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**SUBSTITUTE HOUSE BILL 1385**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Hackney, Goodman, Fitzgibbon, and Simmons)

1 AN ACT Relating to seizure and forfeiture procedures and  
2 reporting; amending RCW 9.68A.120, 9A.88.150, 9A.83.030, 10.105.010,  
3 19.290.230, 46.61.5058, 70.74.400, 77.15.070, and 38.42.020;  
4 reenacting and amending RCW 69.50.505; adding a new chapter to Title  
5 7 RCW; creating a new section; prescribing penalties; and providing  
6 an effective date.

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

8 NEW SECTION. **Sec. 1.** This chapter provides standard procedures  
9 governing civil asset forfeiture and is applicable to laws of this  
10 state that authorize civil forfeiture of property and that indicate  
11 the provisions of this chapter apply.

12 NEW SECTION. **Sec. 2.** (1) Except with respect to contraband  
13 items, which shall be seized and summarily forfeited, proceedings for  
14 forfeiture are deemed commenced by the seizure. The agency under  
15 whose authority the seizure was made shall cause notice to be served  
16 within 15 days following the seizure on the owner of the property  
17 seized and the person in charge thereof and any person having any  
18 known right or interest therein, including any community property  
19 interest, of the seizure and intended forfeiture of the seized  
20 property. Service of notice of seizure of real property must be made

1 according to the rules of civil procedure. However, a default  
2 judgment with respect to real property may not be obtained against a  
3 party who is served by substituted service absent an affidavit  
4 stating that a good faith effort has been made to ascertain if the  
5 defaulted party is incarcerated within the state, and that there is  
6 no present basis to believe that the party is incarcerated within the  
7 state. Notice of seizure in the case of property subject to a  
8 security interest that has been perfected by filing a financing  
9 statement in accordance with chapter 62A.9A RCW, or a certificate of  
10 title, must be made by service upon the secured party or the secured  
11 party's assignee at the address shown on the financing statement or  
12 the certificate of title. The notice of seizure in other cases may be  
13 served by any method authorized by law or court rule including, but  
14 not limited to, service by certified mail with return receipt  
15 requested. Service by mail is deemed complete upon mailing within the  
16 15-day period following the seizure.

17 (2) If no person notifies the seizing agency in writing of the  
18 person's claim of ownership or right to possession of an item seized  
19 within 60 days of the service of notice from the seizing agency in  
20 the case of personal property and 120 days in the case of real  
21 property, the item seized is deemed forfeited. The community property  
22 interest in real property of a person whose spouse or domestic  
23 partner committed a violation giving rise to seizure of the real  
24 property may not be forfeited if the person did not participate in  
25 the violation.

26 (3) If any person notifies the seizing agency in writing of the  
27 person's claim of ownership or right to possession of an item seized  
28 within 60 days of the service of notice from the seizing agency in  
29 the case of personal property and 120 days in the case of real  
30 property, the person or persons must be afforded a reasonable  
31 opportunity to be heard as to the claim or right. The notice of claim  
32 may be served by any method authorized by law or court rule  
33 including, but not limited to, service by first-class mail. Service  
34 by mail is deemed complete upon mailing within the 60-day period  
35 following service of the notice of seizure in the case of personal  
36 property and within the 120-day period following service of the  
37 notice of seizure in the case of real property.

38 (4) The hearing must be before the chief law enforcement officer  
39 of the seizing agency or the chief law enforcement officer's  
40 designee, except that where the seizing agency is a state agency as

1 defined in RCW 34.12.020(4), the hearing must be before the chief law  
2 enforcement officer of the seizing agency or an administrative law  
3 judge appointed under chapter 34.12 RCW. Such a hearing and any  
4 appeal therefrom must be under Title 34 RCW.

5 (5) Any person asserting a claim or right may remove the matter  
6 to a court of competent jurisdiction. Removal of any matter involving  
7 personal property may only be accomplished according to the rules of  
8 civil procedure. The person seeking removal of the matter must serve  
9 process against the state, county, political subdivision, or  
10 municipality that operates the seizing agency, and any other party of  
11 interest, in accordance with RCW 4.28.080 or 4.92.020, within 45 days  
12 after the person seeking removal has notified the seizing agency of  
13 the person's claim of ownership or right to possession. The court to  
14 which the matter is to be removed must be the district court when the  
15 aggregate value of personal property is within the jurisdictional  
16 limit set forth in RCW 3.66.020.

17 (6) (a) Whether the matter is heard under Title 34 RCW pursuant to  
18 subsection (4) of this section or removed to court pursuant to  
19 subsection (5) of this section, the burden of proof is upon the  
20 seizing agency to establish, by a preponderance of the evidence, that  
21 the property is subject to forfeiture.

22 (b) No personal property may be forfeited to the extent of the  
23 interest of an owner, by reason of any act or omission committed or  
24 omitted without the owner's knowledge or consent;

25 (c) No real property may be forfeited to the extent of the  
26 interest of an owner, by reason of any act or omission committed or  
27 omitted without the owner's knowledge or consent.

28 (d) A forfeiture of real property encumbered by a bona fide  
29 security interest is subject to the interest of the secured party if  
30 the secured party, at the time the security interest was created,  
31 neither had knowledge of nor consented to the act or omission.

32 (7) The seizing agency shall promptly return seized items, in the  
33 same or substantially similar condition as when they were seized, to  
34 the claimant upon a determination by the administrative law judge or  
35 court that the claimant is the present lawful owner or is lawfully  
36 entitled to possession thereof.

37 (8) In any proceeding to forfeit property under this chapter,  
38 where the claimant substantially prevails, the claimant is entitled  
39 to reasonable attorneys' fees reasonably incurred by the claimant.

1 (9) The protections afforded by the service members' civil relief  
2 act, chapter 38.42 RCW, are applicable to proceedings under this  
3 chapter.

4 NEW SECTION. **Sec. 3.** (1) Upon the entry of an order of  
5 forfeiture of real property, the court shall forward a copy of the  
6 order to the assessor of the county in which the property is located.  
7 Orders for the forfeiture of real property shall be entered by the  
8 superior court, subject to court rules. Such an order shall be filed  
9 by the seizing agency in the county auditor's records in the county  
10 in which the real property is located.

11 (2)(a) A landlord may assert a claim against proceeds from the  
12 sale of assets seized and forfeited only if:

13 (i) An employee, agent, or officer of the seizing agency, while  
14 acting in his or her official capacity, directly caused damage to the  
15 complaining landlord's property while executing a search of a  
16 tenant's residence; and

17 (ii) The landlord has applied any funds remaining in the tenant's  
18 deposit, to which the landlord has a right under chapter 59.18 RCW,  
19 to cover the damage directly caused by the employee, agent, or  
20 officer of the seizing agency prior to asserting a claim under the  
21 provisions of this section;

22 (A) Only if the funds applied under (a)(ii) of this subsection  
23 are insufficient to satisfy the damage directly caused by the  
24 employee, agent, or officer of the seizing agency, may the landlord  
25 seek compensation for the damage by filing a claim against the  
26 governmental entity under whose authority the seizing agency operates  
27 within 30 days after the search;

28 (B) Only if the governmental entity denies or fails to respond to  
29 the landlord's claim within 60 days of the date of filing, may the  
30 landlord collect damages under this subsection by filing within 30  
31 days of denial or the expiration of the 60-day period, whichever  
32 occurs first, a claim with the seizing agency. The seizing agency  
33 must notify the landlord of the status of the claim by the end of the  
34 30-day period. Nothing in this section requires the claim to be paid  
35 by the end of the 60-day or 30-day period.

36 (b) For any claim filed under (a)(ii) of this subsection, the  
37 seizing agency shall pay the claim unless the agency provides  
38 substantial proof that the landlord either:

1 (i) Knew or consented to actions of the tenant in violation of  
2 this chapter or the chapter pursuant to which the seizure was made;  
3 or

4 (ii) Failed to respond to a notification of the illegal activity,  
5 provided by a law enforcement agency under RCW 59.18.075, within  
6 seven days of receipt of notification of the illegal activity.

7 (3) The landlord's claim for damages under subsection (2) of this  
8 section may not include a claim for loss of business and is limited  
9 to:

10 (a) Damage to tangible property and clean-up costs;

11 (b) The lesser of the cost of repair or fair market value of the  
12 damage directly caused by the employee, agent, or officer of the  
13 seizing agency;

14 (c) The proceeds from the sale of the specific tenant's property  
15 seized and forfeited; and

16 (d) The proceeds available after the seizing law enforcement  
17 agency satisfies any bona fide security interest in the tenant's  
18 property and costs related to sale of the tenant's property.

19 (4) Subsections (2) and (3) of this section do not limit any  
20 other rights a landlord may have against a tenant to collect for  
21 damages. However, if a seizing agency satisfies a landlord's claim  
22 under subsection (2) of this section, the rights the landlord has  
23 against the tenant for damages directly caused by an employee, agent,  
24 or officer of the seizing agency under the terms of the landlord and  
25 tenant's contract are subrogated to the seizing agency.

