

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2770**

Chapter 108, Laws of 2008

60th Legislature  
2008 Regular Session

MORTGAGE LENDING AND HOMEOWNERSHIP

EFFECTIVE DATE: 06/12/08

Passed by the House February 6, 2008  
Yeas 92 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate March 6, 2008  
Yeas 47 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved March 21, 2008, 1:47 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2770** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

March 24, 2008

**Secretary of State  
State of Washington**

---

**SUBSTITUTE HOUSE BILL 2770**

---

Passed Legislature - 2008 Regular Session

**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Insurance, Financial Services & Consumer Protection  
(originally sponsored by Representatives Kenney, Lantz, Upthegrove,  
Conway, Morrell, Schual-Berke, McIntire, Hudgins, Simpson, and  
Rolfes; by request of Governor Gregoire)

READ FIRST TIME 01/30/08.

1            AN ACT Relating to homeownership security, responsible mortgage  
2            lending, and improving protections for residential mortgage loan  
3            consumers; amending RCW 19.146.005 and 61.24.030; reenacting and  
4            amending RCW 9.94A.515 and 9A.82.010; adding new sections to chapter  
5            19.146 RCW; adding a new section to chapter 30.04 RCW; adding a new  
6            section to chapter 31.04 RCW; adding a new section to chapter 31.12  
7            RCW; adding a new section to chapter 32.04 RCW; adding a new section to  
8            chapter 33.04 RCW; adding a new chapter to Title 19 RCW; and  
9            prescribing penalties.

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

11            NEW SECTION.    **Sec. 1.** The legislature finds that responsible  
12            mortgage lending and homeownership are important to the citizens of the  
13            state of Washington. The legislature declares that protecting our  
14            residents and our economy from the threat of widespread foreclosures  
15            and providing homeowners with access to residential mortgage loans on  
16            fair and equitable terms is in the public interest. The legislature  
17            further finds that this act is necessary to encourage responsible  
18            lending, protect borrowers, and preserve access to credit in the  
19            residential real estate lending market.

1        NEW SECTION.    **Sec. 2.** The definitions in this section apply  
2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "Adjustable rate mortgage" or "ARM" means a payment option ARM  
4 or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

5        (2) "Application" means the same as in Regulation X, Real Estate  
6 Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application  
7 for a residential mortgage loan.

8        (3) "Borrower" means any person who consults with or retains a  
9 person subject to this chapter in an effort to seek information about  
10 obtaining a residential mortgage loan, regardless of whether that  
11 person actually obtains such a loan.

12        (4) "Department" means the department of financial institutions.

13        (5) "Director" means the director of the department of financial  
14 institutions.

15        (6) "Financial institution" means commercial banks and alien banks  
16 subject to regulation under Title 30 RCW, savings banks subject to  
17 regulation under Title 32 RCW, savings associations subject to  
18 regulation under Title 33 RCW, credit unions subject to regulation  
19 under chapter 31.12 RCW, consumer loan companies subject to regulation  
20 under chapter 31.04 RCW, and mortgage brokers and lenders subject to  
21 regulation under chapter 19.146 RCW.

22        (7) "Fully indexed rate" means the index rate prevailing at the  
23 time a residential mortgage loan is made, plus the margin that will  
24 apply after the expiration of an introductory interest rate.

25        (8) "Negative amortization" means an increase in the principal  
26 balance of a loan caused when the loan agreement allows the borrower to  
27 make payments less than the amount needed to pay all the interest that  
28 has accrued on the loan. The unpaid interest is added to the loan  
29 balance and becomes part of the principal.

30        (9) "Person" means individuals, partnerships, associations, limited  
31 liability companies, limited liability partnerships, trusts,  
32 corporations, and all other legal entities.

33        (10) "Residential mortgage loan" means an extension of credit  
34 secured by residential real property located in this state upon which  
35 is constructed or intended to be constructed, a single-family dwelling  
36 or multiple-family dwelling of four or less units. It does not include  
37 a reverse mortgage or a borrower credit transaction that is secured by  
38 rental property. It does not include a bridge loan. It does not

1 include loans to individuals making or acquiring a residential mortgage  
2 loan solely with his or her own funds for his or her own investment.  
3 For purposes of this subsection, a "bridge loan" is any temporary loan,  
4 having a maturity of one year or less, for the purpose of acquisition  
5 or construction of a dwelling intended to become the borrower's  
6 principal dwelling.

7 (11) "The interagency guidance on nontraditional mortgage product  
8 risks" means the guidance document issued in September 2006 by the  
9 office of the comptroller of the currency, the board of governors of  
10 the federal reserve system, the federal deposit insurance corporation,  
11 the office of thrift supervision, and the national credit union  
12 administration, and the guidance on nontraditional mortgage product  
13 risks released in November 2006 by the conference of state bank  
14 supervisors and the American association of residential mortgage  
15 regulators.

