse or station where the commodity was received unless the
23 ((~~warehouseman~~)) warehouse operator and depositor otherwise agree in
24 writing.

25 (4) In addition to being subject to penalties provided in this
26 chapter for a violation of this section, if a ((~~warehouseman~~))
27 warehouse operator unreasonably fails to deliver commodities within the
28 time as provided in this section, the person entitled to delivery of
29 the commodity may maintain an action against the ((~~warehouseman~~))
30 warehouse operator for any damages resulting from the
31 ((~~warehouseman's~~)) warehouse operator's unreasonable failure to so
32 deliver. In any such action the person entitled to delivery of the
33 commodity has the option to seek recovery of his or her actual damages
34 or liquidated damages of one-half of one percent of the value for each
35 day's delay after the forty-eight hour period.

36 **Sec. 610.** RCW 22.09.160 and 1963 c 124 s 16 are each amended to
37 read as follows:

1 (1) If a ((~~warehouseman~~)) warehouse operator discovers that as a
2 result of a quality or condition of a certain commodity placed in his
3 or her warehouse, including identity preserved commodities as provided
4 for in RCW 22.09.130(2), of which he or she had no notice at the time
5 of deposit, such commodity is a hazard to other commodities or to
6 persons or to the warehouse he or she may notify the depositor that it
7 will be removed. If the depositor does not accept delivery of such
8 commodity upon removal the ((~~warehouseman~~)) warehouse operator may sell
9 the commodity at public or private sale without advertisement but with
10 reasonable notification of the sale to all persons known to claim an
11 interest in the commodity. If the ((~~warehouseman~~)) warehouse operator
12 after a reasonable effort is unable to sell the commodity, he or she
13 may dispose of it in any other lawful manner and shall incur no
14 liability by reason of such disposition.

15 (2) At any time prior to sale or disposition as authorized in this
16 section, the ((~~warehouseman~~)) warehouse operator shall deliver the
17 commodity to any person entitled to it, upon proper demand and payment
18 of charges.

19 (3) From the proceeds of sale or other disposition of the commodity
20 the ((~~warehouseman~~)) warehouse operator may satisfy his or her charges
21 for which otherwise he or she would have a lien, and shall hold the
22 balance thereof for delivery on the demand of any person to whom he or
23 she would have been required to deliver the commodity.

24 **Sec. 611.** RCW 22.09.170 and 1983 c 305 s 32 are each amended to
25 read as follows:

26 If the owner of the commodity or his or her authorized agent gives
27 or furnishes to a licensed ((~~warehouseman~~)) warehouse operator a
28 written instruction or order, and if the order is properly made a part
29 of the ((~~warehouseman's~~)) warehouse operator's records and is available
30 for departmental inspection, then the ((~~warehouseman~~)) warehouse
31 operator:

32 (1) May receive the commodity for the purpose of processing or
33 conditioning;

34 (2) May receive the commodity for the purpose of shipping by the
35 ((~~warehouseman~~)) warehouse operator for the account of the depositor;

36 (3) May accept an agricultural commodity delivered as seed and

1 handle it pursuant to the terms of a contract with the depositor and
2 the contract shall be considered written instructions pursuant to this
3 section.

4 **Sec. 612.** RCW 22.09.175 and 1983 c 305 s 33 are each amended to
5 read as follows:

6 (1) A commodity deposited with a ((warehouseman)) warehouse
7 operator without a written agreement for sale of the commodity to the
8 ((warehouseman)) warehouse operator shall be handled and considered to
9 be a commodity in storage.

10 (2) A presumption is hereby created that in all written agreements
11 for the sale of commodities, the intent of the parties is that title
12 and ownership to the commodities shall pass on the date of payment
13 therefor. This presumption may only be rebutted by a clear statement
14 to the contrary in the agreement.

15 (3) Any ((warehouseman)) warehouse operator or grain dealer
16 entering into a deferred price contract with a depositor shall first
17 have the form of the contract approved by the director. The director
18 shall adopt rules setting forth the standards for approval of the
19 contracts.

20 **Sec. 613.** RCW 22.09.180 and 1983 c 305 s 34 are each amended to
21 read as follows:

22 (1) The licensee shall maintain complete records at all times with
23 respect to all agricultural commodities handled, stored, shipped, or
24 merchandised by him or her, including commodities owned by him or her.
25 The department shall adopt rules specifying the minimum record-keeping
26 requirements necessary to comply with this section.

27 (2) The licensee shall maintain an itemized statement of any
28 charges paid by the depositor.

29 **Sec. 614.** RCW 22.09.190 and 1983 c 305 s 35 are each amended to
30 read as follows:

31 No ((warehouseman)) warehouse operator subject to the provisions of
32 this chapter may:

33 (1) Directly or indirectly, by any special charge, rebate,
34 drawback, or other device, demand, collect, or receive from any person
35 a greater or lesser compensation for any service rendered or to be

1 rendered in the handling, conditioning, storage, or shipment of any
2 commodity than he or she demands, collects, or receives from any other
3 person for doing for him or her a like and contemporaneous service in
4 the handling, conditioning, storage, or shipment of any commodity under
5 substantially similar circumstances or conditions;

6 (2) Make or give any undue or unreasonable preference or advantage
7 to any person in any respect whatsoever;

8 (3) Subject any particular person to any undue or unreasonable
9 prejudice or disadvantage in any respect whatsoever.

10 **Sec. 615.** RCW 22.09.230 and 1983 c 305 s 39 are each amended to
11 read as follows:

12 Every warehouse licensee shall post at or near the main entrance to
13 each of his or her warehouses a sign as prescribed by the department
14 which shall include the words "Washington Bonded Warehouse." It is
15 unlawful to display such sign or any sign of similar appearance or
16 bearing the same words, or words of similar import, when the warehouse
17 is not licensed and bonded under this chapter.

18 **Sec. 616.** RCW 22.09.240 and 1991 c 109 s 29 are each amended to
19 read as follows:

20 Every (~~warehouseman~~) warehouse operator shall annually, during
21 the first week in July, publish by posting in a conspicuous place in
22 each of his or her warehouses the schedule of handling, conditioning,
23 and storage rates filed with the department for the ensuing license
24 year. The schedule shall be kept posted, and the rates shall not be
25 changed during such year except after thirty days' written notice to
26 the director and proper posting of the changes on the licensee's
27 premises.

28 **Sec. 617.** RCW 22.09.250 and 1983 c 305 s 41 are each amended to
29 read as follows:

30 It is unlawful for a (~~warehouseman~~) warehouse operator to:

31 (1) Issue a warehouse receipt for any commodity that he or she does
32 not have in his or her warehouse at the time the receipt is issued;

33 (2) Issue warehouse receipts in excess of the amount of the
34 commodities held in the licensee's warehouse to cover the receipt;

1 (3) Remove, deliver, direct, assist, or permit any person to
2 remove, or deliver any commodity from any warehouse for which warehouse
3 receipts have been issued and are outstanding without receiving and
4 canceling the warehouse receipt issued therefor;

5 (4) Sell, encumber, ship, transfer, or in any manner remove or
6 permit to be shipped, transferred, or removed from a warehouse any
7 commodity received by him or her for deposit, handling, conditioning,
8 or shipment, for which scale weight tickets have been issued without
9 the written approval of the holder of the scale weight ticket and such
10 transfer shall be shown on the individual depositor's account and the
11 inventory records of the ((~~warehouseman~~)) warehouse operator;

12 (5) Remove, deliver, direct, assist, or permit any person to
13 deliver, or remove any commodities from any warehouse, whereby the
14 amount of any fairly representative grade or class of any commodity in
15 the warehouses of the licensee is reduced below the amount for which
16 warehouse receipts or scale weight tickets for the particular commodity
17 are outstanding;

18 (6) Issue a warehouse receipt showing a grade or description
19 different from the grade or description of the commodity delivered;

20 (7) Issue a warehouse receipt or scale weight ticket that exceeds
21 the amount of the actual quantity of commodities delivered for storage;

22 (8) Fail to deliver commodities pursuant to RCW 22.09.150 upon
23 demand of the depositor;

24 (9) Knowingly accept for storage any commodity destined for human
25 consumption that has been contaminated with an agricultural pesticide
26 or filth rendering it unfit for human consumption, if the commodities
27 are commingled with any uncontaminated commodity;

28 (10) Terminate storage of a commodity in his or her warehouse
29 without giving thirty days' written notice to the depositor.

30 **Sec. 618.** RCW 22.09.260 and 1983 c 305 s 42 are each amended to
31 read as follows:

32 No depositor may knowingly deliver for handling, conditioning,
33 storage, or shipment any commodity treated with an agricultural
34 pesticide or contaminated with filth rendering it unfit for human
35 consumption without first notifying the ((~~warehouseman~~)) warehouse
36 operator.

1 **Sec. 619.** RCW 22.09.290 and 1989 c 354 s 46 are each amended to
2 read as follows:

3 (1) Every warehouse receipt issued for commodities covered by this
4 chapter shall embody within its written or printed terms:

5 (a) The grade of the commodities as described by the official
6 standards of this state, unless the identity of the commodity is in
7 fact preserved in a special pile or special bin, and an identifying
8 mark of such pile or bin shall appear on the face of the receipt and on
9 the pile or bin. A commodity in a special pile or bin shall not be
10 removed or relocated without canceling the outstanding receipt and
11 issuing a new receipt showing the change;

12 (b) Such other terms and conditions as required by Article 7 of
13 Title 62A RCW: PROVIDED, That nothing contained therein requires a
14 receipt issued for wheat to specifically state the variety of wheat by
15 name;

16 (c) A clause reserving for the (~~warehouseman~~) warehouse operator
17 the optional right to terminate storage upon thirty days' written
18 notice to the depositor and collect outstanding charges against any lot
19 of commodities after June 30th following the date of the receipt.

20 (2) Warehouse receipts issued under the United States warehouse act
21 (7 USCA § 241 et seq.) are deemed to fulfill the requirements of this
22 chapter so far as it pertains to the issuance of warehouse receipts.

23 **Sec. 620.** RCW 22.09.300 and 1979 ex.s. c 238 s 20 are each amended
24 to read as follows:

25 (1) All warehouse receipts issued under this chapter shall be upon
26 forms prescribed by the department and supplied only to licensed
27 (~~warehousemen~~) warehouse operators at cost of printing, packing, and
28 shipping, as determined by the department. They shall contain the
29 state number of such license and shall be numbered serially for each
30 state number and the original negotiable receipts shall bear the state
31 seal. Requests for such receipts shall be on forms furnished by the
32 department and shall be accompanied by payment to cover cost:
33 PROVIDED, That the department by order may allow a (~~warehouseman~~)
34 warehouse operator to have his or her individual warehouse receipts
35 printed, after the form of the receipt is approved as in compliance
36 with this chapter, and the (~~warehouseman's~~) warehouse operator's
37 printer shall supply an affidavit stating the amount of receipts

1 printed, numbers thereof: PROVIDED FURTHER, That the ((~~warehouseman~~))
2 warehouse operator must supply a bond in an amount fixed by the
3 department and not to exceed five thousand dollars to cover any loss
4 resulting from the unlawful use of any such receipts.

5 (2) All warehouse receipts shall comply with the provisions of
6 Article 7 of Title 62A RCW as enacted or hereafter amended, except as
7 to the variety of wheat as set forth in RCW 22.09.290(1)(b) herein, and
8 with the provisions of this chapter where not inconsistent or in
9 conflict with Article 7 of Title 62A RCW. All receipts remaining
10 unused shall be confiscated by the department if the license required
11 herein is not promptly renewed or is suspended, revoked, or canceled.

12 **Sec. 621.** RCW 22.09.320 and 1963 c 124 s 32 are each amended to
13 read as follows:

14 In case any warehouse receipt issued by a licensee shall be lost or
15 destroyed, the owner thereof shall be entitled to a duplicate receipt
16 from the licensee upon executing and delivering to the ((~~warehouseman~~))
17 warehouse operator issuing such receipt, a bond in double the value of
18 the commodity covered by such lost receipt, with good and sufficient
19 surety to indemnify the ((~~warehouseman~~)) warehouse operator against any
20 loss sustained by reason of the issuance of such duplicate receipt, and
21 such duplicate receipt shall state that it is issued in lieu of the
22 former receipt, giving the number and date thereof.

23 **Sec. 622.** RCW 22.09.340 and 1983 c 305 s 46 are each amended to
24 read as follows:

25 (1) Upon the request of any person or persons having an interest in
26 a commodity stored in any public warehouse and upon payment of fifty
27 dollars in advance by the person or persons, the department may cause
28 the warehouse to be inspected and shall check the outstanding
29 negotiable and nonnegotiable warehouse receipts, and scale weight
30 tickets that have not been superseded by negotiable or nonnegotiable
31 warehouse receipts, with the commodities on hand and shall report the
32 amount of receipts and scale weight tickets outstanding and the amount
33 of storage, if any. If the cost of the examination is more than fifty
34 dollars, the person or persons having an interest in the commodity
35 stored in the warehouse and requesting the examination, shall pay the
36 additional cost to the department, unless a shortage is found to exist.

1 (2) A warehouse shall be maintained in a manner that will provide
2 a reasonable means of ingress and egress to the various storage bins
3 and compartments by those persons authorized to make inspections, and
4 an adequate facility to complete the inspections shall be provided.

5 (3) The property, books, records, accounts, papers, and proceedings
6 of every such ((~~warehouseman~~)) warehouse operator shall at all
7 reasonable times be subject to inspection by the department. The
8 ((~~warehouseman~~)) warehouse operator shall maintain adequate records and
9 systems for the filing and accounting of warehouse receipts, canceled
10 warehouse receipts, scale weight tickets, other documents, and
11 transactions necessary or common to the warehouse industry. Canceled
12 warehouse receipts, copies of scale weight tickets, and other copies of
13 documents evidencing ownership or ownership liability shall be retained
14 by the ((~~warehouseman~~)) warehouse operator for a period of at least
15 three years from the date of deposit.

16 (4) Any ((~~warehouseman~~)) warehouse operator whose principal office
17 or headquarters is located outside the state of Washington shall make
18 available, if requested, during ordinary business hours, at any of
19 their warehouses licensed in the state of Washington, all books,
20 documents, and records for inspection.

21 (5) Any grain dealer whose principal office or headquarters is
22 located outside the state of Washington shall make available, if
23 requested, all books, documents, and records for inspection during
24 ordinary business hours at any facility located in the state of
25 Washington, or if no facility in the state of Washington, then at a
26 Washington state department of agriculture office or other mutually
27 acceptable place.

28 **Sec. 623.** RCW 22.09.345 and 1987 c 393 s 20 are each amended to
29 read as follows:

30 (1) The department may give written notice to the ((~~warehouseman~~))
31 warehouse operator or grain dealer to submit to inspection, and/or
32 furnish required reports, documents, or other requested information,
33 under such conditions and at such time as the department may deem
34 necessary whenever a ((~~warehouseman~~)) warehouse operator or grain
35 dealer fails to:

36 (a) Submit his or her books, papers, or property to lawful
37 inspection or audit;

1 (b) Submit required reports or documents to the department by their
2 due date; or

3 (c) Furnish the department with requested information, including
4 but not limited to correction notices.

5 (2) If the ((~~warehouseman~~)) warehouse operator or grain dealer
6 fails to comply with the terms of the notice within twenty-four hours
7 from the date of its issuance, or within such further time as the
8 department may allow, the department shall levy a fine of fifty dollars
9 per day from the final date for compliance allowed by this section or
10 the department. In those cases where the failure to comply continues
11 for more than thirty days or where the director determines the failure
12 to comply creates a threat of loss to depositors, the department may,
13 in lieu of levying further fines petition the superior court of the
14 county where the licensee's principal place of business in Washington
15 is located, as shown by the license application, for an order:

16 (a) Authorizing the department to seize and take possession of all
17 books, papers, and property of all kinds used in connection with the
18 conduct or the operation of the ((~~warehouseman's~~)) warehouse operator's
19 or grain dealer's business, and the books, papers, records, and
20 property that pertain specifically, exclusively, and directly to that
21 business; and

22 (b) Enjoining the ((~~warehouseman~~)) warehouse operator or grain
23 dealer from interfering with the department in the discharge of its
24 duties as required by this chapter.

25 (3) All necessary costs and expenses, including attorneys' fees,
26 incurred by the department in carrying out the provisions of this
27 section may be recovered at the same time and as part of the action
28 filed under this section.

29 **Sec. 624.** RCW 22.09.350 and 1983 c 305 s 48 are each amended to
30 read as follows:

31 (1) Whenever it appears that there is evidence after any
32 investigation that a ((~~warehouseman~~)) warehouse operator has a
33 shortage, the department may levy a fine of one hundred dollars per day
34 until the ((~~warehouseman~~)) warehouse operator covers the shortage.

35 (2) In any case where the director determines the shortage creates
36 a substantial or continuing threat of loss to the depositors of the
37 ((~~warehouseman~~)) warehouse operator, the department may, in lieu of

1 levying a fine or further fines, give notice to the ((warehouseman))
2 warehouse operator to comply with all or any of the following
3 requirements:

- 4 (a) Cover the shortage;
- 5 (b) Give additional bond as requested by the department;
- 6 (c) Submit to such inspection as the department may deem necessary;
- 7 (d) Cease accepting further commodities from depositors or selling,
8 encumbering, transporting, or otherwise changing possession, custody,
9 or control of commodities owned by the ((warehouseman)) warehouse
10 operator until there is no longer a shortage.

11 (3) If the ((warehouseman)) warehouse operator fails to comply with
12 the terms of the notice provided for in subsection (2) of this section
13 within twenty-four hours from the date of its issuance, or within such
14 further time as the department may allow, the department may petition
15 the superior court of the county where the licensee's principal place
16 of business in Washington is located as shown by the license
17 application, for an order:

- 18 (a) Authorizing the department to seize and take possession of all
19 or a portion of special piles and special bins of commodities and all
20 or a portion of commingled commodities in the warehouse or warehouses
21 owned, operated, or controlled by the ((warehouseman)) warehouse
22 operator, and of all books, papers, and property of all kinds used in
23 connection with the conduct or the operation of the ((warehouseman's))
24 warehouse operator's warehouse business, and the books, papers,
25 records, and property that pertain specifically, exclusively, and
26 directly to that business; and

- 27 (b) Enjoining the ((warehouseman)) warehouse operator from
28 interfering with the department in the discharge of its duties as
29 required by this section.

30 **Sec. 625.** RCW 22.09.361 and 1983 c 305 s 49 are each amended to
31 read as follows:

- 32 (1) Whenever the department, pursuant to court order, seizes and
33 takes possession of all or a portion of special piles and special bins
34 of commodities, all or a portion of commingled commodities in a
35 warehouse owned, operated, or controlled by a ((warehouseman)) warehouse
36 operator, or books, papers, and property of any kind used in connection

1 with the conduct of a ((~~warehouseman's~~)) warehouse operator's warehouse
2 business, the department shall:

3 (a) Give written notice of its action to the surety on the bond of
4 the ((~~warehouseman~~)) warehouse operator and may notify the holders of
5 record, as shown by the ((~~warehouseman's~~)) warehouse operator's
6 records, of all warehouse receipts or scale weight tickets issued for
7 commodities, to present their warehouse receipt or other evidence of
8 deposits for inspection, or to account for the same. The department
9 may thereupon cause an audit to be made of the affairs of the
10 warehouse, especially with respect to the commodities in which there is
11 an apparent shortage, to determine the amount of the shortage and
12 compute the shortage as to each depositor as shown by the
13 ((~~warehouseman's~~)) warehouse operator's records, if practicable. The
14 department shall notify the ((~~warehouseman~~)) warehouse operator and the
15 surety on his or her bond of the approximate amount of the shortage and
16 notify each depositor thereby affected by sending notice to the
17 depositor's last known address as shown by the records of the
18 ((~~warehouseman~~)) warehouse operator.

19 (b) Retain possession of the commodities in the warehouse or
20 warehouses, and of the books, papers, and property of the
21 ((~~warehouseman~~)) warehouse operator, until the ((~~warehouseman~~))
22 warehouse operator or the surety on the bond has satisfied the claims
23 of all holders of warehouse receipts or other evidence of deposits, or,
24 in case the shortage exceeds the amount of the bond, the surety on the
25 bond has satisfied the claims pro rata.

26 (2) At any time within ten days after the department takes
27 possession of any commodities or the books, papers, and property of any
28 warehouse, the ((~~warehouseman~~)) warehouse operator may serve notice
29 upon the department to appear in the superior court of the county in
30 which the warehouse is located, at a time to be fixed by the court,
31 which shall not be less than five nor more than fifteen days from the
32 date of the service of the notice, and show cause why such commodities,
33 books, papers, and property should not be restored to his or her
34 possession.

35 (3) All necessary expenses and attorneys' fees incurred by the
36 department in carrying out the provisions of this section may be
37 recovered in the same action or in a separate civil action brought by
38 the department in the superior court.

1 (4) As a part of the expenses so incurred, the department is
2 authorized to include the cost of adequate liability insurance
3 necessary to protect the department, its officers, and others engaged
4 in carrying out the provisions of this section.

5 **Sec. 626.** RCW 22.09.371 and 1987 c 393 s 21 are each amended to
6 read as follows:

7 (1) When a depositor stores a commodity with a ((warehouseman))
8 warehouse operator or sells a commodity to a grain dealer, the
9 depositor has a first priority statutory lien on the commodity or the
10 proceeds therefrom or on commodities owned by the ((warehouseman))
11 warehouse operator or grain dealer if the depositor has written
12 evidence of ownership disclosing a storage obligation or written
13 evidence of sale. The lien arises at the time the title is transferred
14 from the depositor to the ((warehouseman)) warehouse operator or grain
15 dealer, or if the commodity is under a storage obligation, the lien
16 arises at the commencement of the storage obligation. The lien
17 terminates when the liability of the ((warehouseman)) warehouse
18 operator or grain dealer to the depositor terminates or if the
19 depositor sells his or her commodity to the ((warehouseman)) warehouse
20 operator or grain dealer, then thirty days after the date title passes.
21 If, however, the depositor is tendered payment by check or draft, then
22 the lien shall not terminate until forty days after the date title
23 passes.

24 (2) The lien created under this section shall be preferred to any
25 lien or security interest in favor of any creditor of the
26 ((warehouseman)) warehouse operator or grain dealer, regardless of
27 whether the creditor's lien or security interest attached to the
28 commodity or proceeds before or after the date on which the depositor's
29 lien attached under subsection (1) of this section.

30 (3) A depositor who claims a lien under subsection (1) of this
31 section need not file any notice of the lien in order to perfect the
32 lien.

33 (4) The lien created by subsection (1) of this section is
34 discharged, except as to the proceeds therefrom and except as to
35 commodities owned by the ((warehouseman)) warehouse operator or grain
36 dealer, upon sale of the commodity by the ((warehouseman)) warehouse
37 operator or grain dealer to a buyer in the ordinary course of business.

1 **Sec. 627.** RCW 22.09.381 and 1983 c 305 s 51 are each amended to
2 read as follows:

3 In the event of a failure of a grain dealer or ((~~warehouseman~~))
4 warehouse operator, the department may process the claims of depositors
5 possessing written evidence of ownership disclosing a storage
6 obligation or written evidence of a sale of commodities in the
7 following manner:

8 (1) The department shall give notice and provide a reasonable time
9 to depositors possessing written evidence of ownership disclosing a
10 storage obligation or written evidence of sale of commodities to file
11 their claims with the department.

12 (2) The department may investigate each claim and determine whether
13 the claimant's commodities are under a storage obligation or whether a
14 sale of the commodities has occurred. The department may, in writing,
15 notify each claimant and the failed grain dealer or ((~~warehouseman~~))
16 warehouse operator of the department's determination as to the status
17 and amount of each claimant's claim. A claimant, failed
18 ((~~warehouseman~~)) warehouse operator, or grain dealer may request a
19 hearing on the department's determination within twenty days of receipt
20 of written notification, and a hearing shall be held in accordance with
21 chapter 34.05 RCW.

22 (3) The department may inspect and audit the failed
23 ((~~warehouseman~~)) warehouse operator to determine whether the
24 ((~~warehouseman~~)) warehouse operator has in his or her possession
25 sufficient quantities of commodities to cover his or her storage
26 obligations. In the event of a shortage, the department shall
27 determine each depositor's pro rata share of available commodities and
28 the deficiency shall be considered as a claim of the depositor. Each
29 type of commodity shall be treated separately for ((~~the~~)) the purpose
30 of determining shortages.

31 (4) The department shall determine the amount, if any, due each
32 claimant by the surety and make demand upon the bond in the manner set
33 forth in this chapter.

34 **Sec. 628.** RCW 22.09.391 and 1987 c 393 s 22 are each amended to
35 read as follows:

36 Upon the failure of a grain dealer or ((~~warehouseman~~)) warehouse

1 operator, the statutory lien created in RCW 22.09.371 shall be
2 liquidated by the department to satisfy the claims of depositors in the
3 following manner:

4 (1) The department shall take possession of all commodities in the
5 warehouse, including those owned by the ((~~warehouseman~~)) warehouse
6 operator or grain dealer, and those that are under warehouse receipts
7 or any written evidence of ownership that discloses a storage
8 obligation by a failed ((~~warehouseman~~)) warehouse operator, including
9 but not limited to scale weight tickets, settlement sheets, and ledger
10 cards. These commodities shall be distributed or sold and the proceeds
11 distributed to satisfy the outstanding warehouse receipts or other
12 written evidences of ownership. If a shortage exists, the department
13 shall distribute the commodities or the proceeds from the sale of the
14 commodities on a prorated basis to the depositors. To the extent the
15 commodities or the proceeds from their sale are inadequate to satisfy
16 the claims of depositors with evidence of storage obligations, the
17 depositors have a first priority lien against any proceeds received
18 from commodities sold while under a storage obligation or against any
19 commodities owned by the failed ((~~warehouseman~~)) warehouse operator or
20 grain dealer.

21 (2) Depositors possessing written evidence of the sale of a
22 commodity to the failed ((~~warehouseman~~)) warehouse operator or grain
23 dealer, including but not limited to scale weight tickets, settlement
24 sheets, deferred price contracts, or similar commodity delivery
25 contracts, who have completed delivery and passed title during a
26 thirty-day period immediately before the failure of the failed
27 ((~~warehouseman~~)) warehouse operator or grain dealer have a second
28 priority lien against the commodity, the proceeds of the sale, or
29 warehouse-owned or grain dealer-owned commodities. If the commodity,
30 commodity proceeds, or warehouse-owned or grain dealer-owned
31 commodities are insufficient to wholly satisfy the claim of depositors
32 possessing written evidence of the sale of the commodity to the failed
33 ((~~warehouseman~~)) warehouse operator or grain dealer, each depositor
34 shall receive a pro rata share thereof.

35 (3) Upon the satisfaction of the claims of depositors qualifying
36 for first or second priority treatment, all other depositors possessing
37 written evidence of the sale of the commodity to the failed
38 ((~~warehouseman~~)) warehouse operator or grain dealer have a third

1 priority lien against the commodity, the proceeds of the sale, or
2 warehouse-owned or grain dealer-owned commodities. If the commodities,
3 commodity proceeds, or warehouse-owned or grain dealer-owned
4 commodities are insufficient to wholly satisfy these claims, each
5 depositor shall receive a pro rata share thereof.

6 (4) The director of agriculture may represent depositors whom,
7 under RCW 22.09.381, the director has determined have claims against
8 the failed (~~warehouseman~~) warehouse operator or failed grain dealer
9 in any action brought to enjoin or otherwise contest the distributions
10 made by the director under this section.

11 **Sec. 629.** RCW 22.09.416 and 1987 c 509 s 9 are each amended to
12 read as follows:

13 (1) Every licensed warehouse and grain dealer and every applicant
14 for any such license shall pay assessments to the department for
15 deposit in the grain indemnity fund according to the provisions of RCW
16 22.09.405 through 22.09.471 and rules promulgated by the department to
17 implement this chapter.

18 (2) The rate of the assessments shall be established by rule,
19 provided however, that no single assessment against a licensed
20 warehouse or grain dealer or applicant for any such license shall
21 exceed five percent of the bond amount that would otherwise have been
22 required of such grain dealer, (~~warehouseman~~) warehouse operator, or
23 license applicant under RCW 22.09.090.

24 **Sec. 630.** RCW 22.09.436 and 1987 c 509 s 13 are each amended to
25 read as follows:

26 (1) There is hereby created a grain indemnity fund advisory
27 committee consisting of six members to be appointed by the director.
28 The director shall make appointments to the committee no later than
29 seven days following the date this section becomes effective pursuant
30 to RCW 22.09.405. Of the initial appointments, three shall be for two-
31 year terms and three shall be for three-year terms. Thereafter,
32 appointments shall be for three-year terms, each term ending on the
33 same day of the same month as did the term preceding it. Any member
34 appointed to fill a vacancy occurring prior to the expiration of the
35 term for which the member's predecessor was appointed shall hold office
36 for the remainder of the predecessor's term.

1 (2) The committee shall be composed of two producers primarily
2 engaged in the production of agricultural commodities, two licensed
3 grain dealers, and two licensed grain ((~~warehousemen~~)) warehouse
4 operators.

5 (3) The committee shall meet at such places and times as it shall
6 determine and as often as necessary to discharge the duties imposed
7 upon it. Each committee member shall be compensated in accordance with
8 RCW 43.03.240 and shall be reimbursed for travel and subsistence
9 expense under RCW 43.03.050 and 43.03.060. The expenses of the
10 committee and its operation shall be paid from the grain indemnity
11 fund.

12 (4) The committee shall have the power and duty to advise the
13 director concerning assessments, administration of the grain indemnity
14 fund, and payment of claims from the fund.

15 **Sec. 631.** RCW 22.09.441 and 1987 c 509 s 14 are each amended to
16 read as follows:

17 In the event a grain dealer or warehouse fails, as defined in RCW
18 22.09.011(21), or otherwise fails to comply with the provisions of this
19 chapter or rules promulgated hereunder, the department shall process
20 the claims of depositors producing written evidence of ownership
21 disclosing a storage obligation or written evidence of a sale of
22 commodities for damages caused by the failure, in the following manner:

23 (1) The department shall give notice and provide a reasonable time,
24 not to exceed thirty days, to depositors possessing written evidence of
25 ownership disclosing a storage obligation or written evidence of sale
26 of commodities to file their written verified claims with the
27 department.

28 (2) The department may investigate each claim and determine whether
29 the claimant's commodities are under a storage obligation or whether a
30 sale of commodities has occurred. The department shall notify each
31 claimant, the grain ((~~warehouseman~~)) warehouse operator or grain
32 dealer, and the committee of the department's determination as to the
33 validity and amount of each claimant's claim. A claimant,
34 ((~~warehouseman~~)) warehouse operator, or grain dealer may request a
35 hearing on the department's determination within twenty days of receipt
36 of written notification and a hearing shall be held by the department

1 pursuant to chapter 34.05 RCW. Upon determining the amount and
2 validity of the claim, the director shall pay the claim from the grain
3 indemnity fund.

4 (3) The department may inspect and audit a failed ((warehouseman))
5 warehouse operator, as defined by RCW 22.09.011(21) to determine
6 whether the ((warehouseman)) warehouse operator has in his or her
7 possession, sufficient quantities of commodities to cover his or her
8 storage obligations. In the event of a shortage, the department shall
9 determine each depositor's pro rata share of available commodities and
10 the deficiency shall be considered as a claim of the depositor. Each
11 type of commodity shall be treated separately for the purpose of
12 determining shortages.

13 **Sec. 632.** RCW 22.09.446 and 1987 c 509 s 15 are each amended to
14 read as follows:

15 If a depositor or creditor, after notification, refuses or neglects
16 to file in the office of the director his or her verified claim against
17 a ((warehouseman)) warehouse operator or grain dealer as requested by
18 the director within thirty days from the date of the request, the
19 director shall thereupon be relieved of responsibility for taking
20 action with respect to such claim later asserted and no such claim
21 shall be paid from the grain indemnity fund.

22 **Sec. 633.** RCW 22.09.451 and 1987 c 509 s 16 are each amended to
23 read as follows:

24 Subject to the provisions of RCW 22.09.456 and 22.09.461 and to a
25 maximum payment of seven hundred fifty thousand dollars on all claims
26 against a single licensee, approved claims against a licensed
27 ((warehouseman)) warehouse operator or licensed grain dealer shall be
28 paid from the grain indemnity fund in the following amounts:

29 (1) Approved claims against a licensed ((warehouseman)) warehouse
30 operator shall be paid in full;

31 (2) Approved claims against a licensed grain dealer for payments
32 due within thirty days of transfer of title shall be paid in full for
33 the first twenty-five thousand dollars of the claim. The amount of
34 such a claim in excess of twenty-five thousand dollars shall be paid to
35 the extent of eighty percent;

1 (3) Approved claims against a licensed grain dealer for payments
2 due between thirty and ninety days of transfer of title shall be paid
3 to the extent of eighty percent;

4 (4) Approved claims against a licensed grain dealer for payments
5 due after ninety days from transfer of title shall be paid to the
6 extent of seventy-five percent;

7 (5) In the event that approved claims against a single licensee
8 exceed seven hundred fifty thousand dollars, recovery on those claims
9 shall be prorated.