26 NEW SECTION. **Sec. 4.** When property is forfeited under this  
27 chapter, the seizing agency may, after satisfying any court-ordered  
28 restitution:

29 (1) Retain it for official use or upon application by any law  
30 enforcement agency of this state release such property to such agency  
31 to be used in enforcement;

32 (2) Sell that which is not required to be destroyed by law and  
33 which is not harmful to the public;

34 (3) Request the appropriate sheriff or director of public safety  
35 to take custody of the property and remove it for disposition in  
36 accordance with law;

37 (4) Forward it to an appropriate entity, such as the drug  
38 enforcement administration, for disposition; or

39 (5) Take any other action allowed by statute.

1        NEW SECTION.

2        **Sec. 5.**

3        (1) This section is applicable to all  
4 seizures by seizing agencies, regardless of whether the seizure is:

5        (a) Pursuant to this chapter;

6        (b) Pursuant to any other section in the Revised Code of  
7 Washington that authorizes seizure; or

8        (c) Conducted in collaboration with a federal agency under  
9 federal law.

10        (2) For purposes of this section, "seizing agency" means any  
11 police force, multijurisdictional task force, fire department, or  
12 other municipal, county, or state agency that has authority under  
13 state law or collaborates with a federal agency under federal law to  
14 seize property.

15        (3) For purposes of this section, "seizing agency" does not  
16 include a state child support agency under Title IV-D of the Social  
17 Security Act (49 Stat. 620; 42 U.S.C. Sec. 651 et seq.).

18        (4)(a) The seizing agency must keep a record, about property  
19 seized and forfeited under state law and any agreement with any  
20 federal agency, of each forfeiture indicating:

21        (i) The name of the seizing agency;

22        (ii) Date of seizure;

23        (iii) Type of property seized;

24        (iv) Description of the property including make, model, year, and  
25 serial number;

26        (v) Street address or description of the location where the  
27 seizure occurred;

28        (vi) Whether the seizure was adopted by the federal government,  
29 part of a joint task force with the federal government, or other  
30 arrangement with the federal government;

31        (vii) Whether the forfeiture was contested by a suspect, innocent  
32 owner claimant, joint owner, or other property owner;

33        (viii) Disposition of the property through the forfeiture  
34 process, such as returned to suspect, returned to a joint owner or  
35 third-party owner, sold, destroyed, or retained by a law enforcement  
36 agency;

37        (ix) Date of disposition of the property;

38        (x) Whether the forfeiture was resolved by way of a default,  
39 contested hearing or agreed disposition or settlement;

40        (xi) Value of the property forfeited; and

      (xii) The net proceeds retained by the law enforcement agency  
that seized the property.

1 (b) Annually, on a date specified by the state treasurer, the  
2 seizing agency shall file a report, that includes all of the records  
3 in (a) of this subsection, to the state treasurer. The state  
4 treasurer must establish and maintain a searchable public web site  
5 that includes all of the records in (a) of this subsection. The  
6 annual report need not include a record of forfeited property that is  
7 still being held for use as evidence during the investigation or  
8 prosecution of a case or during the appeal from a conviction. The  
9 commander of a multijurisdictional task force may appoint one agency  
10 to report its seizures. If an agency has made no seizures during the  
11 previous year, a null report must be filed by the agency specifying  
12 that it did not engage in seizures or forfeitures during the  
13 reporting period.

14 (c) By March 1st each year, the seizing agency shall file with  
15 the state treasurer a report that summarizes the agency's  
16 expenditures from the sum of the net proceeds of all seized and  
17 forfeited property during the previous calendar year. The report must  
18 be posted and made available on the web site created in this  
19 subsection (4). The report must use the following categories to  
20 summarize expenditures and values:

- 21 (i) Abuse, crime, and gang prevention programs;
- 22 (ii) Witness protection, informant fees, and controlled buys;
- 23 (iii) Salaries, overtime, and benefits;
- 24 (iv) Professional outside services, including auditing, court  
25 reporting, expert witnesses, outside attorneys' fees, and membership  
26 fees paid to trade associations;
- 27 (v) Travel, meals, conferences, training, and continuing  
28 education seminars;
- 29 (vi) Capital expenditures including vehicles, firearms,  
30 equipment, computers, and furniture;
- 31 (vii) Other expenditures of forfeiture proceeds; and
- 32 (viii) The total value of forfeited property held by the agency  
33 at the end of the reporting period.

34 (5) One hundred twenty days after the close of each fiscal year,  
35 the state treasurer shall submit to the speaker of the house of  
36 representatives, president of the senate, attorney general, and  
37 governor a written report summarizing forfeiture activity in the  
38 state for the preceding fiscal year; the type, approximate value, and  
39 disposition of the property seized; and the amount of any proceeds  
40 received or expended at the state and local levels. The report must

1 provide a categorized accounting of all proceeds expended. Summary  
2 data on seizures, forfeitures, and expenditures of forfeiture  
3 proceeds must be disaggregated by agency. The aggregate report must  
4 be made available on the state treasurer's web site.

5 (6) The state treasurer may include in the aggregate report  
6 required by subsection (5) of this section recommendations to improve  
7 statutes, rules, and policies to facilitate seizure, forfeiture, and  
8 expenditure processes and reporting that are fair to crime victims,  
9 innocent property owners, secured interest holders, citizens, law  
10 enforcement, and taxpayers.

11 (7) If a seizing agency fails to file a report within 30 days  
12 after it is due, without good cause as determined by the state  
13 treasurer, the state treasurer shall provide a written warning to the  
14 seizing agency. If a seizing agency fails to file the report within  
15 30 days after it is due for a second time, the agency is subject to a  
16 civil penalty payable to the state general fund of \$500 or the  
17 equivalent of one-quarter of the forfeiture proceeds received by the  
18 agency during the reporting period, whichever is greater.

19 (8) The data and reports compiled and prepared under this chapter  
20 are public information under chapter 42.56 RCW.

21 NEW SECTION. **Sec. 6.** (1)(a)(i) Except as provided in (a)(ii) of  
22 this subsection, by January 31st of each year, each seizing agency  
23 shall remit to the state treasurer an amount equal to 10 percent of  
24 the net proceeds of any property forfeited during the preceding  
25 calendar year. Money remitted shall be deposited in the state general  
26 fund unless otherwise provided in statute.

27 (ii) By January 31st of each year, each seizing agency shall  
28 remit to the state an amount equal to 10 percent of the net proceeds  
29 of any property forfeited under RCW 10.105.010 and 46.61.5058 during  
30 the preceding calendar year for deposit into the behavioral health  
31 loan repayment program account created in RCW 28B.115.135 through  
32 June 30, 2027, and into the state general fund thereafter.

33 (b) The net proceeds of forfeited property is the value of the  
34 forfeitable interest in the property after deducting the cost of  
35 satisfying any bona fide security interest to which the property is  
36 subject at the time of seizure; and in the case of sold property,  
37 after deducting the cost of sale, including reasonable fees or  
38 commissions paid to independent selling agents, and the cost of any  
39 valid landlord's claim for damages under section 3 of this act.



1 (c) The value of sold forfeited property is the sale price. The  
2 value of retained forfeited property is the fair market value of the  
3 property at the time of seizure, determined when possible by  
4 reference to an applicable commonly used index, such as the index  
5 used by the department of licensing for valuation of motor vehicles.  
6 A seizing agency may use, but need not use, an independent qualified  
7 appraiser to determine the value of retained property. If an  
8 appraiser is used, the value of the property appraised is net of the  
9 cost of the appraisal. The value of destroyed property and retained  
10 firearms or illegal property is zero.

11 (2) Forfeited property and net proceeds not required to be paid  
12 to the state shall be retained by the seizing agency exclusively for  
13 the expansion and improvement of related enforcement activities.  
14 Money retained under this section may not be used to supplant  
15 preexisting funding sources.

16 NEW SECTION. **Sec. 7.** The state treasurer may adopt rules  
17 necessary to implement this chapter.

18 **Sec. 8.** RCW 9.68A.120 and 2022 c 162 s 4 are each amended to  
19 read as follows:

20 The following are subject to seizure and forfeiture:

21 (1) All visual or printed matter that depicts a minor engaged in  
22 sexually explicit conduct.

23 (2) All raw materials, equipment, and other tangible personal  
24 property of any kind used or intended to be used to manufacture or  
25 process any visual or printed matter that depicts a minor engaged in  
26 sexually explicit conduct, and all conveyances, including aircraft,  
27 vehicles, or vessels that are used or intended for use to transport,  
28 or in any manner to facilitate the transportation of, visual or  
29 printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

30 (a) No conveyance used by any person as a common carrier in the  
31 transaction of business as a common carrier is subject to forfeiture  
32 under this section unless it appears that the owner or other person  
33 in charge of the conveyance is a consenting party or privy to a  
34 violation of this chapter;

35 (b) No property is subject to forfeiture under this section by  
36 reason of any act or omission (~~established by the owner of the~~  
37 ~~property to have been~~) committed or omitted without the owner's  
38 knowledge or consent;

1 (c) A forfeiture of property encumbered by a bona fide security  
2 interest is subject to the interest of the secured party if the  
3 secured party neither had knowledge of nor consented to the act or  
4 omission; and

5 (d) When the owner of a conveyance has been arrested under this  
6 chapter the conveyance may not be subject to forfeiture unless it is  
7 seized or process is issued for its seizure within ten days of the  
8 owner's arrest.

