
SENATE BILL 5617

State of Washington

54th Legislature

1995 Regular Session

By Senators Prentice, Hale and Winsley; by request of Insurance Commissioner and Attorney General

Read first time 01/30/95. Referred to Committee on Financial Institutions & Housing.

1 AN ACT Relating to insurance fraud; amending RCW 48.01.030,
2 48.18.460, 48.30.210, 48.30.220, 48.50.010, 48.50.020, 48.50.030,
3 48.50.040, 48.50.075, 48.80.020, 2.48.180, 9.12.010, 9A.72.010,
4 9A.72.030, 9A.76.020, 9A.82.010, and 18.130.190; reenacting and
5 amending RCW 9.94A.320; adding a new section to chapter 42.17 RCW;
6 adding a new section to chapter 46.16 RCW; adding a new section to
7 chapter 9A.68 RCW; adding a new section to chapter 9A.76 RCW; adding a
8 new chapter to Title 48 RCW; creating a new section; repealing RCW
9 9.91.090, 9A.82.903, 48.50.060, 48.50.080, and 49.44.070; prescribing
10 penalties; making an appropriation; providing an effective date; and
11 declaring an emergency.

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

13 NEW SECTION. **Sec. 1.** The legislature finds that the business of
14 insurance is one affected by the public interest, requiring that all
15 persons be actuated by good faith, abstain from deception, and practice
16 honesty and equity in all insurance matters. The payment of kickbacks,
17 bribes, or rebates for referrals to service providers, as has been
18 occurring with increasing regularity in this state, results in inflated
19 or fraudulent insurance claims, results in greater insurance costs for

1 all citizens, and is contrary to the public interest. Operations that
2 engage in this practice have some or all of the following
3 characteristics: Cappers and steerers, acting under an agreement or
4 understanding that they will receive a pecuniary benefit, refer
5 claimants with real or imaginary claims, injuries, or property damage
6 to service providers. This sets off a chain of events that corrupts
7 both the provision of services and casualty or property insurance for
8 all citizens. This chain of events includes inflation of claims for
9 services through the use of variously, excessive, inflated, or false
10 estimates of repair; excessive prescriptions of care or rehabilitative
11 therapy; services that either do not occur or are provided by persons
12 unqualified to provide the services; overcharging; submission of false
13 or inflated claims; unwarranted submission of and demands for costs,
14 lost wages, pain and suffering, and the like; and other devices meant
15 to result in false or inflated claims under casualty or property
16 insurance policies or contracts, whether insured or self-insured, and
17 either directly or through subrogation.

18 The legislature finds that combatting these practices requires laws
19 carefully fashioned to identify practices that mimic customary business
20 practices. The legislature does not intend this law to be used against
21 medical referral practices that are otherwise legal, customary, and
22 unrelated to the furtherance of some or all of the corrupt practices
23 identified in this chapter.

24 NEW SECTION. **Sec. 2.** The definitions set forth in this section
25 apply throughout this chapter unless the context clearly indicates
26 otherwise.

27 (1) "Casualty or property insurance" includes both the insurance
28 under which a claim is filed and insurance that receives a claim
29 through subrogation, and means insurance as defined in RCW 48.11.040
30 and 48.11.070 and includes self-insurance arrangements.

31 (2) "Claimant" means a person who has or is believed by an actor to
32 have an insurance claim.

33 (3) "Group-buying arrangement" means an arrangement made by a
34 membership organization having one hundred or more members in which the
35 organization asks for or receives valuable consideration in exchange
36 for referring its members to a service provider; the consideration
37 asked for or received will be or is used to benefit the entire
38 organization, not just one or more individuals in positions of power or

1 influence in the organization; and reasonable efforts are made to
2 disclose to affected members of the organization the nature of the
3 referral relationship, including the nature, extent, amount, and use of
4 the consideration.

5 (4) "Health care services" means a service provided to a claimant
6 for treatment of physical or mental illness or injury arising in whole
7 or substantial part from trauma.

8 (5) "Insurance claim" means a claim for payment, benefits, or
9 damages under a contract, plan, or policy of casualty or property
10 insurance.

11 (6) "Service provider" means a person who directly or indirectly
12 provides, advertises, or otherwise claims to provide services.

13 (7) "Services" means health care services, motor vehicle body or
14 other motor vehicle repair, and preparing, processing, presenting, or
15 negotiating an insurance claim.

16 (8) "Trauma" means a physical injury or wound caused by external
17 force or violence.

18 NEW SECTION. **Sec. 3.** (1) It is unlawful for a person to:

19 (a) Direct, refer, or offer to direct or refer a claimant to a
20 service provider; or

21 (b) Provide or claim or represent to have provided services to a
22 claimant who has been directed or referred to the service provider;
23 knowing that the direction or referral was, is, or will be under an
24 agreement or understanding that the recipient of the referral has
25 conferred or will confer a pecuniary benefit directly or indirectly
26 upon the person who directed or referred the claimant.

27 (2) It is unlawful for a service provider to engage in a regular
28 practice of waiving, rebating, giving, paying, or offering to waive,
29 rebate, give, or pay all or any part of a claimant's casualty or
30 property insurance deductible.

31 NEW SECTION. **Sec. 4.** In a proceeding under this chapter, it is a
32 defense if proven by the defendant by a preponderance of the evidence
33 that, at the time of the offense:

34 (1) The conduct alleged was expressly authorized by the Rules of
35 Professional Conduct or the Admission to Practice Rules for lawyers as
36 adopted by the state supreme court, Washington business and professions

1 licensing statutes, or rules adopted by the secretary of health or the
2 director of licensing;

3 (2) The pecuniary benefit given or received was an incidental
4 nonmonetary gift or gratuity, or was purely social in nature; or

5 (3) The conduct alleged was an exercise of a group-buying
6 arrangement.

7 NEW SECTION. **Sec. 5.** A violation of section 3 of this act
8 constitutes trafficking in insurance claims. A single violation is a
9 gross misdemeanor. Each subsequent violation, whether alleged in the
10 same or in subsequent prosecutions, is a class C felony.

11 NEW SECTION. **Sec. 6.** (1) The legislature finds that practices
12 covered by section 3 of this act, and trafficking in insurance claims,
13 as prohibited in section 3 of this act, are matters vitally affecting
14 the public interest for purposes of applying the Consumer Protection
15 Act, chapter 19.86 RCW. Violations of section 3 of this act are not
16 reasonable in relation to the development and preservation of business.
17 A violation of section 3 of this act is an unfair or deceptive act in
18 trade or commerce and an unfair method of competition for the purpose
19 of applying the Consumer Protection Act, chapter 19.86 RCW.

20 NEW SECTION. **Sec. 7.** The provisions of section 6 of this act are
21 cumulative and nonexclusive and do not affect any other remedy
22 available at law or in equity. Remedies under section 6 of this act
23 may be pursued only by the attorney general.

