

CHAPTER 455

[Engrossed Substitute House Bill No. 767]
CRIMINAL PROFITEERING

AN ACT Relating to criminal profiteering; amending RCW 9A.82.010, 9A.82.020, 9A.82.030, 9A.82.040, 9A.82.060, 9A.82.080, 9A.82.090, 9A.82.100, 9A.82.110, 9A.82.120, 9A.82.130, 9A.82.140, 9A.82.150, 9A.82.160, 9A.82.170, 9A.04.080, and 9A.82.901; adding new sections to chapter 9A.82 RCW; repealing RCW 9A.82.010, 9A.82.020, 9A.82.030, 9A.82.040, 9A.82.____, 9A.82.050, 9A.82.060, 9A.82.070, 9A.82.080, 9A.82.____, 9A.82.090, 9A.82.100, 9A.82.110, 9A.82.120, 9A.82.130, 9A.82.140, 9A.82.150, 9A.82.160, 9A.82.170, 9A.82.900, 9A.82.901, and 9A.82.____; prescribing penalties; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9A.82 RCW to read as follows:

This chapter shall be known as the criminal profiteering act.

Sec. 2. Section 1, chapter 270, Laws of 1984 and RCW 9A.82.010 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

~~(11) ("Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though the persons may not know each other's identity, or membership in the combination changes from time to time, or one or more members may stand in a wholesaler-retailer or other arm's-length relationship with others as to activities or dealings between or among themselves in an illicit operation.~~

~~(12) "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, in conduct which violates any one or more provisions of any felony statute of this state.~~

~~(13))~~ "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

~~(14))~~ (12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

~~(15))~~ (13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

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

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

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

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

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

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

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

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

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

~~((h) Usury;)~~

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

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

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

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

(m) Collection of an unlawful debt, as defined in section 6 of this act;

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

~~((t))~~ (o) Trafficking in ~~((explosives, weapons, or))~~ stolen property, as defined in RCW 9A.82.050;

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

~~((n))~~ (q) Obstructing ~~((or hindering))~~ criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

~~((o) Asserting false claims including, not but limited to, false claims asserted through fraud or arson;~~

~~(p) False statements or publications concerning land for sale or lease or sale of subdivided lands or sale and mortgaging of unsubdivided lands;~~

~~(q) Resale of realty with intent to defraud;~~

~~(r) Fraud in the purchase or sale of securities;~~

~~(s) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salespersons;~~

~~(t) A scheme or artifice to defraud;~~

~~(u) Obscenity;~~

~~(v) Child pornography;~~

~~(w) Prostitution; or~~

~~(x) Arson;)~~ (r) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

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

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

(u) Arson, as defined in RCW 9A.48.020 and 9A.48.030; or

(v) Assault, as defined in RCW 9A.36.010 and 9A.36.020.

~~((17))~~ (15) "Pattern of ~~((racketeering activity))~~ requires at least two acts of racketeering activity, one of which occurred after July 1, 1985, and

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

~~((18))~~ (16) "Records" means any book, paper, writing, record, computer program, or other material.

~~((19))~~ (17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

~~((20))~~ (18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in ~~((whole))~~ full or in part because the debt was incurred or contracted:

- (a) In violation of any one of the following:
 - (i) Chapter 67.16 RCW relating to horse racing;
 - (ii) Chapter 9.46 RCW relating to gambling; ~~((or~~
 - ~~(iii) Chapter 19.52 RCW relating to interest and usury; or))~~
- (b) In a gambling activity in violation of federal law ~~((or in the business of lending money at a rate usurious under federal or state law)); or~~
- (c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

~~((21))~~ (19)(a) "Beneficial interest" means:

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

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

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

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

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

~~((22))~~ (20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

~~((23))~~ (21) (a) "Trustee" means:

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

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

(iii) A successor trustee to a person who is a trustee under subsection ~~((23))~~(21)(a)(i) or (ii) of this section.

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

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust; ~~((or))~~

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

or

(iv) A trustee under a deed of trust.

Sec. 3. Section 2, chapter 270, Laws of 1984 and RCW 9A.82.020 are each amended to read as follows:

(1) A person who knowingly makes an extortionate extension of credit is guilty of a class B felony.

(2) In a prosecution under this section, if it is shown that all of the following factors are present in connection with the extension of credit, there is prima facie evidence that the extension of credit was extortionate:

(a) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable at the time the extension of credit was made through civil judicial processes against the debtor in the county in which the debtor, if a natural person, resided or in every county in which the debtor, if other than a natural person, was incorporated or qualified to do business.