9 (3) All personal property, moneys, negotiable instruments,  
10 securities, or other tangible or intangible property furnished or  
11 intended to be furnished by any person in exchange for visual or  
12 printed matter depicting a minor engaged in sexually explicit  
13 conduct, or constituting proceeds traceable to any violation of this  
14 chapter.

15 (4) Property subject to forfeiture under this chapter may be  
16 seized by any law enforcement officer of this state upon process  
17 issued by any superior court having jurisdiction over the property.  
18 Seizure without process may be made if:

19 (a) The seizure is incident to an arrest or a search under a  
20 search warrant or an inspection under an administrative inspection  
21 warrant;

22 (b) The property subject to seizure has been the subject of a  
23 prior judgment in favor of the state in a criminal injunction or  
24 forfeiture proceeding based upon this chapter;

25 (c) A law enforcement officer has probable cause to believe that  
26 the property is directly or indirectly dangerous to health or safety;  
27 or

28 (d) The law enforcement officer has probable cause to believe  
29 that the property was used or is intended to be used in violation of  
30 this chapter.

31 (5) In the event of seizure under subsection (4) of this section,  
32 proceedings for forfeiture ~~((shall be deemed commenced by the~~  
33 ~~seizure. The law enforcement agency under whose authority the seizure~~  
34 ~~was made shall cause notice to be served within fifteen days~~  
35 ~~following the seizure on the owner of the property seized and the~~  
36 ~~person in charge thereof and any person having any known right or~~  
37 ~~interest therein, of the seizure and intended forfeiture of the~~  
38 ~~seized property. The notice may be served by any method authorized by~~  
39 ~~law or court rule including but not limited to service by certified~~  
40 ~~mail with return receipt requested. Service by mail shall be deemed~~

1 complete upon mailing within the fifteen day period following the  
2 seizure.

3 ~~(6) If no person notifies the seizing law enforcement agency in  
4 writing of the person's claim of ownership or right to possession of  
5 seized items within forty-five days of the seizure, the item seized  
6 shall be deemed forfeited.~~

7 ~~(7) If any person notifies the seizing law enforcement agency in  
8 writing of the person's claim of ownership or right to possession of  
9 seized items within forty-five days of the seizure, the person or  
10 persons shall be afforded a reasonable opportunity to be heard as to  
11 the claim or right. The hearing shall be before an administrative law  
12 judge appointed under chapter 34.12 RCW, except that any person  
13 asserting a claim or right may remove the matter to a court of  
14 competent jurisdiction if the aggregate value of the article or  
15 articles involved is more than five hundred dollars. The hearing  
16 before an administrative law judge and any appeal therefrom shall be  
17 under Title 34 RCW. In a court hearing between two or more claimants  
18 to the article or articles involved, the prevailing party shall be  
19 entitled to a judgment for costs and reasonable attorney's fees. The  
20 burden of producing evidence shall be upon the person claiming to be  
21 the lawful owner or the person claiming to have the lawful right to  
22 possession of the seized items. The seizing law enforcement agency  
23 shall promptly return the article or articles to the claimant upon a  
24 determination by the administrative law judge or court that the  
25 claimant is lawfully entitled to possession thereof of the seized  
26 items.~~

27 ~~(8) If property is sought to be forfeited on the ground that it  
28 constitutes proceeds traceable to a violation of this chapter, the  
29 seizing law enforcement agency must prove by a preponderance of the  
30 evidence that the property constitutes proceeds traceable to a  
31 violation of this chapter.~~

32 ~~(9) When property is forfeited under this chapter the seizing law  
33 enforcement agency may:~~

34 ~~(a) Retain it for official use or upon application by any law  
35 enforcement agency of this state release the property to that agency  
36 for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;~~

37 ~~(b) Sell that which is not required to be destroyed by law and  
38 which is not harmful to the public; or~~

1 ~~(c) Request the appropriate sheriff or director of public safety~~  
2 ~~to take custody of the property and remove it for disposition in~~  
3 ~~accordance with law.~~

4 ~~(10)(a) By January 31st of each year, each seizing agency shall~~  
5 ~~remit to the state an amount equal to ten percent of the net proceeds~~  
6 ~~of any property forfeited during the preceding calendar year. Money~~  
7 ~~remitted shall be deposited in the prostitution prevention and~~  
8 ~~intervention account under RCW 43.63A.740.~~

9 ~~(b) The net proceeds of forfeited property is the value of the~~  
10 ~~forfeitable interest in the property after deducting the cost of~~  
11 ~~satisfying any bona fide security interest to which the property is~~  
12 ~~subject at the time of seizure; and in the case of sold property,~~  
13 ~~after deducting the cost of sale, including reasonable fees or~~  
14 ~~commissions paid to an independent selling agency.~~

15 ~~(c) The value of sold forfeited property is the sale price. The~~  
16 ~~value of retained forfeited property is the fair market value of the~~  
17 ~~property at the time of seizure determined when possible by reference~~  
18 ~~to an applicable commonly used index. A seizing agency may use, but~~  
19 ~~need not use, an independent qualified appraiser to determine the~~  
20 ~~value of retained property. If an appraiser is used, the value of the~~  
21 ~~property appraised is net of the cost of the appraisal. The value of~~  
22 ~~destroyed property and retained firearms or illegal property is zero.~~

23 ~~(11) Forfeited property and net proceeds not required to be~~  
24 ~~remitted to the state under this chapter shall be used for payment of~~  
25 ~~all proper expenses of the investigation leading to the seizure,~~  
26 ~~including any money delivered to the subject of the investigation by~~  
27 ~~the law enforcement agency, and of the proceedings for forfeiture and~~  
28 ~~sale, including expenses of seizure, maintenance of custody,~~  
29 ~~advertising, actual costs of the prosecuting or city attorney, and~~  
30 ~~court costs. Money remaining after payment of these expenses shall be~~  
31 ~~retained by the seizing law enforcement agency for the exclusive use~~  
32 ~~of enforcing the provisions of this chapter or chapter 9A.88 RCW))~~  
33 ~~are governed by chapter 7.--- RCW (the new chapter created in section~~  
34 ~~18 of this act).~~

35 **Sec. 9.** RCW 9A.88.150 and 2022 c 162 s 5 are each amended to  
36 read as follows:

37 (1) The following are subject to seizure and forfeiture and no  
38 property right exists in them:

1 (a) Any property or other interest acquired or maintained in  
2 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of  
3 the investment of funds, and any appreciation or income attributable  
4 to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or  
5 9A.88.070;

6 (b) All conveyances, including aircraft, vehicles, or vessels,  
7 which are used, or intended for use, in any manner to facilitate a  
8 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

9 (i) No conveyance used by any person as a common carrier in the  
10 transaction of business as a common carrier is subject to forfeiture  
11 under this section unless it appears that the owner or other person  
12 in charge of the conveyance is a consenting party or privy to a  
13 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

14 (ii) No conveyance is subject to forfeiture under this section by  
15 reason of any act or omission (~~established by the owner thereof to~~  
16 ~~have been~~) committed or omitted without the owner's knowledge or  
17 consent;

18 (iii) A forfeiture of a conveyance encumbered by a bona fide  
19 security interest is subject to the interest of the secured party if  
20 the secured party neither had knowledge of nor consented to the act  
21 or omission; and

22 (iv) When the owner of a conveyance has been arrested for a  
23 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance  
24 in which the person is arrested may not be subject to forfeiture  
25 unless it is seized or process is issued for its seizure within ten  
26 days of the owner's arrest;

27 (c) Any property, contractual right, or claim against property  
28 used to influence any enterprise that a person has established,  
29 operated, controlled, conducted, or participated in the conduct of,  
30 in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

31 (d) All proceeds traceable to or derived from an offense defined  
32 in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable  
33 instruments, securities, and other things of value significantly used  
34 or intended to be used significantly to facilitate commission of the  
35 offense;

36 (e) All books, records, and research products and materials,  
37 including formulas, microfilm, tapes, and data which are used, or  
38 intended for use, in violation of RCW 9.68A.100, 9.68A.101, or  
39 9A.88.070;

1 (f) All moneys, negotiable instruments, securities, or other  
2 tangible or intangible property of value furnished or intended to be  
3 furnished by any person in exchange for a violation of RCW 9.68A.100,  
4 9.68A.101, or 9A.88.070, all tangible or intangible personal  
5 property, proceeds, or assets acquired in whole or in part with  
6 proceeds traceable to an exchange or series of exchanges in violation  
7 of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable  
8 instruments, and securities used or intended to be used to facilitate  
9 any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture  
10 of money, negotiable instruments, securities, or other tangible or  
11 intangible property encumbered by a bona fide security interest is  
12 subject to the interest of the secured party if, at the time the  
13 security interest was created, the secured party neither had  
14 knowledge of nor consented to the act or omission. No personal  
15 property may be forfeited under this subsection (1)(f), to the extent  
16 of the interest of an owner, by reason of any act or omission(~~(7~~  
17 ~~which that owner establishes was~~)) committed or omitted without the  
18 owner's knowledge or consent; and

19 (g) All real property, including any right, title, and interest  
20 in the whole of any lot or tract of land, and any appurtenances or  
21 improvements which are being used with the knowledge of the owner for  
22 a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have  
23 been acquired in whole or in part with proceeds traceable to an  
24 exchange or series of exchanges in violation of RCW 9.68A.100,  
25 9.68A.101, or 9A.88.070, if a substantial nexus exists between the  
26 violation and the real property. However:

27 (i) No property may be forfeited pursuant to this subsection  
28 (1)(g), to the extent of the interest of an owner, by reason of any  
29 act or omission committed or omitted without the owner's knowledge or  
30 consent;

31 (ii) A forfeiture of real property encumbered by a bona fide  
32 security interest is subject to the interest of the secured party if  
33 the secured party, at the time the security interest was created,  
34 neither had knowledge of nor consented to the act or omission.