16 (12) "The statement on subprime mortgage lending" means the  
17 guidance document issued in June 2007 by the office of the comptroller  
18 of the currency, the board of governors of the federal reserve system,  
19 the federal deposit insurance corporation, the office of thrift  
20 supervision, and the national credit union administration, and the  
21 statement on subprime mortgage lending released in July 2007 by the  
22 conference of state bank supervisors, the American association of  
23 residential mortgage regulators, and the national association of  
24 consumer credit administrators.

25 NEW SECTION. **Sec. 3.** (1) In addition to any other requirements  
26 under federal or state law, a residential mortgage loan may not be made  
27 unless a disclosure summary of all material terms, as adopted by the  
28 department in subsection (2) of this section, is placed on a separate  
29 sheet of paper and has been provided by a financial institution to the  
30 borrower within three business days following receipt of a loan  
31 application. If any material terms of the residential mortgage loan  
32 change before closing, a new disclosure summary must be provided to the  
33 borrower within three days of any such change or at least three days  
34 before closing, whichever is earlier.

35 (2) The department shall adopt, by rule, a disclosure summary form  
36 with a content and format containing simple, plain-language terms that  
37 are reasonably understandable to the average person without the aid of

1 third-party resources and shall include, but not be limited to, the  
2 following items: Fees and discount points on the loan; interest rates  
3 of the loan; broker fees; the broker's yield spread premium as a dollar  
4 amount; whether the loan contains prepayment penalties; whether the  
5 loan contains a balloon payment; whether the property taxes and  
6 property insurance are escrowed; whether the loan payments will adjust  
7 at the fully indexed rates; and whether there is a price added or  
8 premium charged because the loan is based on reduced documentation.

9 (3) The director may, at his or her discretion, require by rule  
10 other information relating to a residential mortgage loan to be  
11 included in the disclosure summary if the director determines that it  
12 is necessary to protect consumers. The director may adopt rules  
13 creating a standard form of disclosure summary to be used as a guide by  
14 financial institutions in fulfilling the requirements of this section.

15 NEW SECTION. **Sec. 4.** (1) The department shall apply the  
16 interagency guidance on nontraditional mortgage product risks and the  
17 statement on subprime mortgage lending to financial institutions.

18 (2)(a) Financial institutions subject to this chapter shall adopt  
19 and adhere to internal policies and procedures that are reasonably  
20 intended to achieve the objectives set forth in the interagency  
21 guidance on nontraditional mortgage product risks and the statement on  
22 subprime mortgage lending.

23 (b) The department shall adopt rules as required to implement this  
24 section.

25 NEW SECTION. **Sec. 5.** A financial institution may not make or  
26 facilitate the origination of a residential mortgage loan that includes  
27 a prepayment penalty or fee that extends beyond sixty days prior to the  
28 initial reset period of an adjustable rate mortgage.

29 NEW SECTION. **Sec. 6.** A financial institution may not make or  
30 facilitate a residential mortgage loan that includes any provisions  
31 that impose negative amortization and which are subject to the  
32 interagency guidance on nontraditional mortgage product risks and the  
33 statement on subprime mortgage lending.

1        NEW SECTION.    **Sec. 7.** A person licensed or subject to licensing,  
2 or otherwise subject to regulation pursuant to chapter 19.146 RCW, or  
3 a consumer loan company licensed or subject to licensing under chapter  
4 31.04 RCW may not steer, counsel, or direct any borrower to accept a  
5 residential mortgage loan product with a risk grade less favorable than  
6 the risk grade that the borrower would qualify for based on the  
7 licensee or other regulated person's then current underwriting  
8 guidelines, prudently applied, considering the information available to  
9 the licensee or other regulated person, including the information  
10 provided by the borrower. A licensee or other regulated person has not  
11 violated this requirement if the risk grade determination applied to a  
12 borrower is reasonably based on the licensee or other regulated  
13 person's underwriting guidelines for the borrower's appropriate risk  
14 grade category and the borrower is offered choices of residential  
15 mortgage loan products within the borrower's appropriate risk grade  
16 category.

17        NEW SECTION.    **Sec. 8.** The department may adopt rules necessary to  
18 implement this chapter, including but not limited to the authority to  
19 identify which sections of this act apply to open-end credit plans.

20        NEW SECTION.    **Sec. 9.** It is unlawful for any person in connection  
21 with making, brokering, or obtaining a residential mortgage loan to  
22 directly or indirectly:

23        (1)(a) Employ any scheme, device, or artifice to defraud or  
24 materially mislead any borrower during the lending process; (b) defraud  
25 or materially mislead any lender, defraud or materially mislead any  
26 person, or engage in any unfair or deceptive practice toward any person  
27 in the lending process; or (c) obtain property by fraud or material  
28 misrepresentation in the lending process;

29        (2) Knowingly make any misstatement, misrepresentation, or omission  
30 during the mortgage lending process knowing that it may be relied on by  
31 a mortgage lender, borrower, or any other party to the mortgage lending  
32 process;

33        (3) Use or facilitate the use of any misstatement,  
34 misrepresentation, or omission, knowing the same to contain a  
35 misstatement, misrepresentation, or omission, during the mortgage

1 lending process with the intention that it be relied on by a mortgage  
2 lender, borrower, or any other party to the mortgage lending process;  
3 or

4 (4) Receive any proceeds or anything of value in connection with a  
5 residential mortgage closing that such person knew resulted from a  
6 violation of subsection (1), (2), or (3) of this section.

