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HOUSE BILL 1793

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Parker, Orwall, Hawkins, Fagan, Ryu, O'Ban,  
Moscoso, Bergquist, and Santos

Read first time 02/08/13. Referred to Committee on Public Safety.

1            AN ACT Relating to criminal profiteering; and amending RCW  
2            9A.82.010.

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

4            **Sec. 1.** RCW 9A.82.010 and 2012 c 139 s 1 are each amended to read  
5            as follows:

6            Unless the context requires the contrary, the definitions in this  
7            section apply throughout this chapter.

8            (1)(a) "Beneficial interest" means:

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

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

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

18           (b) "Beneficial interest" does not include the interest of a

1 stockholder in a corporation or the interest of a partner in a general  
2 partnership or limited partnership.

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

5 (2) "Control" means the possession of a sufficient interest to  
6 permit substantial direction over the affairs of an enterprise.

7 (3) "Creditor" means a person making an extension of credit or a  
8 person claiming by, under, or through a person making an extension of  
9 credit.

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

- 18 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 19 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 20 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 21 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 22 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060,  
23 9A.56.080, and 9A.56.083;
- 24 (f) Unlawful sale of subscription television services, as defined  
25 in RCW 9A.56.230;
- 26 (g) Theft of telecommunication services or unlawful manufacture of  
27 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 28 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 29 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
30 9A.68.050;
- 31 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 32 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 33 (l) Unlawful production of payment instruments, unlawful possession  
34 of payment instruments, unlawful possession of a personal  
35 identification device, unlawful possession of fictitious  
36 identification, or unlawful possession of instruments of financial  
37 fraud, as defined in RCW 9A.56.320;
- 38 (m) Extortionate extension of credit, as defined in RCW 9A.82.020;

1 (n) Advancing money for use in an extortionate extension of credit,  
2 as defined in RCW 9A.82.030;

3 (o) Collection of an extortionate extension of credit, as defined  
4 in RCW 9A.82.040;

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

6 (q) Delivery or manufacture of controlled substances or possession  
7 with intent to deliver or manufacture controlled substances under  
8 chapter 69.50 RCW;

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

10 (s) Leading organized crime, as defined in RCW 9A.82.060;

11 (t) Money laundering, as defined in RCW 9A.83.020;

12 (u) Obstructing criminal investigations or prosecutions in  
13 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
14 9A.76.070, or 9A.76.180;

15 (v) Fraud in the purchase or sale of securities, as defined in RCW  
16 21.20.010;

17 (w) Promoting pornography, as defined in RCW 9.68.140;

18 (x) Sexual exploitation of children, as defined in RCW 9.68A.040,  
19 9.68A.050, and 9.68A.060;

20 (y) Promoting prostitution, as defined in RCW 9A.88.070 and  
21 9A.88.080;

22 (z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

23 (aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

24 (bb) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

25 (cc) A pattern of equity skimming, as defined in RCW 61.34.020;

26 (dd) Commercial telephone solicitation in violation of RCW  
27 19.158.040(1);

28 (ee) Trafficking in insurance claims, as defined in RCW 48.30A.015;

29 (ff) Unlawful practice of law, as defined in RCW 2.48.180;

30 (gg) Commercial bribery, as defined in RCW 9A.68.060;

31 (hh) Health care false claims, as defined in RCW 48.80.030;

32 (ii) Unlicensed practice of a profession or business, as defined in  
33 RCW 18.130.190(7);

34 (jj) Improperly obtaining financial information, as defined in RCW  
35 9.35.010;

36 (kk) Identity theft, as defined in RCW 9.35.020;

37 (ll) Unlawful shipment of cigarettes in violation of RCW  
38 70.155.105(6) (a) or (b);

1 (mm) Unlawful shipment of cigarettes in violation of RCW  
2 82.24.110(2);

3 (nn) Unauthorized sale or procurement of telephone records in  
4 violation of RCW 9.26A.140;

5 (oo) Theft with the intent to resell, as defined in RCW 9A.56.340;

6 (pp) Organized retail theft, as defined in RCW 9A.56.350;

7 (qq) Mortgage fraud, as defined in RCW 19.144.080;

8 (rr) Commercial sexual abuse of a minor, as defined in RCW  
9 9.68A.100; (~~or~~)

10 (ss) Promoting commercial sexual abuse of a minor, as defined in  
11 RCW 9.68A.101;

12 (tt) Promoting travel for commercial sexual abuse of a minor, as  
13 defined in RCW 9.68A.102; or

14 (uu) Permitting commercial sexual abuse of a minor, as defined in  
15 RCW 9.68A.103.

16 (5) "Dealer in property" means a person who buys and sells property  
17 as a business.

18 (6) "Debtor" means a person to whom an extension of credit is made  
19 or a person who guarantees the repayment of an extension of credit or  
20 in any manner undertakes to indemnify the creditor against loss  
21 resulting from the failure of a person to whom an extension is made to  
22 repay the same.

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

28 (8) "Enterprise" includes any individual, sole proprietorship,  
29 partnership, corporation, business trust, or other profit or nonprofit  
30 legal entity, and includes any union, association, or group of  
31 individuals associated in fact although not a legal entity, and both  
32 illicit and licit enterprises and governmental and nongovernmental  
33 entities.

34 (9) "Extortionate extension of credit" means an extension of credit  
35 with respect to which it is the understanding of the creditor and the  
36 debtor at the time the extension is made that delay in making repayment  
37 or failure to make repayment could result in the use of violence or

1 other criminal means to cause harm to the person, reputation, or  
2 property of any person.

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

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

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

30 (13) "Real property" means any real property or interest in real  
31 property, including but not limited to a land sale contract, lease, or  
32 mortgage of real property.

33 (14) "Records" means any book, paper, writing, record, computer  
34 program, or other material.

35 (15) "Repayment of an extension of credit" means the repayment,  
36 satisfaction, or discharge in whole or in part of a debt or claim,  
37 acknowledged or disputed, valid or invalid, resulting from or in  
38 connection with that extension of credit.

1 (16) "Stolen property" means property that has been obtained by  
2 theft, robbery, or extortion.

3 (17) "To collect an extension of credit" means to induce in any way  
4 a person to make repayment thereof.

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

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

14 (20)(a) "Trustee" means:

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

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

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

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

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

24 (ii) A trustee of any testamentary trust;

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

27 (iv) A trustee under a deed of trust.

28 (21) "Unlawful debt" means any money or other thing of value  
29 constituting principal or interest of a debt that is legally  
30 unenforceable in the state in full or in part because the debt was  
31 incurred or contracted:

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

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

34 (ii) Chapter 9.46 RCW relating to gambling;

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

36 (c) In connection with the business of lending money or a thing of

1 value at a rate that is at least twice the permitted rate under the  
2 applicable state or federal law relating to usury.

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