10 **Sec. 634.** RCW 22.09.466 and 1987 c 509 s 19 are each amended to
11 read as follows:

12 Amounts paid from the grain indemnity fund in satisfaction of any
13 approved claim shall constitute a debt and obligation of the grain
14 dealer or ((warehouseman)) warehouse operator against whom the claim
15 was made. On behalf of the grain indemnity fund, the director may
16 bring suit, file a claim, or intervene in any legal proceeding to
17 recover from the grain dealer or ((warehouseman)) warehouse operator
18 the amount of the payment made from the grain indemnity fund, together
19 with costs and attorneys' fees incurred. In instances where the
20 superior court is the appropriate forum for a recovery action, the
21 director may elect to institute the action in the superior court of
22 Thurston county.

23 **Sec. 635.** RCW 22.09.471 and 1987 c 509 s 20 are each amended to
24 read as follows:

25 The department may deny, suspend, or revoke the license of any
26 grain dealer or ((warehouseman)) warehouse operator who fails to timely
27 pay assessments to the grain indemnity fund or against whom a claim has
28 been made, approved, and paid from the grain indemnity fund.
29 Proceedings for the denial, suspension, or revocation shall be subject
30 to the provisions of chapter 34.05 RCW.

31 **Sec. 636.** RCW 22.09.570 and 1987 c 509 s 5 are each amended to
32 read as follows:

33 The director may bring action upon the bond of a ((warehouseman))
34 warehouse operator or grain dealer against both principal against whom
35 a claim has been made and the surety in any court of competent

1 jurisdiction to recover the damages caused by any failure to comply
2 with the provisions of this chapter or the rules adopted hereunder.
3 Recovery for damages against a ((~~warehouseman~~)) warehouse operator or
4 grain dealer on a bond furnished under RCW 22.09.095 shall be limited
5 to the bond amount that would be required for that ((~~warehouseman~~))
6 warehouse operator or grain dealer under RCW 22.09.090.

7 **Sec. 637.** RCW 22.09.580 and 1983 c 305 s 57 are each amended to
8 read as follows:

9 If a depositor creditor after notification fails, refuses, or
10 neglects to file in the office of the director his or her verified
11 claim against a ((~~warehouseman~~)) warehouse operator or grain dealer
12 bond as requested by the director within thirty days from the date of
13 the request, the director shall thereupon be relieved of further duty
14 or action under this chapter on behalf of the depositor creditor.

15 **Sec. 638.** RCW 22.09.590 and 1983 c 305 s 58 are each amended to
16 read as follows:

17 Where by reason of the absence of records or other circumstances
18 making it impossible or unreasonable for the director to ascertain the
19 names and addresses of all the depositor creditors, the director after
20 exerting due diligence and making reasonable inquiry to secure that
21 information from all reasonable and available sources, may make demand
22 on a ((~~warehouseman's~~)) warehouse operator's or grain dealer's bond on
23 the basis of information then in his or her possession, and thereafter
24 shall not be liable or responsible for claims or the handling of claims
25 that may subsequently appear or be discovered.

26 **Sec. 639.** RCW 22.09.600 and 1983 c 305 s 59 are each amended to
27 read as follows:

28 Upon ascertaining all claims and statements in the manner set forth
29 in this chapter, the director may then make demand upon the
30 ((~~warehouseman's~~)) warehouse operator's or grain dealer's bond on
31 behalf of those claimants whose claims and statements have been filed,
32 and has the power to settle or compromise the claims with the surety
33 company on the bond, and is empowered in such cases to execute and
34 deliver a release and discharge of the bond involved.

1 **Sec. 640.** RCW 22.09.610 and 1987 c 509 s 6 are each amended to
2 read as follows:

3 Upon the refusal of the surety company to pay the demand, the
4 director may thereupon bring an action on the ((~~warehouseman's~~))
5 warehouse operator's or grain dealer's bond in behalf of the depositor
6 creditors. Upon any action being commenced on the bond, the director
7 may require the filing of a new bond, and immediately upon the recovery
8 in any action on the bond, a new bond shall be filed. The failure to
9 file the new bond or otherwise satisfy the security requirements of
10 this chapter within ten days in either case constitutes grounds for the
11 suspension or revocation of the license of any principal on the bond.

12 **Sec. 641.** RCW 22.09.615 and 1983 c 305 s 53 are each amended to
13 read as follows:

14 (1) If no action is commenced under RCW 22.09.570 within thirty
15 days after written demand to the department, any depositor injured by
16 the failure of a licensee to comply with the condition of his or her
17 bond has a right of action upon the licensee's bond for the recovery of
18 his or her damages. The depositor shall give the department immediate
19 written notice of the commencement of any such action.

20 (2) Recovery under the bond shall be prorated when the claims
21 exceed the liability under the bond.

22 (3) Whenever the claimed shortage exceeds the amount of the bond,
23 it is not necessary for any depositor suing on the bond to join other
24 depositors in the suit, and the burden of establishing proration is on
25 the surety as a matter of defense.

26 **Sec. 642.** RCW 22.09.620 and 1983 c 305 s 62 are each amended to
27 read as follows:

28 Every ((~~warehouseman~~)) warehouse operator or grain dealer must pay
29 for agricultural commodities purchased by him or her at the time and in
30 the manner specified in the contract with the depositor, but if no time
31 is set by the contract, then within thirty days after taking possession
32 for purpose of sale or taking title of the agricultural product.

33 **Sec. 643.** RCW 22.09.660 and 2003 c 13 s 1 are each amended to read
34 as follows:

35 Upon determining that an emergency storage situation appears to

1 exist, the director may authorize the ((warehouseman)) warehouse
2 operator to forward grain that is covered by negotiable receipts to
3 other licensed warehouses for storage without canceling and reissuing
4 the negotiable receipts pursuant to conditions established by rule.

5 **Sec. 644.** RCW 22.09.780 and 1989 c 354 s 51 are each amended to
6 read as follows:

7 (1) In case any owner, consignee, or shipper of any commodity
8 included under the provisions of this chapter, or his or her agent or
9 broker, or any ((warehouseman)) warehouse operator shall be aggrieved
10 at the grading of such commodity, the person may request a reinspection
11 or appeal inspection within three business days from the date of
12 certificate. The reinspection or appeal may be based in the official
13 file sample or upon a new sample drawn from the lot of the grain or
14 commodity if the lot remains intact and available for sampling. The
15 reinspection or appeal inspection shall be of the same factors and
16 scope as the original inspection.

17 (2) For commodities inspected under federal standards, the
18 reinspection and appeal inspection procedure provided in the applicable
19 federal regulations shall apply. For commodities inspected under state
20 standards, the department shall provide a minimum of a reinspection and
21 appeal inspection service. The reinspection shall consist of a full
22 review of all relevant information and a reexamination of the commodity
23 to determine the correctness of the grade assigned or other
24 determination. The reinspection shall be performed by an authorized
25 inspector of the department other than the inspector who performed the
26 original inspection unless no other inspector is available. An appeal
27 inspection shall be performed by a supervisory inspector.

28 (3) If the grading of any commodity for which federal standards
29 have been fixed and the same adopted as official state standards has
30 not been the subject of a hearing, in accordance with subsection (2) of
31 this section, any interested party who is aggrieved with the grading of
32 such commodity, may, with the approval of the secretary of the United
33 States department of agriculture, appeal to the federal grain
34 supervisor of the supervision district in which the state of Washington
35 may be located. Such federal grain supervisor shall confer with the
36 department inspectors and any other interested party and shall make
37 such tests as he or she may deem necessary to determine the correct

1 grade of the commodity in question. Such federal grade certificate
2 shall be prima facie evidence of the correct grade of the commodity in
3 any court in the state of Washington.

4 **Sec. 645.** RCW 22.09.790 and 1963 c 124 s 46 are each amended to
5 read as follows:

6 (1) The department shall fix the fees for inspection, grading, and
7 weighing of the commodities included under the provisions of this
8 chapter, which fees shall be sufficient to cover the cost of such
9 service. The fees for inspection, weighing, and grading of such
10 commodities shall be a lien upon the commodity so weighed, graded, or
11 inspected which the department may require to be paid by the carrier or
12 agent transporting the same and treated by it as an advanced charge,
13 except when the bill of lading contains the notation "not for terminal
14 weight and grade," and the commodity is not unloaded at a terminal
15 warehouse.

16 (2) The department is authorized to make any tests relating to
17 grade or quality of commodities covered by this chapter. The
18 department may inspect and approve facilities and vessels to be used in
19 transporting such commodities and provide any other necessary services.
20 It may fix and charge a reasonable fee to be collected from the person
21 or his or her agent requesting such service.

22 (3) The department shall so adjust the fees to be collected under
23 this chapter as to meet the expenses necessary to carry out the
24 provisions hereof, and may prescribe a different scale of fees for
25 different localities. The department may also prescribe a reasonable
26 charge for service performed at places other than terminal warehouses
27 in addition to the regular fees when necessary to avoid rendering the
28 services at a loss to the state.

29 **Sec. 646.** RCW 22.09.800 and 1963 c 124 s 47 are each amended to
30 read as follows:

31 If any terminal warehouse at inspection points is provided with
32 proper scales and weighing facilities, the department may weigh the
33 commodity upon the scales so provided. The department at least once
34 each year shall cause to be examined, tested, and corrected, all scales
35 used in weighing commodities in any of the cities designated as
36 inspection points in this chapter or such places as may be hereinafter

1 designated, and after such scale is tested, if found to be correct and
2 in good condition, to seal the weights with a seal provided for that
3 purpose and issue to the owner or proprietor a certificate authorizing
4 the use of such scales for weighing commodities for the ensuing year,
5 unless sooner revoked by the department. If such scales be found to be
6 inaccurate or unfit for use, the department shall notify the party
7 operating or using them, and the party thus notified shall, at his or
8 her own expense, thoroughly repair the same before attempting to use
9 them and until thus repaired or modified to the satisfaction of the
10 department the certificate of such party shall be suspended or revoked
11 at the discretion of the department. The party receiving such
12 certificate shall pay to the department a reasonable fee for such
13 inspection and certificate to be fixed by the department. It shall be
14 the duty of the department to see that the provisions of this section
15 are strictly enforced.

16 **Sec. 647.** RCW 22.09.810 and 1963 c 124 s 48 are each amended to
17 read as follows:

18 In case any commodity under the provisions of this chapter is sold
19 for delivery on Washington grade to be shipped to or from places not
20 provided with state inspection under this chapter, the buyer, seller,
21 or persons making delivery may have it inspected by notifying the
22 department or its inspectors, whose duty it shall be to have such
23 commodity inspected, and after it is inspected, to issue to the buyer,
24 seller, or person delivering it, without undue delay, a certificate
25 showing the grade of such commodity. The person or persons, or his or
26 her agent, calling for such inspection shall pay for such inspection a
27 reasonable fee to be fixed by the department.

28 **Sec. 648.** RCW 22.09.820 and 1963 c 124 s 49 are each amended to
29 read as follows:

30 When commodities are shipped to points where inspection is provided
31 and the bill of lading does not contain the notation "not for terminal
32 weight and grade" and the commodity is unloaded by or on account of the
33 consignee or his or her assignee without being inspected or weighed by
34 a duly authorized inspector under the provisions of this chapter, the
35 shipper's weight and grade shall be conclusive and final and shall be
36 the weight and grade upon which settlement shall be made with the

1 seller, and the consignee or his or her assignee, by whom such
2 commodities are so unlawfully unloaded shall be liable to the seller
3 thereof for liquidated damages in an amount equal to ten percent of the
4 sale price of such commodities computed on the basis of the shipper's
5 weight and grade.

6 **Sec. 649.** RCW 22.09.860 and 1963 c 124 s 27 are each amended to
7 read as follows:

8 All railroad companies and ((~~warehousemen~~)) warehouse operators
9 operating in the cities provided for inspection by this chapter shall
10 furnish ample and sufficient police protection to all their several
11 terminal yards and terminal tracks to securely protect all cars
12 containing commodities while the same are in their possession. They
13 shall prohibit and restrain all unauthorized persons, whether under the
14 guise of sweepers, or under any other pretext whatever, from entering
15 or loitering in or about their railroad yards or tracks and from
16 entering any car of commodities under their control, or removing
17 commodities therefrom, and shall employ and detail such number of
18 watchmen as may be necessary for the purpose of carrying out the
19 provisions of this section.

20 **Sec. 650.** RCW 22.28.020 and 1983 c 3 s 26 are each amended to read
21 as follows:

22 Whenever any safe deposit company shall take or receive as bailee
23 for hire and for safekeeping or storage any jewelry, plate, money,
24 specie, bullion, stocks, bonds, mortgages, securities, or valuable
25 paper of any kind, or other valuable personal property, and shall have
26 issued a receipt therefor, it shall be deemed to be a ((~~warehouseman~~))
27 warehouse operator as to such property and the provisions of Article 7
28 of the Uniform Commercial Code, Title 62A RCW, shall apply to such
29 deposit, or to the proceeds thereof, to the same extent and with the
30 same effect, and be enforceable in the same manner as is now provided
31 with reference to ((~~warehousemen~~)) warehouse operators in said act.

32 **Sec. 651.** RCW 22.28.040 and 1983 c 289 s 1 are each amended to
33 read as follows:

34 If the amount due for the rental of any safe or box in the vaults
35 of any safe deposit company shall not have been paid for one year, it

1 may, at the expiration thereof, send to the person in whose name such
2 safe or box stands on its books a notice in writing in securely closed,
3 postpaid and certified mail, return receipt requested, directed to such
4 person at his or her post office address, as recorded upon the books of
5 the safe deposit company, notifying such person that if the amount due
6 for the rental of such safe or box is not paid within thirty days from
7 date, the safe deposit company will then cause such safe or box to be
8 opened, and the contents thereof to be inventoried, sealed, and placed
9 in one of its general safes or boxes.

10 Upon the expiration of thirty days from the date of mailing such
11 notice, and the failure of the person in whose name the safe or box
12 stands on the books of the company to pay the amount due for the rental
13 thereof to the date of notice, the corporation may, in the presence of
14 two officers of the corporation, cause such safe or box to be opened,
15 and the contents thereof, if any, to be removed, inventoried and sealed
16 in a package, upon which the officers shall distinctly mark the name of
17 the person in whose name the safe or box stood on the books of the
18 company, and the date of removal of the property, and when such package
19 has been so marked for identification by the officers, it shall be
20 placed in one of the general safes or boxes of the company at a rental
21 not to exceed the original rental of the safe or box which was opened,
22 and shall remain in such general safe or box for a period of not less
23 than one year, unless sooner removed by the owner thereof, and two
24 officers of the corporation shall thereupon file with the company a
25 certificate which shall fully set out the date of the opening of such
26 safe or box, the name of the person in whose name it stood and a
27 reasonable description of the contents, if any.

28 A copy of such certificate shall within ten days thereafter be
29 mailed to the person in whose name the safe or box so opened stood on
30 the books of the company, at his or her last known post office address,
31 in securely closed, postpaid and certified mail, return receipt
32 requested, together with a notice that the contents will be kept, at
33 the expense of such person, in a general safe or box in the vaults of
34 the company, for a period of not less than one year. At any time after
35 the mailing of such certificate and notice, and before the expiration
36 of one year, such person may require the delivery of the contents of
37 the safe as shown by said certificate, upon the payment of all rentals

1 due at the time of opening of the safe or box, the cost of opening the
2 box, and the payment of all further charges accrued during the period
3 the contents remained in the general safe or box of the company.

4 The company may sell all the property or articles of value set out
5 in said certificate, at public auction, provided a notice of the time
6 and place of sale has been published once within ten days prior to the
7 sale in a newspaper published in the county where the contents of the
8 safe or box (~~(is)~~) is located and where the holder chooses to conduct
9 the sale. If the holder chooses not to sell the contents at public
10 sale, the contents shall be delivered to the department of revenue as
11 unclaimed property.

12 From the proceeds of the sale, the company shall deduct amounts
13 which shall then be due for rental up to the time of opening the safe,
14 the cost of opening thereof, and the further cost of safekeeping all of
15 its contents for the period since the safe or box was opened, plus any
16 additional charges accruing to the time of sale, including advertising
17 and cost of sale. The balance, if any, of such proceeds, together with
18 any unsold property, shall be deposited by the company within thirty
19 days after the receipt of the same, with the department of revenue as
20 unclaimed property. The company shall file with such deposit a
21 certificate stating the name and last known place of residence of the
22 owner of the property sold, the articles sold, the price obtained
23 therefor, and showing that the notices herein required were duly mailed
24 and that the sale was advertised as required herein.

25 **Sec. 652.** RCW 22.32.020 and 1909 c 249 s 392 are each amended to
26 read as follows:

27 Every person or corporation engaged wholly or in part in the
28 business of a common carrier or (~~(warehouseman)~~) warehouse operator,
29 and every officer, agent or employee thereof, who shall issue any bill
30 of lading, receipt or other voucher by which it shall appear that any
31 goods, wares or merchandise have been received by such carrier or
32 (~~(warehouseman)~~) warehouse operator, unless the same have been so
33 received and shall be at the time actually under his or her control, or
34 who shall issue any bill of lading, receipt or voucher containing any
35 false statement concerning any material matter, shall be guilty of a
36 gross misdemeanor. But no person shall be convicted under this section
37 for the reason that the contents of any barrel, box, case, cask or

1 other closed vessel or package mentioned in the bill of lading, receipt
2 or voucher did not correspond with the description thereof in such
3 instrument, if such description corresponds substantially with the mark
4 on the outside of such barrel, box, case, cask, vessel or package,
5 unless it appears that the defendant knew that such marks were untrue.

6 **Sec. 653.** RCW 22.32.030 and 1909 c 249 s 393 are each amended to
7 read as follows:

8 Every person mentioned in RCW 22.32.020, who shall fraudulently mix
9 or tamper with any goods, wares or merchandise under his or her
10 control, shall be guilty of a gross misdemeanor.

11 **Sec. 654.** RCW 23.86.085 and 1989 c 307 s 11 are each amended to
12 read as follows:

13 The directors shall elect a president and one or more vice
14 presidents, who need not be directors. If the president and vice
15 presidents are not members of the board of directors, the directors
16 shall elect from their number a (~~chairman~~) chair of the board of
17 directors and one or more (~~vice-chairmen~~) vice chairs. They shall
18 also elect a secretary and treasurer, who need not be directors, and
19 they may combine the two offices and designate the combined office as
20 secretary-treasurer. The treasurer may be a bank or any depository,
21 and as such shall not be considered an officer but a function of the
22 board of directors. In such case, the secretary shall perform the
23 usual accounting duties of the treasurer, except that the funds shall
24 be deposited only as authorized by the board of directors.

25 **Sec. 655.** RCW 24.03.105 and 1986 c 240 s 17 are each amended to
26 read as follows:

27 Any vacancy occurring in the board of directors and any
28 directorship to be filled by reason of an increase in the number of
29 directors may be filled by the affirmative vote of a majority of the
30 remaining board of directors even though less than a quorum is present
31 unless the articles of incorporation or the bylaws provide that a
32 vacancy or directorship so created shall be filled in some other
33 manner, in which case such provision shall control. A director elected
34 or appointed, as the case may be, to fill a vacancy shall be elected or
35 appointed for the unexpired term of his or her predecessor in office.

1 **Sec. 656.** RCW 24.03.115 and 1986 c 240 s 20 are each amended to
2 read as follows:

3 If the articles of incorporation or the bylaws so provide, the
4 board of directors, by resolution adopted by a majority of the
5 directors in office, may designate and appoint one or more committees
6 each of which shall consist of two or more directors, which committees,
7 to the extent provided in such resolution, in the articles of
8 incorporation or in the bylaws of the corporation, shall have and
9 exercise the authority of the board of directors in the management of
10 the corporation: PROVIDED, That no such committee shall have the
11 authority of the board of directors in reference to amending, altering,
12 or repealing the bylaws; electing, appointing, or removing any member
13 of any such committee or any director or officer of the corporation;
14 amending the articles of incorporation; adopting a plan of merger or
15 adopting a plan of consolidation with another corporation; authorizing
16 the sale, lease, or exchange of all or substantially all of the
17 property and assets of the corporation not in the ordinary course of
18 business; authorizing the voluntary dissolution of the corporation or
19 revoking proceedings therefor; adopting a plan for the distribution of
20 the assets of the corporation; or amending, altering, or repealing any
21 resolution of the board of directors which by its terms provides that
22 it shall not be amended, altered, or repealed by such committee. The
23 designation and appointment of any such committee and the delegation
24 thereto of authority shall not operate to relieve the board of
25 directors, or any individual director of any responsibility imposed
26 upon it or him or her by law.

27 **Sec. 657.** RCW 24.03.230 and 2004 c 265 s 24 are each amended to
28 read as follows:

29 A plan providing for the distribution of assets, not inconsistent
30 with the provisions of this chapter, may be adopted by a corporation in
31 the process of dissolution and shall be adopted by a corporation for
32 the purpose of authorizing any transfer or conveyance of assets for
33 which this chapter requires a plan of distribution, in the following
34 manner:

35 (1) Where there are members having voting rights, the board of
36 directors shall adopt a resolution recommending a plan of distribution
37 and directing the submission thereof to a vote at a meeting of members

1 having voting rights, which may be either an annual or a special
2 meeting. Notice in the form of a record setting forth the proposed
3 plan of distribution or a summary thereof shall be given to each member
4 entitled to vote at such meeting, within the time and in the manner
5 provided in this chapter for the giving of notice of meetings of
6 members. Such plan of distribution shall be adopted upon receiving at
7 least two-thirds of the votes which members present at such meeting or
8 represented by proxy are entitled to cast.

9 (2) Where there are no members, or no members having voting rights,
10 a plan of distribution shall be adopted at a meeting of the board of
11 directors upon receiving a vote of a majority of the directors in
12 office.

13 If the plan of distribution includes assets received and held by
14 the corporation subject to limitations described in subsection (3) of
15 RCW 24.03.225, notice of the adoption of the proposed plan shall be
16 submitted to the attorney general by registered or certified mail
17 directed to him or her at his or her office in Olympia, at least twenty
18 days prior to the meeting at which the proposed plan is to be adopted.
19 No plan for the distribution of such assets may be adopted without the
20 approval of the attorney general, or the approval of a court of
21 competent jurisdiction in a proceeding to which the attorney general is
22 made a party. In the event that an objection is not filed within
23 twenty days after the date of mailing, his or her approval shall be
24 deemed to have been given.

25 **Sec. 658.** RCW 24.03.350 and 1986 c 240 s 48 are each amended to
26 read as follows:

27 The registered agent so appointed by a foreign corporation
28 authorized to conduct affairs in this state shall be an agent of such
29 corporation upon whom any process, notice or demand required or
30 permitted by law to be served upon the corporation may be served.

31 Whenever a foreign corporation authorized to conduct affairs in
32 this state shall fail to appoint or maintain a registered agent in this
33 state, or whenever any such registered agent cannot with reasonable
34 diligence be found at the registered office, or whenever the
35 certificate of authority of a foreign corporation shall be suspended or
36 revoked, then the secretary of state shall be an agent of such
37 corporation upon whom any such process, notice, or demand may be

1 served. Service on the secretary of state of any such process, notice,
2 or demand shall be made by delivering to and leaving with the secretary
3 of state, or with any duly authorized clerk of the corporation
4 department of the secretary of state's office, duplicate copies of such
5 process, notice or demand. In the event any such process, notice, or
6 demand is served on the secretary of state, the secretary of state
7 shall immediately cause one of such copies thereof to be forwarded by
8 certified mail, addressed to the secretary of the corporation as shown
9 on the records of the secretary of state. Any service so had on the
10 secretary of state shall be returnable in not less than thirty days.

11 The secretary of state shall keep a record of all processes,
12 notices, and demands served upon the secretary of state under this
13 section, and shall record therein the time of such service and his or
14 her action with reference thereto.

15 Nothing herein contained shall limit or affect the right to serve
16 any process, notice, or demand, required or permitted by law to be
17 served upon a corporation in any other manner now or hereafter
18 permitted by law.

19 **Sec. 659.** RCW 24.03.415 and 1967 c 235 s 84 are each amended to
20 read as follows:

21 Any money received by the secretary of state under the provisions
22 of this chapter shall be by him or her paid into the state treasury as
23 provided by law.

24 **Sec. 660.** RCW 24.06.025 and 2001 c 271 s 2 are each amended to
25 read as follows:

26 The articles of incorporation shall set forth:

27 (1) The name of the corporation.

28 (2) The period of duration, which may be perpetual or for a stated
29 number of years.

30 (3) The purpose or purposes for which the corporation is organized.

31 (4) The qualifications and the rights and responsibilities of the
32 members and the manner of their election, appointment, or admission to
33 membership and termination of membership; and, if there is more than
34 one class of members or if the members of any one class are not equal,
35 the relative rights and responsibilities of each class or each member.

36 (5) If the corporation is to have capital stock:

1 (a) The aggregate number of shares which the corporation shall have
2 authority to issue; if such shares are to consist of one class only,
3 the par value of each of such shares, or a statement that all of such
4 shares are without par value; or, if such shares are to be divided into
5 classes, the number of shares of each class, and a statement of the par
6 value of the shares of each such class or that such shares are to be
7 without par value;

8 (b) If the shares are to be divided into classes, the designation
9 of each class and a statement of the preferences, limitations, and
10 relative rights in respect of the shares of each class;

11 (c) If the corporation is to issue the shares of any preferred or
12 special class in series, then the designation of each series and a
13 statement of the variations in the relative rights and preferences as
14 between series insofar as the same are to be fixed in the articles of
15 incorporation, and a statement of any authority to be vested in the
16 board of directors to establish series and fix and determine the
17 variations in the relative rights and preferences as between series;

18 (d) Any provision limiting or denying to shareholders the
19 preemptive right to acquire additional shares of the corporation.

20 (6) If the corporation is to distribute surplus funds to its
21 members, stockholders, or other persons, provisions for determining the
22 amount and time of the distribution.

23 (7) Provisions for distribution of assets on dissolution or final
24 liquidation.

25 (8) Whether a dissenting shareholder or member shall be limited to
26 a return of less than the fair value of his or her shares or
27 membership.

28 (9) The address of its initial registered office, including street
29 and number, and the name of its initial registered agent at such
30 address.

31 (10) The number of directors constituting the initial board of
32 directors, and the names and addresses of the persons who are to serve
33 as the initial directors.

34 (11) The name and address of each incorporator.

35 (12) Any provision, not inconsistent with law, for the regulation
36 of the internal affairs of the association, including:

37 (a) Overriding the release from liability provided in RCW
38 24.06.035(2); and

1 (b) Any provision which under this title is required or permitted
2 to be set forth in the bylaws.

3 It shall not be necessary to set forth in the articles of
4 incorporation any of the corporate powers enumerated in this chapter.

5 Unless the articles of incorporation provide that a change in the
6 number of directors shall be made only by amendment to the articles of
7 incorporation, a change in the number of directors made by amendment to
8 the bylaws shall be controlling. In all other cases, whenever a
9 provision of the articles of incorporation is inconsistent with a
10 bylaw, the provision of the articles of incorporation shall be
11 controlling.

12 **Sec. 661.** RCW 24.06.055 and 1993 c 356 s 16 are each amended to
13 read as follows:

14 A corporation may change its registered office or change its
15 registered agent, or both, upon filing in the office of the secretary
16 of state a statement in the form prescribed by the secretary of state
17 setting forth:

18 (1) The name of the corporation.

19 (2) If the address of its registered office is to be changed, the
20 address to which the registered office is to be changed, including
21 street and number.

22 (3) If the current registered agent is to be changed, the name of
23 its successor registered agent.

24 (4) That the address of its registered office and the address of
25 the office of its registered agent, as changed, will be identical.

26 Such statement shall be executed by the corporation by an officer
27 of the corporation, and delivered to the secretary of state, together
28 with a written consent of the registered office to his, her, or its
29 appointment, if applicable. If the secretary of state finds that such
30 statement conforms to the provisions of this chapter, the secretary of
31 state shall file such statement, and upon such filing, the change of
32 address of the registered office, or the appointment of a new
33 registered agent, or both, as the case may be, shall become effective.

34 Any registered agent of a corporation may resign as such agent upon
35 filing a written notice thereof, executed in duplicate, with the
36 secretary of state, who shall forthwith mail a copy thereof to the
37 corporation in care of an officer, who is not the resigning registered

1 agent, at the address of such officer as shown by the most recent
2 annual report of the corporation. The appointment of such agent shall
3 terminate upon the expiration of thirty days after receipt of such
4 notice by the secretary of state.

5 **Sec. 662.** RCW 24.06.070 and 1969 ex.s. c 120 s 14 are each amended
6 to read as follows:

7 (1) Each corporation which is organized with capital stock shall
8 have the power to create and issue the number of shares stated in its
9 articles of incorporation. Such shares may be divided into one or more
10 classes, any or all of which classes may consist of shares with par
11 value or shares without par value, with such designations, preferences,
12 limitations, and relative rights as shall be stated in the articles of
13 incorporation. The articles of incorporation may limit or deny the
14 voting rights of or provide special voting rights for the shares of any
15 class to the extent not inconsistent with the provisions of this
16 chapter.

17 (2) Without limiting the authority herein contained, a corporation,
18 when so provided in its articles of incorporation, may issue shares of
19 preferred or special classes:

20 (a) Subject to the right of the corporation to redeem any of such
21 shares at the price fixed by the articles of incorporation for the
22 redemption thereof.

23 (b) Entitling the holders thereof to cumulative, noncumulative, or
24 partially cumulative dividends.

25 (c) Having preference over any other members or class or classes of
26 shares as to the payment of dividends.

27 (d) Having preference in the assets of the corporation over any
28 other members or class or classes of shares upon the voluntary or
29 involuntary liquidation of the corporation.

30 (3) The consideration for the issuance of shares may be paid in
31 whole or in part, in money, in other property, tangible or intangible,
32 or in labor or services actually performed for the corporation. When
33 payment of the consideration for which shares are to be issued shall
34 have been received by the corporation, such shares shall be deemed to
35 be fully paid and nonassessable.

36 Neither promissory notes nor future services shall constitute
37 payment or part payment, for shares of a corporation.

1 In the absence of fraud in the transaction, the judgment of the
2 board of directors or the shareholders, as the case may be, as to the
3 value of the consideration received for shares shall be conclusive.

4 (4) A subscription for shares of a corporation to be organized
5 shall be in writing and be irrevocable for a period of six months,
6 unless otherwise provided by the terms of the subscription agreement or
7 unless all of the subscribers consent to the revocation of such
8 subscription.

9 Unless otherwise provided in the subscription agreement,
10 subscriptions for shares, whether made before or after the organization
11 of a corporation, shall be paid in full at such time, or in such
12 installments and at such times, as shall be determined by the board of
13 directors. Any call made by the board of directors for payment on
14 subscriptions shall be uniform as to all shares of the same class or as
15 to all shares of the same series, as the case may be. In case of
16 default in the payment of any installment or call when such payment is
17 due, the corporation may proceed to collect the amount due in the same
18 manner as any debt due the corporation. The bylaws may prescribe other
19 penalties for failure to pay installments or calls that may become due,
20 but no penalty working a forfeiture of a subscription, or of the
21 amounts paid thereon, shall be declared as against any subscriber
22 unless the amount due thereon shall remain unpaid for a period of
23 twenty days after written demand has been made therefor. If mailed,
24 such written demand shall be deemed to be made when deposited in the
25 United States mail in a sealed envelope addressed to the subscriber at
26 his or her last post office address known to the corporation, with
27 postage thereon prepaid. In the event of the sale of any shares by
28 reason of any forfeiture, the excess of proceeds realized over the
29 amount due and unpaid on such shares shall be paid to the delinquent
30 subscriber or to his or her legal representative.

31 **Sec. 663.** RCW 24.06.080 and 1969 ex.s. c 120 s 16 are each amended
32 to read as follows:

33 The shares of a corporation shall be represented by certificates
34 signed by the president or vice president and the secretary or an
35 assistant secretary of the corporation, and may be sealed with the seal
36 of the corporation or a facsimile thereof. The signatures of the
37 president or vice president and the secretary or assistant secretary

1 upon a certificate may be facsimiles if the certificate is
2 countersigned by a transfer agent, or registered by a registrar, other
3 than the corporation itself or an employee of the corporation. In case
4 any officer who has signed or whose facsimile signature has been placed
5 upon such certificate shall have ceased to be such officer before such
6 certificate is issued, it may be issued by the corporation with the
7 same effect as if he or she were such officer at the date of its issue.

8 Every certificate representing shares issued by a corporation which
9 is authorized to issue shares of more than one class shall set forth
10 upon the face or back of the certificate, or shall state that the
11 corporation will furnish to any shareholder upon request and without
12 charge, a full statement of the designations, preferences, limitations,
13 and relative rights of the shares of each class authorized to be issued
14 and, if the corporation is authorized to issue any preferred or special
15 class in series, the variations in the relative rights and preferences
16 between the shares of each such series so far as the same have been
17 fixed and determined and the authority of the board of directors to fix
18 and determine the relative rights and preferences of subsequent series.

19 Each certificate representing shares shall state upon the face
20 thereof:

21 (1) That the corporation is organized under the laws of this state.

22 (2) The name of the person to whom issued.

23 (3) The number and class of shares, and the designation of the
24 series, if any, which such certificate represents.

25 (4) The par value of each share represented by such certificate, or
26 a statement that the shares are without par value.