35 (2) Real or personal property subject to forfeiture under this  
36 section may be seized by any law enforcement officer of this state  
37 upon process issued by any superior court having jurisdiction over  
38 the property. Seizure of real property shall include the filing of a  
39 lis pendens by the seizing agency. Real property seized under this  
40 section shall not be transferred or otherwise conveyed until ninety

1 days after seizure or until a judgment of forfeiture is entered,  
2 whichever is later: PROVIDED, That real property seized under this  
3 section may be transferred or conveyed to any person or entity who  
4 acquires title by foreclosure or deed in lieu of foreclosure of a  
5 security interest. Seizure of personal property without process may  
6 be made if:

7 (a) The seizure is incident to an arrest or a search under a  
8 search warrant;

9 (b) The property subject to seizure has been the subject of a  
10 prior judgment in favor of the state in a criminal injunction or  
11 forfeiture proceeding; or

12 (c) The law enforcement officer has probable cause to believe  
13 that the property was used or is intended to be used in violation of  
14 RCW 9.68A.100, 9.68A.101, or 9A.88.070.

15 (3) In the event of seizure pursuant to subsection (2) of this  
16 section, proceedings for forfeiture (~~shall be deemed commenced by~~  
17 ~~the seizure. The law enforcement agency under whose authority the~~  
18 ~~seizure was made shall cause notice to be served within fifteen days~~  
19 ~~following the seizure on the owner of the property seized and the~~  
20 ~~person in charge thereof and any person having any known right or~~  
21 ~~interest therein, including any community property interest, of the~~  
22 ~~seizure and intended forfeiture of the seized property. Service of~~  
23 ~~notice of seizure of real property shall be made according to the~~  
24 ~~rules of civil procedure. However, the state may not obtain a default~~  
25 ~~judgment with respect to real property against a party who is served~~  
26 ~~by substituted service absent an affidavit stating that a good faith~~  
27 ~~effort has been made to ascertain if the defaulted party is~~  
28 ~~incarcerated within the state, and that there is no present basis to~~  
29 ~~believe that the party is incarcerated within the state. Notice of~~  
30 ~~seizure in the case of property subject to a security interest that~~  
31 ~~has been perfected by filing a financing statement, or a certificate~~  
32 ~~of title, shall be made by service upon the secured party or the~~  
33 ~~secured party's assignee at the address shown on the financing~~  
34 ~~statement or the certificate of title. The notice of seizure in other~~  
35 ~~cases may be served by any method authorized by law or court rule~~  
36 ~~including, but not limited to, service by certified mail with return~~  
37 ~~receipt requested. Service by mail shall be deemed complete upon~~  
38 ~~mailing within the fifteen day period following the seizure.~~

39 ~~(4) If no person notifies the seizing law enforcement agency in~~  
40 ~~writing of the person's claim of ownership or right to possession of~~

1 items specified in subsection (1) of this section within forty-five  
2 days of the service of notice from the seizing agency in the case of  
3 personal property and ninety days in the case of real property, the  
4 item seized shall be deemed forfeited. The community property  
5 interest in real property of a person whose spouse or domestic  
6 partner committed a violation giving rise to seizure of the real  
7 property may not be forfeited if the person did not participate in  
8 the violation.

9 (5) If any person notifies the seizing law enforcement agency in  
10 writing of the person's claim of ownership or right to possession of  
11 items specified in subsection (1) of this section within forty-five  
12 days of the service of notice from the seizing agency in the case of  
13 personal property and ninety days in the case of real property, the  
14 person or persons shall be afforded a reasonable opportunity to be  
15 heard as to the claim or right. The notice of claim may be served by  
16 any method authorized by law or court rule including, but not limited  
17 to, service by first-class mail. Service by mail shall be deemed  
18 complete upon mailing within the forty-five day period following  
19 service of the notice of seizure in the case of personal property and  
20 within the ninety day period following service of the notice of  
21 seizure in the case of real property. The hearing shall be before the  
22 chief law enforcement officer of the seizing agency or the chief law  
23 enforcement officer's designee, except where the seizing agency is a  
24 state agency as defined in RCW 34.12.020(4), the hearing shall be  
25 before the chief law enforcement officer of the seizing agency or an  
26 administrative law judge appointed under chapter 34.12 RCW, except  
27 that any person asserting a claim or right may remove the matter to a  
28 court of competent jurisdiction. Removal of any matter involving  
29 personal property may only be accomplished according to the rules of  
30 civil procedure. The person seeking removal of the matter must serve  
31 process against the state, county, political subdivision, or  
32 municipality that operates the seizing agency, and any other party of  
33 interest, in accordance with RCW 4.28.080 or 4.92.020, within  
34 forty-five days after the person seeking removal has notified the  
35 seizing law enforcement agency of the person's claim of ownership or  
36 right to possession. The court to which the matter is to be removed  
37 shall be the district court when the aggregate value of personal  
38 property is within the jurisdictional limit set forth in RCW  
39 3.66.020. A hearing before the seizing agency and any appeal  
40 therefrom shall be under Title 34 RCW. In all cases, the burden of



1 proof is upon the law enforcement agency to establish, by a  
2 preponderance of the evidence, that the property is subject to  
3 forfeiture.

4 The seizing law enforcement agency shall promptly return the  
5 article or articles to the claimant upon a determination by the  
6 administrative law judge or court that the claimant is the present  
7 lawful owner or is lawfully entitled to possession thereof of items  
8 specified in subsection (1) of this section.

9 (6) In any proceeding to forfeit property under this title, where  
10 the claimant substantially prevails, the claimant is entitled to  
11 reasonable attorneys' fees reasonably incurred by the claimant. In  
12 addition, in a court hearing between two or more claimants to the  
13 article or articles involved, the prevailing party is entitled to a  
14 judgment for costs and reasonable attorneys' fees.

15 (7) When property is forfeited under this chapter, the seizing  
16 law enforcement agency may:

17 (a) Retain it for official use or upon application by any law  
18 enforcement agency of this state release the property to that agency  
19 for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

20 (b) Sell that which is not required to be destroyed by law and  
21 which is not harmful to the public; or

22 (c) Request the appropriate sheriff or director of public safety  
23 to take custody of the property and remove it for disposition in  
24 accordance with law.

25 (8) (a) When property is forfeited, the seizing agency shall keep  
26 a record indicating the identity of the prior owner, if known, a  
27 description of the property, the disposition of the property, the  
28 value of the property at the time of seizure, and the amount of  
29 proceeds realized from disposition of the property.

30 (b) Each seizing agency shall retain records of forfeited  
31 property for at least seven years.

32 (c) Each seizing agency shall file a report including a copy of  
33 the records of forfeited property with the state treasurer each  
34 calendar quarter.

35 (d) The quarterly report need not include a record of forfeited  
36 property that is still being held for use as evidence during the  
37 investigation or prosecution of a case or during the appeal from a  
38 conviction.

39 (9) (a) By January 31st of each year, each seizing agency shall  
40 remit to the state an amount equal to ten percent of the net proceeds

1 of any property forfeited during the preceding calendar year. Money  
2 remitted shall be deposited in the prostitution prevention and  
3 intervention account under RCW 43.63A.740.

4 (b) The net proceeds of forfeited property is the value of the  
5 forfeitable interest in the property after deducting the cost of  
6 satisfying any bona fide security interest to which the property is  
7 subject at the time of seizure; and in the case of sold property,  
8 after deducting the cost of sale, including reasonable fees or  
9 commissions paid to independent selling agents, and the cost of any  
10 valid landlord's claim for damages under subsection (12) of this  
11 section.

12 (c) The value of sold forfeited property is the sale price. The  
13 value of destroyed property and retained firearms or illegal property  
14 is zero.

15 (10) Net proceeds not required to be remitted to the state shall  
16 be used for payment of all proper expenses of the investigation  
17 leading to the seizure, including any money delivered to the subject  
18 of the investigation by the law enforcement agency, and of the  
19 proceedings for forfeiture and sale, including expenses of seizure,  
20 maintenance of custody, advertising, actual costs of the prosecuting  
21 or city attorney, and court costs. Money remaining after payment of  
22 these expenses shall be retained by the seizing law enforcement  
23 agency for the exclusive use of enforcing the provisions of this  
24 chapter or chapter 9.68A RCW.

25 (11) Upon the entry of an order of forfeiture of real property,  
26 the court shall forward a copy of the order to the assessor of the  
27 county in which the property is located. Orders for the forfeiture of  
28 real property shall be entered by the superior court, subject to  
29 court rules. Such an order shall be filed by the seizing agency in  
30 the county auditor's records in the county in which the real property  
31 is located.