(b) The extension of credit was made at a rate of interest in excess of an annual rate of forty-five percent calculated according to the actuarial

method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

(c) ~~((At the time the extension of credit was made, the debtor reasonably believed that either of the following:~~

~~(i) One or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment had been punished by extortionate means:~~

~~(ii) The creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof)) The creditor intended the debtor to believe that failure to comply with the terms of the extension of credit would be enforced by extortionate means.~~

(d) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars.

~~((3) In a prosecution under this section, if evidence has been introduced tending to show the existence of any of the circumstances described in subsection (2)(a) or (b) of this section, and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension:))~~

Sec. 4. Section 3, chapter 270, Laws of 1984 and RCW 9A.82.030 are each amended to read as follows:

A person who ~~((knowingly))~~ advances money or property, whether as a gift, loan, investment, or pursuant to a partnership or profit-sharing agreement or otherwise, to any person, with ~~((reasonable grounds to believe))~~ the knowledge that it is the intention of that person to use the money or property so advanced, directly or indirectly, for the purpose of making extortionate extensions of credit, is guilty of a class B felony.

Sec. 5. Section 4, chapter 270, Laws of 1984 and RCW 9A.82.040 are each amended to read as follows:

~~((+))~~ A person who knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extensions of credit or to punish any person for the nonrepayment thereof, is guilty of a class B felony.

~~((2) In a prosecution under this section, for the purpose of showing an implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment was punished by extortionate means:~~

~~(3) In a prosecution under this section, if evidence has been introduced tending to show the existence at the time the extension of credit in question was made of the circumstances described in RCW 9A.82.020(2) (a) or (b); and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person against whom the alleged threat was made was a member at the time of the collection or attempt at collection.)~~

NEW SECTION. Sec. 6. A new section is added to chapter 9A.82 RCW to read as follows:

It is unlawful for any person knowingly to collect any unlawful debt. A violation of this section is a class C felony.

Sec. 7. Section 6, chapter 270, Laws of 1984 and RCW 9A.82.060 are each amended to read as follows:

(1) A person commits the offense of leading organized crime by:

(a) Intentionally organizing, managing, directing, supervising, or financing ~~((a criminal syndicate))~~ any three or more persons with the intent to engage in a pattern of criminal profiteering activity; or

(b) ~~((Knowingly))~~ Intentionally inciting or inducing others to engage in violence or intimidation ~~((to promote or further the objectives of a criminal syndicate))~~ with the intent to further or promote the accomplishment of a pattern of criminal profiteering activity.

(2) ~~((A person shall not be convicted under this section on the basis of accountability as an accomplice unless the person aids or participates in violating this section in one of the ways specified:~~

~~(3))~~ Leading organized crime as defined in subsection (1)(a) of this section is a class A felony, and as defined in subsection (1)(b) of this section is a class B felony.

Sec. 8. Section 8, chapter 270, Laws of 1984 and RCW 9A.82.080 are each amended to read as follows:

(1) It is unlawful for a person who has knowingly received any of the proceeds derived, directly or indirectly, from a pattern of ~~((racketeering))~~ criminal profiteering activity ~~((or through the collection of an unlawful debt))~~ to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for a person ~~((, through a pattern of racketeering activity or through the collection of an unlawful debt,))~~ knowingly to acquire

or maintain, directly or indirectly, any interest in or control of any enterprise or real property through a pattern of criminal profiteering activity.

(3) It is unlawful for a person knowingly to conspire or attempt to violate subsection (1) or (2) of this section.

(4) A ~~((knowing))~~ violation of subsection (1) or (2) of this section is a class B felony. A ~~((knowing))~~ violation of subsection (3) of this section is a class C felony.

NEW SECTION. Sec. 9. A new section is added to chapter 9A.82 RCW to read as follows:

In a criminal prosecution alleging a violation of RCW 9A.82.060 or 9A.82.080, the state is barred from joining any offense other than the offenses alleged to be part of the pattern of criminal profiteering activity. When a defendant has been tried criminally for a violation of RCW 9A.82.060 or 9A.82.080, the state is barred from subsequently charging the defendant with an offense that was alleged to be part of the pattern of criminal profiteering activity for which he or she was tried.

Sec. 10. Section 9, chapter 270, Laws of 1984 and RCW 9A.82.090 are each amended to read as follows:

During the pendency of any criminal case charging ~~((an offense included in the definition of racketeering in RCW 9A.82.010))~~ a violation of RCW 9A.82.060 or a violation of RCW 9A.82.080, the superior court may, in addition to its other powers, issue an order pursuant to RCW 9A.82.100 (2) or (3). Upon conviction of a person for ~~((an offense included in the definition of racketeering))~~ a violation of RCW 9A.82.060 or a violation of RCW 9A.82.080, the superior court may, in addition to its other powers of disposition, issue an order pursuant to RCW 9A.82.100.