7 NEW SECTION. **Sec. 10.** (1) Any person who knowingly violates  
8 section 9 of this act or who knowingly aids or abets in the violation  
9 of section 9 of this act is guilty of a class B felony punishable under  
10 RCW 9A.20.021(1)(b). Mortgage fraud is a serious level III offense per  
11 chapter 9.94A RCW.

12 (2) Any person who knowingly alters, destroys, shreds, mutilates,  
13 or conceals a record, document, or other object, or attempts to do so,  
14 with the intent to impair the investigation and prosecution of this  
15 crime is guilty of a class B felony punishable under RCW  
16 9A.20.021(1)(b).

17 (3) No information may be returned more than (a) five years after  
18 the violation, or (b) three years after the actual discovery of the  
19 violation, whichever date of limitation is later.

20 (4) Any person who violates this chapter is subject to civil  
21 forfeiture statutes.

22 NEW SECTION. **Sec. 11.** (1)(a) It is unlawful for a person to use  
23 or invest proceeds, or any part of proceeds, knowing that the proceeds,  
24 or any part of the proceeds, were derived, directly or indirectly, from  
25 a pattern of mortgage fraud activity, in the acquisition of any title  
26 to, or any right, interest, or equity in, real property or in the  
27 establishment or operation of any enterprise.

28 (b) A violation of this subsection is a class B felony.

29 (2)(a) It is unlawful for a person to acquire or maintain, directly  
30 or indirectly, any interest in or control of any enterprise or real  
31 property knowing the interest or control was obtained through a pattern  
32 of mortgage fraud.

33 (b) A violation of this subsection is a class B felony.

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

36 (b) A violation of this subsection is a class C felony.





1 The director or the director's designee may take such action as  
2 provided for in this title to enforce, investigate, or examine persons  
3 covered by chapter 19.--- RCW (sections 1 through 13 of this act).

4 NEW SECTION. **Sec. 19.** A new section is added to chapter 33.04 RCW  
5 to read as follows:

6 The director or the director's designee may take such action as  
7 provided for in this title to enforce, investigate, or examine persons  
8 covered by chapter 19.--- RCW (sections 1 through 13 of this act).

9 NEW SECTION. **Sec. 20.** A new section is added to chapter 19.146  
10 RCW to read as follows:

11 The activities of a mortgage broker affect the public interest, and  
12 require that all actions of mortgage brokers, designated brokers, loan  
13 originators, and other persons subject to this chapter be actuated by  
14 good faith, abstain from deception, and practice honesty and equity in  
15 all matters related to their profession. The duty of preserving the  
16 integrity of the mortgage broker business rests upon the mortgage  
17 broker, designated broker, loan originator, and other persons subject  
18 to this chapter.

19 **Sec. 21.** RCW 19.146.005 and 2006 c 19 s 1 are each amended to read  
20 as follows:

21 The legislature finds and declares that the brokering of  
22 residential real estate loans substantially affects the public  
23 interest, requiring that all actions in mortgage brokering be actuated  
24 by good faith, and that mortgage brokers, designated brokers, loan  
25 originators, and other persons subject to this chapter abstain from  
26 deception, and practice honesty and equity in all matters relating to  
27 their profession. The practices of mortgage brokers and loan  
28 originators have had significant impact on the citizens of the state  
29 and the banking and real estate industries. It is the intent of the  
30 legislature to establish a state system of licensure in addition to  
31 rules of practice and conduct of mortgage brokers and loan originators  
32 to promote honesty and fair dealing with citizens and to preserve  
33 public confidence in the lending and real estate community.

1       **Sec. 22.** RCW 61.24.030 and 1998 c 295 s 4 are each amended to read  
2 as follows:

3       It shall be requisite to a trustee's sale:

4       (1) That the deed of trust contains a power of sale;

5       (2) That the deed of trust contains a statement that the real  
6 property conveyed is not used principally for agricultural purposes;  
7 provided, if the statement is false on the date the deed of trust was  
8 granted or amended to include that statement, and false on the date of  
9 the trustee's sale, then the deed of trust must be foreclosed  
10 judicially. Real property is used for agricultural purposes if it is  
11 used in an operation that produces crops, livestock, or aquatic goods;

12       (3) That a default has occurred in the obligation secured or a  
13 covenant of the grantor, which by the terms of the deed of trust makes  
14 operative the power to sell;

15       (4) That no action commenced by the beneficiary of the deed of  
16 trust is now pending to seek satisfaction of an obligation secured by  
17 the deed of trust in any court by reason of the grantor's default on  
18 the obligation secured:     PROVIDED, That (a) the seeking of the  
19 appointment of a receiver shall not constitute an action for purposes  
20 of this chapter; and (b) if a receiver is appointed, the grantor shall  
21 be entitled to any rents or profits derived from property subject to a  
22 homestead as defined in RCW 6.13.010. If the deed of trust was granted  
23 to secure a commercial loan, this subsection shall not apply to actions  
24 brought to enforce any other lien or security interest granted to  
25 secure the obligation secured by the deed of trust being foreclosed;