27 No certificate shall be issued for any share until such share is
28 fully paid.

29 **Sec. 664.** RCW 24.06.085 and 1969 ex.s. c 120 s 17 are each amended
30 to read as follows:

31 A holder of or subscriber to shares of a corporation shall be under
32 no obligation to the corporation or its creditors with respect to such
33 shares other than the obligation to pay to the corporation the full
34 consideration for which such shares were issued or to be issued.

35 Any person becoming an assignee or transferee of shares or of a
36 subscription for shares in good faith and without knowledge or notice

1 that the full consideration therefor has not been paid shall not be
2 personally liable to the corporation or its creditors for any unpaid
3 portion of such consideration.

4 An executor, administrator, conservator, guardian, trustee,
5 assignee for the benefit of creditors, or receiver shall not be
6 personally liable to the corporation as a holder of or subscriber to
7 shares of a corporation but the estate and funds in his or her hands
8 shall be so liable.

9 No pledgee or other holder of shares as collateral security shall
10 be personally liable as a shareholder.

11 **Sec. 665.** RCW 24.06.130 and 1969 ex.s. c 120 s 26 are each amended
12 to read as follows:

13 The number of directors of a corporation shall be not less than
14 three and shall be fixed by the bylaws: PROVIDED, That the number of
15 the first board of directors shall be fixed by the articles of
16 incorporation. The number of directors may be increased or decreased
17 from time to time by amendment to the bylaws, unless the articles of
18 incorporation provide that a change in the number of directors shall be
19 made only by amendment of the articles of incorporation. No decrease
20 in number shall have the effect of shortening the term of any incumbent
21 director. In the absence of a bylaw fixing the number of directors,
22 the number shall be the same as that stated in the articles of
23 incorporation.

24 The directors constituting the first board of directors shall be
25 named in the articles of incorporation and shall hold office until the
26 first annual election of directors or for such other period as may be
27 specified in the articles of incorporation or the bylaws. Thereafter,
28 directors shall be elected or appointed in the manner and for the terms
29 provided in the articles of incorporation or the bylaws. In the
30 absence of a provision fixing the term of office, the term of office of
31 a director shall be one year.

32 Directors may be divided into classes and the terms of office of
33 the several classes need not be uniform. Each director shall hold
34 office for the term for which he or she is elected or appointed and
35 until his or her successor shall have been elected or appointed and
36 qualified.

1 A director may be removed from office pursuant to any procedure
2 therefor provided in the articles of incorporation.

3 **Sec. 666.** RCW 24.06.135 and 1969 ex.s. c 120 s 27 are each amended
4 to read as follows:

5 Any vacancy occurring in the board of directors and any
6 directorship to be filled by reason of an increase in the number of
7 directors may be filled by the board of directors unless the articles
8 of incorporation or the bylaws provide that a vacancy or directorship
9 so created shall be filled in some other manner. A director elected or
10 appointed, as the case may be, to fill a vacancy, shall be elected or
11 appointed for the unexpired term of his or her predecessor in office.

12 **Sec. 667.** RCW 24.06.145 and 1969 ex.s. c 120 s 29 are each amended
13 to read as follows:

14 If the articles of incorporation or the bylaws so provide, the
15 board of directors, by resolution adopted by a majority of the
16 directors in office, may designate and appoint one or more committees
17 each of which shall consist of two or more directors, which committees,
18 to the extent provided in such resolution, in the articles of
19 incorporation, or in the bylaws of the corporation, shall have and
20 exercise the authority of the board of directors in the management of
21 the corporation: PROVIDED, That no such committee shall have the
22 authority of the board of directors in reference to:

- 23 (1) Amending, altering, or repealing the bylaws;
- 24 (2) Electing, appointing, or removing any member of any such
25 committee or any director or officer of the corporation;
- 26 (3) Amending the articles of incorporation;
- 27 (4) Adopting a plan of merger or a plan of consolidation with
28 another corporation;
- 29 (5) Authorizing the sale, lease, exchange, or mortgage, of all or
30 substantially all of the property and assets of the corporation;
- 31 (6) Authorizing the voluntary dissolution of the corporation or
32 revoking proceedings therefor; or
- 33 (7) Amending, altering, or repealing any resolution of the board of
34 directors which by its terms provides that it shall not be amended,
35 altered, or repealed by such committee.

1 The designation and appointment of any such committee and the
2 delegation thereto of authority shall not operate to relieve the board
3 of directors, or any individual director of any responsibility imposed
4 upon it or him or her by law.

5 **Sec. 668.** RCW 24.06.160 and 1969 ex.s. c 120 s 32 are each amended
6 to read as follows:

7 Each corporation shall keep correct and complete books and records
8 of account and shall keep minutes of the proceedings of its members,
9 shareholders, board of directors, and committees having any of the
10 authority of the board of directors; and shall keep at its registered
11 office or principal office in this state a record of the names and
12 addresses of its members and shareholders entitled to vote. All books
13 and records of a corporation may be inspected by any member or
14 shareholder, or his or her agent or attorney, for any proper purpose at
15 any reasonable time.

16 **Sec. 669.** RCW 24.06.470 and 1969 ex.s. c 120 s 94 are each amended
17 to read as follows:

18 Each director and officer of a corporation, domestic or foreign,
19 who fails or refuses within the time prescribed by this chapter, to
20 answer truthfully and fully any interrogatories propounded to him or
21 her by the secretary of state in accordance with the provisions of this
22 chapter, or who signs any articles, statement, report, application, or
23 other document filed with the secretary of state, which is known to
24 such officer or director to be false in any material respect, shall be
25 deemed to be guilty of a misdemeanor, and upon conviction thereof shall
26 be fined in an amount not to exceed five hundred dollars on each count.

27 **Sec. 670.** RCW 24.06.475 and 1982 c 35 s 157 are each amended to
28 read as follows:

29 The secretary of state may propound to any corporation, domestic or
30 foreign, subject to the provisions of this chapter, and to any officer
31 or director thereof such interrogatories as may be reasonably necessary
32 and proper to enable the secretary of state to ascertain whether such
33 corporation has complied with all of the provisions of this chapter
34 applicable to such corporation. All such interrogatories shall be
35 answered within thirty days after the mailing thereof, or within such

1 additional time as shall be fixed by the secretary of state, and the
2 answers thereto shall be full and complete, made in writing, and under
3 oath. If such interrogatories are directed to an individual, they
4 shall be answered personally by him or her, and if directed to the
5 corporation they shall be answered by the president, a vice president,
6 a secretary or any assistant secretary thereof. The secretary of state
7 need not file any document to which such interrogatories relate until
8 such interrogatories are answered as required by this section, and even
9 not then if the answers thereto disclose that the document is not in
10 conformity with the provisions of this chapter.

11 The secretary of state shall certify to the attorney general, for
12 such action as the attorney general may deem appropriate, all
13 interrogatories and answers thereto which disclose a violation of any
14 of the provisions of this chapter.

15 **Sec. 671.** RCW 24.12.010 and 1915 c 79 s 1 are each amended to read
16 as follows:

17 Any person, being the bishop, overseer, or presiding elder of any
18 church or religious denomination in this state, may, in conformity with
19 the constitution, canons, rules, regulations, or discipline of such
20 church or denomination, become a corporation sole, in the manner
21 prescribed in this chapter, as nearly as may be; and, thereupon, said
22 bishop, overseer, or presiding elder, as the case may be, together with
23 his or her successors in office or position, by his or her official
24 designation, shall be held and deemed to be a body corporate, with all
25 the rights and powers prescribed in the case of corporations aggregate;
26 and with all the privileges provided by law for religious corporations.

27 **Sec. 672.** RCW 24.12.030 and 1981 c 302 s 10 are each amended to
28 read as follows:

29 Articles of incorporation shall be filed in like manner as provided
30 by law for corporations aggregate, and therein shall be set forth the
31 facts authorizing such incorporation, and declare the manner in which
32 any vacancy occurring in the incumbency of such bishop, overseer, or
33 presiding elder, as the case may be, is required by the constitution,
34 canons, rules, regulations, or discipline of such church or
35 denomination to be filled, which statement shall be verified by
36 affidavit, and for proof of the appointment or election of such bishop,

1 overseer, or presiding elder, as the case may be, or any succeeding
2 incumbent of such corporation, it shall be sufficient to file with the
3 secretary of state the original or a copy of his or her commission, or
4 certificate, or letters of election or appointment, duly attested:
5 PROVIDED, All property held in such official capacity by such bishop,
6 overseer, or presiding elder, as the case may be, shall be in trust for
7 the use, purpose, benefit, and behoof of his or her religious
8 denomination, society, or church.

9 **Sec. 673.** RCW 24.28.040 and 1959 c 207 s 2 are each amended to
10 read as follows:

11 No person, doing business in this state shall be entitled to use or
12 to register the term "grange" as part or all of his or her business
13 name or other name or in connection with his or her products or
14 services, or otherwise, unless either (1) he or she has complied with
15 the provisions of this chapter or (2) he or she has obtained written
16 consent of the Washington state grange certified thereto by its master.
17 Any person violating the provisions of this section may be enjoined
18 from using or displaying such name and doing business under such name
19 at the instance of the Washington state grange or any grange organized
20 under this chapter, or any member thereof: PROVIDED, That nothing
21 herein shall prevent the continued use of the term "grange" by any
22 person using said name prior to the adoption of this act.

23 For the purposes of this section "person" shall include any person,
24 partnership, corporation, or association of individuals.

25 **Sec. 674.** RCW 24.34.010 and 1967 c 187 s 1 are each amended to
26 read as follows:

27 Persons engaged in the production of agricultural products as
28 farmers, planters, ranchmen, dairymen, nut growers, or fruit growers
29 may act together in associations, corporate or otherwise, with or
30 without capital stock, in collectively processing, preparing for
31 market, handling, and marketing in intrastate commerce, such products
32 of persons so engaged. Such associations may have marketing agencies
33 in common; and such associations and their members may make the
34 necessary contracts and agreements to effect such purposes: PROVIDED,
35 That such associations are operated for the mutual benefit of the

1 members thereof, as such producers, and conform to one or both of the
2 following requirements:

3 First. That no member of the association is allowed more than one
4 vote because of the amount of stock or membership capital he or she may
5 own therein, or,

6 Second. That the association does not pay dividends on stock or
7 membership capital in excess of eight percent per annum.

8 And in any case to the following:

9 Third. That the association shall not deal in the products of
10 nonmembers to an amount greater in value than such as are handled by it
11 for members.

12 **Sec. 675.** RCW 24.34.020 and 1989 c 175 s 75 are each amended to
13 read as follows:

14 If the attorney general has reason to believe that any such
15 association as provided for in RCW 24.34.010 monopolizes or restrains
16 trade to such an extent that the price of any agricultural product is
17 unduly enhanced by reason thereof, he or she shall serve upon such
18 association a complaint stating his or her charge in that respect, to
19 which complaint shall be attached, or contained therein, a notice of
20 hearing, specifying a day and place not less than thirty days after the
21 service thereof, requiring the association to show cause why an order
22 should not be made directing it to cease and desist from monopolization
23 or restraint of trade.

24 Such hearing, and any appeal which may be made from such hearing,
25 shall be conducted and held subject to and in conformance with the
26 provisions for adjudicative proceedings and judicial review in chapter
27 34.05 RCW, the administrative procedure act.

28 **Sec. 676.** RCW 24.36.160 and 1959 c 312 s 16 are each amended to
29 read as follows:

30 The bylaws may provide:

31 (1) The amount of entrance, organization, and membership fees, if
32 any; the manner and method of collection of the same; and the purposes
33 for which they may be used.

34 (2) The amount which each member shall be required to pay annually,
35 or from time to time, if at all, to carry on the business of the
36 association; the charge, if any, to be paid by each member for services

1 rendered by the association to him or her and the time of payment and
2 the manner of collection; and the marketing contract between the
3 association and its members which every member may be required to sign.

4 (3) The amount of any dividends which may be declared on the stock
5 or membership capital, which dividends shall not exceed eight percent
6 per annum and which dividends shall be in the nature of interest and
7 shall not affect the nonprofit character of any association organized
8 hereunder.

9 **Sec. 677.** RCW 24.36.170 and 1959 c 312 s 17 are each amended to
10 read as follows:

11 The bylaws may provide:

12 (1) The number and qualification of members of the association and
13 the conditions precedent to membership or ownership of common stock.

14 (2) The method, time, and manner of permitting members to withdraw
15 or the holders of common stock to transfer their stock.

16 (3) The manner of assignment and transfer of the interest of
17 members and of the shares of common stock.

18 (4) The conditions upon which and time when membership of any
19 member shall cease.

20 (5) For the automatic suspension of the rights of a member when he
21 or she ceases to be eligible to membership in the association; and the
22 mode, manner, and effect of the expulsion of a member.

23 (6) The manner of determining the value of a member's interest and
24 provision for its purchase by the association upon the death or
25 withdrawal of a member or upon the expulsion of a member or forfeiture
26 of his or her membership, or at the option of the association, the
27 purchase at a price fixed by conclusive appraisal by the board of
28 directors; and the conditions and terms for the repurchase by the
29 corporation from its stockholders of their stock upon their
30 disqualification as stockholders.

31 **Sec. 678.** RCW 24.36.260 and 1959 c 312 s 26 are each amended to
32 read as follows:

33 When a member of an association established without shares of stock
34 has paid his or her membership fee in full, he or she shall receive a
35 certificate of membership.

1 **Sec. 679.** RCW 24.36.270 and 1959 c 312 s 27 are each amended to
2 read as follows:

3 No member shall be liable for the debts of the association to an
4 amount exceeding the sum remaining unpaid on his or her membership fee
5 or his or her subscription to the capital stock, including any unpaid
6 balance on any promissory note given in payment thereof.

7 **Sec. 680.** RCW 24.36.290 and 1959 c 312 s 29 are each amended to
8 read as follows:

9 In case of the expulsion of a member, and where the bylaws do not
10 provide any procedure or penalty, the board of directors shall
11 equitably and conclusively appraise his or her property interest in the
12 association and shall fix the amount thereof in money, which shall be
13 paid to him or her within one year after such expulsion.

14 **Sec. 681.** RCW 24.36.440 and 1959 c 312 s 44 are each amended to
15 read as follows:

16 The marketing contract may fix, as liquidated damages, specific
17 sums to be paid by the member to the association upon the breach by him
18 or her of any provision of the marketing contract regarding the sale or
19 delivery or withholding of fishery products; and may further provide
20 that the member will pay all costs, premiums for bonds, expenses, and
21 fees, in case any action is brought upon the contract by the
22 association; and any such provisions shall be valid and enforceable in
23 the courts of this state; and such clauses providing for liquidated
24 damages shall be enforceable as such and shall not be regarded as
25 penalties.

26 **Sec. 682.** RCW 24.36.460 and 1959 c 312 s 46 are each amended to
27 read as follows:

28 In any action upon such marketing agreements, it shall be
29 conclusively presumed that a landlord or lessor is able to control the
30 delivery of fishery products produced by his or her equipment by
31 tenants, or others, whose tenancy or possession or work on such
32 equipment or the terms of whose tenancy or possession or labor thereon
33 were created or changed after execution by the landlord or lessor, of
34 such a marketing agreement; and in such actions, the foregoing remedies

1 for nondelivery or breach shall lie and be enforceable against such
2 landlord or lessor.

3 **Sec. 683.** RCW 25.12.060 and 1955 c 15 s 25.12.060 are each amended
4 to read as follows:

5 The business of the partnership may be conducted under a name in
6 which the names of the general partners only shall be inserted, without
7 the addition of the word "company" or any other general term. If the
8 name of any special partner is used in such firm with his or her
9 consent or privity, he or she shall be deemed and treated as a general
10 partner, or if he or she personally makes any contract respecting the
11 concerns of the partnership with any person except the general
12 partners, he or she shall be deemed and treated as a general partner in
13 relation to such contract, unless he or she makes it appear that in
14 making such contract he or she acted and was recognized as a special
15 partner only.

16 **Sec. 684.** RCW 26.04.100 and 1967 c 26 s 5 are each amended to read
17 as follows:

18 The county auditor shall file said certificates and record them or
19 bind them into numbered volumes, and note on the original index to the
20 license issued the volume and page wherein such certificate is recorded
21 or bound. He or she shall enter the date of filing and his or her name
22 on the certificates for the files of the state registrar of vital
23 statistics, and transmit, by the tenth day of each month, all such
24 certificates filed with him or her during the preceding month.

25 **Sec. 685.** RCW 26.04.150 and 1963 c 230 s 2 are each amended to
26 read as follows:

27 Any person may secure by mail from the county auditor of the county
28 in the state of Washington where he or she intends to be married, an
29 application, and execute and acknowledge said application before a
30 notary public.

31 **Sec. 686.** RCW 26.04.190 and 1939 c 204 s 7 are each amended to
32 read as follows:

33 Any county auditor is hereby authorized to refuse to issue a
34 license to marry if, in his or her discretion, the applications

1 executed by the parties or information coming to his or her knowledge
2 as a result of the execution of said applications, justifies said
3 refusal: PROVIDED, HOWEVER, The denied parties may appeal to the
4 superior court of said county for an order to show cause, directed to
5 said county auditor to appear before said court to show why said court
6 should not grant an order to issue a license to said denied parties
7 and, after due hearing, or if the auditor fails to appear, said court
8 may in its discretion, issue an order to said auditor directing him or
9 her to issue said license; any hearings held by a superior court under
10 RCW 26.04.140 through 26.04.200 may, in the discretion of said court,
11 be held in chambers.

12 **Sec. 687.** RCW 26.04.220 and Code 1881 s 2393 are each amended to
13 read as follows:

14 The person solemnizing the marriage is authorized to retain in his
15 or her possession the license, but the county auditor who issues the
16 same, before delivering it, shall enter in his or her marriage record
17 a memorandum of the names of the parties, the consent of the parents or
18 guardian, if any, and the name of the affiant and the substance of the
19 affidavit upon which said license issued, and the date of such license.

20 **Sec. 688.** RCW 26.04.240 and Code 1881 s 2395 are each amended to
21 read as follows:

22 Any person who shall undertake to join others in marriage knowing
23 that he or she is not lawfully authorized so to do, or any person
24 authorized to solemnize marriage, who shall join persons in marriage
25 contrary to the provisions of this chapter, shall, upon conviction
26 thereof, be punished by a fine of not more than five hundred, nor less
27 than one hundred dollars.

28 **Sec. 689.** RCW 26.04.250 and 1979 ex.s. c 128 s 3 are each amended
29 to read as follows:

30 Every person who shall solemnize a marriage when either party
31 thereto is known to him or her to be under the age of legal consent or
32 a marriage to which, within his or her knowledge, any legal impediment
33 exists, shall be guilty of a gross misdemeanor.

1 **Sec. 690.** RCW 26.09.140 and 1973 1st ex.s. c 157 s 14 are each
2 amended to read as follows:

3 The court from time to time after considering the financial
4 resources of both parties may order a party to pay a reasonable amount
5 for the cost to the other party of maintaining or defending any
6 proceeding under this chapter and for reasonable attorneys' fees or
7 other professional fees in connection therewith, including sums for
8 legal services rendered and costs incurred prior to the commencement of
9 the proceeding or enforcement or modification proceedings after entry
10 of judgment.

11 Upon any appeal, the appellate court may, in its discretion, order
12 a party to pay for the cost to the other party of maintaining the
13 appeal and attorneys' fees in addition to statutory costs.

14 The court may order that the attorneys' fees be paid directly to
15 the attorney who may enforce the order in his or her name.

16 **Sec. 691.** RCW 26.09.270 and 1989 c 375 s 15 are each amended to
17 read as follows:

18 A party seeking a temporary custody order or a temporary parenting
19 plan or modification of a custody decree or parenting plan shall submit
20 together with his or her motion, an affidavit setting forth facts
21 supporting the requested order or modification and shall give notice,
22 together with a copy of his or her affidavit, to other parties to the
23 proceedings, who may file opposing affidavits. The court shall deny
24 the motion unless it finds that adequate cause for hearing the motion
25 is established by the affidavits, in which case it shall set a date for
26 hearing on an order to show cause why the requested order or
27 modification should not be granted.

28 **Sec. 692.** RCW 26.12.040 and 1949 c 50 s 4 are each amended to read
29 as follows:

30 In counties having more than one judge of the superior court the
31 presiding judge may appoint a judge other than the judge of the family
32 court to act as judge of the family court during any period when the
33 judge of the family court is on vacation, absent, or for any reason
34 unable to perform his or her duties. Any judge so appointed shall have
35 all the powers and authority of a judge of the family court in cases
36 under this chapter.

1 **Sec. 693.** RCW 26.26.134 and 1983 1st ex.s. c 41 s 11 are each
2 amended to read as follows:

3 A court may not order payment for support provided or expenses
4 incurred more than five years prior to the commencement of the action.
5 Any period of time in which the responsible party has concealed himself
6 or herself or avoided the jurisdiction of the court under this chapter
7 shall not be included within the five-year period.

8 **Sec. 694.** RCW 26.28.030 and 1866 p 92 s 2 are each amended to read
9 as follows:

10 A minor is bound, not only by contracts for necessities, but also
11 by his or her other contracts, unless he or she disaffirms them within
12 a reasonable time after he or she attains his or her majority, and
13 restores to the other party all money and property received by him or
14 her by virtue of the contract, and remaining within his or her control
15 at any time after his or her attaining his or her majority.

16 **Sec. 695.** RCW 26.28.040 and 1866 p 93 s 3 are each amended to read
17 as follows:

18 No contract can be thus disaffirmed in cases where on account of
19 the minor's own misrepresentations as to his or her majority, or from
20 his or her having engaged in business as an adult, the other party had
21 good reasons to believe the minor capable of contracting.

22 **Sec. 696.** RCW 26.28.050 and 1866 p 93 s 4 are each amended to read
23 as follows:

24 When a contract for the personal services of a minor has been made
25 with him or her alone, and those services are afterwards performed,
26 payment made therefor to such minor in accordance with the terms of the
27 contract, is a full satisfaction for those services, and the parents or
28 guardian cannot recover therefor.

29 **Sec. 697.** RCW 26.28.070 and 1909 c 249 s 194 are each amended to
30 read as follows:

31 Every person who shall employ, or cause to be employed, exhibit or
32 have in his or her custody for exhibition or employment any minor
33 actually or apparently under the age of eighteen years; and every

1 parent, relative, guardian, employer, or other person having the care,
2 custody, or control of any such minor, who shall in any way procure or
3 consent to the employment of such minor:

4 (1) In begging, receiving alms, or in any mendicant occupation; or,

5 (2) In any indecent or immoral exhibition or practice; or,

6 (3) In any practice or exhibition dangerous or injurious to life,
7 limb, health, or morals; or,

8 (4) As a messenger for delivering letters, telegrams, packages, or
9 bundles, to any known house of prostitution or assignation;

10 Shall be guilty of a misdemeanor.

11 **Sec. 698.** RCW 26.30.020 and 1970 ex.s. c 4 s 2 are each amended to
12 read as follows:

13 Any written obligation signed by a minor sixteen or more years of
14 age in consideration of an educational loan received by him or her from
15 any person is enforceable as if he or she were an adult at the time of
16 execution, but only if prior to the making of the educational loan an
17 educational institution has certified in writing to the person making
18 the educational loan that the minor is enrolled, or has been accepted
19 for enrollment, in the educational institution.

20 **Sec. 699.** RCW 26.40.080 and 1955 c 272 s 8 are each amended to
21 read as follows:

22 It shall be the responsibility of the state and the appropriate
23 departments and agencies thereof to discover methods and procedures by
24 which the mental and/or physical health of the child in custody may be
25 improved and, with the consent of the co-custodians, to apply those
26 methods and procedures. The co-custodians other than the state shall
27 have no financial responsibility for the child committed to their co-
28 custody except as they may in written agreement with the state accept
29 such responsibility. At any time after the commitment of such child
30 they may inquire into his or her well-being, and the state and any of
31 its agencies may do nothing with respect to the child that would in any
32 way affect his or her mental or physical health without the consent of
33 the co-custodians. The legal status of the child may not be changed
34 without the consent of the co-custodians. If it appears to the state
35 as co-custodian of a child that the health and/or welfare of such child
36 is impaired or jeopardized by the failure of the co-custodians other

1 than the state to consent to the application of certain methods and
2 procedures with respect to such child, the state through its proper
3 department or agency may petition the court for an order to proceed
4 with such methods and procedures. Upon the filing of such petition a
5 hearing shall be held in open court, and if the court finds that such
6 petition should be granted it shall issue the order.

7 **Sec. 700.** RCW 27.12.080 and 1941 c 65 s 5 are each amended to read
8 as follows:

9 Two or more counties, or other governmental units, by action of
10 their legislative bodies, may join in establishing and maintaining a
11 regional library under the terms of a contract to which all will agree.
12 The expenses of the regional library shall be apportioned between or
13 among the contracting parties concerned on such basis as shall be
14 agreed upon in the contract. The treasurer of one of the governmental
15 units, as shall be provided in the contract, shall have the custody of
16 the funds of the regional library; and the treasurers of the other
17 governmental units concerned shall transfer quarterly to him or her all
18 moneys collected for free public library purposes in their respective
19 governmental units. If the legislative body of any governmental unit
20 decides to withdraw from a regional library contract, the governmental
21 unit withdrawing shall be entitled to a division of the property on the
22 basis of its contributions.

23 **Sec. 701.** RCW 27.12.160 and 1947 c 75 s 8 are each amended to read
24 as follows:

25 The board of trustees of an intercounty rural library district
26 shall designate the county treasurer of one of the counties included in
27 the district to act as treasurer for the district. All moneys raised
28 for the district by taxation within the participating counties or
29 received by the district from any other sources shall be paid over to
30 him or her, and he or she shall disburse the funds of the district upon
31 warrants drawn thereon by the auditor of the county to which he or she
32 belongs pursuant to vouchers approved by the trustees of the district.

33 **Sec. 702.** RCW 27.12.180 and 1941 c 65 s 6 are each amended to read
34 as follows:

35 Instead of establishing or maintaining an independent library, the

1 legislative body of any governmental unit authorized to maintain a
2 library shall have power to contract to receive library service from an
3 existing library, the board of trustees of which shall have reciprocal
4 power to contract to render the service with the consent of the
5 legislative body of its governmental unit. Such a contract shall
6 require that the existing library perform all the functions of a
7 library within the governmental unit wanting service. In like manner
8 a legislative body may contract for library service from a library not
9 owned by a public corporation but maintained for free public use:
10 PROVIDED, That such a library be subject to inspection by the state
11 librarian and be certified by him or her as maintaining a proper
12 standard. Any school district may contract for school library service
13 from any existing library, such service to be paid for from funds
14 available to the school district for library purposes.

15 **Sec. 703.** RCW 27.12.210 and 1982 c 123 s 9 are each amended to
16 read as follows:

17 The trustees, immediately after their appointment or election,
18 shall meet and organize by the election of such officers as they deem
19 necessary. They shall:

20 (1) Adopt such bylaws, rules, and regulations for their own
21 guidance and for the government of the library as they deem expedient;

22 (2) Have the supervision, care, and custody of all property of the
23 library, including the rooms or buildings constructed, leased, or set
24 apart therefor;

25 (3) Employ a librarian, and upon his or her recommendation employ
26 such other assistants as may be necessary, all in accordance with the
27 provisions of RCW 27.08.010, prescribe their duties, fix their
28 compensation, and remove them for cause;

29 (4) Submit annually to the legislative body a budget containing
30 estimates in detail of the amount of money necessary for the library
31 for the ensuing year; except that in a library district the board of
32 library trustees shall prepare its budget, certify the same and deliver
33 it to the board of county commissioners in ample time for it to make
34 the tax levies for the purpose of the district;

35 (5) Have exclusive control of the finances of the library;

36 (6) Accept such gifts of money or property for library purposes as
37 they deem expedient;

- 1 (7) Lease or purchase land for library buildings;
- 2 (8) Lease, purchase, or erect an appropriate building or buildings
- 3 for library purposes, and acquire such other property as may be needed
- 4 therefor;
- 5 (9) Purchase books, periodicals, maps, and supplies for the
- 6 library; and
- 7 (10) Do all other acts necessary for the orderly and efficient
- 8 management and control of the library.

9 **Sec. 704.** RCW 27.12.240 and 1965 c 122 s 4 are each amended to
10 read as follows:

11 After a library shall have been established or library service
12 contracted for, the legislative body of the governmental unit for which
13 the library was established or the service engaged, shall appropriate
14 money annually for the support of the library. All funds for the
15 library, whether derived from taxation or otherwise, shall be in the
16 custody of the treasurer of the governmental unit, and shall be
17 designated by him or her in some manner for identification, and shall
18 not be used for any but library purposes. The board of trustees shall
19 have the exclusive control of expenditures for library purposes subject
20 to any examination of accounts required by the state and money shall be
21 paid for library purposes only upon vouchers of the board of trustees,
22 without further audit. The board shall not make expenditures or incur
23 indebtedness in any year in excess of the amount of money appropriated
24 and/or available for library purposes.

25 **Sec. 705.** RCW 27.18.030 and 1965 ex.s. c 93 s 3 are each amended
26 to read as follows:

27 The state librarian shall be the compact administrator pursuant to
28 Article X of the compact. The state librarian shall appoint one or
29 more deputy compact administrators. Every library agreement made
30 pursuant to Article VI of the compact shall, as a condition precedent
31 to its entry into force, be submitted to the state librarian for his or
32 her recommendations.

33 **Sec. 706.** RCW 27.24.020 and 2005 c 63 s 2 are each amended to read
34 as follows:

- 35 (1) Unless a regional law library is created pursuant to RCW

1 27.24.062, every county with a population of three hundred thousand or
2 more must have a board of law library trustees consisting of five
3 members to be constituted as follows: The ((~~chairman~~)) chair of the
4 county legislative authority is an ex officio trustee, the judges of
5 the superior court of the county shall choose two of their number to be
6 trustees, and the members of the county bar association shall choose
7 two members of the bar of the county to be trustees.

8 (2) Unless a regional law library is created pursuant to RCW
9 27.24.062, every county with a population of eight thousand or more but
10 less than three hundred thousand must have a board of law library
11 trustees consisting of five members to be constituted as follows: The
12 ((~~chairman~~)) chair of the county legislative authority is an ex officio
13 trustee, the judges of the superior court of the county shall choose
14 one of their number to be a trustee, and the members of the county bar
15 association shall choose three members of the county to be trustees.
16 If there is no county bar association, then the lawyers of the county
17 shall choose three of their number to be trustees.

18 (3) If a county has a population of less than eight thousand, then
19 the provisions contained in RCW 27.24.068 shall apply to the
20 establishment and operation of the county law library.

21 (4) If a regional law library is created pursuant to RCW 27.24.062,
22 then it shall be governed by one board of trustees. The board shall
23 consist of the following representatives from each county: The judges
24 of the superior court of the county shall choose one of their number to
25 be a trustee, the county legislative authority shall choose one of
26 their number to be a trustee, and the members of the county bar
27 association shall choose one member of the bar of the county to be a
28 trustee. If there is no county bar association, then the lawyers of
29 the county shall choose one of their number to be a trustee.

30 (5) The term of office of a member of the board who is a judge is
31 for as long as he or she continues to be a judge, and the term of a
32 member who is from the bar is four years. Vacancies shall be filled as
33 they occur and in the manner directed in this section. The office of
34 trustee shall be without salary or other compensation. The board shall
35 elect one of their number president and the librarian shall act as
36 secretary, except that in counties with a population of eight thousand
37 or more but less than three hundred thousand, the board shall elect one

1 of their number to act as secretary if no librarian is appointed.
2 Meetings shall be held at least once per year, and if more often, then
3 at such times as may be prescribed by rule.

4 **Sec. 707.** RCW 27.40.034 and 1985 c 469 s 13 are each amended to
5 read as follows:

6 The board of regents may provide, by rule or regulation, for:

7 (1) The permanent acquisition of documents or materials on loan to
8 the state museum at the University of Washington, if the documents or
9 materials have not been claimed by the owner thereof within ninety days
10 after notice is sent by certified mail, return receipt requested, to
11 the owner at his or her last known address by the board of regents and
12 if the certified letter be returned because it could not be delivered
13 to the addressee, public notice shall be published by the University of
14 Washington once each week during two successive weeks in a newspaper
15 circulating in the city of Seattle and the county of King describing
16 the unclaimed documents or materials, giving the name of the reputed
17 owner thereof and requesting all persons who may have any knowledge of
18 the whereabouts of the owner to contact the office of the museum of the
19 University of Washington: PROVIDED HOWEVER, That more than one item
20 may be described in each of the notices;

21 (2) The return to the rightful owner of documents or materials in
22 the possession of the museum, which documents or materials are
23 determined to have been stolen: PROVIDED, That any person claiming to
24 be the rightful legal owner of the documents or materials who wishes to
25 challenge the determination by the board shall have the right to
26 commence a declaratory judgment action pursuant to chapter 7.24 RCW in
27 the superior court for King county to determine the validity of his or
28 her claim of ownership to the documents or materials.