32 (12) A landlord may assert a claim against proceeds from the sale  
33 of assets seized and forfeited under subsection (9) of this section,  
34 only if:

35 (a) A law enforcement officer, while acting in his or her  
36 official capacity, directly caused damage to the complaining  
37 landlord's property while executing a search of a tenant's residence;

38 (b) The landlord has applied any funds remaining in the tenant's  
39 deposit, to which the landlord has a right under chapter 59.18 RCW,

1 to cover the damage directly caused by a law enforcement officer  
2 prior to asserting a claim under the provisions of this section:

3 (i) Only if the funds applied under (b) of this subsection are  
4 insufficient to satisfy the damage directly caused by a law  
5 enforcement officer, may the landlord seek compensation for the  
6 damage by filing a claim against the governmental entity under whose  
7 authority the law enforcement agency operates within thirty days  
8 after the search;

9 (ii) Only if the governmental entity denies or fails to respond  
10 to the landlord's claim within sixty days of the date of filing, may  
11 the landlord collect damages under this subsection by filing within  
12 thirty days of denial or the expiration of the sixty day period,  
13 whichever occurs first, a claim with the seizing law enforcement  
14 agency. The seizing law enforcement agency must notify the landlord  
15 of the status of the claim by the end of the thirty day period.  
16 Nothing in this section requires the claim to be paid by the end of  
17 the sixty day or thirty day period; and

18 (c) For any claim filed under (b) of this subsection, the law  
19 enforcement agency shall pay the claim unless the agency provides  
20 substantial proof that the landlord either:

21 (i) Knew or consented to actions of the tenant in violation of  
22 RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

23 (ii) Failed to respond to a notification of the illegal activity,  
24 provided by a law enforcement agency under RCW 59.18.075, within  
25 seven days of receipt of notification of the illegal activity.

26 (13) The landlord's claim for damages under subsection (12) of  
27 this section may not include a claim for loss of business and is  
28 limited to:

29 (a) Damage to tangible property and clean-up costs;

30 (b) The lesser of the cost of repair or fair market value of the  
31 damage directly caused by a law enforcement officer;

32 (c) The proceeds from the sale of the specific tenant's property  
33 seized and forfeited under subsection (9) of this section; and

34 (d) The proceeds available after the seizing law enforcement  
35 agency satisfies any bona fide security interest in the tenant's  
36 property and costs related to sale of the tenant's property as  
37 provided by subsection (12) of this section.

38 (14) Subsections (12) and (13) of this section do not limit any  
39 other rights a landlord may have against a tenant to collect for  
40 damages. However, if a law enforcement agency satisfies a landlord's

1 ~~claim under subsection (12) of this section, the rights the landlord~~  
2 ~~has against the tenant for damages directly caused by a law~~  
3 ~~enforcement officer under the terms of the landlord and tenant's~~  
4 ~~contract are subrogated to the law enforcement agency)) are governed~~  
5 ~~by chapter 7.--- RCW (the new chapter created in section 18 of this~~  
6 ~~act).~~

7 **Sec. 10.** RCW 9A.83.030 and 2020 c 62 s 1 are each amended to  
8 read as follows:

9 (1) Proceeds traceable to or derived from specified unlawful  
10 activity or a violation of RCW 9A.83.020 are subject to seizure and  
11 forfeiture. The attorney general or county prosecuting attorney may  
12 file a civil action for the forfeiture of proceeds. Unless otherwise  
13 provided for under this section, no property rights exist in these  
14 proceeds. All right, title, and interest in the proceeds shall vest  
15 in the governmental entity of which the seizing law enforcement  
16 agency is a part upon commission of the act or omission giving rise  
17 to forfeiture under this section.

18 (2) Real or personal property subject to forfeiture under this  
19 chapter may be seized by any law enforcement officer of this state  
20 upon process issued by a superior court that has jurisdiction over  
21 the property. Any agency seizing real property shall file a lis  
22 pendens concerning the property. Real property seized under this  
23 section shall not be transferred or otherwise conveyed until ninety  
24 days after seizure or until a judgment of forfeiture is entered,  
25 whichever is later. Real property seized under this section may be  
26 transferred or conveyed to any person or entity who acquires title by  
27 foreclosure or deed in lieu of foreclosure of a security interest.  
28 Seizure of personal property without process may be made if:

29 (a) The seizure is incident to an arrest or a search under a  
30 search warrant or an inspection under an administrative inspection  
31 warrant issued pursuant to RCW 69.50.502; or

32 (b) The property subject to seizure has been the subject of a  
33 prior judgment in favor of the state in a criminal injunction or  
34 forfeiture proceeding based upon this chapter.

35 (3) A seizure under subsection (2) of this section commences  
36 proceedings for forfeiture pursuant to chapter 7.--- RCW (the new  
37 chapter created in section 18 of this act). (~~The law enforcement~~  
38 ~~agency under whose authority the seizure was made shall cause notice~~  
39 ~~of the seizure and intended forfeiture of the seized proceeds to be~~

1 served within fifteen days after the seizure on the owner of the  
2 property seized and the person in charge thereof and any person who  
3 has a known right or interest therein, including a community property  
4 interest. Service of notice of seizure of real property shall be made  
5 according to the rules of civil procedure. However, the state may not  
6 obtain a default judgment with respect to real property against a  
7 party who is served by substituted service absent an affidavit  
8 stating that a good faith effort has been made to ascertain if the  
9 defaulted party is incarcerated within the state, and that there is  
10 no present basis to believe that the party is incarcerated within the  
11 state. The notice of seizure in other cases may be served by any  
12 method authorized by law or court rule including but not limited to  
13 service by certified mail with return receipt requested. Service by  
14 mail is complete upon mailing within the fifteen-day period after the  
15 seizure.

16 ~~(4) If no person notifies the seizing law enforcement agency in~~  
17 ~~writing of the person's claim of ownership or right to possession of~~  
18 ~~the property within forty-five days of the seizure in the case of~~  
19 ~~personal property and ninety days in the case of real property, the~~  
20 ~~property seized shall be deemed forfeited. The community property~~  
21 ~~interest in real property of a person whose spouse or domestic~~  
22 ~~partner committed a violation giving rise to seizure of the real~~  
23 ~~property may not be forfeited if the person did not participate in~~  
24 ~~the violation.~~

25 ~~(5) If a person notifies the seizing law enforcement agency in~~  
26 ~~writing of the person's claim of ownership or right to possession of~~  
27 ~~property within forty-five days of the seizure in the case of~~  
28 ~~personal property and ninety days in the case of real property, the~~  
29 ~~person or persons shall be afforded a reasonable opportunity to be~~  
30 ~~heard as to the claim or right. The provisions of RCW 69.50.505(5)~~  
31 ~~shall apply to any such hearing. The seizing law enforcement agency~~  
32 ~~shall promptly return property to the claimant upon the direction of~~  
33 ~~the administrative law judge or court.~~

34 ~~(6) Disposition of forfeited property shall be made in the manner~~  
35 ~~provided for in RCW 69.50.505 (8) through (10) and (14) or 9.46.231~~  
36 ~~(6) through (8) and (10).)~~

37 **Sec. 11.** RCW 10.105.010 and 2022 c 162 s 3 are each amended to  
38 read as follows:

1 (1) The following are subject to seizure and forfeiture and no  
2 property right exists in them: All personal property, including, but  
3 not limited to, any item, object, tool, substance, device, weapon,  
4 machine, vehicle of any kind, money, security, or negotiable  
5 instrument, which has been or was actually employed as an  
6 instrumentality in the commission of, or in aiding or abetting in the  
7 commission of any felony, or which was furnished or was intended to  
8 be furnished by any person in the commission of, as a result of, or  
9 as compensation for the commission of, any felony, or which was  
10 acquired in whole or in part with proceeds traceable to the  
11 commission of a felony. No property may be forfeited under this  
12 section until after there has been a superior court conviction of the  
13 owner of the property for the felony in connection with which the  
14 property was employed, furnished, or acquired.

15 A forfeiture of property encumbered by a bona fide security  
16 interest is subject to the interest of the secured party if at the  
17 time the security interest was created, the secured party neither had  
18 knowledge of nor consented to the commission of the felony.

19 (2) Personal property subject to forfeiture under this chapter  
20 may be seized by any law enforcement officer of this state upon  
21 process issued by any superior court having jurisdiction over the  
22 property. Seizure of personal property without process may be made  
23 if:

24 (a) The seizure is incident to an arrest or a search under a  
25 search warrant;

26 (b) The property subject to seizure has been the subject of a  
27 prior judgment in favor of the state in a criminal injunction or  
28 forfeiture proceeding;

29 (c) A law enforcement officer has probable cause to believe that  
30 the property is directly dangerous to health or safety; or

31 (d) The law enforcement officer has probable cause to believe  
32 that the property was used or is intended to be used in the  
33 commission of a felony.