26       (5) That the deed of trust has been recorded in each county in  
27 which the land or some part thereof is situated;

28       (6) That prior to the date of the notice of trustee's sale and  
29 continuing thereafter through the date of the trustee's sale, the  
30 trustee must have a street address in this state where personal service  
31 of process may be made; and

32       (7) That at least thirty days before notice of sale shall be  
33 recorded, transmitted or served, written notice of default shall be  
34 transmitted by the beneficiary or trustee to the borrower and grantor  
35 at their last known addresses by both first class and either registered  
36 or certified mail, return receipt requested, and the beneficiary or  
37 trustee shall cause to be posted in a conspicuous place on the

1 premises, a copy of the notice, or personally served on the borrower  
2 and grantor. This notice shall contain the following information:

3 (a) A description of the property which is then subject to the deed  
4 of trust;

5 (b) Each county in which the deed of trust is recorded and the  
6 document number given to the deed of trust upon recording by each  
7 county auditor or recording officer;

8 (c) That the beneficiary has declared the borrower or grantor to be  
9 in default, and a concise statement of the default alleged;

10 (d) An itemized account of the amount or amounts in arrears if the  
11 default alleged is failure to make payments;

12 (e) An itemized account of all other specific charges, costs, or  
13 fees that the borrower, grantor, or any guarantor is or may be obliged  
14 to pay to reinstate the deed of trust before the recording of the  
15 notice of sale;

16 (f) The total of (d) and (e) of this subsection, designated clearly  
17 and conspicuously as the amount necessary to reinstate the note and  
18 deed of trust before the recording of the notice of sale;

19 (g) That failure to cure the alleged default within thirty days of  
20 the date of mailing of the notice, or if personally served, within  
21 thirty days of the date of personal service thereof, may lead to  
22 recordation, transmittal, and publication of a notice of sale, and that  
23 the property described in (a) of this subsection may be sold at public  
24 auction at a date no less than one hundred twenty days in the future;

25 (h) That the effect of the recordation, transmittal, and  
26 publication of a notice of sale will be to (i) increase the costs and  
27 fees and (ii) publicize the default and advertise the grantor's  
28 property for sale;

29 (i) That the effect of the sale of the grantor's property by the  
30 trustee will be to deprive the grantor of all their interest in the  
31 property described in (a) of this subsection; (~~and~~)

32 (j) That the borrower, grantor, and any guarantor has recourse to  
33 the courts pursuant to RCW 61.24.130 to contest the alleged default on  
34 any proper ground; and

35 (k) In the event the property secured by the deed of trust is  
36 owner-occupied residential property, a statement, prominently set out  
37 at the beginning of the notice, which shall state as follows:

1 "You should take care to protect your interest in your home. This  
2 notice of default (your failure to pay) is the first step in a process  
3 that could result in you losing your home. You should carefully review  
4 your options. For example:

5 Can you pay and stop the foreclosure process?

6 Do you dispute the failure to pay?

7 Can you sell your property to preserve your equity?

8 Are you able to refinance this loan with a new loan from another  
9 lender with payments, terms, and fees that are more affordable?

10 Do you qualify for any government or private homeowner assistance  
11 programs?

12 Do you know if filing for bankruptcy is an option? What are the  
13 pros and cons of doing so?

14 Do not ignore this notice; because if you do nothing, you could  
15 lose your home at a foreclosure sale. (No foreclosure sale can be held  
16 any sooner than ninety days after a notice of sale is issued and a  
17 notice of sale cannot be issued until thirty days after this notice.)  
18 Also, if you do nothing to pay what you owe, be careful of people who  
19 claim they can help you. There are many individuals and businesses  
20 that watch for the notices of sale in order to unfairly profit as a  
21 result of borrowers' distress.

22 You may feel you need help understanding what to do. There are a  
23 number of professional resources available, including home loan  
24 counselors and attorneys, who may assist you. Many legal services are  
25 lower-cost or even free, depending on your ability to pay. If you  
26 desire legal help in understanding your options or handling this  
27 default, you may obtain a referral (at no charge) by contacting the  
28 county bar association in the county where your home is located. These  
29 legal referral services also provide information about lower-cost or  
30 free legal services for those who qualify."