24 NEW SECTION. **Sec. 8.** Independent of authority granted to the
25 attorney general, the prosecuting attorney may petition the superior
26 court for an injunction against a person who has violated or threatens
27 to violate this chapter. Remedies in an injunctive action brought by
28 a prosecuting attorney are limited to an order enjoining, restraining,
29 or preventing the doing of any act or practice that constitutes a
30 violation of this chapter, recovery of reasonable investigative costs
31 and attorneys' fees, and imposition of a civil penalty of up to five
32 thousand dollars for each violation. The degree of proof required in
33 an action brought under this subsection is a preponderance of the
34 evidence.

1 NEW SECTION. **Sec. 9.** Whenever a service provider or a person
2 licensed by the state in a business or profession is convicted,
3 enjoined, or found liable for damages or a civil penalty or other
4 equitable relief under section 6, 7, or 8 of this act, the attorney
5 general or the prosecuting attorney shall provide written notification
6 of the judgment to the appropriate regulatory or disciplinary body or
7 agency.

8 NEW SECTION. **Sec. 10.** A violation of this chapter is cause for
9 discipline under chapter 18.130 RCW and constitutes unprofessional
10 conduct that could result in any regulatory penalty provided by law,
11 including refusal, revocation, or suspension of a business or
12 professional license, or right or admission to practice.

13 NEW SECTION. **Sec. 11.** Each insurer licensed to write insurance in
14 this state shall institute and maintain an insurance antifraud plan.
15 An insurer licensed on the effective date of this act shall file its
16 antifraud plan with the insurance commissioner no later than December
17 31, 1995. An insurer licensed after the effective date of this act
18 shall file its antifraud plan within six months of licensure. An
19 insurer shall file any change to the antifraud plan with the insurance
20 commissioner within thirty days after the plan has been modified.

21 NEW SECTION. **Sec. 12.** An insurer's antifraud plan must establish
22 specific procedures to:

23 (1) Prevent insurance fraud, including internal fraud involving
24 employees or company representatives, fraud resulting from
25 misrepresentation on applications for insurance coverage, and claims
26 fraud;

27 (2) Review claims in order to detect evidence of possible insurance
28 fraud and to investigate claims where fraud is suspected;

29 (3) Report fraud to appropriate law enforcement agencies and
30 cooperate with those agencies in their prosecution of fraud cases;

31 (4) Undertake civil actions against persons who have engaged in
32 fraudulent activities;

33 (5) Train company employees and agents in the detection and
34 prevention of fraud.

1 NEW SECTION. **Sec. 13.** If after review of an insurer's antifraud
2 plan, the commissioner finds that the plan does not comply with section
3 12 of this act, the commissioner may disapprove the antifraud plan.
4 Notice of disapproval must include a statement of the specific reasons
5 for disapproval. The insurer shall refile a plan disapproved by the
6 commissioner within sixty days of the date of the notice of
7 disapproval. The commissioner may audit insurers to ensure compliance
8 with antifraud plans.

9 NEW SECTION. **Sec. 14.** Each insurer shall annually provide to the
10 insurance commissioner a summary report on actions taken under its
11 antifraud plan to prevent and combat insurance fraud. The report must
12 also include, but not be limited to, measures taken to protect and
13 ensure the integrity of electronic data-processing-generated data and
14 manually compiled data, statistical data on the amount of resources
15 committed to combating fraud, and the amount of fraud identified and
16 recovered during the reporting period.

17 NEW SECTION. **Sec. 15.** An insurer that fails to file a timely
18 antifraud plan or who does not make a good faith attempt to file an
19 antifraud plan that complies with section 12 of this act, is subject to
20 the penalty provisions of RCW 48.01.080, but no penalty may be imposed
21 for the first filing made by an insurer under this chapter. An insurer
22 that fails to follow the antifraud plan is subject to a civil penalty
23 not to exceed ten thousand dollars for each violation, at the
24 discretion of the commissioner after consideration of all relevant
25 factors, including the willfulness of the violation.

26 NEW SECTION. **Sec. 16.** The insurance fraud bureau is established.
27 The bureau consists of a fraud enforcement investigation and
28 administration unit in the office of the insurance commissioner and a
29 prosecution unit in the office of the attorney general. The units
30 shall work in partnership with each other. A governing committee
31 consisting of the attorney general, the insurance commissioner, a
32 representative of the Washington Association of Prosecuting Attorneys,
33 a representative of the Washington Association of Sheriffs and Police
34 Chiefs, a representative of the insurance industry, and a consumer
35 representative shall oversee the operation of the bureau. The attorney
36 general and the insurance commissioner shall appoint the insurance

1 industry and consumer representatives. The Washington Association of
2 Prosecuting Attorneys and the Washington Association of Sheriffs and
3 Police Chiefs shall each select their own representatives. The duties
4 of the governing committee include:

5 (1) Establishing yearly budgets for the investigation and
6 administration unit in the office of the insurance commissioner, the
7 prosecution unit in the office of the attorney general, and for
8 prosecution of insurance fraud done by local law enforcement
9 authorities at the request of the bureau;

10 (2) Establishing procedures and guidelines for the reimbursement of
11 costs to local law enforcement for insurance fraud prosecutions done at
12 the request of the bureau;

13 (3) Authorizing disbursements from the insurance antifraud account;

14 (4) Establishing bureau direction;

15 (5) Establishing protocols for the coordination of multiagency and
16 multijurisdictional enforcement activities;

17 (6) Reviewing bureau and program performance;

18 (7) Reporting yearly to the legislature on the activities and
19 expenses of the bureau; and

20 (8) Recommending legislative changes to facilitate bureau
21 effectiveness.

22 NEW SECTION. **Sec. 17.** The primary focus of the insurance fraud
23 bureau is to establish and maintain the capability to investigate and
24 prosecute crimes of property and casualty insurance fraud in the state
25 of Washington in cooperation with local law enforcement. These crimes
26 often involve sophisticated and organized criminal activities operating
27 in this state and nationwide. The primary emphasis should be directed
28 to the most serious crimes involving staged accidents, false damage or
29 injury claims, the resulting false court documents, unlawful
30 trafficking in claims, and unlicensed medical and legal practice. The
31 unit will also, when appropriate, pursue civil and criminal
32 profiteering actions under chapter 9A.82 RCW.

33 NEW SECTION. **Sec. 18.** The bureau will coordinate all insurance
34 fraud prosecutions and investigations with the appropriate local and
35 federal law enforcement agencies. Bureau personnel will work in a team
36 approach using attorneys and investigators as needed on each
37 investigation. Cases will be prosecuted by the county prosecutor, or

1 by the attorney general under RCW 43.10.232. When a county prosecutor
2 prosecutes a case, bureau personnel will assist the prosecutor as
3 requested. The bureau will be the central clearinghouse for
4 enforcement activities in this state and the primary contact to other
5 law enforcement agencies. The insurance commissioner's unit will
6 review antifraud plans submitted by insurance companies and will
7 monitor company compliance with those plans. The insurance
8 commissioner's unit will also provide educational materials and public
9 information regarding the work of the bureau and the need to eliminate
10 insurance fraud.

11 NEW SECTION. **Sec. 19.** (1) It is the duty of all peace officers,
12 law enforcement officers, and law enforcement agencies within this
13 state to investigate, enforce, and prosecute all violations of this
14 chapter.