29 **Sec. 708.** RCW 28A.320.430 and 1990 c 33 s 338 are each amended to
30 read as follows:

31 All such special meetings shall be held at such schoolhouse or
32 place as the board of directors may determine. The voting shall be by
33 ballot, the ballots to be of white paper of uniform size and quality.
34 At least ten days' notice of such special meeting shall be given by the
35 school district superintendent, in the manner that notice is required
36 to be given of the annual school election, which notice shall state the

1 object or objects for which the meeting is to be held, and no other
2 business shall be transacted at such meeting than such as is specified
3 in the notice. The school district superintendent shall be the
4 secretary of the meeting, and the ((~~chairman~~)) chair of the board of
5 directors or, in his or her absence, the senior director present, shall
6 be ((~~chairman~~)) chair of the meeting: PROVIDED, That in the absence of
7 one or all of said officials, the qualified electors present may elect
8 a ((~~chairman~~)) chair or secretary, or both ((~~chairman~~)) chair and
9 secretary, of said meeting as occasion may require, from among their
10 number. The secretary of the meeting shall make a record of the
11 proceedings of the meeting, and when the secretary of such meeting has
12 been elected by the qualified voters present, he or she shall within
13 ten days thereafter, file the record of the proceedings, duly
14 certified, with the superintendent of the district, and said records
15 shall become a part of the records of the district, and be preserved as
16 other records.

17 **Sec. 709.** RCW 28B.10.310 and 1983 c 167 s 31 are each amended to
18 read as follows:

19 Each issue or series of such bonds: Shall be sold at such price
20 and at such rate or rates of interest; may be serial or term bonds; may
21 mature at such time or times in not to exceed forty years from date of
22 issue; may be sold at public or private sale; may be payable both
23 principal and interest at such place or places; may be subject to
24 redemption prior to any fixed maturities; may be in such denominations;
25 may be payable to bearer or to the purchaser or purchasers thereof or
26 may be registrable as to principal or principal and interest as
27 provided in RCW 39.46.030; may be issued under and subject to such
28 terms, conditions, and covenants providing for the payment of the
29 principal thereof and interest thereon, which may include the creation
30 and maintenance of a reserve fund or account to secure the payment of
31 such principal and interest and a provision that additional bonds
32 payable out of the same source or sources may later be issued on a
33 parity therewith, and such other terms, conditions, covenants, and
34 protective provisions safeguarding such payment, all as determined and
35 found necessary and desirable by said boards of regents or trustees.
36 If found reasonably necessary and advisable, such boards of regents or
37 trustees may select a trustee for the owners of each such issue or

1 series of bonds and/or for the safeguarding and disbursements of the
2 proceeds of their sale for the uses and purposes for which they were
3 issued and, if such trustee or trustees are so selected, shall fix its
4 or their rights, duties, powers, and obligations. The bonds of each
5 such issue or series: Shall be executed on behalf of such universities
6 or colleges by the president of the board of regents or the
7 ((~~chairman~~)) chair of the board of trustees, and shall be attested by
8 the secretary or the treasurer of such board, one of which signatures
9 may be a facsimile signature; and shall have the seal of such
10 university or college impressed, printed, or lithographed thereon, and
11 any interest coupons attached thereto shall be executed with the
12 facsimile signatures of said officials. The bonds of each such issue
13 or series and any of the coupons attached thereto shall be negotiable
14 instruments within the provisions and intent of the negotiable
15 instruments law of this state even though they shall be payable solely
16 from any special fund or funds.

17 **Sec. 710.** RCW 28B.10.510 and 1973 c 62 s 3 are each amended to
18 read as follows:

19 The attorney general of the state shall be the legal advisor to the
20 presidents and the boards of regents and trustees of the institutions
21 of higher education and he or she shall institute and prosecute or
22 defend all suits in behalf of the same.

23 **Sec. 711.** RCW 28B.10.520 and 1977 ex.s. c 169 s 22 are each
24 amended to read as follows:

25 Each member of a board of regents or board of trustees of a
26 university or other state institution of higher education, before
27 entering upon his or her duties, shall take and subscribe an oath to
28 discharge faithfully and honestly his or her duties and to perform
29 strictly and impartially the same to the best of his or her ability,
30 such oath to be filed with the secretary of state.

31 **Sec. 712.** RCW 28B.10.528 and 1971 ex.s. c 57 s 21 are each amended
32 to read as follows:

33 The governing boards of institutions of higher education shall have
34 power, when exercised by resolution, to delegate to the president or
35 his or her designee, of their respective university or college, any of

1 the powers and duties vested in or imposed upon such governing board by
2 law. Delegated powers and duties may be exercised in the name of the
3 respective governing boards.

4 **Sec. 713.** RCW 28B.10.567 and 1987 c 185 s 2 are each amended to
5 read as follows:

6 The boards of regents of the state universities and board of
7 trustees of the regional universities and the board of trustees of The
8 Evergreen State College are authorized and empowered, under such rules
9 and regulations as any such board may prescribe for the duly sworn
10 police officers employed by any such board as members of a police force
11 established pursuant to RCW 28B.10.550, to provide for the payment of
12 death or disability benefits or medical expense reimbursement for
13 death, disability, or injury of any such duly sworn police officer who,
14 in the line of duty, loses his or her life or becomes disabled or is
15 injured, and for the payment of such benefits to be made to any such
16 duly sworn police officer or his or her surviving spouse or the legal
17 guardian of his or her child or children, as defined in RCW
18 41.26.030(~~(+7)~~) (6), or his or her estate: PROVIDED, That the duty-
19 related benefits authorized by this section shall in no event be
20 greater than the benefits authorized on June 25, 1976, for duty-related
21 death, disability, or injury of a law enforcement officer under chapter
22 41.26 RCW: PROVIDED FURTHER, That the duty-related benefits authorized
23 by this section shall be reduced to the extent of any amounts received
24 or eligible to be received on account of the duty-related death,
25 disability, or injury to any such duly sworn police officer, his or her
26 surviving spouse, the legal guardian of his or her child or children,
27 or his or her estate, under workers' compensation, social security
28 including the changes incorporated under Public Law 89-97 as now or
29 hereafter amended, or disability income insurance and health care plans
30 under chapter 41.05 RCW.

31 **Sec. 714.** RCW 28B.10.844 and 1972 ex.s. c 23 s 3 are each amended
32 to read as follows:

33 The board of regents and the board of trustees of each of the
34 state's institutions of higher education and governing body of an
35 educational board are authorized to purchase insurance to protect and
36 hold personally harmless any regent, trustee, officer, employee, or

1 agent of their respective institution, any member of an educational
2 board, its officers, employees or agents, from any action, claim, or
3 proceeding instituted against him or her arising out of the performance
4 or failure of performance of duties for or employment with such
5 institution or educational board and to hold him or her harmless from
6 any expenses connected with the defense, settlement, or monetary
7 judgments from such actions.

8 **Sec. 715.** RCW 28B.14D.090 and 1979 ex.s. c 253 s 9 are each
9 amended to read as follows:

10 The bonds authorized by this chapter shall be issued only after an
11 officer designated by the board of regents or board of trustees of each
12 institution of higher education receiving an appropriation from the
13 higher education construction account has certified, based upon his or
14 her estimates of future tuition income and other factors, that an
15 adequate balance will be maintained in that institution's building
16 account or capital projects account to enable the board to meet the
17 requirements of RCW 28B.14D.070 during the life of the bonds to be
18 issued.

19 **Sec. 716.** RCW 28B.14G.080 and 1981 c 233 s 8 are each amended to
20 read as follows:

21 The bonds authorized by this chapter shall be issued only after an
22 officer designated by the board of regents or board of trustees of each
23 institution of higher education receiving an appropriation from the
24 higher education construction account has certified, based upon his or
25 her estimates of future tuition income and other factors, that an
26 adequate balance will be maintained in that institution's building
27 account or capital projects account to enable the board to meet the
28 requirements of RCW 28B.14G.060 during the life of the bonds to be
29 issued: PROVIDED, That with respect to any hospital-related project at
30 the University of Washington, it shall be certified, based on estimates
31 of the hospital's adjusted gross revenues and other factors, that an
32 adequate balance will be maintained in that institution's local
33 hospital account to enable the board to meet the requirements of RCW
34 28B.14G.060 during the life of the bonds to be issued.

1 **Sec. 717.** RCW 28B.20.105 and 1969 ex.s. c 223 s 28B.20.105 are
2 each amended to read as follows:

3 The board shall organize by electing from its membership a
4 president and an executive committee, of which committee the president
5 shall be ex officio ((~~chairman~~)) chair. The board may adopt bylaws or
6 rules and regulations for its own government. The board shall hold
7 regular quarterly meetings, and during the interim between such
8 meetings the executive committee may transact business for the whole
9 board: PROVIDED, That the executive committee may call special
10 meetings of the whole board when such action is deemed necessary.

11 **Sec. 718.** RCW 28B.20.110 and 1969 ex.s. c 223 s 28B.20.110 are
12 each amended to read as follows:

13 The board shall appoint a secretary and a treasurer who shall hold
14 their respective offices during the pleasure of the board and carry out
15 such respective duties as the board shall prescribe. In addition to
16 such other duties as the board prescribes, the secretary shall record
17 all proceedings of the board and carefully preserve the same. The
18 treasurer shall give bond for the faithful performance of the duties of
19 his or her office in such amount as the regents may require: PROVIDED,
20 That the university shall pay the fee for such bond.

21 **Sec. 719.** RCW 28B.20.328 and 1969 ex.s. c 46 s 3 are each amended
22 to read as follows:

23 (1) Any lease of public lands with outdoor recreation potential
24 authorized by the regents of the University of Washington shall be open
25 and available to the public for compatible recreational use unless the
26 regents of the University of Washington determine that the leased land
27 should be closed in order to prevent damage to crops or other land
28 cover, to improvements on the land, to the lessee, or to the general
29 public or is necessary to avoid undue interference with carrying
30 forward a university program. Any lessee may file an application with
31 the regents of the University of Washington to close the leased land to
32 any public use. The regents shall cause a written notice of the
33 impending closure to be posted in a conspicuous place in the
34 university's business office and in the office of the county auditor in
35 which the land is located thirty days prior to the public hearing.
36 This notice shall state the parcel or parcels involved and shall

1 indicate the time and place of the public hearing. Upon a
2 determination by the regents that posting is not necessary, the lessee
3 shall desist from posting. Upon a determination by the regents that
4 posting is necessary, the lessee shall post his or her leased premises
5 so as to prohibit recreational uses thereon. In the event any such
6 lands are so posted, it shall be unlawful for any person to hunt or
7 fish, or for any person other than the lessee or his or her immediate
8 family to use any such posted lands for recreational purposes.

9 (2) The regents of the University of Washington may insert the
10 provisions of subsection (1) of this section in all leases hereafter
11 issued.

12 **Sec. 720.** RCW 28B.20.456 and 1973 c 62 s 9 are each amended to
13 read as follows:

14 There is hereby created an advisory committee to the environmental
15 research facility consisting of eight members. Membership on the
16 committee shall consist of the director of the department of labor and
17 industries, the assistant secretary for the division of health services
18 of the department of social and health services, the president of the
19 Washington state labor council, the president of the association of
20 Washington business, the dean of the school of public health and
21 community medicine of the University of Washington, the dean of the
22 school of engineering of the University of Washington, the president of
23 the Washington state medical association, or their representatives, and
24 the ((~~chairman~~)) chair of the department of environmental health of the
25 University of Washington, who shall be ex officio ((~~chairman~~)) chair of
26 the committee without vote. Such committee shall meet at least
27 semiannually at the call of the ((~~chairman~~)) chair. Members shall
28 serve without compensation. It shall consult, review and evaluate
29 policies, budgets, activities, and programs of the facility relating to
30 industrial and occupational health to the end that the facility will
31 serve in the broadest sense the health of the ((~~workman~~)) worker as it
32 may be related to his or her employment.

33 **Sec. 721.** RCW 28B.30.125 and 1969 ex.s. c 223 s 28B.30.125 are
34 each amended to read as follows:

35 The board of regents shall meet and organize by the election of a

1 president from their own number on or as soon as practicable after the
2 first Wednesday in April of each year.

3 The board president shall be the chief executive officer of the
4 board and shall preside at all meetings thereof, except that in his or
5 her absence the board may appoint a (~~(chairman)~~) chair pro tempore.
6 The board president shall sign all instruments required to be executed
7 by said board other than those for the disbursement of funds.

8 The board may adopt bylaws for its own organizational purposes and
9 enact laws for the government of the university and its properties.

10 **Sec. 722.** RCW 28B.30.130 and 1969 ex.s. c 223 s 28B.30.130 are
11 each amended to read as follows:

12 The board of regents shall appoint a treasurer who shall be the
13 financial officer of the board and who shall hold office during the
14 pleasure of the board. The treasurer shall render a true and faithful
15 account of all moneys received and paid out by him or her, and shall
16 give bond for the faithful performance of the duties of his or her
17 office in such amount as the regents require: PROVIDED, That the
18 university shall pay the fee for such bond.

19 The treasurer shall make disbursements of the funds in his or her
20 hands on the order of the board, which order shall be countersigned by
21 the secretary of the board, and shall state on what account the
22 disbursement is made.

23 **Sec. 723.** RCW 28B.30.135 and 1969 ex.s. c 223 s 28B.30.135 are
24 each amended to read as follows:

25 The president of the university shall be secretary of the board of
26 regents but he or she shall not have the right to vote; as such he or
27 she shall be the recording officer of said board, shall attest all
28 instruments required to be signed by the board president, shall keep a
29 true record of all the proceedings of the board, and shall perform all
30 the duties pertaining to the office and do all other things required of
31 him or her by the board. The secretary shall give a bond in the penal
32 sum of not less than five thousand dollars conditioned for the faithful
33 performance of his or her duties as such officer: PROVIDED, That the
34 university shall pay the fee for such bond.

1 **Sec. 724.** RCW 28B.30.325 and 1969 ex.s. c 46 s 4 are each amended
2 to read as follows:

3 (1) Any lease of public lands with outdoor recreation potential
4 authorized by the regents of Washington State University shall be open
5 and available to the public for compatible recreational use unless the
6 regents of Washington State University determine that the leased land
7 should be closed in order to prevent damage to crops or other land
8 cover, to improvements on the land, to the lessee, or to the general
9 public or is necessary to avoid undue interference with carrying
10 forward a university program. Any lessee may file an application with
11 the regents of Washington State University to close the leased land to
12 any public use. The regents shall cause written notice of the
13 impending closure to be posted in a conspicuous place in the
14 university's business office, and in the office of the county auditor
15 in which the land is located thirty days prior to the public hearing.
16 This notice shall state the parcel or parcels involved and shall
17 indicate the time and place of the public hearing. Upon a
18 determination by the regents that posting is not necessary, the lessee
19 shall desist from posting. Upon a determination by the regents that
20 posting is necessary, the lessee shall post his or her leased premises
21 so as to prohibit recreational uses thereon. In the event any such
22 lands are so posted, it shall be unlawful for any person to hunt or
23 fish, or for any person other than the lessee or his or her immediate
24 family to use such posted land for recreational purposes.

25 (2) The regents of Washington State University may insert the
26 provisions of subsection (1) of this section in all leases hereafter
27 issued.

28 **Sec. 725.** RCW 28B.31.090 and 1977 ex.s. c 344 s 9 are each amended
29 to read as follows:

30 The bonds authorized by this chapter shall be issued only after an
31 officer of Washington State University, designated by the Washington
32 State University board of regents, has certified, based upon his or her
33 estimates of future tuition income and other factors, that an adequate
34 balance will be maintained in the Washington State University building
35 account to enable the board of regents to meet the requirements of RCW
36 28B.31.070 during the life of the bonds to be issued.

1 **Sec. 726.** RCW 28B.35.105 and 1977 ex.s. c 169 s 46 are each
2 amended to read as follows:

3 Each board of regional university trustees shall elect one of its
4 members ((~~chairman~~)) chair, and it shall elect a secretary, who may or
5 may not be a member of the board. Each board shall have power to adopt
6 bylaws for its government and for the government of the school, which
7 bylaws shall not be inconsistent with law, and to prescribe the duties
8 of its officers, committees, and employees. A majority of the board
9 shall constitute a quorum for the transaction of all business.

10 **Sec. 727.** RCW 28B.35.110 and 1977 ex.s. c 169 s 47 are each
11 amended to read as follows:

12 Each board of regional university trustees shall hold at least two
13 regular meetings each year, at such times as may be provided by the
14 board. Special meetings shall be held as may be deemed necessary,
15 whenever called by the ((~~chairman~~)) chair or by a majority of the
16 board. Public notice of all meetings shall be given in accordance with
17 chapter 42.32 RCW.

18 **Sec. 728.** RCW 28B.35.120 and 2006 c 263 s 824 are each amended to
19 read as follows:

20 In addition to any other powers and duties prescribed by law, each
21 board of trustees of the respective regional universities:

22 (1) Shall have full control of the regional university and its
23 property of various kinds, except as otherwise provided by law.

24 (2) Shall employ the president of the regional university, his or
25 her assistants, members of the faculty, and other employees of the
26 institution, who, except as otherwise provided by law, shall hold their
27 positions, until discharged therefrom by the board for good and lawful
28 reason.

29 (3) With the assistance of the faculty of the regional university,
30 shall prescribe the course of study in the various schools and
31 departments thereof and publish such catalogues thereof as the board
32 deems necessary: PROVIDED, That the Washington professional educator
33 standards board shall determine the requisites for and give program
34 approval of all courses leading to teacher certification by such board.

35 (4) Establish such divisions, schools, or departments necessary to

1 carry out the purposes of the regional university and not otherwise
2 proscribed by law.

3 (5) Except as otherwise provided by law, may establish and erect
4 such new facilities as determined by the board to be necessary for the
5 regional university.

6 (6) May acquire real and other property as provided in RCW
7 28B.10.020, as now or hereafter amended.

8 (7) Except as otherwise provided by law, may purchase all supplies
9 and purchase or lease equipment and other personal property needed for
10 the operation or maintenance of the regional university.

11 (8) May establish, lease, operate, equip, and maintain self-
12 supporting facilities in the manner provided in RCW 28B.10.300 through
13 28B.10.330, as now or hereafter amended.

14 (9) Except as otherwise provided by law, to enter into such
15 contracts as the trustees deem essential to regional university
16 purposes.

17 (10) May receive such gifts, grants, conveyances, devises, and
18 bequests of real or personal property from whatsoever source, as may be
19 made from time to time, in trust or otherwise, whenever the terms and
20 conditions thereof will aid in carrying out the regional university
21 programs; sell, lease, or exchange, invest or expend the same or the
22 proceeds, rents, profits, and income thereof except as limited by the
23 terms and conditions thereof; and adopt regulations to govern the
24 receipt and expenditure of the proceeds, rents, profits, and income
25 thereof.

26 (11) Subject to the approval of the higher education coordinating
27 board pursuant to RCW 28B.76.230, offer new degree programs, offer off-
28 campus programs, participate in consortia or centers, contract for off-
29 campus educational programs, and purchase or lease major off-campus
30 facilities.

31 (12) May promulgate such rules and regulations, and perform all
32 other acts not forbidden by law, as the board of trustees may in its
33 discretion deem necessary or appropriate to the administration of the
34 regional university.

35 **Sec. 729.** RCW 28B.35.230 and 1977 ex.s. c 169 s 53 are each
36 amended to read as follows:

37 Every diploma issued by a regional university shall be signed by

1 the ((~~chairman~~)) chair of the board of trustees and by the president of
2 the regional university issuing the same, and sealed with the
3 appropriate seal. In addition to the foregoing, teaching certificates
4 shall be countersigned by the state superintendent of public
5 instruction. Every certificate shall specifically state what course of
6 study the holder has completed and for what length of time such
7 certificate is valid in the schools of the state.

8 **Sec. 730.** RCW 28B.35.310 and 1977 ex.s. c 169 s 56 are each
9 amended to read as follows:

10 It shall thereupon be the duty of the board of the school district
11 or districts with which such statement has been filed, to apportion for
12 attendance to the said model school or training department, a
13 sufficient number of pupils from the public schools under the
14 supervision of said board as will furnish to such regional university
15 the number of pupils required in order to maintain such facility:
16 PROVIDED, That the president of said regional university may refuse to
17 accept any such pupil as in his or her judgment would tend to reduce
18 the efficiency of said model school or training department.

19 **Sec. 731.** RCW 28B.35.730 and 1985 c 390 s 51 are each amended to
20 read as follows:

21 For the purpose of financing the cost of any projects, each of the
22 boards is hereby authorized to adopt the resolution or resolutions and
23 prepare all other documents necessary for the issuance, sale, and
24 delivery of the bonds or any part thereof at such time or times as it
25 shall deem necessary and advisable. Said bonds:

26 (1) Shall not constitute
27 (a) An obligation, either general or special, of the state; or
28 (b) A general obligation of the university or college or of the
29 board;

30 (2) Shall be
31 (a) Either registered or in coupon form; and
32 (b) Issued in denominations of not less than one hundred dollars;

33 and
34 (c) Fully negotiable instruments under the laws of this state; and
35 (d) Signed on behalf of the university or college by the
36 ((~~chairman~~)) chair of the board, attested by the secretary of the

1 board, have the seal of the university or college impressed thereon or
2 a facsimile of such seal printed or lithographed in the bottom border
3 thereof, and the coupons attached thereto shall be signed with the
4 facsimile signatures of such (~~chairman~~) chair and the secretary;

5 (3) Shall state

6 (a) The date of issue; and

7 (b) The series of the issue and be consecutively numbered within
8 the series; and

9 (c) That the bond is payable both principal and interest solely out
10 of the bond retirement fund;

11 (4) Each series of bonds shall bear interest, payable either
12 annually or semiannually, as the board may determine;

13 (5) Shall be payable both principal and interest out of the bond
14 retirement fund;

15 (6) Shall be payable at such times over a period of not to exceed
16 forty years from date of issuance, at such place or places, and with
17 such reserved rights of prior redemption, as the board may prescribe;

18 (7) Shall be sold in such manner and at such price as the board may
19 prescribe;

20 (8) Shall be issued under and subject to such terms, conditions,
21 and covenants providing for the payment of the principal thereof and
22 interest thereon and such other terms, conditions, covenants, and
23 protective provisions safeguarding such payment, not inconsistent with
24 RCW 28B.35.700 through 28B.35.790, as now or hereafter amended, and as
25 found to be necessary by the board for the most advantageous sale
26 thereof, which may include but not be limited to:

27 (a) A covenant that the building fees shall be established,
28 maintained, and collected in such amounts that will provide money
29 sufficient to pay the principal of and interest on all bonds payable
30 out of the bond retirement fund, to set aside and maintain the reserves
31 required to secure the payment of such principal and interest, and to
32 maintain any coverage which may be required over such principal and
33 interest;

34 (b) A covenant that a reserve account shall be created in the bond
35 retirement fund to secure the payment of the principal of and interest
36 on all bonds issued and a provision made that certain amounts be set
37 aside and maintained therein;

1 (c) A covenant that sufficient moneys may be transferred from the
2 capital projects account of the university or college issuing the bonds
3 to the bond retirement fund of such university or college when ordered
4 by the board of trustees in the event there is ever an insufficient
5 amount of money in the bond retirement fund to pay any installment of
6 interest or principal and interest coming due on the bonds or any of
7 them;

8 (d) A covenant fixing conditions under which bonds on a parity with
9 any bonds outstanding may be issued.

10 The proceeds of the sale of all bonds, exclusive of accrued
11 interest which shall be deposited in the bond retirement fund, shall be
12 deposited in the state treasury to the credit of the capital projects
13 account of the university or college issuing the bonds and shall be
14 used solely for paying the costs of the projects.

15 **Sec. 732.** RCW 28B.40.105 and 1977 ex.s. c 169 s 66 are each
16 amended to read as follows:

17 The board of The Evergreen State College trustees shall elect one
18 of its members (~~(chairman)~~) chair, and it shall elect a secretary, who
19 may or may not be a member of the board. The board shall have power to
20 adopt bylaws for its government and for the government of the school,
21 which bylaws shall not be inconsistent with law, and to prescribe the
22 duties of its officers, committees, and employees. A majority of the
23 board shall constitute a quorum for the transaction of all business.

24 **Sec. 733.** RCW 28B.40.110 and 1977 ex.s. c 169 s 67 are each
25 amended to read as follows:

26 The board of The Evergreen State College trustees shall hold at
27 least two regular meetings each year, at such times as may be provided
28 by the board. Special meetings shall be held as may be deemed
29 necessary, whenever called by the (~~(chairman)~~) chair or by a majority
30 of the board. Public notice of all meetings shall be given in
31 accordance with chapter 42.32 RCW.

32 **Sec. 734.** RCW 28B.40.120 and 2006 c 263 s 825 are each amended to
33 read as follows:

34 In addition to any other powers and duties prescribed by law, the
35 board of trustees of The Evergreen State College:

1 (1) Shall have full control of the state college and its property
2 of various kinds, except as otherwise provided by law.

3 (2) Shall employ the president of the state college, his or her
4 assistants, members of the faculty, and other employees of the
5 institution, who, except as otherwise provided by law, shall hold their
6 positions, until discharged therefrom by the board for good and lawful
7 reason.

8 (3) With the assistance of the faculty of the state college, shall
9 prescribe the course of study in the various schools and departments
10 thereof and publish such catalogues thereof as the board deems
11 necessary: PROVIDED, That the Washington professional educator
12 standards board shall determine the requisites for and give program
13 approval of all courses leading to teacher certification by such board.

14 (4) Establish such divisions, schools, or departments necessary to
15 carry out the purposes of the college and not otherwise proscribed by
16 law.

17 (5) Except as otherwise provided by law, may establish and erect
18 such new facilities as determined by the board to be necessary for the
19 college.

20 (6) May acquire real and other property as provided in RCW
21 28B.10.020, as now or hereafter amended.

22 (7) Except as otherwise provided by law, may purchase all supplies
23 and purchase or lease equipment and other personal property needed for
24 the operation or maintenance of the college.

25 (8) May establish, lease, operate, equip, and maintain self-
26 supporting facilities in the manner provided in RCW 28B.10.300 through
27 28B.10.330, as now or hereafter amended.

28 (9) Except as otherwise provided by law, to enter into such
29 contracts as the trustees deem essential to college purposes.

30 (10) May receive such gifts, grants, conveyances, devises, and
31 bequests of real or personal property from whatsoever source, as may be
32 made from time to time, in trust or otherwise, whenever the terms and
33 conditions thereof will aid in carrying out the college programs; sell,
34 lease, or exchange, invest or expend the same or the proceeds, rents,
35 profits, and income thereof except as limited by the terms and
36 conditions thereof; and adopt regulations to govern the receipt and
37 expenditure of the proceeds, rents, profits, and income thereof.

1 (11) Subject to the approval of the higher education coordinating
2 board pursuant to RCW 28B.76.230, offer new degree programs, offer off-
3 campus programs, participate in consortia or centers, contract for off-
4 campus educational programs, and purchase or lease major off-campus
5 facilities.

6 (12) May promulgate such rules and regulations, and perform all
7 other acts not forbidden by law, as the board of trustees may in its
8 discretion deem necessary or appropriate to the administration of the
9 college.

10 **Sec. 735.** RCW 28B.40.195 and 1977 c 52 s 1 are each amended to
11 read as follows:

12 Each board of state college trustees shall appoint a treasurer who
13 shall be the financial officer of the board and who shall hold office
14 during the pleasure of the board. Each treasurer shall render a true
15 and faithful account of all moneys received and paid out by him or her,
16 and shall give bond for the faithful performance of the duties of his
17 or her office in such amount as the trustees require: PROVIDED, That
18 the respective colleges shall pay the fees for any such bonds.

19 **Sec. 736.** RCW 28B.40.230 and 1977 ex.s. c 169 s 72 are each
20 amended to read as follows:

21 Every diploma issued by The Evergreen State College shall be signed
22 by the ((~~chairman~~)) chair of the board of trustees and by the president
23 of the state college, and sealed with the appropriate seal. In
24 addition to the foregoing, teaching certificates shall be countersigned
25 by the state superintendent of public instruction. Every certificate
26 shall specifically state what course of study the holder has completed
27 and for what length of time such certificate is valid in the schools of
28 the state.

29 **Sec. 737.** RCW 28B.40.310 and 1977 ex.s. c 169 s 75 are each
30 amended to read as follows:

31 It shall thereupon be the duty of the board of the school district
32 or districts with which such statement has been filed, to apportion for
33 attendance to the said model school or training department, a
34 sufficient number of pupils from the public schools under the
35 supervision of said board as will furnish to The Evergreen State

1 College the number of pupils required in order to maintain such
2 facility: PROVIDED, That the president of said state college may
3 refuse to accept any such pupil as in his or her judgment would tend to
4 reduce the efficiency of said model school or training department.

5 **Sec. 738.** RCW 28B.50.060 and 1994 c 154 s 306 are each amended to
6 read as follows:

7 A director of the state system of community and technical colleges
8 shall be appointed by the college board and shall serve at the pleasure
9 of the college board. The director shall be appointed with due regard
10 to the applicant's fitness and background in education, and knowledge
11 of and recent practical experience in the field of educational
12 administration particularly in institutions beyond the high school
13 level. The college board may also take into consideration an
14 applicant's proven management background even though not particularly
15 in the field of education.

16 The director shall devote his or her time to the duties of his or
17 her office and shall not have any direct pecuniary interest in or any
18 stock or bonds of any business connected with or selling supplies to
19 the field of education within this state, in keeping with chapter 42.52
20 RCW.

21 The director shall receive a salary to be fixed by the college
22 board and shall be reimbursed for travel expenses incurred in the
23 discharge of his or her official duties in accordance with RCW
24 43.03.050 and 43.03.060.

25 The director shall be the executive officer of the college board
26 and serve as its secretary and under its supervision shall administer
27 the provisions of this chapter and the rules and orders established
28 thereunder and all other laws of the state. The director shall attend,
29 but not vote at, all meetings of the college board. The director shall
30 be in charge of offices of the college board and responsible to the
31 college board for the preparation of reports and the collection and
32 dissemination of data and other public information relating to the
33 state system of community and technical colleges. At the direction of
34 the college board, the director shall, together with the (~~chairman~~)
35 chair of the college board, execute all contracts entered into by the
36 college board.

1 The director shall, with the approval of the college board: (1)
2 Employ necessary assistant directors of major staff divisions who shall
3 serve at the director's pleasure on such terms and conditions as the
4 director determines, and (2) subject to the provisions of chapter 41.06
5 RCW the director shall, with the approval of the college board, appoint
6 and employ such field and office assistants, clerks and other employees
7 as may be required and authorized for the proper discharge of the
8 functions of the college board and for whose services funds have been
9 appropriated.

10 The board may, by written order filed in its office, delegate to
11 the director any of the powers and duties vested in or imposed upon it
12 by this chapter. Such delegated powers and duties may be exercised by
13 the director in the name of the college board.

14 **Sec. 739.** RCW 28B.50.100 and 1991 c 238 s 37 are each amended to
15 read as follows:

16 There is hereby created a board of trustees for each college
17 district as set forth in this chapter. Each board of trustees shall be
18 composed of five trustees, who shall be appointed by the governor for
19 terms commencing October 1st of the year in which appointed. In making
20 such appointments the governor shall give consideration to geographical
21 diversity, and representing labor, business, women, and racial and
22 ethnic minorities, in the membership of the boards of trustees. The
23 boards of trustees for districts containing technical colleges shall
24 include at least one member from business and one member from labor.

25 The successors of the trustees initially appointed shall be
26 appointed by the governor to serve for a term of five years except that
27 any person appointed to fill a vacancy occurring prior to the
28 expiration of any term shall be appointed only for the remainder of the
29 term. Each member shall serve until a successor is appointed and
30 qualified.

31 Every trustee shall be a resident and qualified elector of the
32 college district. No trustee may be an employee of the community and
33 technical college system, a member of the board of directors of any
34 school district, or a member of the governing board of any public or
35 private educational institution.

36 Each board of trustees shall organize itself by electing a
37 (~~chairman~~) chair from its members. The board shall adopt a seal and

1 may adopt such bylaws, rules, and regulations as it deems necessary for
2 its own government. Three members of the board shall constitute a
3 quorum, but a lesser number may adjourn from time to time and may
4 compel the attendance of absent members in such manner as prescribed in
5 its bylaws, rules, or regulations. The district president, or if there
6 be none, the president of the college, shall serve as, or may designate
7 another person to serve as, the secretary of the board, who shall not
8 be deemed to be a member of the board.

9 Members of the boards of trustees may be removed for misconduct or
10 malfeasance in office in the manner provided by RCW 28B.10.500.