Sec. 11. Section 10, chapter 270, Laws of 1984 and RCW 9A.82.100 are each amended to read as follows:

(1) ~~(a)~~ A person who sustains injury to his or her person, business, or property by ~~((racketeering))~~ an act of criminal profiteering that is part of a pattern of criminal profiteering activity or by a violation of RCW 9A.82.060 or 9A.82.080 may file an action in superior court for the recovery of ~~((treble))~~ damages and the costs of the suit, including reasonable investigative and attorney's fees.

~~(b)~~ The attorney general or county prosecuting attorney may file an action: ~~((a))~~ (i) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or ~~((b))~~ (ii) to prevent, restrain, or remedy ~~((racketeering))~~ a pattern of criminal profiteering activity or a violation of RCW 9A.82.060 or 9A.82.080.

~~(c)~~ An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of ~~((treble))~~ damages and the costs of the suit, including reasonable investigative and attorney's fees.

(d) In an action filed to prevent, restrain, or remedy (~~racketeering~~) a pattern of criminal profiteering activity or a violation of RCW 9A.82.060 or 9A.82.080, the court, upon proof of the violation, may impose a civil penalty not exceeding two hundred fifty thousand dollars (~~upon proof of the violation~~), in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

(2) The superior court has jurisdiction to prevent, restrain, and remedy (~~racketeering~~) a pattern of criminal profiteering or a violation of RCW 9A.82.060 or 9A.82.080 after making provision for the rights of all innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

(3) Prior to a determination of liability, (~~the~~) orders issued under subsection (2) of this section may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the court deems proper. The orders may also include attachment, receivership, or injunctive relief in regard to personal or real property pursuant to Title 7 RCW. In shaping the reach or scope of receivership, attachment, or injunctive relief, the superior court shall provide for the protection of bona fide interests in property, including community property, of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture under RCW 9A.82.100(4)(f).

(4) Following a determination of liability, (~~the~~) orders may include, but are not limited to:

(a) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.

(b) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the Constitutions of the United States and this state permit.

(c) Ordering dissolution or reorganization of any enterprise.

(d) Ordering the payment of (~~treble~~) actual damages sustained to those persons injured by (~~racketeering or~~) a violation of RCW 9A.82.060 or 9A.82.080 or an act of criminal profiteering that is part of a pattern of criminal profiteering, and in the court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.

(e) Ordering the payment of all costs and expenses of the prosecution and investigation of (~~any offense included in the definition of racketeering in RCW 9A.82.010~~) a pattern of criminal profiteering activity or a violation of RCW 9A.82.060 or 9A.82.080, civil and criminal, incurred by the state or county as appropriate (~~, to be paid to the antiracketeering revolving~~

~~fund of the state or county which brings the action. If the county has not established an antiracketeering revolving fund, the payment shall be deposited in the county current expense fund)) to the state general fund or the antiprofitteering revolving fund of the county.~~

(f) Ordering forfeiture first as restitution to any person damaged by an act of criminal profiteering that is part of a pattern of criminal profiteering then to the state general fund or ((antiracketeering)) antiprofitteering revolving fund of the ((state or)) county, as appropriate, to the extent not already ordered to be paid in other damages, of the following:

(i) Any property or other interest acquired or maintained ((by a person)) in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9A.82.060 or 9A.82.080.

(ii) Any ((interest in, security of, claims against or property or contractual right of any kind affording a source of influence over)) property, contractual right, or claim against property used to influence any enterprise ((which)) that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(iii) All proceeds traceable to or derived from an offense included in the ((definition of racketeering in RCW 9A.82.010)) pattern of criminal profiteering activity and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.

(g) Ordering payment to the state general fund or ((antiracketeering)) antiprofitteering revolving fund of the ((state or)) county, as appropriate, of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of ((racketeering)) criminal profiteering.

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the state general fund or ((antiracketeering)) antiprofitteering revolving fund of the ((state or)) county, as appropriate, to the extent not already ordered paid pursuant to this section, of the following:

(a) Any interest acquired or maintained by a person in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any appreciation or income attributable to the investment.

(b) Any ((interest in, security of, claims against or property or contractual right of any kind affording a source of influence over)) property, contractual right, or claim against property used to influence any enterprise ((which)) that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(c) All proceeds traceable to or derived from an offense included in the ~~((definition of racketeering))~~ pattern of criminal profiteering activity and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate the commission of the offense.

(6) A defendant convicted in any criminal proceeding is precluded ~~((from subsequently denying the essential allegations of the criminal offense of which the defendant was convicted))~~ in any civil proceeding from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict, finding, or plea of guilty, notwithstanding the fact that ~~((an appeal))~~ appellate review of the conviction and sentence has been or may be ~~((lodged upon any judgment and sentence entered thereon))~~ sought. If a subsequent reversal of the conviction occurs, any judgment that was based upon that conviction may be reopened upon motion of the defendant.