15 (2) In addition to other powers granted in this chapter, the
16 insurance fraud bureau may enforce the penal provisions of this chapter
17 and the penal laws of this state relating to insurance fraud. The
18 insurance commissioner may appoint insurance fraud investigation
19 agents. Those agents may, under the supervision of the bureau, enforce
20 the penal provisions of this chapter and the penal laws of this state
21 relating to insurance fraud. They may apply for, serve, and execute
22 all warrants and process of law issued by the courts in enforcing the
23 penal provisions of this chapter or of any penal law of this state
24 relating to insurance fraud. To the extent set forth in this section,
25 the bureau is a law enforcement agency of this state with the power to
26 investigate for violations of and to enforce this chapter and any other
27 law of this state relating to insurance fraud, and to obtain
28 information from and provide information to other law enforcement
29 agencies.

30 NEW SECTION. **Sec. 20.** If matter that the bureau seeks to obtain
31 by request is located outside the state, the person so requested may
32 make it available to the bureau or its representative for examination
33 at the place where the matter is located. The bureau may designate
34 representatives, including officials of the state in which the matter
35 is located, to inspect the matter on its behalf, and it may respond to
36 similar requests from officials of other states.

1 NEW SECTION. **Sec. 21.** The bureau's papers, documents, reports, or
2 evidence relative to the subject of an investigation under this chapter
3 are not subject to public inspection for so long as the bureau deems
4 reasonably necessary to complete the investigation, to protect the
5 person investigated from unwarranted injury, or to be in the public
6 interest. Further, the papers, documents, reports, or evidence
7 relative to the subject of an investigation under this chapter is not
8 subject to subpoena until opened for public inspection by the bureau,
9 unless the bureau consents, or until after notice to the bureau and a
10 hearing, the court determines the bureau would not be unnecessarily
11 hindered by the subpoena. Bureau investigators are not subject to
12 subpoena in civil actions by a court of this state to testify
13 concerning a matter of which they have knowledge under a pending
14 insurance fraud investigation by the bureau.

15 NEW SECTION. **Sec. 22.** An insurance company that believes that a
16 fraudulent claim is being made may send to the bureau, on a form
17 prescribed by the bureau, the information requested and such additional
18 information relative to the claim and the parties claiming loss or
19 damages as the bureau may require. The bureau shall review the reports
20 and select such claims as, in its judgment, may require further
21 investigation. It shall then cause an independent examination of the
22 facts surrounding the claim to be made to determine the extent, if any,
23 to which fraud, deceit, or intentional misrepresentation of any kind
24 exists in the submission of the claim. The bureau shall report any
25 alleged violations of law that its investigations disclose to the
26 appropriate licensing agency and prosecuting authority having
27 jurisdiction with respect to any such violation.

28 NEW SECTION. **Sec. 23.** The insurance antifraud account is created
29 in the custody of the state treasurer. All receipts from the vehicle
30 fee paid and collected under section 25 of this act shall be deposited
31 into the account. Expenditures from the account may be used only for
32 expenses relative to insurance fraud bureau business, including but not
33 limited to salaries and expenses of the insurance antifraud
34 investigation and administration unit within the office of the
35 insurance commissioner, the insurance antifraud prosecution unit within
36 the office of the attorney general, and local insurance antifraud
37 prosecution activities done at the request of the bureau. Only the

1 bureau's governing committee created by section 16 of this act or the
2 committee's designee may authorize expenditures from the account. The
3 account is subject to allotment procedures under chapter 43.88 RCW, but
4 no appropriation is required for expenditures.

5 NEW SECTION. **Sec. 24.** A new section is added to chapter 42.17 RCW
6 to read as follows:

7 Information provided under sections 11 through 14 or 18 through 22
8 of this act is exempt from disclosure under this chapter.

9 NEW SECTION. **Sec. 25.** A new section is added to chapter 46.16 RCW
10 to read as follows:

11 In addition to other fees for the licensing of vehicles there shall
12 be paid and collected annually a fee of twenty-five cents. All such
13 fees paid and collected shall be deposited in the insurance antifraud
14 account created by section 23 of this act. This section expires
15 December 31, 1998.

16 **Sec. 26.** RCW 48.01.030 and 1947 c 79 s .01.03 are each amended to
17 read as follows:

18 The business of insurance is one affected by the public interest,
19 requiring that all persons be actuated by good faith, abstain from
20 deception, and practice honesty and equity in all insurance matters.
21 Upon the insurer, the insured, their providers, and their
22 representatives rests the duty of preserving inviolate the integrity of
23 insurance.

24 **Sec. 27.** RCW 48.18.460 and 1949 c 190 s 26 are each amended to
25 read as follows:

26 An insurer shall furnish, upon (~~written~~) request of any person
27 claiming to have a loss under any insurance contract, forms of proof of
28 loss for completion by such person. But such insurer shall not, by
29 reason of the requirement so to furnish forms, have any responsibility
30 for or with reference to the completion of such proof or the manner of
31 any such completion or attempted completion. If a person makes a claim
32 under a policy of insurance, the insurer may require that the person be
33 examined under an oath administered by a person authorized by state or
34 federal law to administer oaths.

1 **Sec. 28.** RCW 48.30.210 and 1990 1st ex.s. c 3 s 10 are each
2 amended to read as follows:

3 (~~Any agent, solicitor, broker, examining physician or other~~) A
4 person who knowingly makes a false or (~~fraudulent~~) misleading
5 statement or (~~representation~~) impersonation, or who willfully fails
6 to reveal a material fact, in or relative to an application for
7 insurance (~~in~~) to an insurer (~~transacting insurance under the~~
8 ~~provisions of this code, shall be~~), is guilty of a gross misdemeanor,
9 and the license of any such (~~agent, solicitor, or broker who makes~~
10 ~~such a statement or representation~~) person may be revoked.

11 **Sec. 29.** RCW 48.30.220 and 1965 ex.s. c 70 s 25 are each amended
12 to read as follows:

13 Any person, who, with intent to defraud or prejudice the insurer
14 thereof, (~~willfully~~) burns or in any manner injures, destroys,
15 secretes, abandons, or disposes of any property which is insured at the
16 time against loss or damage by fire, theft, (~~or~~) embezzlement, or
17 (~~by~~) any other casualty, whether the same be the property of or in
18 the possession of such person or any other person, under (~~such~~)
19 circumstances not making the offense arson in the first degree, is
20 guilty of a class C felony.

21 **Sec. 30.** RCW 48.50.010 and 1979 ex.s. c 80 s 1 are each amended to
22 read as follows:

23 This chapter shall be known and may be cited as the (~~Arson~~)
24 Insurance Fraud Reporting Immunity Act.

25 **Sec. 31.** RCW 48.50.020 and 1986 c 266 s 77 are each amended to
26 read as follows:

27 As used in this chapter the following terms have the meanings
28 indicated unless the context clearly requires otherwise.

