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HOUSE BILL 2715

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State of Washington

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By Representatives H. Sommers, Ogden, Valle, Poulsen, Patterson, Basich, Grant, Linville, Chappell, Rust, Wolfe, Chopp, Hatfield, Murray and Mason

Read first time 01/17/96. Referred to Committee on Government Operations.

1 AN ACT Relating to voter petition fraud; amending RCW 29.79.440,  
2 29.79.490, and 29.82.220; reenacting and amending RCW 9A.82.010; adding  
3 a new section to chapter 29.85 RCW; recodifying RCW 29.79.440;  
4 repealing RCW 9.44.080 and 29.82.170; and prescribing penalties.

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

6 **Sec. 1.** RCW 29.79.440 and 1993 c 256 s 2 are each amended to read  
7 as follows:

8 ((Every)) (1) A person ((who)) is guilty of voter petition fraud in  
9 the first degree if he or she:

10 (a) Signs ((an initiative or referendum)) a voter petition with any  
11 other than his or her true name ((shall be guilty of)) or with  
12 knowledge that he or she is not eligible to sign the voter petition;

13 (b) Solicits signatures, or aids in the solicitation of signatures,  
14 on a voter petition that is filed, with knowledge that the petition  
15 contains one or more false or wrongful signatures; or

16 (c) Files a voter petition with knowledge that the petition  
17 contains one or more false or wrongful signatures.

18 Voter petition fraud in the first degree is a class C felony  
19 punishable under RCW 9A.20.021.

1       ~~((Every))~~ (2) A person ~~((who))~~ is guilty of voter petition fraud in  
2 the second degree if he or she:

3       (a) Knowingly signs more than one voter petition for the same  
4 ~~((initiative or referendum))~~ measure ~~((or who))~~;

5       (b) Signs ~~((an initiative or referendum))~~ a voter petition knowing  
6 that he or she is not a legal voter;

7       (c) Signs or refuses to sign his or her own name on a voter  
8 petition or withdraws his or her own name from a voter petition for any  
9 consideration, gratuity, or reward; or ~~((who))~~

10       (d) Makes a false statement as to his or her residence, age,  
11 citizenship, or other qualifications on any ~~((initiative or~~  
12 referendum)) voter petition~~((, shall be guilty of))~~.

13       Voter petition fraud in the second degree is a gross misdemeanor  
14 punishable ~~((to the same extent as a gross misdemeanor that is~~  
15 punishable)) under RCW 9A.20.021.

16       (3) As used in this section, "voter petition" means:

17       (a) A state initiative or referendum petition under chapter 29.79  
18 RCW;

19       (b) A city or county initiative petition under chapter 35.17,  
20 35.22, or 35A.11 RCW, a city or county charter, or other provision of  
21 law;

22       (c) A recall petition under chapter 29.82 RCW; or

23       (d) Any other petition circulated for voter signature in pursuance  
24 of any constitutional provision, statute, charter, or ordinance.

25       **Sec. 2.** RCW 29.79.490 and 1993 c 256 s 4 are each amended to read  
26 as follows:

27       Every person shall be guilty of a gross misdemeanor who:

28       ~~((1) ~~((For any consideration or gratuity or promise thereof, signs~~~~  
29 ~~or declines to sign any initiative or referendum petition; or~~

30       ~~((2))~~ Provides or receives consideration for soliciting or  
31 procuring signatures on an initiative or referendum petition if any  
32 part of the consideration is based upon the number of signatures  
33 solicited or procured, or offers to provide or agrees to receive such  
34 consideration any of which is based on the number of signatures  
35 solicited or procured; or

36       ~~((3))~~ (2) Gives or offers any consideration or gratuity to any  
37 person to induce him or her to sign or not to sign or to vote for or  
38 against any initiative or referendum measure; or

1        ~~((4))~~ (3) Interferes with or attempts to interfere with the right  
2 of any voter to sign or not to sign an initiative or referendum  
3 petition or with the right to vote for or against an initiative or  
4 referendum measure by threats, intimidation, or any other corrupt means  
5 or practice; or

6        ~~((5))~~ (4) Receives, handles, distributes, pays out, or gives  
7 away, directly or indirectly, money or any other thing of value  
8 contributed by or received from any person, firm, association, or  
9 corporation whose residence or principal office is, or the majority of  
10 whose members or stockholders have their residence outside, the state  
11 of Washington, for any service rendered for the purpose of aiding in  
12 procuring signatures upon any initiative or referendum petition or for  
13 the purpose of aiding in the adoption or rejection of any initiative or  
14 referendum measure: PROVIDED, That this subsection shall not apply to  
15 or prohibit any activity which is properly reported in accordance with  
16 the applicable provisions of chapter 42.17 RCW.