(7) The initiation of civil proceedings ~~((related to violations of any offense included in the definition of racketeering or a violation of RCW 9A-82.080 shall be commenced within seven years after actual discovery of the violation))~~ under this section shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered.

(8) The attorney general or county prosecuting attorney may, in a civil action brought pursuant to this section, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the ~~((chief judge or))~~ presiding chief judge of the superior court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.

(9) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

(10) A person other than the attorney general or county prosecuting attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.

(11) Except in cases filed by a county prosecuting attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought under this section if the attorney general certifies that in

the attorney general's opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

(12) In addition to the attorney general's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting RCW 9A.82.010, 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

(13) A private civil action under this section (~~((is remedial and))~~) does not limit any other civil or criminal action under this chapter or any other provision. Private civil remedies provided under this section are supplemental and not mutually exclusive.

(14) (~~(In bringing a civil action under this chapter, the attorney general or county prosecuting attorney may grant a witness immunity in exchange for testimony in the civil case. The immunity bars the use or derivative use of the witness' testimony in any subsequent criminal prosecution of the witness except for perjury or false swearing committed during the course of the testimony.)~~) Upon motion by the defendant, the court may authorize the sale or transfer of assets subject to an order or lien authorized by this chapter for the purpose of paying actual attorney's fees and costs of defense. The motion shall specify the assets for which sale or transfer is sought and shall be accompanied by the defendant's sworn statement that the defendant has no other assets available for such purposes. No order authorizing such sale or transfer may be entered unless the court finds that the assets involved are not subject to possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of the motion, the court shall notify the state of the assets sought to be sold or transferred and shall hear argument on the issue of whether the assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a motion may be made from time to time and shall be heard by the court on an expedited basis.

(15) In an action brought under subsection (1) (a) and (b)(i) of this section, either party has the right to a jury trial.

Sec. 12. Section 11, chapter 270, Laws of 1984 and RCW 9A.82.110 are each amended to read as follows:

(1) (~~((a) There is established in the custody of the state treasurer an antiracketeering revolving fund to be administered by the attorney general under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the attorney general. No appropriation is required for disbursements.~~)

~~(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering, whether by final judgment, settlement, or otherwise;~~

shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. When the fund exceeds seven hundred fifty thousand dollars, all funds in excess of the seven hundred fifty thousand dollars shall be deposited in the state general fund.

(c) ~~The moneys in the fund shall be used by the attorney general for the investigation and prosecution of any offense, within the jurisdiction of the attorney general, included in the definition of racketeering, including civil enforcement.~~

(2)) Any payments or forfeiture to the state general fund ordered under RCW 9A.82.100 (4) or (5) shall be deposited in the public safety and education account.

(2) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the public safety and education account.

(3) It is the intent of the legislature that the money deposited in the public safety and education account pursuant to this chapter be appropriated to promote crime victims' compensation.

(4)(a) The county legislative authority may establish an ((antiracketeering)) antiprofitereing revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of ((racketeering)) criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the public safety and education account in the state general fund.

(c) The county legislative authority may prescribe a maximum level of moneys in the ((antiracketeering)) antiprofitereing revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of ((racketeering)) criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitteering revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

Sec. 13. Section 12, chapter 270, Laws of 1984 and RCW 9A.82.120 are each amended to read as follows:

(1) The state, upon filing a criminal action under RCW 9A.82.060 or 9A.82.080 or a civil action under RCW 9A.82.100, may file in accordance with this section a ~~((racketeering))~~ criminal profiteering lien. A filing fee or other charge is not required for filing a ~~((racketeering))~~ criminal profiteering lien.

(2) A ~~((racketeering))~~ criminal profiteering lien shall be signed by the attorney general or the county prosecuting attorney representing the state in the action and shall set forth the following information:

(a) The name of the defendant whose property or other interests are to be subject to the lien;

(b) In the discretion of the attorney general or county prosecuting attorney filing the lien, any aliases or fictitious names of the defendant named in the lien;

(c) If known to the attorney general or county prosecuting attorney filing the lien, the present residence or principal place of business of the person named in the lien;

(d) A reference to the proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number for the proceeding;

(e) The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed;

(f) A statement that the notice is being filed pursuant to this section;

(g) The amount ~~((which))~~ that the state claims in the action or, with respect to property or other interests ~~((which))~~ that the state has requested forfeiture to the state or county, a description of the property or interests sought to be paid or forfeited;

(h) If known to the attorney general or county prosecuting attorney filing the lien, a description of property ~~((which))~~ that is subject to forfeiture to the state or property in which the defendant has an interest ~~((which))~~ that is available to satisfy a judgment entered in favor of the state; and

(i) Such other information as the attorney general or county prosecuting attorney filing the lien deems appropriate.