29 (1) "Authorized agency" means a public agency or its official
30 representative having legal authority to investigate criminal activity
31 or the cause of a fire (~~and~~) or to initiate criminal proceedings (~~or~~
32 ~~further investigations if the cause was not accidental~~), including the
33 following persons and agencies:

34 (a) The (~~director~~) department of community, trade, and economic
35 development and the director of fire protection;

1 (b) The prosecuting attorney of the county where the ~~((fire))~~
2 criminal activity occurred;

3 (c) State, county, and local law enforcement agencies;

4 ~~((d))~~ (d) The state attorney general ~~((, when engaged in a prosecution~~
5 ~~which is or may be connected with the fire))~~);

6 ~~((e))~~ (e) The Federal Bureau of Investigation, or any other
7 federal law enforcement agency; ~~((and~~

8 ~~(e))~~ (f) The United States attorney's office ~~((when authorized or~~
9 ~~charged with investigation or prosecution concerning the fire))~~; and

10 (g) The office of the insurance commissioner.

11 (2) "Insurer" means any insurer, as defined in RCW 48.01.050 ~~((~~
12 ~~which insures against loss by fire, and includes insurers under the~~
13 ~~Washington F.A.I.R. plan))~~.

14 (3) "Relevant information" means information having any tendency to
15 make the existence of any fact that is of consequence to the
16 investigation or determination of criminal activity or the cause of any
17 fire more probable or less probable than it would be without the
18 information.

19 **Sec. 32.** RCW 48.50.030 and 1979 ex.s. c 80 s 3 are each amended to
20 read as follows:

21 (1) Any authorized agency may request, in writing, that an insurer
22 release to the agency any or all relevant information or evidence which
23 the insurer may have in its possession relating to ~~((a particular fire~~
24 ~~loss))~~ criminal activity, if such information or evidence is deemed
25 important by the agency in its discretion.

26 (2) An insurer who has reason to believe that a person participated
27 or is participating in criminal activity relating to a contract of
28 insurance may report relevant information to an authorized agency.

29 (3) The information ~~((requested))~~ provided to an authorized agency
30 under this section may include, without limitation:

31 (a) Pertinent insurance policy information relating to a ~~((fire~~
32 ~~loss))~~ claim under investigation and any application for such a policy;

33 (b) Policy premium payment records which are available;

34 (c) History of previous claims ~~((made by the insured))~~ in which the
35 person was involved; and

36 (d) Material relating to the investigation of the loss, including
37 statements of any person, proof of loss, and any other evidence found
38 in the investigation.

1 (~~(2) An~~) (4) The insurer receiving a request under subsection (1)
2 of this section shall furnish all relevant information requested to the
3 agency within a reasonable time, orally or in writing(~~(, all relevant~~
4 ~~information requested)~~).

5 **Sec. 33.** RCW 48.50.040 and 1986 c 266 s 91 are each amended to
6 read as follows:

7 (1) When an insurer has reason to believe that a fire loss reported
8 to the insurer may be of other than accidental cause, the insurer shall
9 notify the (~~(director)~~) department of community, trade, and economic
10 development, through the director of fire protection, in the manner
11 prescribed under RCW 48.05.320 concerning the circumstances of the fire
12 loss, including any and all relevant material developed from the
13 insurer's inquiry into the fire loss.

14 (2) Notification of the (~~(director)~~) department of community,
15 trade, and economic development, through the director of fire
16 protection, under subsection (1) of this section does not relieve the
17 insurer of the duty to respond to a request for information from any
18 other authorized agency and does not bar an insurer from other
19 reporting under RCW 48.50.030(2).

20 **Sec. 34.** RCW 48.50.075 and 1981 c 320 s 2 are each amended to read
21 as follows:

22 In denying a claim (~~(resulting from a fire)~~), an insurer who relies
23 upon a written opinion from an authorized agency specifically
24 enumerated in (~~((a) through (e) of)~~) RCW 48.50.020(1) (a) through (g)
25 that ~~((the fire was caused by arson))~~ criminal activity that is related
26 to that claim is being investigated, or a crime has been charged, and
27 that the ~~((insured was responsible for the fire, shall not be))~~
28 claimant is a target of the investigation or has been charged with a
29 crime, is not liable for bad faith or other noncontractual theory of
30 damages as a result of this reliance.

31 Immunity under this section shall exist only so long as the
32 incident for which the (~~(insured)~~) claimant may be responsible is under
33 active investigation or prosecution, or the authorized agency states
34 its position that the claim includes or is a result of ~~((arson for))~~
35 criminal activity in which the ~~((insured))~~ claimant was (~~(responsible))~~
36 a participant.

1 **Sec. 35.** RCW 48.80.020 and 1986 c 243 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Claim" means any attempt to cause a health care payer to make
6 a health care payment.

7 (2) "Deceptive" means presenting a claim to a health care payer
8 that contains a statement of fact or fails to reveal a material fact,
9 leading the health care payer to believe that the represented or
10 suggested state of affairs is other than it actually is. For the
11 purposes of this chapter, the determination of what constitutes a
12 material fact is a question of law to be resolved by the court.

13 (3) "False" means wholly or partially untrue or deceptive.

14 (4) "Health care payment" means a payment for health care services
15 or the right under a contract, certificate, or policy of insurance to
16 have a payment made by a health care payer for a specified health care
17 service.

18 (5) "Health care payer" means any insurance company authorized to
19 provide health insurance in this state, any health care service
20 contractor authorized under chapter 48.44 RCW, any health maintenance
21 organization authorized under chapter 48.46 RCW, any legal entity which
22 is self-insured and providing health care benefits to its employees,
23 ~~((or))~~ and any insurer or other person responsible for paying for
24 health care services.

25 (6) "Person" means an individual, corporation, partnership,
26 association, or other legal entity.

27 (7) "Provider" means any person lawfully licensed or authorized to
28 render any health service.

29 **Sec. 36.** RCW 2.48.180 and 1989 c 117 s 13 are each amended to read
30 as follows:

31 ~~((Any person who, not being an active member of the state bar, or
32 who after he has been disbarred or while suspended from membership in
33 the state bar, as by this chapter provided, shall))~~

34 (1) As used in this section:

35 (a) "Legal provider" means an active member in good standing of the
36 state bar, and any other person authorized by the Washington state
37 supreme court to engage in full or limited practice of law;

1 (b) "Nonlawyer" means a person to whom the Washington supreme court
2 has granted a limited authorization to practice law but who practices
3 law outside that authorization, and a person who is not an active
4 member in good standing of the state bar, including persons who are
5 disbarred or suspended from membership;

6 (c) "Ownership interest" means the right to control the affairs of
7 a business, or the right to share in the profits of a business.

8 (2) The following constitutes unlawful practice of law:

9 (a) A nonlawyer practices law, or holds himself or herself out as
10 entitled to practice law(~~(, shall, except as provided in RCW~~
11 19.154.100, be guilty of a misdemeanor: PROVIDED, HOWEVER, Nothing
12 herein contained shall be held to in any way affect the power of the
13 courts to grant injunctive relief or to punish as for contempt));

14 (b) A legal provider holds an investment or ownership interest in
15 a business primarily engaged in the practice of law, knowing that a
16 nonlawyer holds an investment or ownership interest in the business;

17 (c) A nonlawyer knowingly holds an investment or ownership interest
18 in a business primarily engaged in the practice of law;

19 (d) A legal provider works for a nonlawyer, or a nonlawyer employs
20 a legal provider, if the primary activity of the business is the
21 practice of law;

22 (e) A nonlawyer shares legal fees with a legal provider; or

23 (f) A nonlawyer loans money to a legal provider, law firm, or
24 business engaged in the practice of law, unless the loan charges a
25 commercially reasonable rate of interest and the obligation to repay is
26 not related to income of the legal provider, law firm, or business.