34 (3) In the event of seizure pursuant to this section, proceedings  
35 for forfeiture (~~shall be deemed commenced by the seizure. The law~~  
36 ~~enforcement agency under whose authority the seizure was made shall~~  
37 ~~cause notice to be served within fifteen days following the seizure~~  
38 ~~on the owner of the property seized and the person in charge thereof~~  
39 ~~and any person having any known right or interest therein, including~~  
40 ~~any community property interest, of the seizure and intended~~

1 forfeiture of the seized property. The notice of seizure may be  
2 served by any method authorized by law or court rule including but  
3 not limited to service by certified mail with return receipt  
4 requested. Service by mail shall be deemed complete upon mailing  
5 within the fifteen day period following the seizure. Notice of  
6 seizure in the case of property subject to a security interest that  
7 has been perfected by filing a financing statement in accordance with  
8 chapter 62A.9A RCW, or a certificate of title shall be made by  
9 service upon the secured party or the secured party's assignee at the  
10 address shown on the financing statement or the certificate of title.

11 (4) If no person notifies the seizing law enforcement agency in  
12 writing of the person's claim of ownership or right to possession of  
13 items specified in subsection (1) of this section within forty-five  
14 days of the seizure, the item seized shall be deemed forfeited.

15 (5) If a person notifies the seizing law enforcement agency in  
16 writing of the person's claim of ownership or right to possession of  
17 the seized property within forty-five days of the seizure, the law  
18 enforcement agency shall give the person or persons a reasonable  
19 opportunity to be heard as to the claim or right. The hearing shall  
20 be before the chief law enforcement officer of the seizing agency or  
21 the chief law enforcement officer's designee, except where the  
22 seizing agency is a state agency as defined in RCW 34.12.020(4), the  
23 hearing shall be before the chief law enforcement officer of the  
24 seizing agency or an administrative law judge appointed under chapter  
25 34.12 RCW, except that any person asserting a claim or right may  
26 remove the matter to a court of competent jurisdiction. Removal may  
27 only be accomplished according to the rules of civil procedure. The  
28 person seeking removal of the matter must serve process against the  
29 state, county, political subdivision, or municipality that operates  
30 the seizing agency, and any other party of interest, in accordance  
31 with RCW 4.28.080 or 4.92.020, within forty-five days after the  
32 person seeking removal has notified the seizing law enforcement  
33 agency of the person's claim of ownership or right to possession. The  
34 court to which the matter is to be removed shall be the district  
35 court when the aggregate value of the property is within the  
36 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
37 seizing agency and any appeal therefrom shall be under Title 34 RCW.  
38 In a court hearing between two or more claimants to the property  
39 involved, the prevailing party shall be entitled to a judgment for  
40 costs and reasonable attorney's fees. The burden of producing

1 ~~evidence shall be upon the person claiming to be the lawful owner or~~  
2 ~~the person claiming to have the lawful right to possession of the~~  
3 ~~property. The seizing law enforcement agency shall promptly return~~  
4 ~~the property to the claimant upon a determination by the~~  
5 ~~administrative law judge or court that the claimant is the present~~  
6 ~~lawful owner or is lawfully entitled to possession of the property.~~

7 ~~(6) When property is forfeited under this chapter, after~~  
8 ~~satisfying any court-ordered victim restitution, the seizing law~~  
9 ~~enforcement agency may:~~

10 ~~(a) Retain it for official use or upon application by any law~~  
11 ~~enforcement agency of this state release such property to such agency~~  
12 ~~for the exclusive use of enforcing the criminal law;~~

13 ~~(b) Sell that which is not required to be destroyed by law and~~  
14 ~~which is not harmful to the public.~~

15 ~~(7) By January 31st of each year, each seizing agency shall remit~~  
16 ~~to the state an amount equal to ten percent of the net proceeds of~~  
17 ~~any property forfeited during the preceding calendar year for deposit~~  
18 ~~into the behavioral health loan repayment program account created in~~  
19 ~~RCW 28B.115.135 through June 30, 2027, and into the state general~~  
20 ~~fund thereafter.~~

21 ~~(a) The net proceeds of forfeited property is the value of the~~  
22 ~~forfeitable interest in the property after deducting the cost of~~  
23 ~~satisfying any bona fide security interest to which the property is~~  
24 ~~subject at the time of seizure; and in the case of sold property,~~  
25 ~~after deducting the cost of sale, including reasonable fees or~~  
26 ~~commissions paid to independent selling agents.~~

27 ~~(b) The value of sold forfeited property is the sale price. The~~  
28 ~~value of retained forfeited property is the fair market value of the~~  
29 ~~property at the time of seizure, determined when possible by~~  
30 ~~reference to an applicable commonly used index, such as the index~~  
31 ~~used by the department of licensing for valuation of motor vehicles.~~  
32 ~~A seizing agency may use, but need not use, an independent qualified~~  
33 ~~appraiser to determine the value of retained property. If an~~  
34 ~~appraiser is used, the value of the property appraised is net of the~~  
35 ~~cost of the appraisal. The value of destroyed property and retained~~  
36 ~~firearms or illegal property is zero.~~

37 ~~(c) Retained property and net proceeds not required to be~~  
38 ~~remitted to the state, or otherwise required to be spent under this~~  
39 ~~section, shall be retained by the seizing law enforcement agency~~  
40 ~~exclusively for the expansion and improvement of law enforcement~~



1 activity. Money retained under this section may not be used to  
2 supplant preexisting funding sources)) are governed by chapter 7.---  
3 RCW (the new chapter created in section 18 of this act).

4 (4) When property is seized under this chapter and forfeited  
5 pursuant to chapter 7.--- RCW (the new chapter created in section 18  
6 of this act), the seizing agency must first satisfy any court-ordered  
7 victim restitution before retaining, using, selling, or taking other  
8 action with respect to the property as permitted under section 5 of  
9 this act.

10 **Sec. 12.** RCW 19.290.230 and 2013 c 322 s 27 are each amended to  
11 read as follows:

12 (1) The following personal property is subject to seizure and  
13 forfeiture and no property right exists in them: All personal  
14 property including, but not limited to, any item, object, tool,  
15 substance, device, weapon, machine, vehicle of any kind, money,  
16 security, or negotiable instrument, which the seizing agency proves  
17 by a preponderance of the evidence was used or intended to be used by  
18 its owner or the person in charge to knowingly or intentionally  
19 facilitate the commission of, or to knowingly or intentionally abet  
20 the commission of, a crime involving theft, trafficking, or unlawful  
21 possession of commercial metal property, or which the seizing agency  
22 proves by a preponderance of the evidence was knowingly or  
23 intentionally furnished or was intended to be furnished by any person  
24 in the commission of, as a result of, or as compensation for the  
25 commission of, a crime involving theft, trafficking, or the unlawful  
26 possession of commercial metal property, or which the property owner  
27 acquired in whole or in part with proceeds traceable to a knowing or  
28 intentional commission of a crime involving the theft, trafficking,  
29 or unlawful possession of commercial metal property provided that  
30 such activity is not less than a class C felony; except that:

31 (a) No vehicle used by any person as a common carrier in the  
32 transaction of business as a common carrier is subject to forfeiture  
33 under this section unless the seizing agency proves by a  
34 preponderance of the evidence that the owner or other person in  
35 charge of the vehicle is a consenting party or is privy to any crime  
36 involving theft, trafficking, or the unlawful possession of  
37 commercial metal property;

38 (b) A forfeiture of property encumbered by a bona fide security  
39 interest is subject to the interest of the secured party if the

1 secured party neither had actual or constructive knowledge of nor  
2 consented to the commission of any crime involving the theft,  
3 trafficking, or unlawful possession of commercial metal property; and

4 (c) A property owner's property is not subject to seizure if an  
5 employee or agent of that property owner uses the property owner's  
6 property to knowingly or intentionally facilitate the commission of,  
7 or to knowingly or intentionally aid and abet the commission of, a  
8 crime involving theft, trafficking, or unlawful possession of  
9 commercial metal property, in violation of that property owner's  
10 instructions or policies against such activity, and without the  
11 property owner's knowledge or consent.

12 (2) The following real property is subject to seizure and  
13 forfeiture and no property right exists in them: All real property,  
14 including any right, title, and interest in the whole of any lot or  
15 tract of land, and any appurtenances or improvements, that the  
16 seizing agency proves by a preponderance of the evidence are being  
17 used with the knowledge of the owner for the intentional commission  
18 of any crime involving the theft, trafficking, or unlawful possession  
19 of commercial metal property, or which have been acquired in whole or  
20 in part with proceeds traceable to the commission of any crime  
21 involving the trafficking, theft, or unlawful possession of  
22 commercial metal, if such activity is not less than a class C felony  
23 and a substantial nexus exists between the commission of the  
24 violation or crime and the real property. However:

25 (a) No property may be forfeited pursuant to this subsection (2),  
26 to the extent of the interest of an owner, by reason of any act or  
27 omission committed or omitted without the owner's actual or  
28 constructive knowledge; and further, a property owner's real property  
29 is not subject to seizure if an employee or agent of that property  
30 owner uses the property owner's real property to knowingly or  
31 intentionally facilitate the commission of, or to knowingly or  
32 intentionally aid and abet the commission of, a crime involving  
33 theft, trafficking, or unlawful possession of commercial metal  
34 property, in violation of that property owner's instructions or  
35 policies against such activity, and without the property owner's  
36 knowledge or consent; and

37 (b) A forfeiture of real property encumbered by a bona fide  
38 security interest is subject to the interest of the secured party if  
39 the secured party, neither had actual or constructive knowledge, nor  
40 consented to the act or omission.