(3) The attorney general or the county prosecuting attorney filing the lien may amend a lien filed under this section at any time by filing an amended ~~((racketeering))~~ criminal profiteering lien in accordance with this section ~~((which))~~ that identifies the prior lien amended.

(4) The attorney general or the county prosecuting attorney filing the lien shall, as soon as practical after filing a ~~((racketeering))~~ criminal

profiteering lien, furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a (~~racketeering~~) criminal profiteering lien filed in accordance with this section.

(5)(a) A (~~racketeering~~) criminal profiteering lien is perfected against interests in personal property (~~by filing the lien with the department of licensing~~) in the same manner a security interest in like property pursuant to RCW 62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305, and 62A.9-306 or as otherwise required to perfect a security interest in like property under applicable law. In the case of perfection by filing, the state shall file, in lieu of a financing statement in the form prescribed by RCW 62A.9-402, a notice of lien in substantially the following form:

NOTICE OF LIEN

Pursuant to RCW 9A.82.120, the state of Washington claims a criminal profiteering lien on all real and personal property of:

Name:

Address:

.....

State of Washington

.....

By (authorized signature)

On receipt of such a notice from the state, a filing officer shall, without payment of filing fee, file and index the notice as if it were a financing statement naming the state as secured party and the defendant as debtor.

(b) A (~~racketeering~~) criminal profiteering lien is perfected against interests in real property by filing the lien (~~with the county auditor of the county in which the real property is located. The state may give such additional notice of the lien as it deems appropriate~~) in the office where a mortgage on the real estate would be filed or recorded. The filing officer shall file and index the criminal profiteering lien, without payment of a filing fee, in the same manner as a mortgage.

(6) The filing of a (~~racketeering~~) criminal profiteering lien in accordance with this section creates a lien in favor of the state in:

(a) Any interest of the defendant, in real property situated in the county in which the lien is filed, then maintained, or thereafter acquired in the name of the defendant identified in the lien;

(b) Any interest of the defendant, in personal property situated in this state, then maintained or thereafter acquired in the name of the defendant identified in the lien; and

(c) Any property identified in the lien to the extent of the defendant's interest therein.

(7) (~~The filing of a racketeering lien under this section is notice to all persons dealing with the person or property identified in the lien of the~~

state's claim:)) The lien created in favor of the state in accordance with this section ~~((is superior and prior to the claims or interests of any other person; except a person possessing:~~

~~(a) A valid lien perfected prior to the filing of the racketeering lien;~~

~~(b) In the case of real property, an interest acquired and recorded prior to the filing of the racketeering lien; or~~

~~(c) In the case of personal property, an interest acquired prior to the filing of the racketeering lien)), when filed or otherwise perfected as provided in subsection (5) of this section, has, with respect to any of the property described in subsection (6) of this section, the same priority determined pursuant to the laws of this state as a mortgage or security interest given for value (but not a purchase money security interest) and perfected in the same manner with respect to such property; except that any lien perfected pursuant to Title 60 RCW by any person who, in the ordinary course of his business, furnishes labor, services, or materials, or rents, leases, or otherwise supplies equipment, without knowledge of the criminal profiteering lien, is superior to the criminal profiteering lien.~~

(8) Upon entry of judgment in favor of the state, the state may proceed to execute thereon as in the case of any other judgment, except that in order to preserve the state's lien priority as provided in this section the state shall, in addition to such other notice as is required by law, give at least thirty days' notice of the execution to any person possessing at the time the notice is given, an interest recorded subsequent to the date the state's lien was perfected.

(9) Upon the entry of a final judgment in favor of the state providing for forfeiture of property to the state, the title of the state to the property:

(a) In the case of real property or a beneficial interest in real property, relates back to the date of filing the ~~((racketeering))~~ criminal profiteering lien ~~((with the county auditor of the county in which the real property is located))~~ or, if no ~~((racketeering))~~ criminal profiteering lien is filed, then to the date of recording of the final judgment or the abstract thereof ~~((with the county auditor of the county in which the real property is located));~~ or

(b) In the case of personal property or a beneficial interest in personal property, relates back to the date the personal property was seized by the state, or the date of filing of a ~~((racketeering))~~ criminal profiteering lien in accordance with this section, whichever is earlier, but if the property was not seized and no ~~((racketeering))~~ criminal profiteering lien was filed then to the date the final judgment was filed with the department of licensing and, if the personal property is an aircraft, with the federal aviation administration.

(10) This section does not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under RCW 9A.82.100 or appropriate to protect the interests of the state or available under other applicable law.