27 (3) Unlawful practice of law is a crime. A single violation of
28 this section is a gross misdemeanor. Each subsequent violation,
29 whether alleged in the same or in subsequent prosecutions, is a class
30 C felony.

31 (4) Nothing contained in this section affects the power of the
32 courts to grant injunctive or other equitable relief or to punish as
33 for contempt.

34 (5) Whenever a legal provider or a person licensed by the state in
35 a business or profession is convicted, enjoined, or found liable for
36 damages or other equitable relief under this section, the plaintiff's
37 attorney shall provide written notification of the conviction to the
38 appropriate regulatory or disciplinary body or agency.

1 (6) A violation of this section is cause for discipline, refusal,
2 revocation, or suspension of a business or professional license, or
3 right or admission to practice. The degree of proof required in a
4 proceeding under this subsection is a preponderance of the evidence.

5 (7) In a proceeding under this section it is a defense if proven by
6 the defendant by a preponderance of the evidence that, at the time of
7 the offense, the conduct alleged was authorized by the Rules of
8 Professional Conduct or the Admission to Practice Rules, or Washington
9 business and professions licensing statutes or rules.

10 (8) The legislature finds that practices covered by RCW 2.48.170,
11 2.48.180, and 2.48.190, and the unauthorized practice of law prohibited
12 by RCW 2.48.170, 2.48.180, and 2.48.190 are matters vitally affecting
13 the public interest for purposes of applying the Consumer Protection
14 Act, chapter 19.86 RCW. Violations of these sections are not
15 reasonable in relation to the development and preservation of business.
16 A violation of RCW 2.48.170, 2.48.180, or 2.48.190 is an unfair or
17 deceptive act in trade or commerce and an unfair method of competition
18 for the purpose of applying the Consumer Protection Act, chapter 19.86
19 RCW. This subsection and subsection (9) of this section are cumulative
20 and nonexclusive and do not affect any other remedy available at law or
21 in equity.

22 (9) Independent of authority granted to the attorney general, the
23 prosecuting attorney may petition the superior court for an injunction
24 against a person who has violated or threatens to violate this chapter.
25 Remedies in an injunctive action brought by a prosecuting attorney are
26 limited to an order enjoining, restraining, or preventing the doing of
27 an act or practice that constitutes a violation of this chapter,
28 recovery of reasonable investigative costs and attorney's fees, and
29 imposition of a civil penalty of not more than five thousand dollars
30 for each violation. The degree of proof required in an action brought
31 under this subsection is a preponderance of the evidence.

32 **Sec. 37.** RCW 9.12.010 and 1915 c 165 s 1 are each amended to read
33 as follows:

34 Every person who ~~((shall))~~ brings on his or her own behalf, or
35 instigates, incites, or encourages another to bring, any false suit at
36 law or in equity in any court of this state, with intent thereby to
37 distress or harass a defendant ~~((therein; and every person, being an~~
38 ~~attorney or counselor at law, who shall personally, or through the~~

1 ~~agency of another, solicit employment as such attorney, in any suit~~
2 ~~pending or prospective, or, with intent to obtain such employment~~
3 ~~shall, directly or indirectly, loan any money or give or promise to~~
4 ~~give any money, property or other consideration to the person from whom~~
5 ~~such employment is sought; and every person who shall)) in the suit, or~~
6 who serves or sends any paper or document purporting to be or
7 resembling a judicial process, that is not in fact a judicial process
8 (~~shall be~~), is guilty of a misdemeanor; and in case the person
9 offending is an attorney, he or she may, in addition thereto be
10 disbarred from practicing law within this state.

11 **Sec. 38.** RCW 9.94A.320 and 1994 sp.s. c 7 s 510, 1994 c 275 s 20,
12 and 1994 c 53 s 2 are each reenacted and amended to read as follows:

13 TABLE 2

14 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

15	XV	Aggravated Murder 1 (RCW 10.95.020)
16	XIV	Murder 1 (RCW 9A.32.030)
17		Homicide by abuse (RCW 9A.32.055)
18	XIII	Murder 2 (RCW 9A.32.050)
19	XII	Assault 1 (RCW 9A.36.011)
20		Assault of a Child 1 (RCW 9A.36.120)
21	XI	Rape 1 (RCW 9A.44.040)
22		Rape of a Child 1 (RCW 9A.44.073)
23	X	Kidnapping 1 (RCW 9A.40.020)
24		Rape 2 (RCW 9A.44.050)
25		Rape of a Child 2 (RCW 9A.44.076)
26		Child Molestation 1 (RCW 9A.44.083)
27		Damaging building, etc., by explosion with
28		threat to human being (RCW
29		70.74.280(1))
30		Over 18 and deliver heroin or narcotic
31		from Schedule I or II to someone
32		under 18 (RCW 69.50.406)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))

3 IX Assault of a Child 2 (RCW 9A.36.130)
4 Robbery 1 (RCW 9A.56.200)
5 Manslaughter 1 (RCW 9A.32.060)
6 Explosive devices prohibited (RCW
7 70.74.180)
8 Indecent Liberties (with forcible
9 compulsion) (RCW 9A.44.100(1)(a))
10 Endangering life and property by
11 explosives with threat to human being
12 (RCW 70.74.270)
13 Over 18 and deliver narcotic from Schedule
14 III, IV, or V or a nonnarcotic from
15 Schedule I-V to someone under 18 and
16 3 years junior (RCW 69.50.406)
17 Controlled Substance Homicide (RCW
18 69.50.415)
19 Sexual Exploitation (RCW 9.68A.040)
20 Inciting Criminal Profiteering (RCW
21 9A.82.060(1)(b))
22 Vehicular Homicide, by being under the
23 influence of intoxicating liquor or
24 any drug (RCW 46.61.520)

25 VIII Arson 1 (RCW 9A.48.020)
26 Promoting Prostitution 1 (RCW 9A.88.070)
27 Selling for profit (controlled or
28 counterfeit) any controlled substance
29 (RCW 69.50.410)
30 Manufacture, deliver, or possess with
31 intent to deliver heroin or cocaine
32 (RCW 69.50.401(a)(1)(i))
33 Manufacture, deliver, or possess with
34 intent to deliver methamphetamine
35 (RCW 69.50.401(a)(1)(ii))
36 Vehicular Homicide, by the operation of
37 any vehicle in a reckless manner (RCW
38 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)
2 Vehicular Homicide, by disregard for the
3 safety of others (RCW 46.61.520)
4 Introducing Contraband 1 (RCW 9A.76.140)
5 Indecent Liberties (without forcible
6 compulsion) (RCW 9A.44.100(1) (b) and
7 (c))
8 Child Molestation 2 (RCW 9A.44.086)
9 Dealing in depictions of minor engaged in
10 sexually explicit conduct (RCW
11 9.68A.050)
12 Sending, bringing into state depictions of
13 minor engaged in sexually explicit
14 conduct (RCW 9.68A.060)
15 Involving a minor in drug dealing (RCW
16 69.50.401(f))