31 **Sec. 23.** RCW 9.94A.515 and 2007 c 368 s 14 and 2007 c 199 s 10 are  
32 each reenacted and amended to read as follows:

33 TABLE 2

34 CRIMES INCLUDED WITHIN

35 EACH SERIOUSNESS LEVEL

1 XVI Aggravated Murder 1 (RCW  
2 10.95.020)  
3 XV Homicide by abuse (RCW 9A.32.055)  
4 Malicious explosion 1 (RCW  
5 70.74.280(1))  
6 Murder 1 (RCW 9A.32.030)  
7 XIV Murder 2 (RCW 9A.32.050)  
8 Trafficking 1 (RCW 9A.40.100(1))  
9 XIII Malicious explosion 2 (RCW  
10 70.74.280(2))  
11 Malicious placement of an explosive 1  
12 (RCW 70.74.270(1))  
13 XII Assault 1 (RCW 9A.36.011)  
14 Assault of a Child 1 (RCW 9A.36.120)  
15 Malicious placement of an imitation  
16 device 1 (RCW 70.74.272(1)(a))  
17 Rape 1 (RCW 9A.44.040)  
18 Rape of a Child 1 (RCW 9A.44.073)  
19 Trafficking 2 (RCW 9A.40.100(2))  
20 XI Manslaughter 1 (RCW 9A.32.060)  
21 Rape 2 (RCW 9A.44.050)  
22 Rape of a Child 2 (RCW 9A.44.076)  
23 X Child Molestation 1 (RCW 9A.44.083)  
24 Indecent Liberties (with forcible  
25 compulsion) (RCW  
26 9A.44.100(1)(a))  
27 Kidnapping 1 (RCW 9A.40.020)  
28 Leading Organized Crime (RCW  
29 9A.82.060(1)(a))  
30 Malicious explosion 3 (RCW  
31 70.74.280(3))  
32 Sexually Violent Predator Escape  
33 (RCW 9A.76.115)  
34 IX Abandonment of Dependent Person 1  
35 (RCW 9A.42.060)  
36 Assault of a Child 2 (RCW 9A.36.130)

1 Criminal Mistreatment 1 (RCW  
2 9A.42.020)  
3 Explosive devices prohibited (RCW  
4 70.74.180)  
5 Hit and Run--Death (RCW  
6 46.52.020(4)(a))  
7 Homicide by Watercraft, by being  
8 under the influence of intoxicating  
9 liquor or any drug (RCW  
10 79A.60.050)  
11 Inciting Criminal Profiteering (RCW  
12 9A.82.060(1)(b))  
13 Malicious placement of an explosive 2  
14 (RCW 70.74.270(2))  
15 Robbery 1 (RCW 9A.56.200)  
16 Sexual Exploitation (RCW 9.68A.040)  
17 Vehicular Homicide, by being under  
18 the influence of intoxicating liquor  
19 or any drug (RCW 46.61.520)  
20 VIII Arson 1 (RCW 9A.48.020)  
21 Homicide by Watercraft, by the  
22 operation of any vessel in a  
23 reckless manner (RCW  
24 79A.60.050)  
25 Manslaughter 2 (RCW 9A.32.070)  
26 Promoting Commercial Sexual Abuse  
27 of a Minor (RCW 9.68A.101)  
28 Promoting Prostitution 1 (RCW  
29 9A.88.070)  
30 Theft of Ammonia (RCW 69.55.010)  
31 Vehicular Homicide, by the operation  
32 of any vehicle in a reckless manner  
33 (RCW 46.61.520)  
34 VII Burglary 1 (RCW 9A.52.020)  
35 Child Molestation 2 (RCW 9A.44.086)  
36 Civil Disorder Training (RCW  
37 9A.48.120)

1 Dealing in depictions of minor engaged  
2 in sexually explicit conduct (RCW  
3 9.68A.050)  
4 Drive-by Shooting (RCW 9A.36.045)  
5 Homicide by Watercraft, by disregard  
6 for the safety of others (RCW  
7 79A.60.050)  
8 Indecent Liberties (without forcible  
9 compulsion) (RCW 9A.44.100(1)  
10 (b) and (c))  
11 Introducing Contraband 1 (RCW  
12 9A.76.140)  
13 Malicious placement of an explosive 3  
14 (RCW 70.74.270(3))  
15 Negligently Causing Death By Use of a  
16 Signal Preemption Device (RCW  
17 46.37.675)  
18 Sending, bringing into state depictions  
19 of minor engaged in sexually  
20 explicit conduct (RCW 9.68A.060)  
21 Unlawful Possession of a Firearm in  
22 the first degree (RCW 9.41.040(1))  
23 Use of a Machine Gun in Commission  
24 of a Felony (RCW 9.41.225)  
25 Vehicular Homicide, by disregard for  
26 the safety of others (RCW  
27 46.61.520)  
28 VI Bail Jumping with Murder 1 (RCW  
29 9A.76.170(3)(a))  
30 Bribery (RCW 9A.68.010)  
31 Incest 1 (RCW 9A.64.020(1))  
32 Intimidating a Judge (RCW 9A.72.160)  
33 Intimidating a Juror/Witness (RCW  
34 9A.72.110, 9A.72.130)  
35 Malicious placement of an imitation  
36 device 2 (RCW 70.74.272(1)(b))