1 (3) Property subject to forfeiture under this chapter may be  
2 seized by any law enforcement officer of this state upon process  
3 issued by any superior court having jurisdiction over the property.  
4 Seizure of real property shall include the filing of a lis pendens by  
5 the seizing agency. Real property seized under this section shall not  
6 be transferred or otherwise conveyed until ninety days after seizure  
7 or until a judgment of forfeiture is entered, whichever is later:  
8 PROVIDED, That real property seized under this section may be  
9 transferred or conveyed to any person or entity who acquires title by  
10 foreclosure or deed in lieu of foreclosure of a security interest.  
11 Seizure of personal property without process may be made if:

12 (a) The seizure is incident to an arrest or a search under a  
13 search warrant; or

14 (b) The property subject to seizure has been the subject of a  
15 prior judgment in favor of the state in a criminal injunction or  
16 forfeiture proceeding.

17 (4) In the event of seizure pursuant to this section, proceedings  
18 for forfeiture (~~(shall be)~~) are deemed commenced by the seizure and  
19 governed by chapter 7.--- RCW (the new chapter created in section 18  
20 of this act). (~~(The law enforcement agency under whose authority the~~  
21 ~~seizure was made shall cause notice to be served within fifteen days~~  
22 ~~following the seizure on the owner of the property seized and the~~  
23 ~~person in charge thereof and any person having any known right or~~  
24 ~~interest therein, including any community property interest, of the~~  
25 ~~seizure and intended forfeiture of the seized property. Service of~~  
26 ~~notice of seizure of real property shall be made according to the~~  
27 ~~rules of civil procedure. However, the state may not obtain a default~~  
28 ~~judgment with respect to real property against a party who is served~~  
29 ~~by substituted service absent an affidavit stating that a good faith~~  
30 ~~effort has been made to ascertain if the defaulted party is~~  
31 ~~incarcerated within the state, and that there is no present basis to~~  
32 ~~believe that the party is incarcerated within the state. The notice~~  
33 ~~of seizure of personal property may be served by any method~~  
34 ~~authorized by law or court rule including but not limited to service~~  
35 ~~by certified mail with return receipt requested. Service by mail~~  
36 ~~shall be deemed complete upon mailing within the fifteen-day period~~  
37 ~~following the seizure. Notice of seizure in the case of property~~  
38 ~~subject to a security interest that has been perfected by filing a~~  
39 ~~financing statement in accordance with chapter 62A.9A RCW, or a~~  
40 ~~certificate of title shall be made by service upon the secured party~~

1 ~~or the secured party's assignee at the address shown on the financing~~  
2 ~~statement or the certificate of title.~~

3 ~~(5) If no person notifies the seizing law enforcement agency in~~  
4 ~~writing of the person's claim of ownership or right to possession of~~  
5 ~~items specified in subsection (1) of this section within forty-five~~  
6 ~~days of the seizure in the case of personal property and ninety days~~  
7 ~~in the case of real property, the item seized shall be deemed~~  
8 ~~forfeited. The community property interest in real property of a~~  
9 ~~person whose spouse or domestic partner committed a violation giving~~  
10 ~~rise to seizure of the real property may not be forfeited if the~~  
11 ~~person did not participate in the violation.~~

12 ~~(6) If a person notifies the seizing law enforcement agency in~~  
13 ~~writing of the person's claim of ownership or right to possession of~~  
14 ~~the seized property within forty-five days of the seizure in the case~~  
15 ~~of personal property and ninety days in the case of real property,~~  
16 ~~the law enforcement agency shall give the person or persons a~~  
17 ~~reasonable opportunity to be heard as to the claim or right. The~~  
18 ~~hearing shall be before the chief law enforcement officer of the~~  
19 ~~seizing agency or the chief law enforcement officer's designee,~~  
20 ~~except where the seizing agency is a state agency as defined in RCW~~  
21 ~~34.12.020(4), the hearing shall be before the chief law enforcement~~  
22 ~~officer of the seizing agency or an administrative law judge~~  
23 ~~appointed under chapter 34.12 RCW, except that any person asserting a~~  
24 ~~claim or right may remove the matter to a court of competent~~  
25 ~~jurisdiction. Removal may only be accomplished according to the rules~~  
26 ~~of civil procedure. The person seeking removal of the matter must~~  
27 ~~serve process against the state, county, political subdivision, or~~  
28 ~~municipality that operates the seizing agency, and any other party of~~  
29 ~~interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-~~  
30 ~~five days after the person seeking removal has notified the seizing~~  
31 ~~law enforcement agency of the person's claim of ownership or right to~~  
32 ~~possession. The court to which the matter is to be removed shall be~~  
33 ~~the district court when the aggregate value of the property is within~~  
34 ~~the jurisdictional limit set forth in RCW 3.66.020. A hearing before~~  
35 ~~the seizing agency and any appeal therefrom shall be under Title 34~~  
36 ~~RCW. In a court hearing between two or more claimants to the property~~  
37 ~~involved, the prevailing party shall be entitled to a judgment for~~  
38 ~~costs and reasonable attorneys' fees. The burden of producing~~  
39 ~~evidence shall be upon the person claiming to be the lawful owner or~~

1 ~~the person claiming to have the lawful right to possession of the~~  
2 ~~property.~~

3 ~~(7) At the hearing, the seizing agency has the burden of proof to~~  
4 ~~establish by a preponderance of the evidence that seized property is~~  
5 ~~subject to forfeiture, and that the use or intended use of the seized~~  
6 ~~property in connection with a crime pursuant to this section occurred~~  
7 ~~with the owner's actual or constructive knowledge or consent. The~~  
8 ~~person claiming to be the lawful owner or the person claiming to have~~  
9 ~~the lawful right to possession of the property has the burden of~~  
10 ~~proof to establish by a preponderance of the evidence that the person~~  
11 ~~owns or has a right to possess the seized property. The possession of~~  
12 ~~bare legal title is not sufficient to establish ownership of seized~~  
13 ~~property if the seizing agency proves by a preponderance of the~~  
14 ~~evidence that the person claiming ownership or right to possession is~~  
15 ~~a nominal owner and did not actually own or exert a controlling~~  
16 ~~interest in the property.~~

17 ~~The seizing law enforcement agency shall promptly return the~~  
18 ~~property to the claimant upon a determination by the administrative~~  
19 ~~law judge or court that the claimant is the present lawful owner or~~  
20 ~~is lawfully entitled to possession of the property.~~

21 ~~(8) When property is forfeited under this chapter, after~~  
22 ~~satisfying any court-ordered victim restitution, the seizing law~~  
23 ~~enforcement agency may:~~

24 ~~(a) Retain it for official use or, upon application by any law~~  
25 ~~enforcement agency of this state, release such property to such~~  
26 ~~agency; or~~

27 ~~(b) Sell that which is not required to be destroyed by law and~~  
28 ~~which is not harmful to the public.~~

29 ~~(9) (a) Within one hundred twenty days after the entry of an order~~  
30 ~~of forfeiture, each seizing agency shall remit to, if known, the~~  
31 ~~victim of the crime involving the seized property, an amount equal to~~  
32 ~~fifty percent of the net proceeds of any property forfeited.~~

33 ~~(b) Retained property and net proceeds not required to be paid to~~  
34 ~~victims shall be retained by the seizing law enforcement agency~~  
35 ~~exclusively for the expansion and improvement of law enforcement~~  
36 ~~activity. Money retained under this section may not be used to~~  
37 ~~supplant preexisting funding sources.~~

38 ~~(c) The net proceeds of forfeited property is the value of the~~  
39 ~~forfeitable interest in the property after deducting the cost of~~  
40 ~~satisfying any bona fide security interest to which the property is~~

1 subject at the time of seizure; and in the case of sold property,  
2 after deducting the cost of sale, including reasonable fees or  
3 commissions paid to independent selling agents, and the cost of any  
4 valid landlord's claim for damages.

5 ~~(d) The value of sold forfeited property is the sale price. The  
6 value of retained forfeited property is the fair market value of the  
7 property at the time of seizure, determined when possible by  
8 reference to an applicable commonly used index, such as the index  
9 used by the department of licensing for valuation of motor vehicles.  
10 A seizing agency may use, but need not use, an independent qualified  
11 appraiser to determine the value of retained property. If an  
12 appraiser is used, the value of the property appraised is net of the  
13 cost of the appraisal. The value of destroyed property and retained  
14 firearms or illegal property is zero.~~

15 ~~(10) Upon the entry of an order of forfeiture of real property,  
16 the court shall forward a copy of the order to the assessor of the  
17 county in which the property is located. Orders for the forfeiture of  
18 real property shall be entered by the superior court, subject to  
19 court rules. Such an order shall be filed by the seizing agency in  
20 the county auditor's records in the county in which the real property  
21 is located.))~~

22 (5) (a) When property is seized under this chapter and forfeited  
23 pursuant to chapter 7.--- RCW (the new chapter created in section 18  
24 of this act), the seizing agency must first satisfy any court-ordered  
25 victim restitution before retaining, using, selling, or taking other  
26 action with respect to the property as permitted under section 5 of  
27 this act.

28 (b) Within 120 days after the entry of an order of forfeiture,  
29 each seizing agency shall remit to, if known, the victim of the crime  
30 involving the seized property, an amount equal to 50 percent of the  
31 net proceeds of any property forfeited.