17 VI Bribery (RCW 9A.68.010)
18 Manslaughter 2 (RCW 9A.32.070)
19 Rape of a Child 3 (RCW 9A.44.079)
20 Intimidating a Juror/Witness (RCW
21 9A.72.110, 9A.72.130)
22 Damaging building, etc., by explosion with
23 no threat to human being (RCW
24 70.74.280(2))
25 Endangering life and property by
26 explosives with no threat to human
27 being (RCW 70.74.270)
28 Incest 1 (RCW 9A.64.020(1))
29 Manufacture, deliver, or possess with
30 intent to deliver narcotics from
31 Schedule I or II (except heroin or
32 cocaine) (RCW 69.50.401(a)(1)(i))
33 Intimidating a Judge (RCW 9A.72.160)
34 Bail Jumping with Murder 1 (RCW
35 9A.76.170(2)(a))

1 V Criminal Mistreatment 1 (RCW 9A.42.020)
2 Theft of a Firearm (RCW 9A.56.300)
3 Reckless Endangerment 1 (RCW 9A.36.045)
4 Rape 3 (RCW 9A.44.060)
5 Sexual Misconduct with a Minor 1 (RCW
6 9A.44.093)
7 Child Molestation 3 (RCW 9A.44.089)
8 Kidnapping 2 (RCW 9A.40.030)
9 Extortion 1 (RCW 9A.56.120)
10 Incest 2 (RCW 9A.64.020(2))
11 Perjury 1 (RCW 9A.72.020)
12 Extortionate Extension of Credit (RCW
13 9A.82.020)
14 Advancing money or property for
15 extortionate extension of credit (RCW
16 9A.82.030)
17 Extortionate Means to Collect Extensions
18 of Credit (RCW 9A.82.040)
19 Rendering Criminal Assistance 1 (RCW
20 9A.76.070)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))
23 Sexually Violating Human Remains (RCW
24 9A.44.105)
25 Delivery of imitation controlled substance
26 by person eighteen or over to person
27 under eighteen (RCW 69.52.030(2))

28 IV Residential Burglary (RCW 9A.52.025)
29 Theft of Livestock 1 (RCW 9A.56.080)
30 Robbery 2 (RCW 9A.56.210)
31 Assault 2 (RCW 9A.36.021)
32 Escape 1 (RCW 9A.76.110)
33 Arson 2 (RCW 9A.48.030)
34 Commercial Bribery (section 39 of this
35 act)
36 Bribing a Witness/Bribe Received by
37 Witness (RCW 9A.72.090, 9A.72.100)
38 Malicious Harassment (RCW 9A.36.080)
39 Threats to Bomb (RCW 9.61.160)

1 Willful Failure to Return from Furlough
2 (RCW 72.66.060)
3 Hit and Run « Injury Accident (RCW
4 46.52.020(4))
5 Vehicular Assault (RCW 46.61.522)
6 Manufacture, deliver, or possess with
7 intent to deliver narcotics from
8 Schedule III, IV, or V or
9 nonnarcotics from Schedule I-V
10 (except marijuana or
11 methamphetamines) (RCW
12 69.50.401(a)(1)(ii) through (iv))
13 Influencing Outcome of Sporting Event (RCW
14 9A.82.070)
15 Use of Proceeds of Criminal Profiteering
16 (RCW 9A.82.080 (1) and (2))
17 Knowingly Trafficking in Stolen Property
18 (RCW 9A.82.050(2))

19 III Criminal Mistreatment 2 (RCW 9A.42.030)
20 Extortion 2 (RCW 9A.56.130)
21 Unlawful Imprisonment (RCW 9A.40.040)
22 Assault 3 (RCW 9A.36.031)
23 Assault of a Child 3 (RCW 9A.36.140)
24 Custodial Assault (RCW 9A.36.100)
25 Unlawful possession of firearm or pistol
26 by felon (RCW 9.41.040)
27 Harassment (RCW 9A.46.020)
28 Promoting Prostitution 2 (RCW 9A.88.080)
29 Willful Failure to Return from Work
30 Release (RCW 72.65.070)
31 Burglary 2 (RCW 9A.52.030)
32 Introducing Contraband 2 (RCW 9A.76.150)
33 Communication with a Minor for Immoral
34 Purposes (RCW 9.68A.090)
35 Patronizing a Juvenile Prostitute (RCW
36 9.68A.100)
37 Escape 2 (RCW 9A.76.120)
38 Perjury 2 (RCW 9A.72.030)

1 Bail Jumping with class B or C Felony (RCW
2 9A.76.170(2)(c))
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Tampering with a Witness (RCW 9A.72.120)
6 Manufacture, deliver, or possess with
7 intent to deliver marijuana (RCW
8 69.50.401(a)(1)(ii))
9 Delivery of a material in lieu of a
10 controlled substance (RCW
11 69.50.401(c))
12 Manufacture, distribute, or possess with
13 intent to distribute an imitation
14 controlled substance (RCW
15 69.52.030(1))
16 Recklessly Trafficking in Stolen Property
17 (RCW 9A.82.050(1))
18 Theft of livestock 2 (RCW 9A.56.080)
19 Securities Act violation (RCW 21.20.400)
20 II Unlawful Practice of Law (RCW 2.48.180)
21 Malicious Mischief 1 (RCW 9A.48.070)
22 Possession of Stolen Property 1 (RCW
23 9A.56.150)
24 Theft 1 (RCW 9A.56.030)
25 Trafficking in Insurance Claims (section 3
26 of this act)
27 Unlicensed Practice of a Profession or
28 Business (RCW 18.130.190(7))
29 Health Care False Claims (RCW 48.80.030)
30 Possession of controlled substance that is
31 either heroin or narcotics from
32 Schedule I or II (RCW 69.50.401(d))
33 Possession of phencyclidine (PCP) (RCW
34 69.50.401(d))
35 Create, deliver, or possess a counterfeit
36 controlled substance (RCW
37 69.50.401(b))

1 Computer Trespass 1 (RCW 9A.52.110)
2 Escape from Community Custody (RCW
3 72.09.310)
4 I Theft 2 (RCW 9A.56.040)
5 Possession of Stolen Property 2 (RCW
6 9A.56.160)
7 Forgery (RCW 9A.60.020)
8 Taking Motor Vehicle Without Permission
9 (RCW 9A.56.070)
10 Vehicle Prowl 1 (RCW 9A.52.095)
11 Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 Malicious Mischief 2 (RCW 9A.48.080)
14 Reckless Burning 1 (RCW 9A.48.040)
15 Unlawful Issuance of Checks or Drafts (RCW
16 9A.56.060)
17 Unlawful Use of Food Stamps (RCW 9.91.140
18 (2) and (3))
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forged Prescription (RCW 69.41.020)
22 Forged Prescription for a Controlled
23 Substance (RCW 69.50.403)
24 Possess Controlled Substance that is a
25 Narcotic from Schedule III, IV, or V
26 or Non-narcotic from Schedule I-V
27 (except phencyclidine) (RCW
28 69.50.401(d))

29 NEW SECTION. **Sec. 39.** A new section is added to chapter 9A.68 RCW
30 to read as follows:

31 (1) For purposes of this section:

32 (a) "Claimant" means a person who has or is believed by an actor to
33 have an insurance claim.