11 **Sec. 740.** RCW 28B.50.350 and 1991 c 238 s 50 are each amended to
12 read as follows:

13 For the purpose of financing the cost of any projects, the college
14 board is hereby authorized to adopt the resolution or resolutions and
15 prepare all other documents necessary for the issuance, sale, and
16 delivery of the bonds or any part thereof at such time or times as it
17 shall deem necessary and advisable. Said bonds:

18 (1) Shall not constitute:

19 (a) An obligation, either general or special, of the state; or

20 (b) A general obligation of the college or of the college board;

21 (2) Shall be:

22 (a) Either registered or in coupon form; and

23 (b) Issued in denominations of not less than one hundred dollars;

24 and

25 (c) Fully negotiable instruments under the laws of this state; and

26 (d) Signed on behalf of the college board with the manual or
27 facsimile signature of the (~~chairman~~) chair of the board, attested by
28 the secretary of the board, have the seal of the college board
29 impressed thereon or a facsimile of such seal printed or lithographed
30 in the bottom border thereof, and the coupons attached thereto shall be
31 signed with the facsimile signatures of such (~~chairman~~) chair and the
32 secretary;

33 (3) Shall state:

34 (a) The date of issue; and

35 (b) The series of the issue and be consecutively numbered within
36 the series; and

1 (c) That the bond is payable both principal and interest solely out
2 of the bond retirement fund created for retirement thereof;

3 (4) Each series of bonds shall bear interest, payable either
4 annually or semiannually, as the board may determine;

5 (5) Shall be payable both principal and interest out of the bond
6 retirement fund;

7 (6) Shall be payable at such times over a period of not to exceed
8 forty years from date of issuance, at such place or places, and with
9 such reserved rights of prior redemption, as the board may prescribe;

10 (7) Shall be sold in such manner and at such price as the board may
11 prescribe;

12 (8) Shall be issued under and subject to such terms, conditions and
13 covenants providing for the payment of the principal thereof and
14 interest thereon and such other terms, conditions, covenants, and
15 protective provisions safeguarding such payment, not inconsistent with
16 RCW 28B.50.330 through 28B.50.400, and as found to be necessary by the
17 board for the most advantageous sale thereof, which may include but not
18 be limited to:

19 (a) A covenant that a reserve account shall be created in the bond
20 retirement fund to secure the payment of the principal of and interest
21 on all bonds issued and a provision made that certain amounts be set
22 aside and maintained therein;

23 (b) A covenant that sufficient moneys may be transferred from the
24 capital projects account of the college board issuing the bonds to the
25 bond retirement fund of the college board when ordered by the board in
26 the event there is ever an insufficient amount of money in the bond
27 retirement fund to pay any installment of interest or principal and
28 interest coming due on the bonds or any of them;

29 (c) A covenant fixing conditions under which bonds on a parity with
30 any bonds outstanding may be issued.

31 The proceeds of the sale of all bonds, exclusive of accrued
32 interest which shall be deposited in the bond retirement fund, shall be
33 deposited in the state treasury to the credit of the capital projects
34 account of the college board and shall be used solely for paying the
35 costs of the projects, the costs of bond counsel and professional bond
36 consultants incurred in issuing the bonds, and for the purposes set
37 forth in subsection (8)(b) of this section;

1 (9) Shall constitute a prior lien and charge against the building
2 fees of the community and technical colleges.

3 **Sec. 741.** RCW 28B.50.856 and 1969 ex.s. c 283 s 36 are each
4 amended to read as follows:

5 The probationary faculty appointment period shall be one of
6 continuing evaluation of a probationer by a review committee. The
7 evaluation process shall place primary importance upon the
8 probationer's effectiveness in his or her appointment. The review
9 committee shall periodically advise each probationer, in writing, of
10 his or her progress during the probationary period and receive the
11 probationer's written acknowledgment thereof. The review committee
12 shall at appropriate times make recommendations to the appointing
13 authority as to whether tenure should or should not be granted to
14 individual probationers: PROVIDED, That the final decision to award or
15 withhold tenure shall rest with the appointing authority, after it has
16 given reasonable consideration to the recommendations of the review
17 committee.

18 **Sec. 742.** RCW 28B.50.860 and 1977 ex.s. c 282 s 7 are each amended
19 to read as follows:

20 A tenured faculty member, upon appointment to an administrative
21 appointment shall be allowed to retain his or her tenure.

22 **Sec. 743.** RCW 28B.50.863 and 1969 ex.s. c 283 s 41 are each
23 amended to read as follows:

24 Prior to the dismissal of a tenured faculty member, or a faculty
25 member holding an unexpired probationary faculty appointment, the case
26 shall first be reviewed by a review committee. The review shall
27 include testimony from all interested parties including, but not
28 limited to, other faculty members and students. The faculty member
29 whose case is being reviewed shall be afforded the right of cross-
30 examination and the opportunity to defend himself or herself. The
31 review committee shall prepare recommendations on the action they
32 propose be taken and submit such recommendations to the appointing
33 authority prior to their final action.

1 **Sec. 744.** RCW 30.04.140 and 1986 c 279 s 7 are each amended to
2 read as follows:

3 No bank or trust company shall pledge or hypothecate any of its
4 securities or assets to any depositor, except that it may qualify as
5 depository for United States deposits, or other public funds, or funds
6 held in trust and deposited by any public officer by virtue of his or
7 her office, or as a depository for the money of estates under the
8 statutes of the United States pertaining to bankruptcy or funds
9 deposited by a trustee or receiver in bankruptcy appointed by any court
10 of the United States or any referee thereof, or funds held by the
11 United States or the state of Washington, or any officer thereof in
12 trust, or for funds of corporations owned or controlled by the United
13 States, and may give such security for such deposits as are required by
14 law or by the officer making the same; and it may give security to its
15 trust department for deposits with itself which represent trust funds
16 invested in savings accounts or which represent fiduciary funds
17 awaiting investment or distribution.

18 **Sec. 745.** RCW 30.04.300 and 1955 c 33 s 30.04.300 are each amended
19 to read as follows:

20 A branch of any foreign bank or banker actually and publicly
21 engaged in banking in this state on March 10, 1917, in full compliance
22 with the laws hereof, which were in force immediately prior to March
23 10, 1917, and which branch has a capital not less in amount than that
24 required for the organization of a state bank as provided in this title
25 at the time and place when and where such branch was established, may
26 continue its said business, subject to all of the regulations and
27 supervision provided for banks. The amount upon which it pays taxes
28 shall be prima facie evidence of the amount and existence of such
29 capital. No such bank or banker shall set forth on its or his or her
30 stationery or in any manner advertise in this state a greater capital,
31 surplus and undivided profits than are actually maintained at such
32 branch. Every foreign corporation, bank and banker, and every officer,
33 agent, and employee thereof who violates any provision of this section
34 or which violates the terms of the resolution filed as required by RCW
35 30.04.290 shall for each violation forfeit and pay to the state of
36 Washington the sum of one thousand dollars. A civil action for the

1 recovery of any such sum may be brought by the attorney general in the
2 name of the state.

3 **Sec. 746.** RCW 30.08.150 and 1973 1st ex.s. c 154 s 48 are each
4 amended to read as follows:

5 Upon the issuance of a certificate of authority to a trust company,
6 the persons named in the articles of incorporation and their successors
7 shall thereupon become a corporation and shall have power:

8 (1) To execute all the powers and possess all the privileges
9 conferred on banks.

10 (2) To act as fiscal or transfer agent of the United States or of
11 any state, municipality, body politic, or corporation and in such
12 capacity to receive and disburse money.

13 (3) To transfer, register, and countersign certificates of stock,
14 bonds, or other evidences of indebtedness and to act as attorney-in-
15 fact or agent of any corporation, foreign or domestic, for any purpose,
16 statutory or otherwise.

17 (4) To act as trustee under any mortgage, or bonds, issued by any
18 municipality, body politic, or corporation, foreign or domestic, or by
19 any individual, firm, association, or partnership, and to accept and
20 execute any municipal or corporate trust.

21 (5) To receive and manage any sinking fund of any corporation upon
22 such terms as may be agreed upon between such corporation and those
23 dealing with it.

24 (6) To collect coupons on or interest upon all manner of
25 securities, when authorized so to do, by the parties depositing the
26 same.

27 (7) To accept trusts from and execute trusts for married persons
28 in respect to their separate property and to be their agent in the
29 management of such property and to transact any business in relation
30 thereto.

31 (8) To act as receiver or trustee of the estate of any person, or
32 to be appointed to any trust by any court, to act as assignee under any
33 assignment for the benefit of creditors of any debtor, whether made
34 pursuant to statute or otherwise, and to be the depository of any
35 moneys paid into court.

36 (9) To be appointed and to accept the appointment of executor of,
37 or trustee under, the last will and testament, or administrator with or

1 without the will annexed, of the estate of any deceased person and to
2 be appointed and to act as guardian of the estate of lunatics, idiots,
3 persons of unsound mind, minors and habitual drunkards: PROVIDED,
4 HOWEVER, That the power hereby granted to trust companies to act as
5 guardian or administrator, with or without the will annexed, shall not
6 be construed to deprive parties of the prior right to have issued to
7 them letters of guardianship, or of administration, as such right now
8 exists under the law of this state.

9 (10) To execute any trust or power of whatever nature or
10 description that may be conferred upon or entrusted or committed to it
11 by any person or by any court or municipality, foreign or domestic
12 corporation, and any other trust or power conferred upon or entrusted
13 or committed to it by grant, assignment, transfer, devise, bequest, or
14 by any other authority and to receive, take, use, manage, hold, and
15 dispose of, according to the terms of such trusts or powers any
16 property or estate, real or personal, which may be the subject of any
17 such trust or power.

18 (11) Generally to execute trusts of every description not
19 inconsistent with law.

20 (12) To purchase, invest in, and sell promissory notes, bills of
21 exchange, bonds, debentures, and mortgages and when moneys are borrowed
22 or received for investment, the bonds or obligations of the company may
23 be given therefor, but no trust company hereafter organized shall issue
24 such bonds: PROVIDED, That no trust company which receives money for
25 investment and issues the bonds of the company therefor shall engage in
26 the business of banking or receiving of either savings or commercial
27 deposits: AND PROVIDED, That it shall not issue any bond covering a
28 period of more than ten years between the date of its issuance and its
29 maturity date: AND PROVIDED FURTHER, That if for any cause, the holder
30 of any such bond upon which one or more annual rate installments have
31 been paid, shall fail to pay the subsequent annual rate installments
32 provided in said bond such holder shall, on or before the maturity date
33 of said bond, be paid not less than the full sum which he or she has
34 paid in on account of said bond.

35 **Sec. 747.** RCW 30.22.040 and 1981 c 192 s 4 are each amended to
36 read as follows:

1 Unless the context of this chapter otherwise requires, the terms
2 contained in this section have the meanings indicated.

3 (1) "Account" means a contract of deposit between a depositor or
4 depositors and a financial institution; the term includes a checking
5 account, savings account, certificate of deposit, savings certificate,
6 share account, savings bond, and other like arrangements.

7 (2) "Actual knowledge" means written notice to a manager of a
8 branch of a financial institution, or an officer of the financial
9 institution in the course of his or her employment at the branch,
10 pertaining to funds held on deposit in an account maintained by the
11 branch received within a period of time which affords the financial
12 institution a reasonable opportunity to act upon the knowledge.

13 (3) "Individual" means a human being; "person" includes an
14 individual, corporation, partnership, limited partnership, joint
15 venture, trust, or other entity recognized by law to have separate
16 legal powers.

17 (4) "Agent" means a person designated by a depositor or depositors
18 in a contract of deposit or other document to have the authority to
19 deposit and to make payments from an account in the name of the
20 depositor or depositors.

21 (5) "Agency account" means an account to which funds may be
22 deposited and from which payments may be made by an agent designated by
23 a depositor. In the event there is more than one depositor named on an
24 account, each depositor may designate the same or a different agent for
25 the purpose of depositing to or making payments of funds from a
26 depositor's account.

27 (6) "Single account" means an account in the name of one depositor
28 only.

29 (7) "Joint account without right of survivorship" means an account
30 in the name of two or more depositors and which contains no provision
31 that the funds of a deceased depositor become the property of the
32 surviving depositor or depositors.

33 (8) "Joint account with right of survivorship" means an account in
34 the name of two or more depositors and which provides that the funds of
35 a deceased depositor become the property of one or more of the
36 surviving depositors.

37 (9) "Trust and P.O.D. accounts" means accounts payable on request
38 to a depositor during the depositor's lifetime, and upon the

1 depositor's death to one or more designated beneficiaries, or which are
2 payable to two or more depositors during their lifetimes, and upon the
3 death of all depositors to one or more designated beneficiaries. The
4 term "trust account" does not include deposits by trustees or other
5 fiduciaries where the trust or fiduciary relationship is established
6 other than by a contract of deposit with a financial institution.

7 (10) "Trust or P.O.D. account beneficiary" means a person or
8 persons, other than a codepositor, who has or have been designated by
9 a depositor or depositors to receive the depositor's funds remaining in
10 an account upon the death of a depositor or all depositors.

11 (11) "Depositor," when utilized in determining the rights of
12 individuals to funds in an account, means an individual who owns the
13 funds. When utilized in determining the rights of a financial
14 institution to make or withhold payment, and/or to take any other
15 action with regard to funds held under a contract of deposit,
16 "depositor" means the individual or individuals who have the current
17 right to payment of funds held under the contract of deposit without
18 regard to the actual rights of ownership thereof by these individuals.
19 A trust or P.O.D. account beneficiary becomes a depositor only when the
20 account becomes payable to the beneficiary by reason of having survived
21 the depositor or depositors named on the account, depending upon the
22 provisions of the contract of deposit.

23 (12) "Financial institution" means a bank, trust company, mutual
24 savings bank, savings and loan association, or credit union authorized
25 to do business and accept deposits in this state under state or federal
26 law.

27 (13) "Depositor's funds" or "funds of a depositor" means the amount
28 of all deposits belonging to or made for the benefit of a depositor,
29 less all withdrawals of the funds by the depositor or by others for the
30 depositor's benefit, plus the depositor's prorated share of any
31 interest or dividends included in the current balance of the account
32 and any proceeds of deposit life insurance added to the account by
33 reason of the death of a depositor.

34 (14) "Payment(s)" of sums on deposit includes withdrawal, payment
35 by check or other directive of a depositor or his or her agent, any
36 pledge of sums on deposit by a depositor or his or her agent, any set-
37 off or reduction or other disposition of all or part of an account

1 balance, and any payments to any person under RCW 30.22.120, 30.22.140,
2 30.22.150, 30.22.160, 30.22.170, 30.22.180, 30.22.190, 30.22.200, and
3 30.22.220.

4 (15) "Proof of death" means a certified or authenticated copy of a
5 death certificate, or photostatic copy thereof, purporting to be issued
6 by an official or agency of the jurisdiction where the death
7 purportedly occurred, or a certified or authenticated copy of a record
8 or report of a governmental agency, domestic or foreign, that a person
9 is dead. In either case, the proofs constitute prima facie proof of
10 the fact, place, date, and time of death, and identity of the decedent
11 and the status of the dates, circumstances, and places disclosed by the
12 record or report.

13 (16) "Request" means a request for withdrawal, or a check or order
14 for payment, which complies with all conditions of the account,
15 including special requirements concerning necessary signatures and
16 regulations of the financial institution; but if the financial
17 institution conditions withdrawal or payment on advance notice, for
18 purposes of this chapter the request for withdrawal or payment is
19 treated as immediately effective and a notice of intent to withdraw is
20 treated as a request for withdrawal.

21 (17) "Withdrawal" means payment to a person pursuant to check or
22 other directive of a depositor.

23 **Sec. 748.** RCW 30.22.150 and 1981 c 192 s 15 are each amended to
24 read as follows:

25 Financial institutions may make payments of funds on deposit in an
26 account established by a depositor who is a minor or incompetent
27 without regard to whether it has actual knowledge of the minority or
28 incompetency of the depositor unless the branch of the financial
29 institution at which the account is maintained has received written
30 notice to withhold payment to the minor or incompetent by the guardian
31 of his or her estate and had a reasonable opportunity to act upon the
32 notice.

33 **Sec. 749.** RCW 30.49.050 and 1955 c 33 s 30.49.050 are each amended
34 to read as follows:

35 To be effective, a merger which is to result in a state bank must
36 be approved by the stockholders of each merging state bank by a vote of

1 two-thirds of the outstanding voting stock of each class at a meeting
2 called to consider such action, which vote shall constitute the
3 adoption of the charter and bylaws of the resulting state bank,
4 including the amendments in the merger agreement.

5 Unless waived in writing, notice of the meeting of stockholders
6 shall be given by publication in a newspaper of general circulation in
7 the place where the principal office of each merging state bank is
8 located, at least once each week for four successive weeks, and by
9 mail, at least fifteen days before the date of the meeting, to each
10 stockholder of record of each merging state bank at his or her address
11 on the books of his or her bank; no notice of publication need be given
12 if written waivers are received from the holders of two-thirds of the
13 outstanding shares of each class of stock. The notice shall state that
14 dissenting stockholders will be entitled to payment of the value of
15 only those shares which are voted against approval of the plan.

16 **Sec. 750.** RCW 31.20.050 and 1959 c 213 s 5 are each amended to
17 read as follows:

18 All the corporate powers of a development credit corporation shall
19 be exercised by a board of not less than nine directors who shall be
20 residents of this state. The number of directors and their term of
21 office shall be determined by the stockholders at the first meeting
22 held by the incorporators and at each annual meeting thereafter. In
23 the first instance the directors shall be elected by the stockholders
24 to serve until the first annual meeting. At the first annual meeting,
25 and at each annual meeting thereafter, one-third of the directors shall
26 be elected by a vote of the stockholders and the remaining two-thirds
27 thereof shall be elected by members of the corporation herein provided
28 for, each member having one vote. The removal of any director from
29 this state shall immediately vacate his or her office. If any vacancy
30 occurs in the board of directors through death, resignation, or
31 otherwise, the remaining directors may elect a person to fill the
32 vacancy until the next annual meeting of the corporation. The
33 directors shall be annually sworn to the proper discharge of their
34 duties and they shall hold office until others are elected or appointed
35 and qualified in their stead.

1 **Sec. 751.** RCW 32.12.120 and 1981 c 192 s 31 are each amended to
2 read as follows:

3 Notice to any mutual savings bank doing business in this state of
4 an adverse claim to a deposit standing on its books to the credit of
5 any person shall not be effectual to cause said bank to recognize said
6 adverse claimant unless said adverse claimant shall also either procure
7 a restraining order, injunction, or other appropriate process against
8 said bank from a court of competent jurisdiction in a cause therein
9 instituted by him or her wherein the person to whose credit the deposit
10 stands is made a party and served with summons or shall execute to said
11 bank, in form and with sureties acceptable to it, a bond, in an amount
12 which is double either the amount of said deposit or said adverse
13 claim, whichever is the lesser, indemnifying said bank from any and all
14 liability, loss, damage, costs, and expenses, for and on account of the
15 payment of such adverse claim or the dishonor of the check or other
16 order of the person to whose credit the deposit stands on the books of
17 said bank: PROVIDED, That this law shall not apply in any instance
18 where the person to whose credit the deposit stands is a fiduciary for
19 such adverse claimant, and the facts constituting such relationship as
20 also the facts showing reasonable cause of belief on the part of said
21 claimant that the said fiduciary is about to misappropriate said
22 deposit, are made to appear by the affidavit of such claimant.

23 This section shall not apply to accounts subject to chapter 30.22
24 RCW.

25 **Sec. 752.** RCW 32.16.010 and 1985 c 56 s 8 are each amended to read
26 as follows:

27 (1) There shall be a board of trustees who shall have the entire
28 management and control of the affairs of the savings bank. The persons
29 named in the certificate of authorization shall be the first trustees.
30 The board shall consist of not less than nine nor more than thirty
31 members.

32 (2) A person shall not be a trustee of a savings bank, if he or
33 she:

34 (a) Is not a resident of a state of the United States;

35 (b) Has been adjudicated a bankrupt or has taken the benefit of any
36 insolvency law, or has made a general assignment for the benefit of
37 creditors;

1 (c) Has suffered a judgment recovered against him or her for a sum
2 of money to remain unsatisfied of record or unsecured on appeal for a
3 period of more than three months;

4 (d) Is a trustee, officer, clerk, or other employee of any other
5 savings bank.

6 (3) Nor shall a person be a trustee of a savings bank solely by
7 reason of his or her holding public office.

8 **Sec. 753.** RCW 32.16.012 and 1969 c 55 s 14 are each amended to
9 read as follows:

10 The bylaws of a savings bank may prescribe a maximum age beyond
11 which no person shall be eligible for election to the board of trustees
12 and may prescribe a mandatory retirement age of seventy-five years or
13 less for trustees subject to the following limitations:

14 (1) No person shall be eligible for initial election as a trustee
15 after December 31, 1969, who is seventy years of age or more; and

16 (2) No person shall continue to serve as a trustee after December
17 31, 1973, who is seventy-five years of age or more and the office of
18 any such trustee shall become vacant on the last day of the month in
19 which the trustee reaches his or her seventy-fifth birthday or December
20 31, 1973, whichever is the latest.

21 If a savings bank does not adopt a bylaw prescribing a mandatory
22 retirement age for trustees prior to January 1, 1970, or does not
23 maintain thereafter a bylaw prescribing a mandatory retirement age, the
24 office of a trustee of such savings bank shall become vacant on the
25 last day of the month in which such trustee reaches his or her
26 seventieth birthday or on December 31, 1969, whichever is the latest.

27 **Sec. 754.** RCW 32.16.130 and 1971 ex.s. c 222 s 2 are each amended
28 to read as follows:

29 In the event a savings and loan association is converted to a
30 mutual savings bank, any person, who at the time of such conversion was
31 a director of the savings and loan association, may serve as a trustee
32 of the mutual savings bank until he or she reaches the age of seventy-
33 five years or until one year following the date of conversion of such
34 savings and loan association, whichever is later. The bylaws of any
35 mutual savings bank may modify this provision by requiring earlier
36 retirement of any trustee affected hereby.

1 **Sec. 755.** RCW 32.32.025 and 1995 c 134 s 7 are each amended to
2 read as follows:

3 As used in this chapter, the following definitions apply, unless
4 the context otherwise requires:

5 (1) Except as provided in RCW 32.32.230, an "affiliate" of, or a
6 person "affiliated" with, a specified person, is a person that
7 directly, or indirectly through one or more intermediaries, controls,
8 or is controlled by, or is under common control with, the person
9 specified.

10 (2) The term "amount," when used in regard to securities, means the
11 principal amount if relating to evidences of indebtedness, the number
12 of shares if relating to shares, and the number of units if relating to
13 any other kind of security.

14 (3) An "applicant" is a mutual savings bank which has applied to
15 convert pursuant to this chapter.

16 (4) The term "associate," when used to indicate a relationship with
17 any person, means (a) any corporation or organization (other than the
18 applicant or a majority-owned subsidiary of the applicant) of which the
19 person is an officer or partner or is, directly or indirectly, the
20 beneficial owner of ten percent or more of any class of equity
21 securities, (b) any trust or other estate in which the person has a
22 substantial beneficial interest or as to which the person serves as
23 trustee or in a similar fiduciary capacity, and (c) any relative who
24 would be a "class A beneficiary" if the person were a decedent.

25 (5) The term "broker" means any person engaged in the business of
26 effecting transactions in securities for the account of others.

27 (6) The term "capital stock" includes permanent stock, guaranty
28 stock, permanent reserve stock, any similar certificate evidencing
29 nonwithdrawable capital, or preferred stock, of a savings bank
30 converted under this chapter or of a subsidiary institution or holding
31 company.

32 (7) The term "charter" includes articles of incorporation, articles
33 of reincorporation, and certificates of incorporation, as amended,
34 effecting (either with or without filing with any governmental agency)
35 the organization or creation of an incorporated person.

36 (8) Except as provided in RCW 32.32.230, the term "control"
37 (including the terms "controlling," "controlled by," and "under common
38 control with") means the possession, direct or indirect, of the power

1 to direct or cause the direction of the management and policies of a
2 person, whether through the ownership of voting securities, by
3 contract, or otherwise.

4 (9) The term "dealer" means any person who engages either for all
5 or part of his or her time, directly or indirectly, as agent, broker,
6 or principal, in the business of offering, buying, selling, or
7 otherwise dealing or trading in securities issued by another person.

8 (10) The term "deposits" refers to the deposits of a savings bank
9 that is converting under this chapter, and may refer in addition to the
10 deposits or share accounts of any other financial institution that is
11 converting to the stock form in connection with a merger with and into
12 a savings bank.

13 (11) The term "director" means any director of a corporation, any
14 trustee of a mutual savings bank, or any person performing similar
15 functions with respect to any organization whether incorporated or
16 unincorporated.

17 (12) The term "eligibility record date" means the record date for
18 determining eligible account holders of a converting mutual savings
19 bank.

20 (13) The term "eligible account holder" means any person holding a
21 qualifying deposit as determined in accordance with RCW 32.32.180.

22 (14) The term "employee" does not include a director or officer.

23 (15) The term "equity security" means any stock or similar
24 security; or any security convertible, with or without consideration,
25 into such a security, or carrying any warrant or right to subscribe to
26 or purchase such a security; or any such warrant or right.

27 (16) The term "market maker" means a dealer who, with respect to a
28 particular security, (a) regularly publishes bona fide, competitive bid
29 and offer quotations in a recognized interdealer quotation system; or
30 (b) furnishes bona fide competitive bid and offer quotations on
31 request; and (c) is ready, willing, and able to effect transaction in
32 reasonable quantities at his or her quoted prices with other brokers or
33 dealers.

34 (17) The term "material," when used to qualify a requirement for
35 the furnishing of information as to any subject, limits the information
36 required to those matters as to which an average prudent investor ought
37 reasonably to be informed before purchasing an equity security of the
38 applicant.

1 (18) The term "mutual savings bank" means a mutual savings bank
2 organized and operating under Title 32 RCW.

3 (19) Except as provided in RCW 32.32.435, the term "offer," "offer
4 to sell," or "offer of sale" shall include every attempt or offer to
5 dispose of, or solicitation of an offer to buy, a security or interest
6 in a security, for value. These terms shall not include preliminary
7 negotiations or agreements between an applicant and any underwriter or
8 among underwriters who are or are to be in privity of contract with an
9 applicant.

10 (20) The term "officer," for purposes of the purchase of stock in
11 a conversion under this chapter or the sale of this stock, means the
12 ((~~chairman~~)) chair of the board, president, vice president, secretary,
13 treasurer or principal financial officer, comptroller or principal
14 accounting officer, and any other person performing similar functions
15 with respect to any organization whether incorporated or
16 unincorporated.

17 (21) Except as provided in RCW 32.32.435, the term "person" means
18 an individual, a corporation, a partnership, an association, a joint-
19 stock company, a trust, any unincorporated organization, or a
20 government or political subdivision thereof.

21 (22) The term "proxy" includes every form of authorization by which
22 a person is or may be deemed to be designated to act for a stockholder
23 in the exercise of his or her voting rights in the affairs of an
24 institution. Such an authorization may take the form of failure to
25 dissent or object.

26 (23) The terms "purchase" and "buy" include every contract to
27 purchase, buy, or otherwise acquire a security or interest in a
28 security for value.

29 (24) The terms "sale" and "sell" include every contract to sell or
30 otherwise dispose of a security or interest in a security for value;
31 but these terms do not include an exchange of securities in connection
32 with a merger or acquisition approved by the director.

33 (25) The term "savings account" means deposits established in a
34 mutual savings bank and includes certificates of deposit.

35 (26) Except as provided in RCW 32.32.435, the term "security"
36 includes any note, stock, treasury stock, bond, debenture, transferable
37 share, investment contract, voting-trust certificate, or in general,
38 any instrument commonly known as a "security"; or any certificate of

1 interest or participation in, temporary or interim certificate for,
2 receipt for, or warrant or right to subscribe to or purchase any of the
3 foregoing.

4 (27) The term "series of preferred stock" refers to a subdivision,
5 within a class of preferred stock, each share of which has preferences,
6 limitations, and relative rights identical with those of other shares
7 of the same series.

8 (28) The term "subscription offering" refers to the offering of
9 shares of capital stock, through nontransferable subscription rights
10 issued to: (a) Eligible account holders as required by RCW 32.32.045;
11 (b) supplemental eligible account holders as required by RCW 32.32.055;
12 (c) directors, officers, and employees, as permitted by RCW 32.32.140;
13 and (d) eligible account holders and supplemental eligible account
14 holders as permitted by RCW 32.32.145.

15 (29) A "subsidiary" of a specified person is an affiliate
16 controlled by the person, directly or indirectly through one or more
17 intermediaries.

18 (30) The term "supplemental eligibility record date" means the
19 supplemental record date for determining supplemental eligible account
20 holders of a converting savings bank required by RCW 32.32.055. The
21 date shall be the last day of the calendar quarter preceding director
22 approval of the application for conversion.

23 (31) The term "supplemental eligible account holder" means any
24 person holding a qualifying deposit, except officers, directors, and
25 their associates, as of the supplemental eligibility record date.

26 (32) The term "underwriter" means any person who has purchased from
27 an applicant with a view to, or offers or sells for an applicant in
28 connection with, the distribution of any security, or participates or
29 has a direct or indirect participation in the direct or indirect
30 underwriting of any such undertaking; but the term does not include a
31 person whose interest is limited to a commission from an underwriter or
32 dealer not in excess of the usual and customary distributors' or
33 sellers commission. The term "principal underwriter" means an
34 underwriter in privity of contract with the applicant or other issuer
35 of securities as to which that person is the underwriter.

36 Terms defined in other chapters of this title, when used in this
37 chapter, shall have the meanings given in those definitions, to the

1 extent those definitions are not inconsistent with the definitions
2 contained in this chapter unless the context otherwise requires.

3 **Sec. 756.** RCW 32.32.045 and 1981 c 85 s 8 are each amended to read
4 as follows:

5 Each eligible account holder shall receive, without payment,
6 nontransferable subscription rights to purchase capital stock in an
7 amount equal to the greatest of two hundred shares, one-tenth of one
8 percent of the total offering of shares, or fifteen times the product
9 (rounded down to the next whole number) obtained by multiplying the
10 total number of shares of capital stock to be issued by a fraction of
11 which the numerator is the amount of the qualifying deposit of the
12 eligible account holder and the denominator is the total amount of
13 qualifying deposits of all eligible account holders in the converting
14 savings bank. If the allotment made in this section results in an
15 oversubscription, shares shall be allocated among subscribing eligible
16 account holders so as to permit each such account holder, to the extent
17 possible, to purchase a number of shares sufficient to make his or her
18 total allocation equal to one hundred shares. Any shares not so
19 allocated shall be allocated among the subscribing eligible account
20 holders on such equitable basis, related to the amounts of their
21 respective qualifying deposits, as may be provided in the plan of
22 conversion.

23 **Sec. 757.** RCW 33.16.020 and 1982 c 3 s 28 are each amended to read
24 as follows:

25 The board of directors shall be elected at the annual meeting,
26 unless the bylaws of the association otherwise provide.

27 A person shall not be a director of an association if the person
28 has been adjudicated bankrupt or has taken the benefit of any
29 assignment for the benefit of creditors or has suffered a judgment
30 recovered against him or her for a sum of money to remain unsatisfied
31 of record or un superseded on appeal for a period of more than three
32 months.

33 To be eligible to hold the position of director of an association,
34 a person must have savings or stock or a combination thereof in the sum
35 or the aggregate sum of at least one thousand dollars. Such minimum

1 amount shall not be reduced either by withdrawal or by pledge for a
2 loan or in any other manner, so long as he or she remains a director of
3 the association.

4 **Sec. 758.** RCW 33.16.050 and 1982 c 3 s 31 are each amended to read
5 as follows:

6 If a director becomes ineligible or if the director's conduct or
7 habits are such as to reflect discredit upon the association or if
8 other good cause exists, the director may be removed from office by an
9 affirmative vote of two-thirds of the members of the board of directors
10 at any regular meeting of the board or at any special meeting called
11 for that purpose. No such vote upon removal of a director shall be
12 taken until the director has been advised of the reasons therefor and
13 has had opportunity to submit to the board of directors a statement
14 relative thereto, either oral or written. If the director affected is
15 present at the meeting, he or she shall leave the place where the
16 meeting is being held after his or her statement has been submitted and
17 prior to the vote upon the matter of his or her removal.

18 **Sec. 759.** RCW 33.16.090 and 1994 c 256 s 123 are each amended to
19 read as follows:

20 The board of directors of each association shall hold a regular
21 meeting at least once each quarter and whenever required by the
22 director, at a time to be designated by it. Special meetings of the
23 board of directors may be held upon notice to each director sufficient
24 to permit his or her attendance.

25 At any meeting of the board of directors, a majority of the members
26 shall constitute a quorum for the transaction of business.

27 The president of the association or (~~chairman~~) chair of the board
28 or any three members of the board may call a meeting of the board by
29 giving notice to all of the directors.

30 **Sec. 760.** RCW 33.20.010 and 1982 c 3 s 37 are each amended to read
31 as follows:

32 Each member having deposits in a mutual association shall have a
33 proportionate proprietary interest in its assets or net earnings
34 subordinate to the claims of its other creditors. At any meeting of
35 the members of a mutual association, each member shall be entitled to

1 at least one vote. A mutual association, by its bylaws, may provide
2 that each member shall be entitled to one vote for each one hundred
3 dollars of the member's deposit account. At any meeting of the
4 members, voting may be in person or by proxy. Proxies shall be in
5 writing and signed by the member and, when filed with the secretary,
6 shall continue in force until revoked or superseded by subsequent
7 proxies. Written notice of the time and place of the holding of
8 special meetings (other than the regular annual meeting) shall be
9 mailed to each member at his or her last known address not more than
10 thirty days, nor less than ten days prior to the meeting. The regular
11 annual meeting of the mutual association shall be announced by
12 publication of a notice thereof in a newspaper published in the city or
13 town, or, if the association is not in a city or town, in the county in
14 which the association is located at least ten days prior to the date of
15 such meeting, or by ten days' written notice to the members mailed to
16 the last known address of each member.