(1) In a civil or criminal action under this chapter, the superior court shall provide for the protection of bona fide interests in property, including community property, subject to liens of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

Sec. 14. Section 13, chapter 270, Laws of 1984 and RCW 9A.82.130 are each amended to read as follows:

~~((f+))~~ (1) A trustee who ~~((receives))~~ is personally served in the manner provided for service of legal process with written notice that a lien notice has been recorded or a civil proceeding or criminal proceeding has been instituted under this chapter against any person for whom the trustee holds legal or record title to real property, shall immediately furnish to the attorney general or county prosecuting attorney the following:

- (a) The name and address of the person, as known to the trustee;
- (b) To the extent known to the trustee, the name and address of all other persons for whose benefit the trustee holds title to the real property; and
- (c) If requested by the attorney general or county prosecuting attorney, a copy of the trust agreement or other instrument under which the trustee holds legal or record title to the real property.

(2) The recording of a lien notice shall not constitute a lien on the record title to real property owned by a trustee at the time of recording except to the extent that trustee is named in and served with the lien notice as provided in subsection (1) of this section. The attorney general or county prosecuting attorney may bring a civil proceeding in superior court against the trustee to recover from the trustee the amounts set forth in RCW 9A.82.150. In addition to amounts recovered under RCW 9A.82.150, the attorney general or county prosecuting attorney also may recover its investigative costs and attorneys' fees.

(3) The recording of a lien notice does not affect the use to which real property or a beneficial interest owned by the person named in the lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership except the sale of the property, until a judgment of forfeiture is entered.

(4) This section does not apply to any conveyance by a trustee under a court order unless the court order is entered in an action between the trustee and the beneficiary.

(5) ~~((Unless a trustee receives written notice that a person having a beneficial interest in the trust is named in a lien notice or is otherwise a defendant in a civil proceeding))~~ Notwithstanding that a trustee is served with notice as provided in subsection (1) of this section, this section does not apply to(:

~~(a)) a conveyance by a trustee required under the terms of any trust agreement ((if the trust agreement is a matter of public record before a lien notice is filed, or~~

~~(b) A conveyance by a trustee to all persons who have a beneficial interest in the trust)) in effect before service of such notice on the trustee.~~

Sec. 15. Section 14, chapter 270, Laws of 1984 and RCW 9A.82.140 are each amended to read as follows:

(1) The term of a lien notice shall be six years from the date the lien notice is recorded. If a renewal lien notice is filed by the attorney general or county prosecuting attorney, the term of the renewal lien notice shall be for six years from the date the renewal lien notice is recorded. The attorney general or county prosecuting attorney is entitled to only one renewal of the lien notice.

(2) The attorney general or county prosecuting attorney filing the lien notice may release in whole or in part any lien notice or may release any specific property or beneficial interest from the lien notice upon such terms and conditions as the attorney general or county prosecuting attorney considers appropriate and shall release any lien upon the dismissal of the action which is the basis of the lien or satisfaction of the judgment of the court in the action or other final disposition of the claim evidenced by the lien. A release of a lien notice executed by the attorney general or county prosecuting attorney shall be recorded in the official records in which the lien notice covering that property was recorded. No charge or fee may be imposed for recording any release of a lien notice.

(3) (a) A person named in the lien notice may move the court in which the civil proceeding giving rise to the lien notice is pending for an order extinguishing the lien notice.

(b) Upon the motion of a person under (a) of this subsection, the court immediately shall enter an order setting a date for hearing, which shall be not less than five nor more than ten days after the motion is filed. The order and a copy of the motion shall be served on the attorney general or county prosecuting attorney within three days after the entry of the court's order. At the hearing, the court shall take evidence on the issue of whether any property or beneficial interest owned by the person is covered by the lien notice or otherwise subject to forfeiture under RCW 9A.82.120. If the person shows by a preponderance of the evidence that the lien notice is not applicable to the person or that any property or beneficial interest owned by the person is not subject to forfeiture under RCW 9A.82.120, the court shall enter a judgment extinguishing the lien notice or releasing the property or beneficial interest from the lien notice.

(c) The court may enter an order releasing from the lien notice any specific real property or beneficial interest if, at the time the lien notice is recorded, there is pending an arms length sale of the real property or beneficial interest in which the parties are under no undue compulsion to sell or

buy and are able, willing, and reasonably well informed and the sale is for the fair market value of the real property or beneficial interest and the recording of the lien notice prevents the sale of the property or interest. The proceeds resulting from the sale of the real property or beneficial interest shall be deposited with the court, subject to the further order of the court.

(d) At ~~((the hearing held pursuant to (b) of this subsection, if))~~ any time after filing of a lien, the court ~~((releases))~~ may release from the lien ~~((notice))~~ any property ~~((or beneficial interest, the person shall post))~~ upon application by the defendant and posting of security equal to the ((fair market)) value of the property ((or beneficial interest owned by the person)) to be released.