34 (b) "Service provider" means a person who directly or indirectly
35 provides, advertises, or otherwise claims to provide services.

36 (c) "Services" means health care services, motor vehicle body or
37 other motor vehicle repair, and preparing, processing, presenting, or
38 negotiating an insurance claim.

1 (d) "Trusted person" means:

2 (i) An agent, employee, or partner of another;

3 (ii) An administrator, executor, conservator, guardian, receiver,
4 or trustee of a person or an estate, or any other person acting in a
5 fiduciary capacity;

6 (iii) An accountant, appraiser, attorney, physician, or other
7 professional adviser;

8 (iv) An officer or director of a corporation, or any other person
9 who participates in the affairs of a corporation, partnership, or
10 unincorporated association; or

11 (v) An arbitrator, mediator, or other purportedly disinterested
12 adjudicator or referee.

13 (2) A person is guilty of commercial bribery if:

14 (a) He or she offers, confers, or agrees to confer a pecuniary
15 benefit directly or indirectly upon a trusted person under a request,
16 agreement, or understanding that the trusted person will violate a duty
17 of fidelity or trust arising from his or her position as a trusted
18 person;

19 (b) Being a trusted person, he or she requests, accepts, or agrees
20 to accept a pecuniary benefit for himself, herself, or another under a
21 request, agreement, or understanding that he or she will violate a duty
22 of fidelity or trust arising from his or her position as a trusted
23 person; or

24 (c) Being an employee or agent of an insurer, he or she requests,
25 accepts, or agrees to accept a pecuniary benefit for himself or
26 herself, or a person other than the insurer, under a request,
27 agreement, or understanding that he or she will or a threat that he or
28 she will not refer or induce claimants to have services performed by a
29 service provider.

30 (3) It is not a defense to a prosecution under this section that
31 the person sought to be influenced was not qualified to act in the
32 desired way, whether because the person had not yet assumed his or her
33 position, lacked authority, or for any other reason.

34 (4) Commercial bribery is a class B felony.

35 **Sec. 40.** RCW 9A.72.010 and 1981 c 187 s 1 are each amended to read
36 as follows:

37 The following definitions are applicable in this chapter unless the
38 context otherwise requires:

1 (1) "Materially false statement" means any false statement oral or
2 written, regardless of its admissibility under the rules of evidence,
3 which could have affected the course or outcome of the proceeding;
4 whether a false statement is material shall be determined by the court
5 as a matter of law;

6 (2) "Oath" includes an affirmation and every other mode authorized
7 by law of attesting to the truth of that which is stated; in this
8 chapter, written statements shall be treated as if made under oath if:

9 (a) The statement was made on or pursuant to instructions on an
10 official form bearing notice, authorized by law, to the effect that
11 false statements made therein are punishable;

12 (b) The statement recites that it was made under oath, the
13 declarant was aware of such recitation at the time he or she made the
14 statement, intended that the statement should be represented as a sworn
15 statement, and the statement was in fact so represented by its delivery
16 or utterance with the signed jurat of an officer authorized to
17 administer oaths appended thereto; or

18 (c) It is a statement, declaration, verification, or certificate,
19 made within or outside the state of Washington, which is certified or
20 declared to be true under penalty of perjury as provided in RCW
21 9A.72.085.

22 (3) An oath is "required or authorized by law" when the use of the
23 oath is specifically provided for by statute or regulatory provision or
24 when the oath is administered by a person authorized by state or
25 federal law to administer oaths;

26 (4) "Official proceeding" means a proceeding heard before any
27 legislative, judicial, administrative, or other government agency or
28 official authorized to hear evidence under oath, including any referee,
29 hearing examiner, commissioner, notary, or other person taking
30 testimony or depositions;

31 (5) "Juror" means any person who is a member of any jury, including
32 a grand jury, impaneled by any court of this state or by any public
33 servant authorized by law to impanel a jury; the term juror also
34 includes any person who has been drawn or summoned to attend as a
35 prospective juror;

36 (6) "Testimony" includes oral or written statements, documents, or
37 any other material that may be offered by a witness in an official
38 proceeding.

1 **Sec. 41.** RCW 9A.72.030 and 1975 1st ex.s. c 260 s 9A.72.030 are
2 each amended to read as follows:

3 (1) A person is guilty of perjury in the second degree if, in an
4 examination under oath under the terms of a contract of insurance, or
5 with intent to mislead a public servant in the performance of his or
6 her duty, he or she makes a materially false statement, which he or she
7 knows to be false under an oath required or authorized by law.

8 (2) Perjury in the second degree is a class C felony.

9 NEW SECTION. **Sec. 42.** A new section is added to chapter 9A.76 RCW
10 to read as follows:

11 A person who knowingly makes a false or misleading material
12 statement to a public servant is guilty of a gross misdemeanor.
13 "Material statement" means a written or oral statement reasonably
14 likely to be relied upon by a public servant in the discharge of his or
15 her official powers or duties.

16 **Sec. 43.** RCW 9A.76.020 and 1994 c 196 s 1 are each amended to read
17 as follows:

18 (1) A person is guilty of obstructing a law enforcement officer if
19 the person((÷

20 ~~(a) Willfully makes a false or misleading statement to a law~~
21 ~~enforcement officer who has detained the person during the course of a~~
22 ~~lawful investigation or lawful arrest; or~~

23 ~~(b))~~ willfully hinders, delays, or obstructs any law enforcement
24 officer in the discharge of his or her official powers or duties.

25 (2) "Law enforcement officer" means any general authority, limited
26 authority, or specially commissioned Washington peace officer or
27 federal peace officer as those terms are defined in RCW 10.93.020, and
28 other public officers who are responsible for enforcement of fire,
29 building, zoning, and life and safety codes.

30 (3) Obstructing a law enforcement officer is a gross misdemeanor.

31 **Sec. 44.** RCW 9A.82.010 and 1994 c 218 s 17 are each amended to
32 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 20 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 21 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 22 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 23 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
24 9A.56.080;
- 25 (f) Child selling or child buying, as defined in RCW 9A.64.030;
- 26 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
27 9A.68.050;
- 28 (h) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 29 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 30 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 31 (k) Advancing money for use in an extortionate extension of credit,
32 as defined in RCW 9A.82.030;
- 33 (l) Collection of an extortionate extension of credit, as defined
34 in RCW 9A.82.040;
- 35 (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 36 (n) Delivery or manufacture of controlled substances or possession
37 with intent to deliver or manufacture controlled substances under
38 chapter 69.50 RCW;
- 39 (o) Trafficking in stolen property, as defined in RCW 9A.82.050;