17 **Sec. 761.** RCW 33.20.040 and 1982 c 3 s 38 are each amended to read
18 as follows:

19 Subject to chapter 30.22 RCW, minors may become depositors or
20 members of an association and all contracts entered into between a
21 minor and an association, with respect to his or her membership or his
22 or her deposits therein, shall be valid and enforceable, and a minor
23 may not disaffirm, because of his or her minority, any such membership
24 or agreement in connection therewith.

25 **Sec. 762.** RCW 34.05.010 and 1997 c 126 s 2 are each amended to
26 read as follows:

27 The definitions set forth in this section shall apply throughout
28 this chapter, unless the context clearly requires otherwise.

29 (1) "Adjudicative proceeding" means a proceeding before an agency
30 in which an opportunity for hearing before that agency is required by
31 statute or constitutional right before or after the entry of an order
32 by the agency. Adjudicative proceedings also include all cases of
33 licensing and rate making in which an application for a license or rate
34 change is denied except as limited by RCW 66.08.150, or a license is
35 revoked, suspended, or modified, or in which the granting of an

1 application is contested by a person having standing to contest under
2 the law.

3 (2) "Agency" means any state board, commission, department,
4 institution of higher education, or officer, authorized by law to make
5 rules or to conduct adjudicative proceedings, except those in the
6 legislative or judicial branches, the governor, or the attorney general
7 except to the extent otherwise required by law and any local
8 governmental entity that may request the appointment of an
9 administrative law judge under chapter 42.41 RCW.

10 (3) "Agency action" means licensing, the implementation or
11 enforcement of a statute, the adoption or application of an agency rule
12 or order, the imposition of sanctions, or the granting or withholding
13 of benefits.

14 Agency action does not include an agency decision regarding (a)
15 contracting or procurement of goods, services, public works, and the
16 purchase, lease, or acquisition by any other means, including eminent
17 domain, of real estate, as well as all activities necessarily related
18 to those functions, or (b) determinations as to the sufficiency of a
19 showing of interest filed in support of a representation petition, or
20 mediation or conciliation of labor disputes or arbitration of labor
21 disputes under a collective bargaining law or similar statute, or (c)
22 any sale, lease, contract, or other proprietary decision in the
23 management of public lands or real property interests, or (d) the
24 granting of a license, franchise, or permission for the use of
25 trademarks, symbols, and similar property owned or controlled by the
26 agency.

27 (4) "Agency head" means the individual or body of individuals in
28 whom the ultimate legal authority of the agency is vested by any
29 provision of law. If the agency head is a body of individuals, a
30 majority of those individuals constitutes the agency head.

31 (5) "Entry" of an order means the signing of the order by all
32 persons who are to sign the order, as an official act indicating that
33 the order is to be effective.

34 (6) "Filing" of a document that is required to be filed with an
35 agency means delivery of the document to a place designated by the
36 agency by rule for receipt of official documents, or in the absence of
37 such designation, at the office of the agency head.

1 (7) "Institutions of higher education" are the University of
2 Washington, Washington State University, Central Washington University,
3 Eastern Washington University, Western Washington University, The
4 Evergreen State College, the various community colleges, and the
5 governing boards of each of the above, and the various colleges,
6 divisions, departments, or offices authorized by the governing board of
7 the institution involved to act for the institution, all of which are
8 sometimes referred to in this chapter as "institutions."

9 (8) "Interpretive statement" means a written expression of the
10 opinion of an agency, entitled an interpretive statement by the agency
11 head or its designee, as to the meaning of a statute or other provision
12 of law, of a court decision, or of an agency order.

13 (9)(a) "License" means a franchise, permit, certification,
14 approval, registration, charter, or similar form of authorization
15 required by law, but does not include (i) a license required solely for
16 revenue purposes, or (ii) a certification of an exclusive bargaining
17 representative, or similar status, under a collective bargaining law or
18 similar statute, or (iii) a license, franchise, or permission for use
19 of trademarks, symbols, and similar property owned or controlled by the
20 agency.

21 (b) "Licensing" includes the agency process respecting the
22 issuance, denial, revocation, suspension, or modification of a license.

23 (10) "Mail" or "send," for purposes of any notice relating to rule
24 making or policy or interpretive statements, means regular mail or
25 electronic distribution, as provided in RCW 34.05.260. "Electronic
26 distribution" or "electronically" means distribution by electronic mail
27 or facsimile mail.

28 (11)(a) "Order," without further qualification, means a written
29 statement of particular applicability that finally determines the legal
30 rights, duties, privileges, immunities, or other legal interests of a
31 specific person or persons.

32 (b) "Order of adoption" means the official written statement by
33 which an agency adopts, amends, or repeals a rule.

34 (12) "Party to agency proceedings," or "party" in a context so
35 indicating, means:

36 (a) A person to whom the agency action is specifically directed; or

37 (b) A person named as a party to the agency proceeding or allowed
38 to intervene or participate as a party in the agency proceeding.

1 (13) "Party to judicial review or civil enforcement proceedings,"
2 or "party" in a context so indicating, means:

3 (a) A person who files a petition for a judicial review or civil
4 enforcement proceeding; or

5 (b) A person named as a party in a judicial review or civil
6 enforcement proceeding, or allowed to participate as a party in a
7 judicial review or civil enforcement proceeding.

8 (14) "Person" means any individual, partnership, corporation,
9 association, governmental subdivision or unit thereof, or public or
10 private organization or entity of any character, and includes another
11 agency.

12 (15) "Policy statement" means a written description of the current
13 approach of an agency, entitled a policy statement by the agency head
14 or its designee, to implementation of a statute or other provision of
15 law, of a court decision, or of an agency order, including where
16 appropriate the agency's current practice, procedure, or method of
17 action based upon that approach.

18 (16) "Rule" means any agency order, directive, or regulation of
19 general applicability (a) the violation of which subjects a person to
20 a penalty or administrative sanction; (b) which establishes, alters, or
21 revokes any procedure, practice, or requirement relating to agency
22 hearings; (c) which establishes, alters, or revokes any qualification
23 or requirement relating to the enjoyment of benefits or privileges
24 conferred by law; (d) which establishes, alters, or revokes any
25 qualifications or standards for the issuance, suspension, or revocation
26 of licenses to pursue any commercial activity, trade, or profession; or
27 (e) which establishes, alters, or revokes any mandatory standards for
28 any product or material which must be met before distribution or sale.
29 The term includes the amendment or repeal of a prior rule, but does not
30 include (i) statements concerning only the internal management of an
31 agency and not affecting private rights or procedures available to the
32 public, (ii) declaratory rulings issued pursuant to RCW 34.05.240,
33 (iii) traffic restrictions for motor vehicles, bicyclists, and
34 pedestrians established by the secretary of transportation or his or
35 her designee where notice of such restrictions is given by official
36 traffic control devices, or (iv) rules of institutions of higher
37 education involving standards of admission, academic advancement,

1 academic credit, graduation and the granting of degrees, employment
2 relationships, or fiscal processes.

3 (17) "Rules review committee" or "committee" means the joint
4 administrative rules review committee created pursuant to RCW 34.05.610
5 for the purpose of selectively reviewing existing and proposed rules of
6 state agencies.

7 (18) "Rule making" means the process for formulation and adoption
8 of a rule.

9 (19) "Service," except as otherwise provided in this chapter, means
10 posting in the United States mail, properly addressed, postage prepaid,
11 or personal service. Service by mail is complete upon deposit in the
12 United States mail. Agencies may, by rule, authorize service by
13 electronic telefacsimile transmission, where copies are mailed
14 simultaneously, or by commercial parcel delivery company.

15 **Sec. 763.** RCW 34.12.060 and 1989 c 175 s 34 are each amended to
16 read as follows:

17 When an administrative law judge presides at a hearing under this
18 chapter and a majority of the officials of the agency who are to render
19 the final decision have not heard substantially all of the oral
20 testimony and read all exhibits submitted by any party, it shall be the
21 duty of such judge, or in the event of his or her unavailability or
22 incapacity, of another judge appointed by the chief administrative law
23 judge, to issue an initial decision or proposal for decision including
24 findings of fact and conclusions of law in accordance with RCW
25 34.05.461 or 34.05.485. However, this section does not apply to a
26 state patrol disciplinary hearing conducted under RCW 43.43.090.

27 **Sec. 764.** RCW 34.12.140 and 1982 c 189 s 10 are each amended to
28 read as follows:

29 The amounts to be disbursed from the administrative hearings
30 revolving fund from time to time shall be transferred thereto by the
31 state treasurer from funds appropriated to any and all agencies for
32 administrative hearings expenses on a quarterly basis. Agencies
33 operating in whole or in part from nonappropriated funds shall pay into
34 the administrative hearings revolving fund such funds as will fully
35 reimburse funds appropriated to the office of administrative hearings
36 for any services provided activities financed by nonappropriated funds.

1 The funds from the employment security department for the
2 administrative hearings services provided by the office of
3 administrative hearings shall not exceed that portion of the resources
4 provided to the employment security department by the department of
5 labor, employment and training administration, for such administrative
6 hearings services. To satisfy department of labor funding
7 requirements, the office of administrative hearings shall meet or
8 exceed timeliness standards under federal regulations in the conduct of
9 employment security department appeals.

10 The director of financial management shall allot all such funds to
11 the office of administrative hearings for the operation of the office,
12 pursuant to appropriation, in the same manner as appropriated funds are
13 allocated to other agencies under chapter 43.88 RCW.

14 Disbursements from the administrative hearings revolving fund shall
15 be pursuant to vouchers executed by the chief administrative law judge
16 or his or her designee.

17 **Sec. 765.** RCW 37.12.021 and 1963 c 36 s 5 are each amended to read
18 as follows:

19 Whenever the governor of this state shall receive from the majority
20 of any tribe or the tribal council or other governing body, duly
21 recognized by the Bureau of Indian Affairs, of any Indian tribe,
22 community, band, or group in this state a resolution expressing its
23 desire that its people and lands be subject to the criminal or civil
24 jurisdiction of the state of Washington to the full extent authorized
25 by federal law, he or she shall issue within sixty days a proclamation
26 to the effect that such jurisdiction shall apply to all Indians and all
27 Indian territory, reservations, country, and lands of the Indian body
28 involved to the same extent that this state exercises civil and
29 criminal jurisdiction or both elsewhere within the state: PROVIDED,
30 That jurisdiction assumed pursuant to this section shall nevertheless
31 be subject to the limitations set forth in RCW 37.12.060.

32 **Sec. 766.** RCW 37.16.180 and 1917 c 4 s 22 are each amended to read
33 as follows:

34 Pursuant to the Constitution and laws of the United States, and
35 especially to paragraph seventeen of section eight of article one of
36 such Constitution, the consent of the legislature of the state of

1 Washington is hereby given to the United States to acquire by donation
2 from any county acting under the provisions of this chapter, title to
3 all the lands herein intended to be referred to, to be evidenced by the
4 deed or deeds of such county, signed by the ((~~chairman~~)) chair of its
5 board of county commissioners and attested by the clerk of such board
6 under the seal of such board, and the consent of the state of
7 Washington is hereby given to the exercise by the congress of the
8 United States of exclusive legislation in all cases whatsoever, over
9 such tracts or parcels of land so conveyed to it: PROVIDED, Upon such
10 conveyance being concluded, a sufficient description by metes and
11 bounds and an accurate plat or map of each such tract or parcel of land
12 be filed in the auditor's office of the county in which such lands are
13 situated, together with copies of the orders, deeds, patents, or other
14 evidences in writing of the title of the United States: AND PROVIDED,
15 That all civil process issued from the courts of this state, and such
16 criminal process as may issue under the authority of this state against
17 any person charged with crime in cases arising outside of such
18 reservation, may be served and executed thereon in the same mode and
19 manner and by the same officers as if the consent herein given had not
20 been made.

21 **Sec. 767.** RCW 38.24.050 and 1989 c 19 s 37 are each amended to
22 read as follows:

23 Commissioned officers, warrant officers, and enlisted personnel of
24 the organized militia of Washington, while in active state service or
25 inactive duty, are entitled to and shall receive the same amount of pay
26 and allowances from the state of Washington as provided by federal laws
27 and regulations for commissioned officers, warrant officers, and
28 enlisted personnel of the United States army only if federal pay and
29 allowances are not authorized. For periods of such active state
30 service, commissioned officers, warrant officers, and enlisted
31 personnel of the organized militia of Washington shall receive either
32 such pay and allowances or an amount equal to one and one-half of the
33 federal minimum wage, whichever is greater.

34 The value of articles issued to any member and not returned in good
35 order on demand, and legal fines or forfeitures, may be deducted from
36 the member's pay.

1 If federal pay and allowances are not authorized, all members
2 detailed to serve on any board or commission ordered by the governor,
3 or on any court-martial ordered by proper authority, may, at the
4 discretion of the adjutant general, be paid a sum equal to one day's
5 active state service for each day actually employed on the board or
6 court or engaged in the business thereof, or in traveling to and from
7 the same; and in addition thereto travel expenses in accordance with
8 RCW 43.03.050 and 43.03.060 as now existing or hereafter amended when
9 such duty is at a place other than the city or town of his or her
10 residence.

11 Necessary transportation, quartermasters' stores, and subsistence
12 for troops when ordered on active state service may be contracted for
13 and paid for as are other military bills.

14 **Sec. 768.** RCW 38.32.030 and 1943 c 130 s 45 are each amended to
15 read as follows:

16 No person belonging to the military forces of this state shall be
17 arrested on any warrant, except for treason or felony, while going to,
18 remaining at, or returning from any place at which he or she may be
19 required to attend military duty. Any members of the organized militia
20 parading, or performing any duty according to the law shall have the
21 right-of-way in any street or highway through which they may pass and
22 while on field duty shall have the right to enter upon, cross, or
23 occupy any uninclosed lands, or any inclosed lands where no damage will
24 be caused thereby: PROVIDED, That the carriage of the United States
25 mail and legitimate functions of the police and fire departments shall
26 not be interfered with thereby.

27 **Sec. 769.** RCW 38.38.328 and 1989 c 48 s 34 are each amended to
28 read as follows:

29 The trial counsel to whom court-martial charges are referred for
30 trial shall cause to be served upon the accused a copy of the charges
31 upon which trial is to be had. In time of peace no person may, against
32 his or her objection, be brought to trial or be required to participate
33 by himself or herself or counsel in a session called by a military
34 judge under RCW 38.38.380(1), in a general court-martial within a
35 period of five days after the service of the charges upon him or her,

1 or before a special court-martial within a period of three days after
2 the service of the charges upon him or her.

3 **Sec. 770.** RCW 38.38.548 and 1963 c 220 s 65 are each amended to
4 read as follows:

5 (1) If the convening authority disapproves the findings and
6 sentence of a court martial he or she may, except where there is lack
7 of sufficient evidence in the record to support the findings, order a
8 rehearing. In such a case he or she shall state the reasons for
9 disapproval. If he or she disapproves the findings and sentence and
10 does not order a rehearing, he or she shall dismiss the charges.

11 (2) Each rehearing shall take place before a court martial composed
12 of members not members of the court martial which first heard the case.
13 Upon a rehearing the accused may not be tried for any offense of which
14 he or she was found not guilty by the first court martial, and no
15 sentence in excess of or more severe than the original sentence may be
16 imposed, unless the sentence is based upon a finding of guilty of an
17 offense not considered upon the merits in the original proceedings, or
18 unless the sentence prescribed for the offense is mandatory.

19 **Sec. 771.** RCW 38.38.552 and 1963 c 220 s 66 are each amended to
20 read as follows:

21 In acting on the findings and sentence of a court martial, the
22 convening authority may approve only such findings of guilty, and the
23 sentence or such part or amount of the sentence, as he or she finds
24 correct in law and fact and as he or she in his or her discretion
25 determines should be approved. Unless he or she indicates otherwise,
26 approval of the sentence is approval of the findings and sentence.

27 **Sec. 772.** RCW 38.38.556 and 1989 c 48 s 56 are each amended to
28 read as follows:

29 (1) If the convening authority is the governor, the governor's
30 action on the review of any record of trial is final.

31 (2) In all other cases not covered by subsection (1) of this
32 section, if the sentence of a special court-martial as approved by the
33 convening authority includes a dishonorable discharge, whether or not
34 suspended, the entire record shall be sent to the appropriate staff
35 judge advocate of the state force concerned to be reviewed in the same

1 manner as a record of trial by general court-martial. The record and
2 the opinion of the staff judge advocate shall then be sent to the state
3 judge advocate for review.

4 (3) All other special and summary court-martial records shall be
5 sent to the judge advocate of the appropriate force of the organized
6 militia and shall be acted upon, transmitted, and disposed of as may be
7 prescribed by regulations of the governor.

8 (4) The state judge advocate shall review the record of trial in
9 each case sent for review as provided under subsection (2) of this
10 section. If the final action of the court-martial has resulted in an
11 acquittal of all charges and specifications, the opinion of the state
12 judge advocate is limited to questions of jurisdiction.

13 (5) The state judge advocate shall take final action in any case
14 reviewable by the state judge advocate.

15 (6) In a case reviewable by the state judge advocate under this
16 section, the state judge advocate may act only with respect to the
17 findings and sentence as approved by the convening authority. The
18 state judge advocate may affirm only such findings of guilty, and the
19 sentence or such part or amount of the sentence, as the state judge
20 advocate finds correct in law and fact and determines, on the basis of
21 the entire record, should be approved. In considering the record, the
22 state judge advocate may weigh the evidence, judge the credibility of
23 witnesses, and determine controverted questions of fact, recognizing
24 that the trial court saw and heard the witnesses. If the state judge
25 advocate sets aside the findings and sentence, the state judge advocate
26 may, except where the setting aside is based on lack of sufficient
27 evidence in the record to support the findings, order a rehearing. If
28 the state judge advocate sets aside the findings and sentence and does
29 not order a rehearing, he or she shall order that the charges be
30 dismissed.

31 (7) In a case reviewable by the state judge advocate under this
32 section, the state judge advocate shall instruct the convening
33 authority to act in accordance with the state judge advocate's decision
34 on the review. If the state judge advocate has ordered a rehearing but
35 the convening authority finds a rehearing impracticable, the state
36 judge advocate may dismiss the charges.

37 (8) The state judge advocate may order one or more boards of review
38 each composed of not less than three commissioned officers of the

1 organized militia, each of whom must be a member of the bar of the
2 highest court of the state. Each board of review shall review the
3 record of any trial by special court-martial, including a sentence to
4 a dishonorable discharge, referred to it by the state judge advocate.
5 Boards of review have the same authority on review as the state judge
6 advocate has under this section.

7 **Sec. 773.** RCW 38.38.580 and 1989 c 48 s 60 are each amended to
8 read as follows:

9 (1) Under such regulations as the governor may prescribe, all
10 rights, privileges, and property affected by an executed part of a
11 court-martial sentence which has been set aside or disapproved, except
12 an executed dismissal or discharge, shall be restored unless a new
13 trial or rehearing is ordered and such executed part is included in a
14 sentence imposed upon a new trial or rehearing.

15 (2) If a previously executed sentence of dishonorable discharge is
16 not imposed on a new trial, the governor shall substitute therefor a
17 form of discharge authorized for administrative issuance unless the
18 accused is to serve out the remainder of his or her enlistment.

19 (3) If a previously executed sentence of dismissal is not imposed
20 on a new trial, the governor shall substitute therefor a form of
21 discharge authorized for administrative issue, and the commissioned
22 officer dismissed by that sentence may be reappointed by the governor
23 alone to such commissioned grade and with such rank as in the opinion
24 of the governor that former officer would have attained had he or she
25 not been dismissed. The reappointment of such a former officer may be
26 made if a position vacancy is available under applicable tables of
27 organization. All time between the dismissal and reappointment shall
28 be considered as service for all purposes.

29 **Sec. 774.** RCW 38.38.628 and 1963 c 220 s 76 are each amended to
30 read as follows:

31 Any person subject to this code who:

32 (1) Commits an offense punishable by this code, or aids, abets,
33 counsels, commands, or procures its commission; or

34 (2) Causes an act to be done which if directly performed by him or
35 her would be punishable by this code;

36 is a principal.

1 **Sec. 775.** RCW 38.38.632 and 1963 c 220 s 77 are each amended to
2 read as follows:

3 Any person subject to this code who, knowing that an offense
4 punishable by this code has been committed, receives, comforts, or
5 assists the offender in order to hinder or prevent his or her
6 apprehension, trial, or punishment shall be punished as a court martial
7 may direct.

8 **Sec. 776.** RCW 38.38.648 and 1963 c 220 s 81 are each amended to
9 read as follows:

10 (1) Any person subject to this code who solicits or advises another
11 or others to desert in violation of RCW 38.38.660 or mutiny in
12 violation of RCW 38.38.696 shall, if the offense solicited or advised
13 is attempted or committed, be punished with the punishment provided for
14 the commission of the offense, but, if the offense solicited or advised
15 is not committed or attempted, he or she shall be punished as a court
16 martial may direct.

17 (2) Any person subject to this code who solicits or advises another
18 or others to commit an act of misbehavior before the enemy in violation
19 of RCW 38.38.716 or sedition in violation of RCW 38.38.696 shall, if
20 the offense solicited or advised is committed, be punished with the
21 punishment provided for the commission of the offense, but, if the
22 offense solicited or advised is not committed, he or she shall be
23 punished as a court martial may direct.

24 **Sec. 777.** RCW 38.38.664 and 1963 c 220 s 85 are each amended to
25 read as follows:

26 Any person subject to this code who, without authority:

27 (1) Fails to go to his or her appointed place of duty at the time
28 prescribed;

29 (2) Goes from that place; or

30 (3) Absents himself or herself or remains absent from his or her
31 unit, organization, or place of duty at which he or she is required to
32 be at the time prescribed;

33 shall be punished as a court martial may direct.

34 **Sec. 778.** RCW 38.38.668 and 1963 c 220 s 86 are each amended to
35 read as follows:

1 Any person subject to this code who through neglect or design
2 misses the movement of a ship, aircraft, or unit with which he or she
3 is required in the course of duty to move shall be punished as a court
4 martial may direct.

5 **Sec. 779.** RCW 38.38.676 and 1963 c 220 s 88 are each amended to
6 read as follows:

7 Any person subject to this code who behaves with disrespect towards
8 his or her superior commissioned officer shall be punished as a court
9 martial may direct.

10 **Sec. 780.** RCW 38.38.680 and 1963 c 220 s 89 are each amended to
11 read as follows:

12 Any person subject to this code who:

13 (1) Strikes his or her superior commissioned officer or draws or
14 lifts up any weapon or offers any violence against him or her while he
15 or she is in the execution of his or her office; or

16 (2) (~~Willfully~~) Willfully disobeys a lawful command of his or her
17 superior commissioned officer;
18 shall be punished as a court martial may direct.

19 **Sec. 781.** RCW 38.38.692 and 1963 c 220 s 92 are each amended to
20 read as follows:

21 Any person subject to this code who is guilty of cruelty toward, or
22 oppression or maltreatment of, any person subject to his or her orders
23 shall be punished as a court martial may direct.

24 **Sec. 782.** RCW 38.38.696 and 1963 c 220 s 93 are each amended to
25 read as follows:

26 (1) Any person subject to this code who:

27 (a) With intent to usurp or override lawful military authority
28 refuses, in concert with any other person, to obey orders or otherwise
29 do his or her duty or creates any violence or disturbance is guilty of
30 mutiny;

31 (b) With intent to cause the overthrow or destruction of lawful
32 civil authority, creates, in concert with any other person, revolt,
33 violence, or other disturbance against that authority is guilty of
34 sedition;

1 (c) Fails to do his or her utmost to prevent and suppress a mutiny
2 or sedition being committed in his or her presence, or fails to take
3 all reasonable means to inform his or her superior commissioned officer
4 or commanding officer of a mutiny or sedition which he or she knows or
5 has reason to believe is taking place, is guilty of a failure to
6 suppress or report a mutiny or sedition.

7 (2) A person who is found guilty of attempted mutiny, mutiny,
8 sedition, or failure to suppress or report a mutiny or sedition shall
9 be punished as a court martial may direct.

10 **Sec. 783.** RCW 38.38.704 and 1963 c 220 s 95 are each amended to
11 read as follows:

12 Any person subject to this code who, without proper authority,
13 releases any prisoner committed to his or her charge, or who through
14 neglect or design suffers any such prisoner to escape, shall be
15 punished as a court martial may direct, whether or not the prisoner was
16 committed in strict compliance with law.

17 **Sec. 784.** RCW 38.38.724 and 1963 c 220 s 100 are each amended to
18 read as follows:

19 Any person subject to this code who in time of war discloses the
20 parole or countersign to any person not entitled to receive it, or who
21 gives to another who is entitled to receive and use the parole or
22 countersign a different parole or countersign from that which, to his
23 or her knowledge, he or she was authorized and required to give, shall
24 be punished as a court martial may direct.

25 **Sec. 785.** RCW 38.38.732 and 1963 c 220 s 102 are each amended to
26 read as follows:

27 (1) All persons subject to this code shall secure all public
28 property taken from the enemy for the service of the United States, and
29 shall give notice and turn over to the proper authority without delay
30 all captured or abandoned property in their possession, custody, or
31 control.

32 (2) Any person subject to this code who:

33 (a) Fails to carry out the duties prescribed in subsection (1)
34 (~~hereof~~) of this section;

1 (b) Buys, sells, trades, or in any way deals in or disposes of
2 captured or abandoned property, whereby he or she receives or expects
3 any profit, benefit, or advantage to himself or herself or another
4 directly or indirectly connected with himself or herself; or

5 (c) Engages in looting or pillaging;
6 shall be punished as a court martial may direct.

7 **Sec. 786.** RCW 38.38.740 and 1963 c 220 s 104 are each amended to
8 read as follows:

9 Any person subject to this code who, while in the hands of the
10 enemy in time of war:

11 (1) For the purpose of securing favorable treatment by his or her
12 captors acts without proper authority in a manner contrary to law,
13 custom, or regulation, to the detriment of others of whatever
14 nationality held by the enemy as civilian or military prisoners; or

15 (2) While in a position of authority over such persons maltreats
16 them without justifiable cause;
17 shall be punished as a court martial may direct.

18 **Sec. 787.** RCW 38.38.764 and 1963 c 220 s 110 are each amended to
19 read as follows:

20 Any person subject to this code who is found drunk on duty or
21 sleeping upon his or her post, or who leaves his or her post before he
22 or she is regularly relieved, shall be punished as a court martial may
23 direct.

24 **Sec. 788.** RCW 38.38.880 and 1963 c 220 s 130 are each amended to
25 read as follows:

26 The governor may delegate any authority vested in him or her under
27 this code, and may provide for the subdelegation of any such authority,
28 except the power given him or her by RCW 38.38.192 and 38.38.240.

29 **Sec. 789.** RCW 38.52.040 and 1995 c 269 s 1202 are each amended to
30 read as follows:

31 (1) There is hereby created the emergency management council
32 (hereinafter called the council), to consist of not more than seventeen
33 members who shall be appointed by the governor. The membership of the
34 council shall include, but not be limited to, representatives of city

1 and county governments, sheriffs and police chiefs, the Washington
2 state patrol, the military department, the department of ecology, state
3 and local fire chiefs, seismic safety experts, state and local
4 emergency management directors, search and rescue volunteers, medical
5 professions who have expertise in emergency medical care, building
6 officials, and private industry. The representatives of private
7 industry shall include persons knowledgeable in emergency and hazardous
8 materials management. The council members shall elect a (~~chairman~~)
9 chair from within the council membership. The members of the council
10 shall serve without compensation, but may be reimbursed for their
11 travel expenses incurred in the performance of their duties in
12 accordance with RCW 43.03.050 and 43.03.060 as now existing or
13 hereafter amended.

14 (2) The emergency management council shall advise the governor and
15 the director on all matters pertaining to state and local emergency
16 management. The council may appoint such ad hoc committees,
17 subcommittees, and working groups as are required to develop specific
18 recommendations for the improvement of emergency management practices,
19 standards, policies, or procedures. The council shall ensure that the
20 governor receives an annual assessment of statewide emergency
21 preparedness including, but not limited to, specific progress on hazard
22 mitigation and reduction efforts, implementation of seismic safety
23 improvements, reduction of flood hazards, and coordination of hazardous
24 materials planning and response activities. The council or a
25 subcommittee thereof shall periodically convene in special session and
26 serve during those sessions as the state emergency response commission
27 required by P.L. 99-499, the emergency planning and community right-to-
28 know act. When sitting in session as the state emergency response
29 commission, the council shall confine its deliberations to those items
30 specified in federal statutes and state administrative rules governing
31 the coordination of hazardous materials policy. The council shall
32 review administrative rules governing state and local emergency
33 management practices and recommend necessary revisions to the director.

34 **Sec. 790.** RCW 38.52.140 and 1984 c 38 s 13 are each amended to
35 read as follows:

36 Any civil service employee of the state of Washington or of any
37 political subdivision thereof while on leave of absence and on duty

1 with any emergency management agency authorized under the provisions of
2 this chapter shall be preserved in his or her civil service status as
3 to seniority and retirement rights so long as he or she regularly
4 continues to make the usual contributions incident to the retention of
5 such beneficial rights as if he or she were not on leave of absence.

6 **Sec. 791.** RCW 38.52.180 and 2007 c 292 s 2 are each amended to
7 read as follows:

8 (1) There shall be no liability on the part of anyone including any
9 person, partnership, corporation, the state of Washington or any
10 political subdivision thereof who owns or maintains any building or
11 premises which have been designated by a local organization for
12 emergency management as a shelter from destructive operations or
13 attacks by enemies of the United States for any injuries sustained by
14 any person while in or upon said building or premises, as a result of
15 the condition of said building or premises or as a result of any act or
16 omission, or in any way arising from the designation of such premises
17 as a shelter, when such person has entered or gone upon or into said
18 building or premises for the purpose of seeking refuge therein during
19 destructive operations or attacks by enemies of the United States or
20 during tests ordered by lawful authority, except for an act of willful
21 negligence by such owner or occupant or his or her servants, agents, or
22 employees.

23 (2) All legal liability for damage to property or injury or death
24 to persons (except an emergency worker, regularly enrolled and acting
25 as such), caused by acts done or attempted during or while traveling to
26 or from an emergency or disaster, search and rescue, or training or
27 exercise authorized by the department in preparation for an emergency
28 or disaster or search and rescue, under the color of this chapter in a
29 bona fide attempt to comply therewith, except as provided in
30 subsections (3), (4), and (5) of this section regarding covered
31 volunteer emergency workers, shall be the obligation of the state of
32 Washington. Suits may be instituted and maintained against the state
33 for the enforcement of such liability, or for the indemnification of
34 persons appointed and regularly enrolled as emergency workers while
35 actually engaged in emergency management duties, or as members of any
36 agency of the state or political subdivision thereof engaged in
37 emergency management activity, or their dependents, for damage done to

1 their private property, or for any judgment against them for acts done
2 in good faith in compliance with this chapter: PROVIDED, That the
3 foregoing shall not be construed to result in indemnification in any
4 case of willful misconduct, gross negligence, or bad faith on the part
5 of any agent of emergency management: PROVIDED, That should the United
6 States or any agency thereof, in accordance with any federal statute,
7 rule, or regulation, provide for the payment of damages to property
8 and/or for death or injury as provided for in this section, then and in
9 that event there shall be no liability or obligation whatsoever upon
10 the part of the state of Washington for any such damage, death, or
11 injury for which the United States government assumes liability.

12 (3) No act or omission by a covered volunteer emergency worker
13 while engaged in a covered activity shall impose any liability for
14 civil damages resulting from such an act or omission upon:

15 (a) The covered volunteer emergency worker;

16 (b) The supervisor or supervisors of the covered volunteer
17 emergency worker;

18 (c) Any facility or their officers or employees;

19 (d) The employer of the covered volunteer emergency worker;

20 (e) The owner of the property or vehicle where the act or omission
21 may have occurred during the covered activity;

22 (f) Any local organization that registered the covered volunteer
23 emergency worker; and

24 (g) The state or any state or local governmental entity.

25 (4) The immunity in subsection (3) of this section applies only
26 when the covered volunteer emergency worker was engaged in a covered
27 activity:

28 (a) Within the scope of his or her assigned duties;

29 (b) Under the direction of a local emergency management
30 organization or the department, or a local law enforcement agency for
31 search and rescue; and

32 (c) The act or omission does not constitute gross negligence or
33 willful or wanton misconduct.

34 (5) For purposes of this section:

35 (a) "Covered volunteer emergency worker" means an emergency worker
36 as defined in RCW 38.52.010 who (i) is not receiving or expecting
37 compensation as an emergency worker from the state or local government,

1 or (ii) is not a state or local government employee unless on leave
2 without pay status.

3 (b) "Covered activity" means:

4 (i) Providing assistance or transportation authorized by the
5 department during an emergency or disaster or search and rescue as
6 defined in RCW 38.52.010, whether such assistance or transportation is
7 provided at the scene of the emergency or disaster or search and
8 rescue, at an alternative care site, at a hospital, or while in route
9 to or from such sites or between sites; or

10 (ii) Participating in training or exercise authorized by the
11 department in preparation for an emergency or disaster or search and
12 rescue.

13 (6) Any requirement for a license to practice any professional,
14 mechanical, or other skill shall not apply to any authorized emergency
15 worker who shall, in the course of performing his or her duties as
16 such, practice such professional, mechanical, or other skill during an
17 emergency described in this chapter.