1 Possession of Depictions of a Minor  
2 Engaged in Sexually Explicit  
3 Conduct (RCW 9.68A.070)  
4 Rape of a Child 3 (RCW 9A.44.079)  
5 Theft of a Firearm (RCW 9A.56.300)  
6 Unlawful Storage of Ammonia (RCW  
7 69.55.020)  
8 V Abandonment of Dependent Person 2  
9 (RCW 9A.42.070)  
10 Advancing money or property for  
11 extortionate extension of credit  
12 (RCW 9A.82.030)  
13 Bail Jumping with class A Felony  
14 (RCW 9A.76.170(3)(b))  
15 Child Molestation 3 (RCW 9A.44.089)  
16 Criminal Mistreatment 2 (RCW  
17 9A.42.030)  
18 Custodial Sexual Misconduct 1 (RCW  
19 9A.44.160)  
20 Domestic Violence Court Order  
21 Violation (RCW 10.99.040,  
22 10.99.050, 26.09.300, 26.10.220,  
23 26.26.138, 26.50.110, 26.52.070,  
24 or 74.34.145)  
25 Driving While Under the Influence  
26 (RCW 46.61.502(6))  
27 Extortion 1 (RCW 9A.56.120)  
28 Extortionate Extension of Credit (RCW  
29 9A.82.020)  
30 Extortionate Means to Collect  
31 Extensions of Credit (RCW  
32 9A.82.040)  
33 Incest 2 (RCW 9A.64.020(2))  
34 Kidnapping 2 (RCW 9A.40.030)  
35 Perjury 1 (RCW 9A.72.020)  
36 Persistent prison misbehavior (RCW  
37 9.94.070)



1 Physical Control of a Vehicle While  
2 Under the Influence (RCW  
3 46.61.504(6))  
4 Possession of a Stolen Firearm (RCW  
5 9A.56.310)  
6 Rape 3 (RCW 9A.44.060)  
7 Rendering Criminal Assistance 1  
8 (RCW 9A.76.070)  
9 Sexual Misconduct with a Minor 1  
10 (RCW 9A.44.093)  
11 Sexually Violating Human Remains  
12 (RCW 9A.44.105)  
13 Stalking (RCW 9A.46.110)  
14 Taking Motor Vehicle Without  
15 Permission 1 (RCW 9A.56.070)  
16 IV Arson 2 (RCW 9A.48.030)  
17 Assault 2 (RCW 9A.36.021)  
18 Assault 3 (of a Peace Officer with a  
19 Projectile Stun Gun) (RCW  
20 9A.36.031(1)(h))  
21 Assault by Watercraft (RCW  
22 79A.60.060)  
23 Bribing a Witness/Bribe Received by  
24 Witness (RCW 9A.72.090,  
25 9A.72.100)  
26 Cheating 1 (RCW 9.46.1961)  
27 Commercial Bribery (RCW 9A.68.060)  
28 Counterfeiting (RCW 9.16.035(4))  
29 Endangerment with a Controlled  
30 Substance (RCW 9A.42.100)  
31 Escape 1 (RCW 9A.76.110)  
32 Hit and Run--Injury (RCW  
33 46.52.020(4)(b))  
34 Hit and Run with Vessel--Injury  
35 Accident (RCW 79A.60.200(3))  
36 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under  
2 Age Fourteen (subsequent sex  
3 offense) (RCW 9A.88.010)  
4 Influencing Outcome of Sporting Event  
5 (RCW 9A.82.070)  
6 Malicious Harassment (RCW  
7 9A.36.080)  
8 Residential Burglary (RCW  
9 9A.52.025)  
10 Robbery 2 (RCW 9A.56.210)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Threats to Bomb (RCW 9.61.160)  
13 Trafficking in Stolen Property 1 (RCW  
14 9A.82.050)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(b))  
18 Unlawful transaction of health  
19 coverage as a health care service  
20 contractor (RCW 48.44.016(3))  
21 Unlawful transaction of health  
22 coverage as a health maintenance  
23 organization (RCW 48.46.033(3))  
24 Unlawful transaction of insurance  
25 business (RCW 48.15.023(3))  
26 Unlicensed practice as an insurance  
27 professional (RCW 48.17.063(3))  
28 Use of Proceeds of Criminal  
29 Profiteering (RCW 9A.82.080 (1)  
30 and (2))  
31 Vehicular Assault, by being under the  
32 influence of intoxicating liquor or  
33 any drug, or by the operation or  
34 driving of a vehicle in a reckless  
35 manner (RCW 46.61.522)  
36 Willful Failure to Return from  
37 Furlough (RCW 72.66.060)