17        A gross misdemeanor under this section is punishable to the same  
18 extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

19        **Sec. 3.** RCW 29.82.220 and 1984 c 170 s 12 are each amended to read  
20 as follows:

21        Every person is guilty of a gross misdemeanor, who:

22        (1) ~~((For any consideration, compensation, gratuity, reward, or  
23 thing of value or promise thereof, signs or declines to sign any recall  
24 petition; or~~

25        ~~(2))~~ Advertises in any newspaper, magazine or other periodical  
26 publication, or in any book, pamphlet, circular, or letter, or by means  
27 of any sign, signboard, bill, poster, handbill, or card, or in any  
28 manner whatsoever, that he will either for or without compensation or  
29 consideration circulate, solicit, procure, or obtain signatures upon,  
30 or influence or induce or attempt to influence or induce persons to  
31 sign or not to sign any recall petition or vote for or against any  
32 recall; or

33        ~~((3))~~ (2) For pay or any consideration, compensation, gratuity,  
34 reward, or thing of value or promise thereof, circulates, or solicits,  
35 procures, or obtains or attempts to procure or obtain signatures upon  
36 any recall petition; or

37        ~~((4))~~ (3) Pays or offers or promises to pay, or gives or offers  
38 or promises to give any consideration, compensation, gratuity, reward,

1 or thing of value to any person to induce him to sign or not to sign,  
2 or to circulate or solicit, procure, or attempt to procure or obtain  
3 signatures upon any recall petition, or to vote for or against any  
4 recall; or

5 ~~((+5))~~ (4) By any other corrupt means or practice or by threats or  
6 intimidation interferes with or attempts to interfere with the right of  
7 any legal voter to sign or not to sign any recall petition or to vote  
8 for or against any recall; or

9 ~~((+6))~~ (5) Receives, accepts, handles, distributes, pays out, or  
10 gives away, directly or indirectly, any money, consideration,  
11 compensation, gratuity, reward, or thing of value contributed by or  
12 received from any person, firm, association, or corporation whose  
13 residence or principal office is, or the majority of whose stockholders  
14 are nonresidents of the state of Washington, for any service, work, or  
15 assistance of any kind done or rendered for the purpose of aiding in  
16 procuring signatures upon any recall petition or the adoption or  
17 rejection of any recall.

18 **Sec. 4.** RCW 9A.82.010 and 1995 c 285 s 34 and 1995 c 92 s 5 are  
19 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 2 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 3 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 4 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 5 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
6 9A.56.080;
- 7 (f) Unlawful sale of subscription television services, as defined  
8 in RCW 9A.56.230;
- 9 (g) Theft of telecommunication services or unlawful manufacture of  
10 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 11 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 12 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
13 9A.68.050;
- 14 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 15 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 16 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 17 (m) Advancing money for use in an extortionate extension of credit,  
18 as defined in RCW 9A.82.030;
- 19 (n) Collection of an extortionate extension of credit, as defined  
20 in RCW 9A.82.040;
- 21 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 22 (p) Delivery or manufacture of controlled substances or possession  
23 with intent to deliver or manufacture controlled substances under  
24 chapter 69.50 RCW;
- 25 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 26 (r) Leading organized crime, as defined in RCW 9A.82.060;
- 27 (s) Money laundering, as defined in RCW 9A.83.020;
- 28 (t) Obstructing criminal investigations or prosecutions in  
29 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
30 9A.76.070, or 9A.76.180;
- 31 (u) Fraud in the purchase or sale of securities, as defined in RCW  
32 21.20.010;
- 33 (v) Promoting pornography, as defined in RCW 9.68.140;
- 34 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,  
35 9.68A.050, and 9.68A.060;
- 36 (x) Promoting prostitution, as defined in RCW 9A.88.070 and  
37 9A.88.080;
- 38 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- 39 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

- 1 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;  
2 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;  
3 (cc) Commercial telephone solicitation in violation of RCW  
4 19.158.040(1);  
5 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;  
6 (ee) Unlawful practice of law, as defined in RCW 2.48.180;  
7 (ff) Commercial bribery, as defined in RCW 9A.68.060;  
8 (gg) Health care false claims, as defined in RCW 48.80.030; (~~or~~)  
9 (hh) Unlicensed practice of a profession or business, as defined in  
10 RCW 18.130.190(7); or  
11 (ii) Voter petition fraud in the first degree, as defined in RCW  
12 29.79.440.

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

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

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

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

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

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

7 (ii) Chapter 9.46 RCW relating to gambling;

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

9 (c) In connection with the business of lending money or a thing of  
10 value at a rate that is at least twice the permitted rate under the  
11 applicable state or federal law relating to usury.

12 (19)(a) "Beneficial interest" means:

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

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

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

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

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

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

30 (21)(a) "Trustee" means:

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

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

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

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

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

- 1       (ii) A trustee of any testamentary trust;  
2       (iii) A trustee of any indenture of trust under which a bond is  
3 issued; or  
4       (iv) A trustee under a deed of trust.

5       NEW SECTION. **Sec. 5.** RCW 29.79.440 is recodified as a section in  
6 chapter 29.85 RCW.

7       NEW SECTION. **Sec. 6.** The following acts or parts of acts are each  
8 repealed:

- 9       (1) RCW 9.44.080 and 1909 c 249 s 337; and  
10       (2) RCW 29.82.170 and 1984 c 170 s 11 & 1965 c 9 s 29.82.170.

--- **END** ---