1 (p) Leading organized crime, as defined in RCW 9A.82.060;
2 (q) Money laundering, as defined in RCW 9A.83.020;
3 (r) Obstructing criminal investigations or prosecutions in
4 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
5 9A.76.070, or 9A.76.180;
6 (s) Fraud in the purchase or sale of securities, as defined in RCW
7 21.20.010;
8 (t) Promoting pornography, as defined in RCW 9.68.140;
9 (u) Sexual exploitation of children, as defined in RCW 9.68A.040,
10 9.68A.050, and 9.68A.060;
11 (v) Promoting prostitution, as defined in RCW 9A.88.070 and
12 9A.88.080;
13 (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
14 (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
15 (y) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
16 (z) A pattern of equity skimming, as defined in RCW 61.34.020;
17 ((or))
18 (aa) Commercial telephone solicitation in violation of RCW
19 19.158.040(1);
20 (bb) Trafficking in insurance claims, as defined in section 3 of
21 this act;
22 (cc) Unlawful practice of law, as defined in RCW 2.48.180;
23 (dd) Commercial bribery, as defined in section 39 of this act;
24 (ee) Health care false claims, as defined in RCW 48.80.030; or
25 (ff) Unlicensed practice of a profession or business, as defined in
26 RCW 18.130.190(7).
27 (15) "Pattern of criminal profiteering activity" means engaging in
28 at least three acts of criminal profiteering, one of which occurred
29 after July 1, 1985, and the last of which occurred within five years,
30 excluding any period of imprisonment, after the commission of the
31 earliest act of criminal profiteering. In order to constitute a
32 pattern, the three acts must have the same or similar intent, results,
33 accomplices, principals, victims, or methods of commission, or be
34 otherwise interrelated by distinguishing characteristics including a
35 nexus to the same enterprise, and must not be isolated events.
36 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
37 any person other than the attorney general or county prosecuting
38 attorney in which one or more acts of fraud in the purchase or sale of
39 securities are asserted as acts of criminal profiteering activity, it

1 is a condition to civil liability under RCW 9A.82.100 that the
2 defendant has been convicted in a criminal proceeding of fraud in the
3 purchase or sale of securities under RCW 21.20.400 or under the laws of
4 another state or of the United States requiring the same elements of
5 proof, but such conviction need not relate to any act or acts asserted
6 as acts of criminal profiteering activity in such civil action under
7 RCW 9A.82.100.

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

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

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

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

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

21 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (ii) A trustee of any testamentary trust;

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

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

20 **Sec. 45.** RCW 18.130.190 and 1993 c 367 s 19 are each amended to
21 read as follows:

22 (1) The secretary shall investigate complaints concerning practice
23 by unlicensed persons of a profession or business for which a license
24 is required by the chapters specified in RCW 18.130.040. In the
25 investigation of the complaints, the secretary shall have the same
26 authority as provided the secretary under RCW 18.130.050.

27 (2) The secretary may issue a notice of intention to issue a cease
28 and desist order to any person whom the secretary has reason to believe
29 is engaged in the unlicensed practice of a profession or business for
30 which a license is required by the chapters specified in RCW
31 18.130.040. The person to whom such notice is issued may request an
32 adjudicative proceeding to contest the charges. The request for
33 hearing must be filed within twenty days after service of the notice of
34 intention to issue a cease and desist order. The failure to request a
35 hearing constitutes a default, whereupon the secretary may enter a
36 permanent cease and desist order, which may include a civil fine. All
37 proceedings shall be conducted in accordance with chapter 34.05 RCW.

1 (3) If the secretary makes a final determination that a person has
2 engaged or is engaging in unlicensed practice, the secretary may issue
3 a cease and desist order. In addition, the secretary may impose a
4 civil fine in an amount not exceeding one thousand dollars for each day
5 upon which the person engaged in unlicensed practice of a business or
6 profession for which a license is required by one or more of the
7 chapters specified in RCW 18.130.040. The proceeds of such fines shall
8 be deposited to the health professions account.

9 (4) If the secretary makes a written finding of fact that the
10 public interest will be irreparably harmed by delay in issuing an
11 order, the secretary may issue a temporary cease and desist order. The
12 person receiving a temporary cease and desist order shall be provided
13 an opportunity for a prompt hearing. The temporary cease and desist
14 order shall remain in effect until further order of the secretary. The
15 failure to request a prompt or regularly scheduled hearing constitutes
16 a default, whereupon the secretary may enter a permanent cease and
17 desist order, which may include a civil fine.

18 (5) Neither the issuance of a cease and desist order nor payment of
19 a civil fine shall relieve the person so practicing or operating a
20 business without a license from criminal prosecution therefor, but the
21 remedy of a cease and desist order or civil fine shall be in addition
22 to any criminal liability. The cease and desist order is conclusive
23 proof of unlicensed practice and may be enforced under RCW 7.21.060.
24 This method of enforcement of the cease and desist order or civil fine
25 may be used in addition to, or as an alternative to, any provisions for
26 enforcement of agency orders set out in chapter 34.05 RCW.

27 (6) The attorney general, a county prosecuting attorney, the
28 secretary, a board, or any person may in accordance with the laws of
29 this state governing injunctions, maintain an action in the name of
30 this state to enjoin any person practicing a profession or business for
31 which a license is required by the chapters specified in RCW 18.130.040
32 without a license from engaging in such practice or operating such
33 business until the required license is secured. However, the
34 injunction shall not relieve the person so practicing or operating a
35 business without a license from criminal prosecution therefor, but the
36 remedy by injunction shall be in addition to any criminal liability.

37 (7) Unlicensed practice of a profession or operating a business for
38 which a license is required by the chapters specified in RCW
39 18.130.040, unless otherwise exempted by law, constitutes a gross

1 misdemeanor for a single violation. Each subsequent violation, whether
2 alleged in the same or in subsequent prosecutions, is a class C felony.
3 All fees, fines, forfeitures, and penalties collected or assessed by a
4 court because of a violation of this section shall be remitted to the
5 health professions account.

6 NEW SECTION. Sec. 46. The Washington State Bar Association is
7 requested to submit to the appropriate committees of the state senate
8 and house of representatives by November 1995, a report on the
9 recommendations of its task force on nonlawyer practice, including any
10 recommendations for legislation or proposed court rules.

11 NEW SECTION. Sec. 47. The sum of seven hundred fifty thousand
12 dollars, or as much thereof as may be necessary, is appropriated to the
13 insurance antifraud account from the general fund, for the biennium
14 ending June 30, 1997, to be allocated by the governing committee of the
15 insurance fraud bureau for the initial startup and operating expenses
16 of the insurance fraud bureau. That sum shall be repaid to the state
17 general fund out of the moneys in the insurance antifraud account no
18 later than December 31, 1996.

19 NEW SECTION. Sec. 48. The following acts or parts of acts are
20 each repealed:

21 (1) RCW 9.91.090 and 1992 c 7 s 17, 1981 c 203 s 4, & 1909 c 249 s
22 384;

23 (2) RCW 9A.82.903 and 1985 c 455 s 22;

24 (3) RCW 48.50.060 and 1979 ex.s. c 80 s 6;

25 (4) RCW 48.50.080 and 1979 ex.s. c 80 s 8; and

26 (5) RCW 49.44.070 and 1909 c 249 s 427.

27 NEW SECTION. Sec. 49. Sections 1 through 23 of this act
28 constitute a new chapter in Title 48 RCW.

29 NEW SECTION. Sec. 50. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect July 1, 1995.

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