1 III Animal Cruelty 1 (Sexual Conduct or  
2 Contact) (RCW 16.52.205(3))  
3 Assault 3 (Except Assault 3 of a Peace  
4 Officer With a Projectile Stun  
5 Gun) (RCW 9A.36.031 except  
6 subsection (1)(h))  
7 Assault of a Child 3 (RCW 9A.36.140)  
8 Bail Jumping with class B or C Felony  
9 (RCW 9A.76.170(3)(c))  
10 Burglary 2 (RCW 9A.52.030)  
11 Commercial Sexual Abuse of a Minor  
12 (RCW 9.68A.100)  
13 Communication with a Minor for  
14 Immoral Purposes (RCW  
15 9.68A.090)  
16 Criminal Gang Intimidation (RCW  
17 9A.46.120)  
18 Custodial Assault (RCW 9A.36.100)  
19 Cyberstalking (subsequent conviction  
20 or threat of death) (RCW  
21 9.61.260(3))  
22 Escape 2 (RCW 9A.76.120)  
23 Extortion 2 (RCW 9A.56.130)  
24 Harassment (RCW 9A.46.020)  
25 Intimidating a Public Servant (RCW  
26 9A.76.180)  
27 Introducing Contraband 2 (RCW  
28 9A.76.150)  
29 Malicious Injury to Railroad Property  
30 (RCW 81.60.070)  
31 Mortgage Fraud (section 9 of this act)  
32 Negligently Causing Substantial Bodily  
33 Harm By Use of a Signal  
34 Preemption Device (RCW  
35 46.37.674)  
36 Organized Retail Theft 1 (RCW  
37 9A.56.350(2))

1 Perjury 2 (RCW 9A.72.030)  
2 Possession of Incendiary Device (RCW  
3 9.40.120)  
4 Possession of Machine Gun or Short-  
5 Barreled Shotgun or Rifle (RCW  
6 9.41.190)  
7 Promoting Prostitution 2 (RCW  
8 9A.88.080)  
9 Retail Theft with Extenuating  
10 Circumstances 1 (RCW  
11 9A.56.360(2))  
12 Securities Act violation (RCW  
13 21.20.400)  
14 Tampering with a Witness (RCW  
15 9A.72.120)  
16 Telephone Harassment (subsequent  
17 conviction or threat of death)  
18 (RCW 9.61.230(2))  
19 Theft of Livestock 2 (RCW 9A.56.083)  
20 Theft with the Intent to Resell 1 (RCW  
21 9A.56.340(2))  
22 Trafficking in Stolen Property 2 (RCW  
23 9A.82.055)  
24 Unlawful Imprisonment (RCW  
25 9A.40.040)  
26 Unlawful possession of firearm in the  
27 second degree (RCW 9.41.040(2))  
28 Vehicular Assault, by the operation or  
29 driving of a vehicle with disregard  
30 for the safety of others (RCW  
31 46.61.522)  
32 Willful Failure to Return from Work  
33 Release (RCW 72.65.070)  
34 II Computer Trespass 1 (RCW  
35 9A.52.110)  
36 Counterfeiting (RCW 9.16.035(3))

1 Escape from Community Custody  
2 (RCW 72.09.310)  
3 Failure to Register as a Sex Offender  
4 (second or subsequent offense)  
5 (RCW 9A.44.130(~~(10)~~)(11)(a))  
6 Health Care False Claims (RCW  
7 48.80.030)  
8 Identity Theft 2 (RCW 9.35.020(3))  
9 Improperly Obtaining Financial  
10 Information (RCW 9.35.010)  
11 Malicious Mischief 1 (RCW  
12 9A.48.070)  
13 Organized Retail Theft 2 (RCW  
14 9A.56.350(3))  
15 Possession of Stolen Property 1 (RCW  
16 9A.56.150)  
17 Possession of a Stolen Vehicle (RCW  
18 9A.56.068)  
19 Retail Theft with Extenuating  
20 Circumstances 2 (RCW  
21 9A.56.360(3))  
22 Theft 1 (RCW 9A.56.030)  
23 Theft of a Motor Vehicle (RCW  
24 9A.56.065)  
25 Theft of Rental, Leased, or Lease-  
26 purchased Property (valued at one  
27 thousand five hundred dollars or  
28 more) (RCW 9A.56.096(5)(a))  
29 Theft with the Intent to Resell 2 (RCW  
30 9A.56.340(3))  
31 Trafficking in Insurance Claims (RCW  
32 48.30A.015)  
33 Unlawful factoring of a credit card or  
34 payment card transaction (RCW  
35 9A.56.290(4)(a))  
36 Unlawful Practice of Law (RCW  
37 2.48.180)

1 Unlicensed Practice of a Profession or  
2 Business (RCW 18.130.190(7))  
3 Voyeurism (RCW 9A.44.115)  
4 I Attempting to Elude a Pursuing Police  
5 Vehicle (RCW 46.61.024)  
6 False Verification for Welfare (RCW  
7 74.08.055)  
8 Forgery (RCW 9A.60.020)  
9 Fraudulent Creation or Revocation of a  
10 Mental Health Advance Directive  
11 (RCW 9A.60.060)  
12 Malicious Mischief 2 (RCW  
13 9A.48.080)  
14 Mineral Trespass (RCW 78.44.330)  
15 Possession of Stolen Property 2 (RCW  
16 9A.56.160)  
17 Reckless Burning 1 (RCW 9A.48.040)  
18 Taking Motor Vehicle Without  
19 Permission 2 (RCW 9A.56.075)  
20 Theft 2 (RCW 9A.56.040)  
21 Theft of Rental, Leased, or Lease-  
22 purchased Property (valued at two  
23 hundred fifty dollars or more but  
24 less than one thousand five  
25 hundred dollars) (RCW  
26 9A.56.096(5)(b))  
27 Transaction of insurance business  
28 beyond the scope of licensure  
29 (RCW 48.17.063(4))  
30 Unlawful Issuance of Checks or Drafts  
31 (RCW 9A.56.060)  
32 Unlawful Possession of Fictitious  
33 Identification (RCW 9A.56.320)  
34 Unlawful Possession of Instruments of  
35 Financial Fraud (RCW 9A.56.320)  
36 Unlawful Possession of Payment  
37 Instruments (RCW 9A.56.320)