Sec. 16. Section 15, chapter 270, Laws of 1984 and RCW 9A.82.150 are each amended to read as follows:

(1) If a trustee conveys title to real property for which, at the time of the conveyance, ~~((a lien notice has been recorded in the county in which the real property is situated and the notice names a person who the trustee knows holds a beneficial interest in the trust))~~ the trustee has been personally served with notice as provided in RCW 9A.82.130(1) of a lien under this chapter, the trustee shall be liable to the state for the greater of:

(a) The amount of proceeds received by the person named in the lien notice as a result of the conveyance;

(b) The amount of proceeds received by the trustee as a result of the conveyance and distributed by the trustee to the person named in the lien notice; or

(c) The fair market value of the interest of the person named in the lien notice in the real property so conveyed.

(2) If the trustee conveys the real property for which a lien notice has been ~~((recorded))~~ served on the trustee at the time of the conveyance and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or beneficiary's designee, the trustee's liability shall not exceed the amount of the proceeds so held so long as the trustee continues to hold the proceeds.

Sec. 17. Section 16, chapter 270, Laws of 1984 and RCW 9A.82.160 are each amended to read as follows:

A trustee who knowingly fails to comply with RCW 9A.82.130(1) is guilty of a gross misdemeanor. A trustee who conveys title to real property after service of the notice as provided in RCW 9A.82.130(1) with the intent to evade the provisions of RCW 9A.82.100 or 9A.82.120 with respect to such property is guilty of a class C felony.

Sec. 18. Section 17, chapter 270, Laws of 1984 and RCW 9A.82.170 are each amended to read as follows:

(1) ~~((A custodian of the records of a financial institution shall, at no expense to the financial institution, produce for inspection or copying the~~

~~records in the custody of the financial institution when requested to be inspected by the attorney general or a county prosecuting attorney, provided the person requesting the information has served a subpoena issued by a court or obtained a court order for the information. The attorney general or a county prosecuting attorney or any peace officer or other person designated by the county prosecuting attorney or the attorney general shall be prohibited from using or releasing the information except in the proper discharge of official duties. If directed by the court in the subpoena or court order, neither the custodian nor any other employee of the institution shall disclose to the institution's customer the fact that the customer's records have been examined or copied. The furnishing of records in compliance with this section by a custodian of records is a bar to civil or criminal liability against the custodian or financial institution in any action brought alleging violation of the confidentiality of the records.~~

(2)) Upon request of the attorney general or prosecuting attorney, a subpoena for the production of records of a financial institution may be signed and issued by a superior court judge if there is reason to believe that an act of criminal profiteering or a violation of RCW 9A.82.060 or 9A.82.080 has occurred or is occurring and that the records sought will materially aid in the investigation of such activity or appears reasonably calculated to lead to the discovery of information that will do so. The subpoena shall be served on the financial institution as in civil actions. The court may, upon motion timely made and in any event before the time specified for compliance with the subpoena, condition compliance upon advancement by the attorney general or prosecuting attorney of the reasonable costs of producing the records specified in the subpoena.

(2) A response to a subpoena issued under this section is sufficient if a copy or printout, duly authenticated by an officer of the financial institution as a true and correct copy or printout of its records, is provided, unless otherwise provided in the subpoena for good cause shown.

(3) Except as provided in this subsection, a financial institution served with a subpoena under this section shall not disclose to the customer the fact that a subpoena seeking records relating to the customer has been served. A judge of the superior court may order the attorney general, prosecuting attorney, or financial institution to advise the financial institution's customer of the subpoena. Unless ordered to do so by the court, disclosure of the subpoena by the financial institution or any of its employees to the customer is a misdemeanor.

(3) A financial institution shall be reimbursed in an amount set by the court for reasonable costs incurred in providing information pursuant to this section.

(4) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(5) Disclosure by the attorney general, county prosecuting attorney, or any peace officer or other person designated by the attorney general or the county prosecuting attorney, of information obtained under this section, except in the proper discharge of official duties, is ~~((a misdemeanor))~~ punishable as a misdemeanor.

~~((3) Disclosure by the custodian or employee of the financial institution contrary to subsection (1) of this section is a misdemeanor.~~

~~(4) This section does not preclude the use of any other legally authorized means of obtaining the information.)~~

(6) Upon filing of any civil or criminal action, the nondisclosure requirements of any subpoena or order under this section shall terminate, and the attorney general or prosecuting attorney filing the action shall provide to the defendant copies of all subpoenas or other orders issued under this section.

(7) A financial institution shall not be civilly liable for harm resulting from its compliance with the provisions of this chapter.