18 (7) The provisions of this section shall not affect the right of
19 any person to receive benefits to which he or she would otherwise be
20 entitled under this chapter, or under the workers' compensation law, or
21 under any pension or retirement law, nor the right of any such person
22 to receive any benefits or compensation under any act of congress.

23 **Sec. 792.** RCW 38.52.190 and 1984 c 38 s 18 are each amended to
24 read as follows:

25 Except as provided in this chapter, an emergency worker and his or
26 her dependents shall have no right to receive compensation from the
27 state, from the agency, from the local organization for emergency
28 management with which he or she is registered, or from the county or
29 city which has empowered the local organization for emergency
30 management to register him or her and direct his or her activities, for
31 an injury or death arising out of and occurring in the course of his or
32 her activities as an emergency worker.

33 **Sec. 793.** RCW 38.52.195 and 1984 c 38 s 19 are each amended to
34 read as follows:

35 Notwithstanding any other provision of law, no person, firm,
36 corporation, or other entity acting under the direction or control of

1 the proper authority to provide construction, equipment, or work as
2 provided for in RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205,
3 38.52.207, 38.52.220, and 38.52.390 while complying with or attempting
4 to comply with RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205,
5 38.52.207, 38.52.220, and 38.52.390 or any rule or regulation
6 promulgated pursuant to the provisions of RCW 38.52.110, 38.52.180,
7 38.52.195, 38.52.205, 38.52.207, 38.52.220, and 38.52.390 shall be
8 liable for the death of or any injury to persons or damage to property
9 as a result of any such activity: PROVIDED, That said exemption shall
10 only apply where all of the following conditions occur:

11 (1) Where, at the time of the incident the worker is performing
12 services as an emergency worker, and is acting within the course of his
13 or her duties as an emergency worker;

14 (2) Where, at the time of the injury, loss, or damage, the
15 organization for emergency management which the worker is assisting is
16 an approved organization for emergency management;

17 (3) Where the injury, loss, or damage is proximately caused by his
18 or her service either with or without negligence as an emergency
19 worker;

20 (4) Where the injury, loss, or damage is not caused by the
21 intoxication of the worker; and

22 (5) Where the injury, loss, or damage is not due to (~~wilful~~)
23 willful misconduct or gross negligence on the part of a worker.

24 **Sec. 794.** RCW 38.52.200 and 1984 c 38 s 20 are each amended to
25 read as follows:

26 Liability for the compensation provided by this chapter, as limited
27 by the provisions thereof, is in lieu of any other liability whatsoever
28 to an emergency worker or his or her dependents or any other person on
29 the part of the state, the agency, the local organization for emergency
30 management with which the emergency worker is registered, and the
31 county or city which has empowered the local organization for emergency
32 management to register him or her and direct his or her activities, for
33 injury or death arising out of and in the course of his or her
34 activities while on duty as an emergency worker: PROVIDED, That
35 nothing in this chapter shall limit or bar the liability of the state
36 or its political subdivisions engaged in proprietary functions as

1 distinguished from governmental functions that may exist by reason of
2 injury or death sustained by an emergency worker.

3 **Sec. 795.** RCW 38.52.220 and 1984 c 38 s 24 are each amended to
4 read as follows:

5 Said compensation board shall meet on the call of its ((~~chairman~~))
6 chair on a regular monthly meeting day when there is business to come
7 before it. The ((~~chairman~~)) chair shall be required to call a meeting
8 on any monthly meeting day when any claim for compensation under this
9 chapter has been submitted to the board: PROVIDED, That as to claims
10 involving amounts of two thousand dollars or less, the local
11 organization director shall submit recommendations directly to the
12 state without convening a compensation board.

13 **Sec. 796.** RCW 38.52.230 and 1953 c 223 s 6 are each amended to
14 read as follows:

15 The compensation board, in addition to other powers herein granted,
16 shall have the power to compel the attendance of witnesses to testify
17 before it on all matters connected with the operation of this chapter
18 and its ((~~chairman~~)) chair or any member of said board may administer
19 oath to such witnesses; to make all necessary rules and regulations for
20 its guidance in conformity with the provisions of this chapter:
21 PROVIDED, HOWEVER, That no compensation or emoluments shall be paid to
22 any member of said board for any duties performed as a member of said
23 compensation board.

24 **Sec. 797.** RCW 38.52.260 and 1984 c 38 s 27 are each amended to
25 read as follows:

26 Compensation shall be furnished to an emergency worker either
27 within or without the state for any injury arising out of and occurring
28 in the course of his or her activities as an emergency worker, and for
29 the death of any such worker if the injury proximately causes death, in
30 those cases where the following conditions occur:

31 (1) Where, at the time of the injury the emergency worker is
32 performing services as an emergency worker, and is acting within the
33 course of his or her duties as an emergency worker.

34 (2) Where, at the time of the injury the local organization for

1 emergency management with which the emergency worker is registered is
2 an approved local organization for emergency management.

3 (3) Where the injury is proximately caused by his or her service as
4 an emergency worker, either with or without negligence.

5 (4) Where the injury is not caused by the intoxication of the
6 injured emergency worker.

7 (5) Where the injury is not intentionally self-inflicted.

8 **Sec. 798.** RCW 38.52.350 and 1984 c 38 s 36 are each amended to
9 read as follows:

10 Should the United States or any agent thereof, in accordance with
11 any federal statute or rule or regulation, furnish monetary assistance,
12 benefits, or other temporary or permanent relief to emergency workers
13 or to their dependents for injuries arising out of and occurring in the
14 course of their activities as emergency workers, then the amount of
15 compensation which any emergency worker or his or her dependents are
16 otherwise entitled to receive from the state of Washington as provided
17 herein, shall be reduced by the amount of monetary assistance,
18 benefits, or other temporary or permanent relief the emergency worker
19 or his or her dependents have received and will receive from the United
20 States or any agent thereof as a result of his or her injury.

21 **Sec. 799.** RCW 38.52.380 and 1984 c 38 s 39 are each amended to
22 read as follows:

23 If the furnishing of compensation under the provisions of this
24 chapter to an emergency worker or his or her dependents prevents such
25 emergency worker or his or her dependents from receiving assistance,
26 benefits, or other temporary or permanent relief under the provisions
27 of a federal statute or rule or regulation, then the emergency worker
28 and his or her dependents shall have no right to, and shall not
29 receive, any compensation from the state of Washington under the
30 provisions of this chapter for any injury for which the United States
31 or any agent thereof will furnish assistance, benefits, or other
32 temporary or permanent relief in the absence of the furnishing of
33 compensation by the state of Washington.

34 **Sec. 800.** RCW 38.52.400 and 1997 c 49 s 5 are each amended to read
35 as follows:

1 (1) The chief law enforcement officer of each political subdivision
2 shall be responsible for local search and rescue activities. Operation
3 of search and rescue activities shall be in accordance with state and
4 local operations plans adopted by the elected governing body of each
5 local political subdivision. These state and local plans must specify
6 the use of the incident command system for
7 multiagency/multijurisdiction search and rescue operations. The local
8 emergency management director shall notify the department of all search
9 and rescue missions. The local director of emergency management shall
10 work in a coordinating capacity directly supporting all search and
11 rescue activities in that political subdivision and in registering
12 emergency search and rescue workers for employee status. The chief law
13 enforcement officer of each political subdivision may restrict access
14 to a specific search and rescue area to personnel authorized by him or
15 her. Access shall be restricted only for the period of time necessary
16 to accomplish the search and rescue mission. No unauthorized person
17 shall interfere with a search and rescue mission.

18 (2) When search and rescue activities result in the discovery of a
19 deceased person or search and rescue workers assist in the recovery of
20 human remains, the chief law enforcement officer of the political
21 subdivision shall insure compliance with chapter 68.50 RCW.

22 **Sec. 801.** RCW 38.52.920 and 1951 c 178 s 17 are each amended to
23 read as follows:

24 Chapter 177, Laws of 1941, chapters 6 and 24, Laws of 1943, and
25 chapter 88, Laws of 1949 are repealed: PROVIDED, That this section
26 shall not affect the validity of any order, rule, regulation, contract,
27 or agreement made or promulgated under authority of the repealed acts,
28 which orders, rules, regulations, contracts, or agreements shall remain
29 in force until they may be repealed, amended, or superseded by orders,
30 rules, regulations, contracts, or agreements made or promulgated under
31 this chapter: PROVIDED FURTHER, That this section shall not affect the
32 tenure of any officer, employee, or person serving under authority of
33 any repealed act and such officer, employee, or person shall continue
34 in his or her position until such time as a successor is appointed or
35 employed under the provisions of this chapter.

1 terms of the construction contract, or, if the contract contains no
2 such provision for dispute resolution, the then obtaining rules of the
3 American arbitration association.

4 **Sec. 804.** RCW 39.08.065 and 1915 c 167 s 1 are each amended to
5 read as follows:

6 Every person, firm, or corporation furnishing materials, supplies,
7 or provisions to be used in the construction, performance, carrying on,
8 prosecution, or doing of any work for the state, or any county, city,
9 town, district, municipality, or other public body, shall, not later
10 than ten days after the date of the first delivery of such materials,
11 supplies, or provisions to any subcontractor or agent of any person,
12 firm, or corporation having a subcontract for the construction,
13 performance, carrying on, prosecution, or doing of such work, deliver
14 or mail to the contractor a notice in writing stating in substance and
15 effect that such person, firm, or corporation has commenced to deliver
16 materials, supplies, or provisions for use thereon, with the name of
17 the subcontractor or agent ordering or to whom the same is furnished
18 and that such contractor and his or her bond will be held for the
19 payment of the same, and no suit or action shall be maintained in any
20 court against the contractor or his or her bond to recover for such
21 material, supplies, or provisions or any part thereof unless the
22 provisions of this section have been complied with.

23 **Sec. 805.** RCW 39.34.150 and 1979 c 151 s 47 are each amended to
24 read as follows:

25 State agencies are authorized to advance funds to defray charges
26 for materials to be furnished or services to be rendered by other state
27 agencies. Such advances shall be made only upon the approval of the
28 director of financial management, or his or her order made pursuant to
29 an appropriate regulation requiring advances in certain cases. An
30 advance shall be made from the fund or appropriation available for the
31 procuring of such services or materials, to the state agency which is
32 to perform the services or furnish the materials, in an amount no
33 greater than the estimated charges therefor.

34 **Sec. 806.** RCW 39.40.030 and 1959 c 290 s 4 are each amended to
35 read as follows:

1 The election officials in each of the precincts included within any
2 such district shall, as soon as possible and in no case later than five
3 days after the closing of the polls of any election involving the
4 issuance of bonds, certify to the county auditor of the county within
5 which such district is located the total number of votes cast for and
6 against each separate proposal and the vote shall be canvassed and
7 certified by a canvassing board consisting of the ((~~chairman~~)) chair of
8 the board of county commissioners, the county auditor, and the
9 prosecuting attorney who shall declare the result thereof.

10 **Sec. 807.** RCW 39.44.102 and 1955 c 375 s 3 are each amended to
11 read as follows:

12 Where any bond so issued requires registration by the county
13 treasurer, that bond shall bear a statement on the back thereof showing
14 the name of the person to whom sold, date of issue, the number and
15 series of the bond, and shall be signed by the county treasurer in his
16 or her own name or by a deputy county treasurer in his or her own name.

17 **Sec. 808.** RCW 39.44.110 and 1983 c 167 s 108 are each amended to
18 read as follows:

19 Upon the presentation at the office of the officer or agent
20 hereinafter provided for, any bond which is bearer in form that has
21 heretofore been or may hereafter be issued by any county, city, town,
22 port, school district, or other municipal or quasi municipal
23 corporation in this state, may, if so provided in the proceedings
24 authorizing the issuance of the same, be registered as to principal in
25 the name of the owner upon the books of such municipality to be kept in
26 said office, such registration to be noted on the reverse of the bond
27 by such officer or agent. The principal of any bond so registered
28 shall be payable only to the payee, his or her legal representative,
29 successors or assigns, and such bond shall be transferable to another
30 registered holder or back to bearer only upon presentation to such
31 officer or agent, with a written assignment duly acknowledged or
32 proved. The name of the assignee shall be written upon any bond so
33 transferred and in the books so kept in the office of such officer or
34 agent.

1 **Sec. 809.** RCW 39.44.120 and 1983 c 167 s 109 are each amended to
2 read as follows:

3 If so provided in the proceedings authorizing the issuance of any
4 such bonds, upon the registration thereof as to principal, or at any
5 time thereafter, the coupons thereto attached, evidencing all interest
6 to be paid thereon to the date of maturity, may be surrendered to the
7 officer or agent hereinafter provided and the bonds shall also become
8 registered as to interest. Such coupons shall be canceled by such
9 officer or agent, who shall sign a statement endorsed upon such bond of
10 the cancellation of all unmatured coupons and the registration of such
11 bond. Thereafter the interest evidenced by such canceled coupons shall
12 be paid at the times provided therein to the registered owner of such
13 bond in lawful money of the United States of America mailed to his or
14 her address.

15 **Sec. 810.** RCW 39.56.030 and 1981 c 156 s 16 are each amended to
16 read as follows:

17 It shall be the duty of every public officer issuing public
18 warrants to make monthly investigation to ascertain the market value of
19 the current warrants issued by him or her, and he or she shall, so far
20 as practicable, fix the rate of interest on the warrants issued by him
21 or her during the ensuing month so that the par value shall be the
22 market value thereof.

23 **Sec. 811.** RCW 39.62.020 and 1969 c 86 s 2 are each amended to read
24 as follows:

25 Any authorized officer, after filing with the secretary of state
26 his or her manual signature certified by him or her under oath, may
27 execute or cause to be executed with a facsimile signature in lieu of
28 his or her manual signature:

29 (1) Any public security: PROVIDED, That at least one signature
30 required or permitted to be placed thereon shall be manually
31 subscribed, and

32 (2) Any instrument of payment.

33 Upon compliance with this chapter by the authorized officer, his or her
34 facsimile signature has the same legal effect as his or her manual
35 signature.

1 **Sec. 812.** RCW 39.64.080 and 1935 c 143 s 9 are each amended to
2 read as follows:

3 Such taxing district shall have power to consummate the plan of
4 readjustment, as adopted by the court's decree and approved by it as
5 aforesaid, and if such plan, as approved by such decree, so requires,
6 may, for such purpose, exercise any of the following powers:

7 (1) Cancel in whole or in part any assessments or any interest or
8 penalties assessed thereon which may be outstanding and a lien upon any
9 property in such taxing district, as and when such assessments are
10 replaced by the readjusted or revised assessments provided for in the
11 plan of readjustment approved by such decree.

12 (2) Issue refunding bonds to refund bonds theretofore issued by
13 such taxing district. Such refunding bonds shall have such
14 denominations, rates of interest, and maturities as shall be provided
15 in such plan of readjustment and shall be payable by special
16 assessments or by general taxes, according to the nature of the taxing
17 district, in the manner provided in such plan of readjustment and
18 decree.

19 (3) Apportion and levy new assessments or taxes appropriate in time
20 or times of payment to provide funds for the payment of principal and
21 interest of such refunding bonds, and of all expenses incurred by such
22 taxing district in filing the petition mentioned in RCW 39.64.040, and
23 any and all other expenses necessary or incidental to the consummation
24 of the plan of readjustment.

25 In the case of special assessment districts for the refunding of
26 whose debts no procedure is provided by existing laws, such assessments
27 shall be equitably apportioned and levied upon each lot, tract, or
28 parcel of real property within such taxing district, due consideration
29 being given to the relative extent to which the original apportionments
30 upon the various lots, tracts, or parcels of real property within such
31 taxing district have already been paid and due consideration also being
32 given to the capacity of the respective lots, tracts, or parcels of
33 real property to carry such charges against them. Before levying or
34 apportioning such assessment such taxing district or the officer or
35 officers, board, council, or commission mentioned in RCW 39.64.030
36 shall hold a hearing with reference thereto, notice of which hearing
37 shall be published once a week for four consecutive weeks in the
38 newspaper designated for the publication of legal notices by the

1 legislative body of the city or town, or by the board of county
2 commissioners of the county within which such taxing district or any
3 part thereof is located, or in any newspaper published in the city,
4 town, or county within which such taxing district or any part thereof
5 is located and of general circulation within such taxing district. At
6 such hearing every owner of real property within such taxing district
7 shall be given an opportunity to be heard with respect to the
8 apportionment and levy of such assessment.

9 (4) In the case of special assessment districts, of cities or
10 towns, provide that if any of the real property within such taxing
11 district shall not, on foreclosure of the lien of such new assessment
12 for delinquent assessments and penalties and interest thereon, be sold
13 for a sufficient amount to pay such delinquent assessments, penalties,
14 and interest, or if any real property assessed was not subject to
15 assessment, or if any assessment or installment or installments thereof
16 shall have been eliminated by foreclosure of a tax lien or made void in
17 any other manner, such taxing district shall cause a supplemental
18 assessment sufficient in amount to make up such deficiency to be made
19 on the real property within such taxing district, including real
20 property upon which any such assessment or any installment or
21 installments thereof shall have been so eliminated or made void. Such
22 supplemental assessment shall be apportioned to the various lots,
23 tracts, and parcels of real property within such taxing district in
24 proportion to the amounts apportioned thereto in the assessment
25 originally made under such plan of readjustment.

26 (5) Provide that refunding bonds may, at the option of the holders
27 thereof, be converted into warrants of such denominations and bearing
28 such rate of interest as may be provided in the plan of readjustment,
29 and that the new assessments mentioned in (~~subdivision~~) subsection
30 (3) of this section and the supplemental assessments mentioned in
31 (~~subdivision~~) subsection (4) of this section may be paid in refunding
32 bonds or warrants of such taxing district without regard to the serial
33 numbers thereof, or in money, at the option of the person paying such
34 assessments, such refunding bonds and warrants to be received at their
35 par value in payment of such assessments. In such case such refunding
36 bonds and warrants shall bear the following legend: "This bond (or
37 warrant) shall be accepted at its face value in payment of assessments
38 (including interest and penalties thereon) levied to pay the principal

1 and interest of the series of bonds and warrants of which this bond (or
2 warrant) is one without regard to the serial number appearing upon the
3 face hereof."

4 (6) Provide that all sums of money already paid to the treasurer of
5 such taxing district or other authorized officer in payment, in whole
6 or in part, of any assessment levied by or for such taxing district or
7 of interest or penalties thereon, shall be transferred by such
8 treasurer or other authorized officer to a new account and made
9 applicable to the payment of refunding bonds and warrants to be issued
10 under such plan of readjustment.

11 (7) Provide that such treasurer or other authorized officer shall
12 have authority to use funds in his or her possession not required for
13 payment of current interest of such bonds and warrants, to buy such
14 bonds and warrants in the open market through tenders or by call at the
15 lowest prices obtainable at or below par and accrued interest, without
16 preference of one bond or warrant over another because of its serial
17 number, or for any other cause other than the date and hour of such
18 tender or other offer and the amount which the owner of such bond or
19 warrant agrees to accept for it. In such case such refunding bonds and
20 warrants shall bear the following legend: "This bond (or warrant) may
21 be retired by tender or by call without regard to the serial number
22 appearing upon the face hereof."

23 (8) Provide that if, after the payment of all interest on refunding
24 bonds and warrants issued under any plan of readjustment adopted
25 pursuant to this chapter and chapter IX of the federal bankruptcy act
26 and the retirement of such bonds and warrants, there shall be remaining
27 in the hands of the treasurer or other authorized officer of the taxing
28 district which issued such bonds and warrants money applicable under
29 the provisions of this chapter to the payment of such interest, bonds,
30 and warrants, such money shall be applied by such treasurer or other
31 authorized officer to the maintenance, repair, and replacement of the
32 improvements originally financed by the bonds readjusted under this
33 chapter and the federal bankruptcy act.

34 (9) The above enumeration of powers shall not be deemed to exclude
35 powers not herein mentioned that may be necessary for or incidental to
36 the accomplishment of the purposes hereof.

1 **Sec. 813.** RCW 39.72.020 and 1965 ex.s. c 61 s 5 are each amended
2 to read as follows:

3 When a municipal corporation issues a duplicate instrument, as
4 authorized in this chapter, the issuing officer of such municipal
5 corporation shall keep a full and complete record of all warrants,
6 bonds, or other instruments alleged to have been lost or destroyed,
7 which were issued by such municipal corporation, and of the issue of
8 any duplicate therefor; and upon the issuance of any duplicate such
9 officer shall enter upon his or her books the cancellation of the
10 original instrument and immediately notify the treasurer of the county,
11 city or other municipal corporation, the state auditor, and all
12 trustees and paying agencies authorized to redeem such instruments on
13 behalf of the municipal corporation, of such cancellation. The
14 treasurer shall keep a similar list of all warrants, bonds, or other
15 instruments so canceled.

16 **Sec. 814.** RCW 39.84.100 and 1983 c 167 s 115 are each amended to
17 read as follows:

18 (1) The principal of and the interest on any revenue bonds issued
19 by a public corporation shall be payable solely from the funds provided
20 for this payment from the revenues of the industrial development
21 facilities funded by the revenue bonds. Each issue of revenue bonds
22 shall be dated, shall bear interest at such rate or rates, and shall
23 mature at such time or times as may be determined by the board of
24 directors, and may be made redeemable before maturity at such price or
25 prices and under such terms and conditions as may be fixed by the board
26 of directors prior to the issuance of the revenue bonds or other
27 revenue obligations.

28 (2) The board of directors shall determine the form and the manner
29 of execution of the revenue bonds and shall fix the denomination or
30 denominations of the revenue bonds and the place or places of payment
31 of principal and interest. If any officer whose signature or a
32 facsimile of whose signature appears on any revenue bonds or any
33 coupons ceases to be an officer before the delivery of the revenue
34 bonds, the signature shall for all purposes have the same effect as if
35 he or she had remained in office until delivery. The revenue bonds may
36 be issued in coupon or in registered form, as provided in RCW
37 39.46.030, or both as the board of directors may determine, and

1 provisions may be made for the registration of any coupon revenue bonds
2 as to the principal alone and also as to both principal and interest
3 and for the reconversion into coupon bonds of any bonds registered as
4 to both principal and interest. A public corporation may sell revenue
5 bonds at public or private sale for such price and bearing interest at
6 such fixed or variable rate as may be determined by the board of
7 directors.

8 (3) The proceeds of the revenue bonds of each issue shall be used
9 solely for the payment of all or part of the project cost of or for the
10 making of a loan in the amount of all or part of the project cost of
11 the industrial development facility for which authorized and shall be
12 disbursed in such manner and under such restrictions, if any, provided
13 in the resolution authorizing the issuance of the revenue bonds or in
14 the trust agreement securing the bonds. If the proceeds of the revenue
15 bonds of any series issued with respect to the cost of any industrial
16 development facility exceeds the cost of the industrial development
17 facility for which issued, the surplus shall be deposited to the credit
18 of the debt service fund for the revenue bonds or used to purchase
19 revenue bonds in the open market.

20 (4) A public corporation may issue interim notes in the manner
21 provided for the issuance of revenue bonds to fund industrial
22 development facilities prior to issuing other revenue bonds to fund
23 such facilities. A public corporation may issue revenue bonds to fund
24 industrial development facilities that are exchangeable for other
25 revenue bonds when these other revenue bonds are executed and available
26 for delivery.

27 (5) The principal of and interest on any revenue bonds issued by a
28 public corporation shall be secured by a pledge of unexpended bond
29 proceeds and the revenues and receipts received by the public
30 corporation from the industrial development facilities funded by the
31 revenue bonds pursuant to financing documents. The resolution under
32 which the revenue bonds are authorized to be issued and any financing
33 document may contain agreements and provisions respecting the
34 maintenance or use of the industrial development facility covered
35 thereby, the fixing and collection of rents, purchase price payments or
36 loan payments, the creation and maintenance of special funds from such
37 revenues or from revenue bond proceeds, the rights and remedies

1 available in the event of default, and other provisions relating to the
2 security for the bonds, all as the board of directors consider
3 advisable which are not in conflict with this chapter.

4 (6) The governing body of the municipality under whose auspices the
5 public corporation is created shall approve by resolution any agreement
6 to issue revenue bonds adopted by a public corporation, which agreement
7 and resolution shall set out the amount and purpose of the revenue
8 bonds. Additionally, no issue of revenue bonds, including refunding
9 bonds, may be sold and delivered by a public corporation without a
10 resolution of the governing body of the municipality under whose
11 auspices the public corporation is created, adopted no more than sixty
12 days before the date of sale of the revenue bonds specifically,
13 approving the resolution of the public corporation providing for the
14 issuance of the revenue bonds.

15 (7) All revenue bonds issued under this chapter and any interest
16 coupons applicable thereto are negotiable instruments within the
17 meaning of Article 8 of the Uniform Commercial Code, Title 62A RCW,
18 regardless of form or character.

19 (8) Notwithstanding subsections (1) and (2) of this section, such
20 bonds and interim notes may be issued and sold in accordance with
21 chapter 39.46 RCW.

22 **Sec. 815.** RCW 39.88.020 and 1982 1st ex.s. c 42 s 3 are each
23 amended to read as follows:

24 As used in this chapter the following terms have the following
25 meanings unless a different meaning is clearly indicated by the
26 context:

27 (1) "Apportionment district" means the geographic area, within an
28 urban area, from which regular property taxes are to be apportioned to
29 finance a public improvement contained therein.

30 (2) "Assessed value of real property" means the valuation of real
31 property as placed on the last completed assessment roll of the county.

32 (3) "City" means any city or town.

33 (4) "Ordinance" means any appropriate method of taking a
34 legislative action by a county or city, whether known as a statute,
35 resolution, ordinance, or otherwise.

36 (5) "Public improvement" means an undertaking to provide public
37 facilities in an urban area which the sponsor has authority to provide.

1 (6) "Public improvement costs" means the costs of design, planning,
2 acquisition, site preparation, construction, reconstruction,
3 rehabilitation, improvement, and installation of the public
4 improvement; costs of relocation, maintenance, and operation of
5 property pending construction of the public improvement; costs of
6 utilities relocated as a result of the public improvement; costs of
7 financing, including interest during construction, legal and other
8 professional services, taxes, and insurance; costs incurred by the
9 assessor to revalue real property for the purpose of determining the
10 tax allocation base value that are in excess of costs incurred by the
11 assessor in accordance with his or her revaluation plan under chapter
12 84.41 RCW, and the costs of apportioning the taxes and complying with
13 this chapter and other applicable law; and administrative costs
14 reasonably necessary and related to these costs. These costs may
15 include costs incurred prior to the adoption of the public improvement
16 ordinance, but subsequent to July 10, 1982.

17 (7) "Public improvement ordinance" means the ordinance passed under
18 RCW 39.88.040(4).

19 (8) "Regular property taxes" means regular property taxes as now or
20 hereafter defined in RCW 84.04.140, except regular property taxes
21 levied by port districts or public utility districts specifically for
22 the purpose of making required payments of principal and interest on
23 general indebtedness.

24 (9) "Sponsor" means any county or city initiating and undertaking
25 a public improvement.

26 (10) "Tax allocation base value of real property" means the true
27 and fair value of real property within an apportionment district for
28 the year in which the apportionment district was established.

29 (11) "Tax allocation bonds" means any bonds, notes, or other
30 obligations issued by a sponsor pursuant to section 10 of this act.

31 (12) "Tax allocation revenues" means those tax revenues allocated
32 to a sponsor under RCW 39.88.070(1)(b).

33 (13) "Taxing districts" means any governmental entity which levies
34 or has levied for it regular property taxes upon real property located
35 within a proposed or approved apportionment district.

36 (14) "Value of taxable property" means value of taxable property as
37 defined in RCW 39.36.015.

1 (15) "Urban area" means an area in a city or located outside of a
2 city that is characterized by intensive use of the land for the
3 location of structures and receiving such urban services as sewers,
4 water, and other public utilities and services normally associated with
5 urbanized areas. Not more than twenty-five percent of the area within
6 the urban area proposed apportionment district may be vacant land.

7 **Sec. 816.** RCW 40.10.010 and 1982 c 36 s 1 are each amended to read
8 as follows:

9 In order to provide for the continuity and preservation of civil
10 government, each elected and appointed officer of the state shall
11 designate those public documents which are essential records of his or
12 her office and needed in an emergency and for the reestablishment of
13 normal operations after any such emergency. A list of such records
14 shall be forwarded to the state archivist on forms prescribed by the
15 state archivist. This list shall be reviewed at least annually by the
16 elected or appointed officer to insure its completeness. Any changes
17 or revisions following this review shall be forwarded to the state
18 archivist. Each such elected and appointed officer of state government
19 shall insure that the security of essential records of his or her
20 office is by the most economical means commensurate with adequate
21 protection. Protection of essential records may be by vaulting,
22 planned or natural dispersal of copies, or any other method approved by
23 the state archivist. Reproductions of essential records may be by
24 photo copy, magnetic tape, microfilm, or other method approved by the
25 state archivist. Local government offices may coordinate the
26 protection of their essential records with the state archivist as
27 necessary to provide continuity of local government under emergency
28 conditions.

29 **Sec. 817.** RCW 40.14.030 and 2003 c 305 s 1 are each amended to
30 read as follows:

31 (1) All public records, not required in the current operation of
32 the office where they are made or kept, and all records of every
33 agency, commission, committee, or any other activity of state
34 government which may be abolished or discontinued, shall be transferred
35 to the state archives so that the valuable historical records of the
36 state may be centralized, made more widely available, and insured

1 permanent preservation: PROVIDED, That this section shall have no
2 application to public records approved for destruction under the
3 subsequent provisions of this chapter.

4 When so transferred, copies of the public records concerned shall
5 be made and certified by the archivist, which certification shall have
6 the same force and effect as though made by the officer originally in
7 charge of them. Fees may be charged to cover the cost of reproduction.
8 In turning over the archives of his or her office, the officer in
9 charge thereof, or his or her successor, thereby loses none of his or
10 her rights of access to them, without charge, whenever necessary.

11 (2) Records that are confidential, privileged, or exempt from
12 public disclosure under state or federal law while in the possession of
13 the originating agency, commission, board, committee, or other entity
14 of state or local government retain their confidential, privileged, or
15 exempt status after transfer to the state archives unless the
16 archivist, with the concurrence of the originating jurisdiction,
17 determines that the records must be made accessible to the public
18 according to proper and reasonable rules adopted by the secretary of
19 state, in which case the records may be open to inspection and
20 available for copying after the expiration of seventy-five years from
21 creation of the record. If the originating jurisdiction is no longer
22 in existence, the archivist shall make the determination of
23 availability according to such rules. If, while in the possession of
24 the originating agency, commission, board, committee, or other entity,
25 any record is determined to be confidential, privileged, or exempt from
26 public disclosure under state or federal law for a period of less than
27 seventy-five years, then the record, with the concurrence of the
28 originating jurisdiction, must be made accessible to the public upon
29 the expiration of the shorter period of time according to proper and
30 reasonable rules adopted by the secretary of state.

31 **Sec. 818.** RCW 40.14.040 and 1982 c 36 s 4 are each amended to read
32 as follows:

33 Each department or other agency of the state government shall
34 designate a records officer to supervise its records program and to
35 represent the office in all contacts with the records committee,
36 hereinafter created, and the division of archives and records
37 management. The records officer shall:

1 (1) Coordinate all aspects of the records management program.

2 (2) Inventory, or manage the inventory, of all public records at
3 least once during a biennium for disposition scheduling and transfer
4 action, in accordance with procedures prescribed by the state archivist
5 and state records committee: PROVIDED, That essential records shall be
6 inventoried and processed in accordance with chapter 40.10 RCW at least
7 annually.

8 (3) Consult with any other personnel responsible for maintenance of
9 specific records within his or her state organization regarding records
10 retention and transfer recommendations.

11 (4) Analyze records inventory data, examine and compare divisional
12 or unit inventories for duplication of records, and recommend to the
13 state archivist and state records committee minimal retentions for all
14 copies commensurate with legal, financial, and administrative needs.

15 (5) Approve all records inventory and destruction requests which
16 are submitted to the state records committee.

17 (6) Review established records retention schedules at least
18 annually to insure that they are complete and current.

19 (7) Exercise internal control over the acquisition of filming and
20 file equipment.

21 If a particular agency or department does not wish to transfer
22 records at a time previously scheduled therefor, the records officer
23 shall, within thirty days, notify the archivist and request a change in
24 such previously set schedule, including his or her reasons therefor.

25 **Sec. 819.** RCW 40.14.110 and 1971 ex.s. c 102 s 3 are each amended
26 to read as follows:

27 Nothing in RCW 40.14.010 and 40.14.100 through 40.14.180 shall
28 prohibit a legislator or legislative employee from contributing his or
29 her personal papers to any private library, public library, or the
30 state archives. The state archivist is authorized to receive papers of
31 legislators and legislative employees and is directed to encourage the
32 donation of such personal records to the state. The state archivist is
33 authorized to establish such guidelines and procedures for the
34 collection of personal papers and correspondence relating to the
35 legislature as he or she sees fit. Legislators and legislative
36 employees are encouraged to contribute their personal papers to the
37 state for preservation.