1 Unlawful Possession of a Personal  
2 Identification Device (RCW  
3 9A.56.320)  
4 Unlawful Production of Payment  
5 Instruments (RCW 9A.56.320)  
6 Unlawful Trafficking in Food Stamps  
7 (RCW 9.91.142)  
8 Unlawful Use of Food Stamps (RCW  
9 9.91.144)  
10 Vehicle Prowl 1 (RCW 9A.52.095)

11 **Sec. 24.** RCW 9A.82.010 and 2006 c 277 s 5 and 2006 c 193 s 2 are  
12 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

35 (4) "Criminal profiteering" means any act, including any  
36 anticipatory or completed offense, committed for financial gain, that

1 is chargeable or indictable under the laws of the state in which the  
2 act occurred and, if the act occurred in a state other than this state,  
3 would be chargeable or indictable under the laws of this state had the  
4 act occurred in this state and punishable as a felony and by  
5 imprisonment for more than one year, regardless of whether the act is  
6 charged or indicted, as any of the following:

- 7 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 8 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 9 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 10 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 11 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060,  
12 9A.56.080, and 9A.56.083;
- 13 (f) Unlawful sale of subscription television services, as defined  
14 in RCW 9A.56.230;
- 15 (g) Theft of telecommunication services or unlawful manufacture of  
16 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 17 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 18 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
19 9A.68.050;
- 20 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 21 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 22 (l) Unlawful production of payment instruments, unlawful possession  
23 of payment instruments, unlawful possession of a personal  
24 identification device, unlawful possession of fictitious  
25 identification, or unlawful possession of instruments of financial  
26 fraud, as defined in RCW 9A.56.320;
- 27 (m) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 28 (n) Advancing money for use in an extortionate extension of credit,  
29 as defined in RCW 9A.82.030;
- 30 (o) Collection of an extortionate extension of credit, as defined  
31 in RCW 9A.82.040;
- 32 (p) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 33 (q) Delivery or manufacture of controlled substances or possession  
34 with intent to deliver or manufacture controlled substances under  
35 chapter 69.50 RCW;
- 36 (r) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 37 (s) Leading organized crime, as defined in RCW 9A.82.060;
- 38 (t) Money laundering, as defined in RCW 9A.83.020;



1 (u) Obstructing criminal investigations or prosecutions in  
2 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
3 9A.76.070, or 9A.76.180;

4 (v) Fraud in the purchase or sale of securities, as defined in RCW  
5 21.20.010;

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

7 (x) Sexual exploitation of children, as defined in RCW 9.68A.040,  
8 9.68A.050, and 9.68A.060;

9 (y) Promoting prostitution, as defined in RCW 9A.88.070 and  
10 9A.88.080;

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

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

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

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

15 (dd) Commercial telephone solicitation in violation of RCW  
16 19.158.040(1);

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

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

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

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

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

23 (jj) Improperly obtaining financial information, as defined in RCW  
24 9.35.010;

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

26 (ll) Unlawful shipment of cigarettes in violation of RCW  
27 70.155.105(6) (a) or (b);

28 (mm) Unlawful shipment of cigarettes in violation of RCW  
29 82.24.110(2);

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

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

33 (~~oe~~)

34 (pp) Organized retail theft, as defined in RCW 9A.56.350; or  
35 (qq) Mortgage fraud, as defined in section 9 of this act.

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

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

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

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

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

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

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

30 (12) "Pattern of criminal profiteering activity" means engaging in  
31 at least three acts of criminal profiteering, one of which occurred  
32 after July 1, 1985, and the last of which occurred within five years,  
33 excluding any period of imprisonment, after the commission of the  
34 earliest act of criminal profiteering. In order to constitute a  
35 pattern, the three acts must have the same or similar intent, results,  
36 accomplices, principals, victims, or methods of commission, or be  
37 otherwise interrelated by distinguishing characteristics including a  
38 nexus to the same enterprise, and must not be isolated events.

1 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by  
2 any person other than the attorney general or county prosecuting  
3 attorney in which one or more acts of fraud in the purchase or sale of  
4 securities are asserted as acts of criminal profiteering activity, it  
5 is a condition to civil liability under RCW 9A.82.100 that the  
6 defendant has been convicted in a criminal proceeding of fraud in the  
7 purchase or sale of securities under RCW 21.20.400 or under the laws of  
8 another state or of the United States requiring the same elements of  
9 proof, but such conviction need not relate to any act or acts asserted  
10 as acts of criminal profiteering activity in such civil action under  
11 RCW 9A.82.100.

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

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

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

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

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

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

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

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

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