Sec. 19. Section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 18, chapter 270, Laws of 1984 and RCW 9A.04.080 are each amended to read as follows:

Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within five years after their commission; for violations of RCW 9A.82.060 or 9A.82.080, within six years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: PROVIDED, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, five, six, and ten years respectively: AND FURTHER PROVIDED, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside.

Sec. 20. Section 21, chapter 270, Laws of 1984 and RCW 9A.82.901 are each amended to read as follows:

((This act)) Sections 12, 13, 14, 15, and 16, chapter 270, Laws of 1984 as amended by sections 13, 14, 15, 16, and 17 of this 1985 act shall take

effect on July 1, 1986, and the remainder of chapter 270, Laws of 1984 shall take effect on July 1, 1985.

NEW SECTION. Sec. 21. With the exception of sections 13, 14, 15, 16, and 17 of this act, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

NEW SECTION. Sec. 22. The following acts or parts of acts as they now exist or are hereafter amended are each repealed effective July 1, 1995.

(1) Section 1, chapter 270, Laws of 1984, section 2 of this 1985 act and RCW 9A.82.010;

(2) Section 2, chapter 270, Laws of 1984, section 3 of this 1985 act and RCW 9A.82.020;

(3) Section 3, chapter 270, Laws of 1984, section 4 of this 1985 act and RCW 9A.82.030;

(4) Section 4, chapter 270, Laws of 1984, section 5 of this 1985 act and RCW 9A.82.040;

(5) Section 6 of this 1985 act and RCW 9A.82.____;

(6) Section 5, chapter 270, Laws of 1984 and RCW 9A.82.050;

(7) Section 6, chapter 270, Laws of 1984, section 7 of this 1985 act and RCW 9A.82.060;

(8) Section 7, chapter 270, Laws of 1984 and RCW 9A.82.070;

(9) Section 8, chapter 270, Laws of 1984, section 8 of this 1985 act and RCW 9A.82.080;

(10) Section 9 of this 1985 act and RCW 9A.82.____;

(11) Section 9, chapter 270, Laws of 1984, section 10 of this 1985 act and RCW 9A.82.090;

(12) Section 10, chapter 270, Laws of 1984, section 11 of this 1985 act and RCW 9A.82.100;

(13) Section 11, chapter 270, Laws of 1984, section 12 of this 1985 act and RCW 9A.82.110;

(14) Section 12, chapter 270, Laws of 1984, section 13 of this 1985 act and RCW 9A.82.120;

(15) Section 13, chapter 270, Laws of 1984, section 14 of this 1985 act and RCW 9A.82.130;

(16) Section 14, chapter 270, Laws of 1984, section 15 of this 1985 act and RCW 9A.82.140;

(17) Section 15, chapter 270, Laws of 1984, section 16 of this 1985 act and RCW 9A.82.150;

(18) Section 16, chapter 270, Laws of 1984, section 17 of this 1985 act and RCW 9A.82.160;

(19) Section 17, chapter 270, Laws of 1984, section 18 of this 1985 act and RCW 9A.82.170;

(20) Section 20, chapter 270, Laws of 1984 and RCW 9A.82.900;

(21) Section 21, chapter 270, Laws of 1984, section 20 of this 1985 act and RCW 9A.82.901; and

(22) Section 1 of this 1985 act and RCW 9A.82.____.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 21, 1985.

Filed in Office of Secretary of State May 21, 1985.

CHAPTER 456

[Engrossed Substitute House Bill No. 974]

ACID RAIN

AN ACT Relating to acid rain; amending RCW 70.94.800, 70.94.805, and 70.94.820; and adding new sections to chapter 70.94 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 277, Laws of 1984 and RCW 70.94.800 are each amended to read as follows:

The legislature recognizes that:

(1) Acid deposition resulting from commercial, industrial or other emissions of sulphur dioxide and nitrogen oxides pose a threat to the delicate balance of the state's ecological systems, particularly in alpine lakes that are known to be highly sensitive to acidification;

(2) Failure to act promptly and decisively to mitigate or eliminate this danger may soon result in untold and irreparable damage to the fish, forest, wildlife, agricultural, water, and recreational resources of this state;

(3) There is a direct correlation between emissions of sulphur dioxides and nitrogen oxides and increases in acid deposition;

(4) Acidification is cumulative; and

(5) Once an environment is acidified, it is difficult, if not impossible, to restore the natural balance.

It is therefore the intent of the legislature to ~~((mitigate or eliminate the acid deposition problem by curbing sources of acid deposition within the state and to assure that adequate monitoring is conducted in alpine lakes in order to allow for early detection of acidification and the resulting environmental degradation))~~ provide for early detection of acidification and the resulting environmental degradation through continued monitoring of acid deposition levels and trends, and major source changes, so that the legislature can take any necessary action to prevent environmental degradation resulting from acid deposition.