1 **Sec. 820.** RCW 40.14.130 and 1971 ex.s. c 102 s 5 are each amended
2 to read as follows:

3 The legislative committee (~~(chairman)~~) chair, subcommittee
4 (~~(chairman)~~) chair, committee member, or employed personnel of the
5 state legislature having possession of legislative records that are not
6 required for the regular performance of official duties shall, within
7 ten days after the adjournment sine die of a regular or special
8 session, deliver all such legislative records to the clerk of the house
9 or the secretary of the senate.

10 The clerk of the house and the secretary of the senate are charged
11 to include requirements and responsibilities for keeping committee
12 minutes and records as part of their instructions to committee
13 (~~(chairmen)~~) chairs and employees.

14 The clerk or the secretary, with the assistance of the state
15 archivist, shall classify and arrange the legislative records delivered
16 to the clerk or secretary in a manner that he or she considers best
17 suited to carry out the efficient and economical utilization,
18 maintenance, preservation, and disposition of the records. The clerk
19 or the secretary may deliver to the state archivist all legislative
20 records in his or her possession when such records have been classified
21 and arranged and are no longer needed by either house. The state
22 archivist shall thereafter be custodian of the records so delivered,
23 but shall deliver such records back to either the clerk or secretary
24 upon his or her request.

25 The (~~(chairman)~~) chair, member, or employee of a legislative
26 interim committee responsible for maintaining the legislative records
27 of that committee shall, on a scheduled basis agreed upon by the
28 (~~(chairman)~~) chair, member, or employee of the legislative interim
29 committee, deliver to the clerk or secretary all legislative records in
30 his or her possession, as long as such records are not required for the
31 regular performance of official duties. He or she shall also deliver
32 to the clerk or secretary all records of an interim committee within
33 ten days after the committee ceases to function.

34 **Sec. 821.** RCW 40.14.140 and 1971 ex.s. c 102 s 6 are each amended
35 to read as follows:

36 It shall be the duty of the clerk and the secretary to advise the
37 party caucuses in each house concerning the necessity to keep public

1 records. The state archivist or his or her representative shall work
2 with the clerk and secretary to provide information and instructions on
3 the best method for keeping legislative records.

4 **Sec. 822.** RCW 60.60.010 and 1927 c 144 s 1 are each amended to
5 read as follows:

6 Every person, firm, or corporation who, as a commission merchant,
7 carrier, wharfinger, or storage (~~warehouseman~~) warehouse operator,
8 shall make advances for freight, transportation, wharfage, or storage
9 upon the personal property of another, or shall carry or store such
10 personal property, shall have a lien thereon, so long as the same
11 remains in his or her possession, for the charges for advances,
12 freight, transportation, wharfage, or storage, and it shall be lawful
13 for such person, firm, or corporation to cause such property to be sold
14 as is herein in this chapter provided.

15 **Sec. 823.** RCW 62A.2-705 and 1965 ex.s. c 157 s 2-705 are each
16 amended to read as follows:

17 (1) The seller may stop delivery of goods in the possession of a
18 carrier or other bailee when he or she discovers the buyer to be
19 insolvent (RCW 62A.2-702) and may stop delivery of carload, truckload,
20 planeload, or larger shipments of express or freight when the buyer
21 repudiates or fails to make a payment due before delivery or if for any
22 other reason the seller has a right to withhold or reclaim the goods.

23 (2) As against such buyer the seller may stop delivery until:

24 (a) Receipt of the goods by the buyer; or

25 (b) Acknowledgment to the buyer by any bailee of the goods except
26 a carrier that the bailee holds the goods for the buyer; or

27 (c) Such acknowledgment to the buyer by a carrier by reshipment or
28 as (~~warehouseman~~) warehouse operator; or

29 (d) Negotiation to the buyer of any negotiable document of title
30 covering the goods.

31 (3)(a) To stop delivery the seller must so notify as to enable the
32 bailee by reasonable diligence to prevent delivery of the goods.

33 (b) After such notification the bailee must hold and deliver the
34 goods according to the directions of the seller but the seller is
35 liable to the bailee for any ensuing charges or damages.

1 (c) If a negotiable document of title has been issued for goods the
2 bailee is not obliged to obey a notification to stop until surrender of
3 the document.

4 (d) A carrier who has issued a nonnegotiable bill of lading is not
5 obliged to obey a notification to stop received from a person other
6 than the consignor.

7 **Sec. 824.** RCW 62A.2A-526 and 1993 c 230 s 2A-526 are each amended
8 to read as follows:

9 (1) A lessor may stop delivery of goods in the possession of a
10 carrier or other bailee if the lessor discovers the lessee to be
11 insolvent and may stop delivery of carload, truckload, planeload, or
12 larger shipments of express or freight if the lessee repudiates or
13 fails to make a payment due before delivery, whether for rent,
14 security, or otherwise under the lease contract, or for any other
15 reason the lessor has a right to withhold or take possession of the
16 goods.

17 (2) In pursuing its remedies under subsection (1) of this section,
18 the lessor may stop delivery until:

19 (a) Receipt of the goods by the lessee;

20 (b) Acknowledgment to the lessee by any bailee of the goods, except
21 a carrier, that the bailee holds the goods for the lessee; or

22 (c) Such an acknowledgment to the lessee by a carrier via
23 reshipment or as (~~warehouseman~~) warehouse operator.

24 (3)(a) To stop delivery, a lessor shall so notify as to enable the
25 bailee by reasonable diligence to prevent delivery of the goods.

26 (b) After notification, the bailee shall hold and deliver the goods
27 according to the directions of the lessor, but the lessor is liable to
28 the bailee for any ensuing charges or damages.

29 (c) A carrier who has issued a nonnegotiable bill of lading is not
30 obliged to obey a notification to stop received from a person other
31 than the consignor.

32 **Sec. 825.** RCW 62A.7-102 and 1965 ex.s. c 157 s 7-102 are each
33 amended to read as follows:

34 (1) In this Article, unless the context otherwise requires:

35 (a) "Bailee" means the person who by a warehouse receipt, bill of

1 lading, or other document of title acknowledges possession of goods and
2 contracts to deliver them.

3 (b) "Consignee" means the person named in a bill to whom or to
4 whose order the bill promises delivery.

5 (c) "Consignor" means the person named in a bill as the person from
6 whom the goods have been received for shipment.

7 (d) "Delivery order" means a written order to deliver goods
8 directed to a (~~warehouseman~~) warehouse operator, carrier, or other
9 person who in the ordinary course of business issues warehouse receipts
10 or bills of lading.

11 (e) "Document" means document of title as defined in the general
12 definitions in Article 1 (RCW 62A.1-201).

13 (f) "Goods" means all things which are treated as movable for the
14 purposes of a contract of storage or transportation.

15 (g) "Issuer" means a bailee who issues a document except that in
16 relation to an unaccepted delivery order it means the person who orders
17 the possessor of goods to deliver. Issuer includes any person for whom
18 an agent or employee purports to act in issuing a document if the agent
19 or employee has real or apparent authority to issue documents,
20 notwithstanding that the issuer received no goods or that the goods
21 were misdescribed or that in any other respect the agent or employee
22 violated his or her instructions.

23 (h) (~~"Warehouseman"~~) "Warehouse operator" is a person engaged in
24 the business of storing goods for hire.

25 (2) Other definitions applying to this Article or to specified
26 Parts thereof, and the sections in which they appear are:

27 "Duly negotiate." RCW 62A.7-501.

28 "Person entitled under the document." RCW 62A.7-403(4).

29 (3) Definitions in other Articles applying to this Article and the
30 sections in which they appear are:

31 "Contract for sale." RCW 62A.2-106.

32 "Overseas." RCW 62A.2-323.

33 "Receipt" of goods. RCW 62A.2-103.

34 (4) In addition Article 1 contains general definitions and
35 principles of construction and interpretation applicable throughout
36 this Article.

1 **Sec. 826.** RCW 62A.7-201 and 1965 ex.s. c 157 s 7-201 are each
2 amended to read as follows:

3 (1) A warehouse receipt may be issued by any ((warehouseman))
4 warehouse operator.

5 (2) Where goods including distilled spirits and agricultural
6 commodities are stored under a statute requiring a bond against
7 withdrawal or a license for the issuance of receipts in the nature of
8 warehouse receipts, a receipt issued for the goods has like effect as
9 a warehouse receipt even though issued by a person who is the owner of
10 the goods and is not a ((warehouseman)) warehouse operator.

11 **Sec. 827.** RCW 62A.7-202 and 2000 c 58 s 1 are each amended to read
12 as follows:

13 (1) A warehouse receipt need not be in any particular form.

14 (2) Unless a warehouse receipt embodies within its written,
15 printed, or electronic terms each of the following, the
16 ((warehouseman)) warehouse operator is liable for damages caused by the
17 omission to a person injured thereby:

18 (a) The location of the warehouse where the goods are stored;

19 (b) The date of issue of the receipt;

20 (c) The consecutive number of the receipt;

21 (d) A statement whether the goods received will be delivered to the
22 bearer, to a specified person, or to a specified person or his or her
23 order;

24 (e) The rate of storage and handling charges, except that where
25 goods are stored under a field warehousing arrangement a statement of
26 that fact is sufficient on a nonnegotiable receipt;

27 (f) A description of the goods or of the packages containing them;

28 (g) The signature of the ((warehouseman)) warehouse operator, which
29 may be made by his or her authorized agent;

30 (h) If the receipt is issued for goods of which the
31 ((warehouseman)) warehouse operator is owner, either solely or jointly
32 or in common with others, the fact of such ownership; and

33 (i) A statement of the amount of advances made and of liabilities
34 incurred for which the ((warehouseman)) warehouse operator claims a
35 lien or security interest (RCW 62A.7-209). If the precise amount of
36 such advances made or of such liabilities incurred is, at the time of
37 the issue of the receipt, unknown to the ((warehouseman)) warehouse

1 operator or to his or her agent who issues it, a statement of the fact
2 that advances have been made or liabilities incurred and the purpose
3 thereof is sufficient.

4 (3) A (~~warehouseman~~) warehouse operator may insert in his or her
5 receipt any other terms which are not contrary to the provisions of
6 this Title and do not impair his or her obligation of delivery (RCW
7 62A.7-403) or his or her duty of care (RCW 62A.7-204). Any contrary
8 provisions shall be ineffective.

9 **Sec. 828.** RCW 62A.7-204 and 2009 c 549 s 1016 are each amended to
10 read as follows:

11 (1) A warehouse (~~worker~~) operator is liable for damages for loss
12 of or injury to the goods caused by his or her failure to exercise such
13 care in regard to them as a reasonably careful person would exercise
14 under like circumstances but unless otherwise agreed he or she is not
15 liable for damages which could not have been avoided by the exercise of
16 such care.

17 (2) Damages may be limited by a term in the warehouse receipt or
18 storage agreement limiting the amount of liability in case of loss or
19 damage, and setting forth a specific liability per article or item, or
20 value per unit of weight, beyond which the warehouse (~~worker~~)
21 operator shall not be liable; provided, however, that such liability
22 may on written request of the bailor at the time of signing such
23 storage agreement or within a reasonable time after receipt of the
24 warehouse receipt be increased on part or all of the goods thereunder,
25 in which event increased rates may be charged based on such increased
26 valuation, but that no such increase shall be permitted contrary to a
27 lawful limitation of liability contained in the warehouse (~~worker's~~)
28 operator's tariff, if any. No such limitation is effective with
29 respect to the warehouse (~~worker's~~) operator's liability for
30 conversion to his or her own use.

31 (3) Reasonable provisions as to the time and manner of presenting
32 claims and instituting actions based on the bailment may be included in
33 the warehouse receipt or tariff.

34 (4) This section does not impair or repeal the duties of care or
35 liabilities or penalties for breach thereof as provided in chapters
36 22.09 and 22.32 RCW.

1 **Sec. 829.** RCW 62A.7-205 and 1965 ex.s. c 157 s 7-205 are each
2 amended to read as follows:

3 A buyer in the ordinary course of business of fungible goods sold
4 and delivered by a ((~~warehouseman~~)) warehouse operator who is also in
5 the business of buying and selling such goods takes free of any claim
6 under a warehouse receipt even though it has been duly negotiated.

7 **Sec. 830.** RCW 62A.7-206 and 1965 ex.s. c 157 s 7-206 are each
8 amended to read as follows:

9 (1) A ((~~warehouseman~~)) warehouse operator may on notifying the
10 person on whose account the goods are held and any other person known
11 to claim an interest in the goods require payment of any charges and
12 removal of the goods from the warehouse at the termination of the
13 period of storage fixed by the document, or, if no period is fixed,
14 within a stated period not less than thirty days after the
15 notification. If the goods are not removed before the date specified
16 in the notification, the ((~~warehouseman~~)) warehouse operator may sell
17 them in accordance with the provisions of the section on enforcement of
18 a ((~~warehouseman's~~)) warehouse operator's lien (RCW 62A.7-210).

19 (2) If a ((~~warehouseman~~)) warehouse operator in good faith believes
20 that the goods are about to deteriorate or decline in value to less
21 than the amount of his or her lien within the time prescribed in
22 subsection (1) of this section for notification, advertisement, and
23 sale, the ((~~warehouseman~~)) warehouse operator may specify in the
24 notification any reasonable shorter time for removal of the goods and
25 in case the goods are not removed, may sell them at public sale held
26 not less than one week after a single advertisement or posting.

27 (3) If as a result of a quality or condition of the goods of which
28 the ((~~warehouseman~~)) warehouse operator had no notice at the time of
29 deposit the goods are a hazard to other property or to the warehouse or
30 to persons, the ((~~warehouseman~~)) warehouse operator may sell the goods
31 at public or private sale without advertisement on reasonable
32 notification to all persons known to claim an interest in the goods.
33 If the ((~~warehouseman~~)) warehouse operator after a reasonable effort is
34 unable to sell the goods he or she may dispose of them in any lawful
35 manner and shall incur no liability by reason of such disposition.

36 (4) The ((~~warehouseman~~)) warehouse operator must deliver the goods

1 to any person entitled to them under this Article upon due demand made
2 at any time prior to sale or other disposition under this section.

3 (5) The ((~~warehouseman~~)) warehouse operator may satisfy his or her
4 lien from the proceeds of any sale or disposition under this section
5 but must hold the balance for delivery on the demand of any person to
6 whom he or she would have been bound to deliver the goods.

7 **Sec. 831.** RCW 62A.7-207 and 1965 ex.s. c 157 s 7-207 are each
8 amended to read as follows:

9 (1) Unless the warehouse receipt otherwise provides, a
10 ((~~warehouseman~~)) warehouse operator must keep separate the goods
11 covered by each receipt so as to permit at all times identification and
12 delivery of those goods except that different lots of fungible goods
13 may be commingled.

14 (2) Fungible goods so commingled are owned in common by the persons
15 entitled thereto and the ((~~warehouseman~~)) warehouse operator is
16 severally liable to each owner for that owner's share. Where because
17 of over-issue a mass of fungible goods is insufficient to meet all the
18 receipts which the ((~~warehouseman~~)) warehouse operator has issued
19 against it, the persons entitled include all holders to whom overissued
20 receipts have been duly negotiated.

21 **Sec. 832.** RCW 62A.7-209 and 1987 c 395 s 1 are each amended to
22 read as follows:

23 (1) A ((~~warehouseman~~)) warehouse operator has a lien against the
24 bailor on the goods covered by a warehouse receipt or on the proceeds
25 thereof in his or her possession for charges for storage or
26 transportation (including demurrage and terminal charges), insurance,
27 labor, or charges present or future in relation to the goods, and for
28 expenses necessary for preservation of the goods or reasonably incurred
29 in their sale pursuant to law. If the person on whose account the
30 goods are held is liable for like charges or expenses in relation to
31 other goods whenever deposited and it is stated in the receipt that a
32 lien is claimed for charges and expenses in relation to other goods,
33 the ((~~warehouseman~~)) warehouse operator also has a lien against him or
34 her for such charges and expenses whether or not the other goods have
35 been delivered by the ((~~warehouseman~~)) warehouse operator. But against
36 a person to whom a negotiable warehouse receipt is duly negotiated a

1 ((warehouseman's)) warehouse operator's lien is limited to charges in
2 an amount or at a rate specified on the receipt or if no charges are so
3 specified then to a reasonable charge for storage of the goods covered
4 by the receipt subsequent to the date of the receipt. A
5 ((warehouseman's)) warehouse operator's lien as provided in this
6 chapter takes priority over all other liens and perfected or
7 unperfected security interests.

8 (2) The ((warehouseman)) warehouse operator may also reserve a
9 security interest against the bailor for a maximum amount specified on
10 the receipt for charges other than those specified in subsection (1) of
11 this section, such as for money advanced and interest. Such a security
12 interest is governed by the Article on Secured Transactions (Article
13 9).

14 (3) A ((warehouseman's)) warehouse operator's lien for charges and
15 expenses under subsection (1) of this section or a security interest
16 under subsection (2) of this section is also effective against any
17 person who so entrusted the bailor with possession of the goods that a
18 pledge of them by him or her to a good faith purchaser for value would
19 have been valid but is not effective against a person as to whom the
20 document confers no right in the goods covered by it under RCW 62A.7-
21 503.

22 (4) A ((warehouseman)) warehouse operator loses his or her lien on
23 any goods which he or she voluntarily delivers or which he or she
24 unjustifiably refuses to deliver.

25 **Sec. 833.** RCW 62A.7-210 and 1965 ex.s. c 157 s 7-210 are each
26 amended to read as follows:

27 (1) Except as provided in subsection (2) of this section, a
28 ((warehouseman's)) warehouse operator's lien may be enforced by public
29 or private sale of the goods in bloc or in parcels, at any time or
30 place and on any terms which are commercially reasonable, after
31 notifying all persons known to claim an interest in the goods. Such
32 notification must include a statement of the amount due, the nature of
33 the proposed sale and the time and place of any public sale. The fact
34 that a better price could have been obtained by a sale at a different
35 time or in a different method from that selected by the
36 ((warehouseman)) warehouse operator is not of itself sufficient to
37 establish that the sale was not made in a commercially reasonable

1 manner. If the (~~warehouseman~~) warehouse operator either sells the
2 goods in the usual manner in any recognized market therefor, or if he
3 or she sells at the price current in such market at the time of his or
4 her sale, or if he or she has otherwise sold in conformity with
5 commercially reasonable practices among dealers in the type of goods
6 sold, he or she has sold in a commercially reasonable manner. A sale
7 of more goods than apparently necessary to be offered to insure
8 satisfaction of the obligation is not commercially reasonable except in
9 cases covered by the preceding sentence.

10 (2) A (~~warehouseman's~~) warehouse operator's lien on goods other
11 than goods stored by a merchant in the course of his or her business
12 may be enforced only as follows:

13 (a) All persons known to claim an interest in the goods must be
14 notified.

15 (b) The notification must be delivered in person or sent by
16 registered or certified letter to the last known address of any person
17 to be notified.

18 (c) The notification must include an itemized statement of the
19 claim, a description of the goods subject to the lien, a demand for
20 payment within a specified time not less than ten days after receipt of
21 the notification, and a conspicuous statement that unless the claim is
22 paid within that time the goods will be advertised for sale and sold by
23 auction at a specified time and place.

24 (d) The sale must conform to the terms of the notification.

25 (e) The sale must be held at the nearest suitable place to that
26 where the goods are held or stored.

27 (f) After the expiration of the time given in the notification, an
28 advertisement of the sale must be published once a week for two weeks
29 consecutively in a newspaper of general circulation where the sale is
30 to be held. The advertisement must include a description of the goods,
31 the name of the person on whose account they are being held, and the
32 time and place of the sale. The sale must take place at least fifteen
33 days after the first publication. If there is no newspaper of general
34 circulation where the sale is to be held, the advertisement must be
35 posted at least ten days before the sale in not less than six
36 conspicuous places in the neighborhood of the proposed sale.

37 (3) Before any sale pursuant to this section any person claiming a
38 right in the goods may pay the amount necessary to satisfy the lien and

1 the reasonable expenses incurred under this section. In that event the
2 goods must not be sold, but must be retained by the ((warehouseman))
3 warehouse operator subject to the terms of the receipt and this
4 Article.

5 (4) The ((warehouseman)) warehouse operator may buy at any public
6 sale pursuant to this section.

7 (5) A purchaser in good faith of goods sold to enforce a
8 ((warehouseman's)) warehouse operator's lien takes the goods free of
9 any rights of persons against whom the lien was valid, despite
10 noncompliance by the ((warehouseman)) warehouse operator with the
11 requirements of this section.

12 (6) The ((warehouseman)) warehouse operator may satisfy his or her
13 lien from the proceeds of any sale pursuant to this section but must
14 hold the balance, if any, for delivery on demand to any person to whom
15 he or she would have been bound to deliver the goods.

16 (7) The rights provided by this section shall be in addition to all
17 other rights allowed by law to a creditor against his or her debtor.

18 (8) Where a lien is on goods stored by a merchant in the course of
19 his or her business the lien may be enforced in accordance with either
20 subsection (1) or (2) of this section.

21 (9) The ((warehouseman)) warehouse operator is liable for damages
22 caused by failure to comply with the requirements for sale under this
23 section and in case of willful violation is liable for conversion.

24 **Sec. 834.** RCW 62A.7-401 and 1965 ex.s. c 157 s 7-401 are each
25 amended to read as follows:

26 The obligations imposed by this Article on an issuer apply to a
27 document of title regardless of the fact that:

28 (a) The document may not comply with the requirements of this
29 Article or of any other law or regulation regarding its issue, form, or
30 content; or

31 (b) The issuer may have violated laws regulating the conduct of his
32 or her business; or

33 (c) The goods covered by the document were owned by the bailee at
34 the time the document was issued; or

35 (d) The person issuing the document does not come within the
36 definition of ((warehouseman)) warehouse operator if it purports to be
37 a warehouse receipt.

1 **Sec. 835.** RCW 62A.7-403 and 1965 ex.s. c 157 s 7-403 are each
2 amended to read as follows:

3 (1) The bailee must deliver the goods to a person entitled under
4 the document who complies with subsections (2) and (3) of this section,
5 unless and to the extent that the bailee establishes any of the
6 following:

7 (a) Delivery of the goods to a person whose receipt was rightful as
8 against the claimant;

9 (b) Damage to or delay, loss, or destruction of the goods for which
10 the bailee is not liable;

11 (c) Previous sale or other disposition of the goods in lawful
12 enforcement of a lien or on (~~warehouseman's~~) warehouse operator's
13 lawful termination of storage;

14 (d) The exercise by a seller of his or her right to stop delivery
15 pursuant to the provisions of the Article on Sales (RCW 62A.2-705);

16 (e) A diversion, reconsignment, or other disposition pursuant to
17 the provisions of this Article (RCW 62A.7-303) or tariff regulating
18 such right;

19 (f) Release, satisfaction, or any other fact affording a personal
20 defense against the claimant;

21 (g) Any other lawful excuse.

22 (2) A person claiming goods covered by a document of title must
23 satisfy the bailee's lien where the bailee so requests or where the
24 bailee is prohibited by law from delivering the goods until the charges
25 are paid.

26 (3) Unless the person claiming is one against whom the document
27 confers no right under RCW 62A.7-503(1), he or she must surrender for
28 cancellation or notation of partial deliveries any outstanding
29 negotiable document covering the goods, and the bailee must cancel the
30 document or conspicuously note the partial delivery thereon or be
31 liable to any person to whom the document is duly negotiated.

32 (4) "Person entitled under the document" means holder in the case
33 of a negotiable document, or the person to whom delivery is to be made
34 by the terms of or pursuant to written instructions under a
35 nonnegotiable document.

36 **Sec. 836.** RCW 69.25.150 and 2003 c 53 s 317 are each amended to
37 read as follows:

1 (1)(a) Except as provided in (b) of this subsection, any person
2 violating any provision of this chapter or any rule adopted under this
3 chapter is guilty of a misdemeanor.

4 (b) A second or subsequent violation is a gross misdemeanor. Any
5 offense committed more than five years after a previous conviction
6 shall be considered a first offense.

7 (2) Whenever the director finds that a person has committed a
8 violation of any of the provisions of this chapter, and that violation
9 has not been punished pursuant to subsection (1) of this section, the
10 director may impose upon and collect from the violator a civil penalty
11 not exceeding one thousand dollars per violation per day. Each
12 violation shall be a separate and distinct offense.

13 (3) When construing or enforcing the provisions of RCW 69.25.110,
14 the act, omission, or failure of any person acting for or employed by
15 any individual, partnership, corporation, or association within the
16 scope of the person's employment or office shall in every case be
17 deemed the act, omission, or failure of such individual, partnership,
18 corporation, or association, as well as of such person.

19 (4) No carrier or ((warehouseman)) warehouse operator shall be
20 subject to the penalties of this chapter, other than the penalties for
21 violation of RCW 69.25.140, or 69.25.155, by reason of his or her
22 receipt, carriage, holding, or delivery, in the usual course of
23 business, as a carrier or ((warehouseman)) warehouse operator of eggs
24 or egg products owned by another person unless the carrier or
25 ((warehouseman)) warehouse operator has knowledge, or is in possession
26 of facts which would cause a reasonable person to believe that such
27 eggs or egg products were not eligible for transportation under, or
28 were otherwise in violation of, this chapter, or unless the carrier or
29 ((warehouseman)) warehouse operator refuses to furnish on request of a
30 representative of the director the name and address of the person from
31 whom he or she received such eggs or egg products and copies of all
32 documents, if there be any, pertaining to the delivery of the eggs or
33 egg products to, or by, such carrier or ((warehouseman)) warehouse
34 operator.

35 **Sec. 837.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read
36 as follows:

37 (1) It shall be unlawful for any person to sell, deliver, or

1 possess any legend drug except upon the order or prescription of a
2 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
3 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
4 RCW who is certified by the optometry board under RCW 18.53.010, a
5 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
6 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
7 commissioned medical or dental officer in the United States armed
8 forces or public health service in the discharge of his or her official
9 duties, a duly licensed physician or dentist employed by the veterans
10 administration in the discharge of his or her official duties, a
11 registered nurse or advanced registered nurse practitioner under
12 chapter 18.79 RCW when authorized by the nursing care quality assurance
13 commission, an osteopathic physician assistant under chapter 18.57A RCW
14 when authorized by the board of osteopathic medicine and surgery, a
15 physician assistant under chapter 18.71A RCW when authorized by the
16 medical quality assurance commission, or any of the following
17 professionals in any province of Canada that shares a common border
18 with the state of Washington or in any state of the United States: A
19 physician licensed to practice medicine and surgery or a physician
20 licensed to practice osteopathic medicine and surgery, a dentist
21 licensed to practice dentistry, a podiatric physician and surgeon
22 licensed to practice podiatric medicine and surgery, a licensed
23 advanced registered nurse practitioner, or a veterinarian licensed to
24 practice veterinary medicine: PROVIDED, HOWEVER, That the above
25 provisions shall not apply to sale, delivery, or possession by drug
26 wholesalers or drug manufacturers, or their agents or employees, or to
27 any practitioner acting within the scope of his or her license, or to
28 a common or contract carrier or (~~warehouseman~~) warehouse operator, or
29 any employee thereof, whose possession of any legend drug is in the
30 usual course of business or employment: PROVIDED FURTHER, That nothing
31 in this chapter or chapter 18.64 RCW shall prevent a family planning
32 clinic that is under contract with the department of social and health
33 services from selling, delivering, possessing, and dispensing
34 commercially prepackaged oral contraceptives prescribed by authorized,
35 licensed health care practitioners.

36 (2)(a) A violation of this section involving the sale, delivery, or
37 possession with intent to sell or deliver is a class B felony
38 punishable according to chapter 9A.20 RCW.

1 (b) A violation of this section involving possession is a
2 misdemeanor.

3 **Sec. 838.** RCW 69.43.135 and 2006 c 188 s 1 are each amended to
4 read as follows:

5 (1) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Iodine matrix" means iodine at a concentration greater than
8 two percent by weight in a matrix or solution.

9 (b) "Matrix" means something, as a substance, in which something
10 else originates, develops, or is contained.

11 (c) "Methylsulfonylmethane" means methylsulfonylmethane in its
12 powder form only, and does not include products containing
13 methylsulfonylmethane in other forms such as liquids, tablets, capsules
14 not containing methylsulfonylmethane in pure powder form, ointments,
15 creams, cosmetics, foods, and beverages.

16 (2) Any person who knowingly purchases in a thirty-day period or
17 possesses any quantity of iodine in its elemental form, an iodine
18 matrix, or more than two pounds of methylsulfonylmethane is guilty of
19 a gross misdemeanor, except as provided in subsection (3) of this
20 section.

21 (3) Subsection (2) of this section does not apply to:

22 (a) A person who possesses iodine in its elemental form or an
23 iodine matrix as a prescription drug, under a prescription issued by a
24 licensed veterinarian, physician, or advanced registered nurse
25 practitioner;

26 (b) A person who possesses iodine in its elemental form, an iodine
27 matrix, or any quantity of methylsulfonylmethane in its powder form and
28 is actively engaged in the practice of animal husbandry of livestock;

29 (c) A person who possesses iodine in its elemental form or an
30 iodine matrix in conjunction with experiments conducted in a chemistry
31 or chemistry-related laboratory maintained by a:

32 (i) Public or private secondary school;

33 (ii) Public or private institution of higher education that is
34 accredited by a regional or national accrediting agency recognized by
35 the United States department of education;

36 (iii) Manufacturing facility, government agency, or research
37 facility in the course of lawful business activities;

1 (d) A veterinarian, physician, advanced registered nurse
2 practitioner, pharmacist, retail distributor, wholesaler, manufacturer,
3 (~~warehouseman~~) warehouse operator, or common carrier, or an agent of
4 any of these persons who possesses iodine in its elemental form, an
5 iodine matrix, or methylsulfonylmethane in its powder form in the
6 regular course of lawful business activities; or

7 (e) A person working in a general hospital who possesses iodine in
8 its elemental form or an iodine matrix in the regular course of
9 employment at the hospital.

10 (4) Any person who purchases any quantity of iodine in its
11 elemental form, an iodine matrix, or any quantity of
12 methylsulfonylmethane must present an identification card or driver's
13 license issued by any state in the United States or jurisdiction of
14 another country before purchasing the item.

15 (5) The Washington state patrol shall develop a form to be used in
16 recording transactions involving iodine in its elemental form, an
17 iodine matrix, or methylsulfonylmethane. A person who sells or
18 otherwise transfers any quantity of iodine in its elemental form, an
19 iodine matrix, or any quantity of methylsulfonylmethane to a person for
20 any purpose authorized in subsection (3) of this section must record
21 each sale or transfer. The record must be made on the form developed
22 by the Washington state patrol and must be retained by the person for
23 at least three years. The Washington state patrol or any local law
24 enforcement agency may request access to the records((+)).

25 (a) Failure to make or retain a record required under this
26 subsection is a misdemeanor.

27 (b) Failure to comply with a request for access to records required
28 under this subsection to the Washington state patrol or a local law
29 enforcement agency is a misdemeanor.

30 **Sec. 839.** RCW 69.50.302 and 1993 c 187 s 16 are each amended to
31 read as follows:

32 (a) Every person who manufactures, distributes, or dispenses any
33 controlled substance within this state or who proposes to engage in the
34 manufacture, distribution, or dispensing of any controlled substance
35 within this state, shall obtain annually a registration issued by the
36 department in accordance with the board's rules.

1 (b) A person registered by the department under this chapter to
2 manufacture, distribute, dispense, or conduct research with controlled
3 substances may possess, manufacture, distribute, dispense, or conduct
4 research with those substances to the extent authorized by the
5 registration and in conformity with this Article.

6 (c) The following persons need not register and may lawfully
7 possess controlled substances under this chapter:

8 (1) An agent or employee of any registered manufacturer,
9 distributor, or dispenser of any controlled substance if the agent or
10 employee is acting in the usual course of business or employment. This
11 exemption shall not include any agent or employee distributing sample
12 controlled substances to practitioners without an order;

13 (2) A common or contract carrier or (~~warehouseman~~) warehouse
14 operator, or an employee thereof, whose possession of any controlled
15 substance is in the usual course of business or employment;

16 (3) An ultimate user or a person in possession of any controlled
17 substance pursuant to a lawful order of a practitioner or in lawful
18 possession of a substance included in Schedule V.

19 (d) The board may waive by rule the requirement for registration of
20 certain manufacturers, distributors, or dispensers upon finding it
21 consistent with the public health and safety. Personal practitioners
22 licensed or registered in the state of Washington under the respective
23 professional licensing acts shall not be required to be registered
24 under this chapter unless the specific exemption is denied pursuant to
25 RCW 69.50.305 for violation of any provisions of this chapter.

26 (e) A separate registration is required at each principal place of
27 business or professional practice where the applicant manufactures,
28 distributes, or dispenses controlled substances.

29 (f) The department may inspect the establishment of a registrant or
30 applicant for registration in accordance with rules adopted by the
31 board.

32 **Sec. 840.** RCW 70.74.300 and 1969 ex.s. c 137 s 26 are each amended
33 to read as follows:

34 Every person who shall put up for sale, or who shall deliver to any
35 (~~warehouseman~~) warehouse operator, dock, depot, or common carrier any
36 package, cask, or can containing any explosive, nitroglycerin,

1 dynamite, or powder, without having been properly labeled thereon to
2 indicate its explosive classification, shall be guilty of a gross
3 misdemeanor.

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