32 **Sec. 13.** RCW 46.61.5058 and 2022 c 162 s 2 are each amended to  
33 read as follows:

34 (1) Upon the arrest of a person or upon the filing of a  
35 complaint, citation, or information in a court of competent  
36 jurisdiction, based upon probable cause to believe that a person has  
37 violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar  
38 municipal ordinance, if such person has a prior offense within seven  
39 years as defined in RCW 46.61.5055, and where the person has been

1 provided written notice that any transfer, sale, or encumbrance of  
2 such person's interest in the vehicle over which that person was  
3 actually driving or had physical control when the violation occurred,  
4 is unlawful pending either acquittal, dismissal, sixty days after  
5 conviction, or other termination of the charge, such person shall be  
6 prohibited from encumbering, selling, or transferring his or her  
7 interest in such vehicle, except as otherwise provided in (a), (b),  
8 and (c) of this subsection, until either acquittal, dismissal, sixty  
9 days after conviction, or other termination of the charge. The  
10 prohibition against transfer of title shall not be stayed pending the  
11 determination of an appeal from the conviction.

12 (a) A vehicle encumbered by a bona fide security interest may be  
13 transferred to the secured party or to a person designated by the  
14 secured party;

15 (b) A leased or rented vehicle may be transferred to the lessor,  
16 rental agency, or to a person designated by the lessor or rental  
17 agency; and

18 (c) A vehicle may be transferred to a third party or a vehicle  
19 dealer who is a bona fide purchaser or may be subject to a bona fide  
20 security interest in the vehicle unless it is established that (i) in  
21 the case of a purchase by a third party or vehicle dealer, such party  
22 or dealer had actual notice that the vehicle was subject to the  
23 prohibition prior to the purchase, or (ii) in the case of a security  
24 interest, the holder of the security interest had actual notice that  
25 the vehicle was subject to the prohibition prior to the encumbrance  
26 of title.

27 (2) On conviction for a violation of either RCW 46.20.740,  
28 46.61.502, or 46.61.504 or any similar municipal ordinance where the  
29 person convicted has a prior offense within seven years as defined in  
30 RCW 46.61.5055, the motor vehicle the person was driving or over  
31 which the person had actual physical control at the time of the  
32 offense, if the person has a financial interest in the vehicle, the  
33 court shall consider at sentencing whether the vehicle shall be  
34 seized and forfeited pursuant to this section if a seizure or  
35 forfeiture has not yet occurred.

36 (3) A vehicle subject to forfeiture under this chapter may be  
37 seized by a law enforcement officer of this state upon process issued  
38 by a court of competent jurisdiction. Seizure of a vehicle may be  
39 made without process if the vehicle subject to seizure has been the

1 subject of a prior judgment in favor of the state in a forfeiture  
2 proceeding based upon this section.

3 (4) Seizure under subsection (3) of this section automatically  
4 commences proceedings for forfeiture, which proceedings are governed  
5 by chapter 7.--- RCW (the new chapter created in section 18 of this  
6 act). ~~((The law enforcement agency under whose authority the seizure~~  
7 ~~was made shall cause notice of the seizure and intended forfeiture of~~  
8 ~~the seized vehicle to be served within fifteen days after the seizure~~  
9 ~~on the owner of the vehicle seized, on the person in charge of the~~  
10 ~~vehicle, and on any person having a known right or interest in the~~  
11 ~~vehicle, including a community property interest. The notice of~~  
12 ~~seizure may be served by any method authorized by law or court rule,~~  
13 ~~including but not limited to service by certified mail with return~~  
14 ~~receipt requested. Service by mail is complete upon mailing within~~  
15 ~~the fifteen-day period after the seizure. Notice of seizure in the~~  
16 ~~case of property subject to a security interest that has been~~  
17 ~~perfected on a certificate of title shall be made by service upon the~~  
18 ~~secured party or the secured party's assignee at the address shown on~~  
19 ~~the financing statement or the certificate of title.~~

20 (5) ~~If no person notifies the seizing law enforcement agency in~~  
21 ~~writing of the person's claim of ownership or right to possession of~~  
22 ~~the seized vehicle within forty-five days of the seizure, the vehicle~~  
23 ~~is deemed forfeited.~~

24 (6) ~~If a person notifies the seizing law enforcement agency in~~  
25 ~~writing of the person's claim of ownership or right to possession of~~  
26 ~~the seized vehicle within forty-five days of the seizure, the law~~  
27 ~~enforcement agency shall give the person or persons a reasonable~~  
28 ~~opportunity to be heard as to the claim or right. The hearing shall~~  
29 ~~be before the chief law enforcement officer of the seizing agency or~~  
30 ~~the chief law enforcement officer's designee, except where the~~  
31 ~~seizing agency is a state agency as defined in RCW 34.12.020, the~~  
32 ~~hearing shall be before the chief law enforcement officer of the~~  
33 ~~seizing agency or an administrative law judge appointed under chapter~~  
34 ~~34.12 RCW, except that any person asserting a claim or right may~~  
35 ~~remove the matter to a court of competent jurisdiction. Removal may~~  
36 ~~only be accomplished according to the rules of civil procedure. The~~  
37 ~~person seeking removal of the matter must serve process against the~~  
38 ~~state, county, political subdivision, or municipality that operates~~  
39 ~~the seizing agency, and any other party of interest, in accordance~~  
40 ~~with RCW 4.28.080 or 4.92.020, within forty-five days after the~~



1 person seeking removal has notified the seizing law enforcement  
2 agency of the person's claim of ownership or right to possession. The  
3 court to which the matter is to be removed shall be the district  
4 court when the aggregate value of the vehicle is within the  
5 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
6 seizing agency and any appeal therefrom shall be under Title 34 RCW.  
7 In a court hearing between two or more claimants to the vehicle  
8 involved, the prevailing party shall be entitled to a judgment for  
9 costs and reasonable attorneys' fees. The burden of producing  
10 evidence shall be upon the person claiming to be the legal owner or  
11 the person claiming to have the lawful right to possession of the  
12 vehicle. The seizing law enforcement agency shall promptly return the  
13 vehicle to the claimant upon a determination by the administrative  
14 law judge or court that the claimant is the present legal owner under  
15 this title or is lawfully entitled to possession of the vehicle.

16 ~~(7))~~ (5) When a vehicle is forfeited under this chapter the  
17 seizing law enforcement agency may sell the vehicle, retain it for  
18 official use, or upon application by a law enforcement agency of this  
19 state release the vehicle to that agency for the exclusive use of  
20 enforcing this title; provided, however, that the agency shall first  
21 satisfy any bona fide security interest to which the vehicle is  
22 subject under subsection (1)(a) or (c) of this section.

23 ~~((8))~~ (6) When a vehicle is forfeited, the seizing agency shall  
24 keep a record indicating the identity of the prior owner, if known, a  
25 description of the vehicle, the disposition of the vehicle, the value  
26 of the vehicle at the time of seizure, and the amount of proceeds  
27 realized from disposition of the vehicle.

28 ~~((9))~~ (7) Each seizing agency shall retain records of forfeited  
29 vehicles for at least seven years.

30 ~~((10) Each seizing agency shall file a report including a copy~~  
31 ~~of the records of forfeited vehicles with the state treasurer each~~  
32 ~~calendar quarter.~~

33 ~~(11) The quarterly report need not include a record of a~~  
34 ~~forfeited vehicle that is still being held for use as evidence during~~  
35 ~~the investigation or prosecution of a case or during the appeal from~~  
36 ~~a conviction.~~

37 ~~(12) By January 31st of each year, each seizing agency shall~~  
38 ~~remit to the state an amount equal to ten percent of the net proceeds~~  
39 ~~of vehicles forfeited during the preceding calendar year for deposit~~  
40 ~~into the behavioral health loan repayment program account created in~~

1 ~~RCW 28B.115.135 through June 30, 2027, and into the state general~~  
2 ~~fund thereafter.~~

3 ~~(13) The net proceeds of a forfeited vehicle is the value of the~~  
4 ~~forfeitable interest in the vehicle after deducting the cost of~~  
5 ~~satisfying a bona fide security interest to which the vehicle is~~  
6 ~~subject at the time of seizure; and in the case of a sold vehicle,~~  
7 ~~after deducting the cost of sale, including reasonable fees or~~  
8 ~~commissions paid to independent selling agents.~~

9 ~~(14) The value of a sold forfeited vehicle is the sale price. The~~  
10 ~~value of a retained forfeited vehicle is the fair market value of the~~  
11 ~~vehicle at the time of seizure, determined when possible by reference~~  
12 ~~to an applicable commonly used index, such as the index used by the~~  
13 ~~department of licensing. A seizing agency may, but need not, use an~~  
14 ~~independent qualified appraiser to determine the value of retained~~  
15 ~~vehicles. If an appraiser is used, the value of the vehicle appraised~~  
16 ~~is net of the cost of the appraisal.))~~

17 **Sec. 14.** RCW 70.74.400 and 2002 c 370 s 3 are each amended to  
18 read as follows:

19 (1) Explosives, improvised devices, and components of explosives  
20 and improvised devices that are possessed, manufactured, delivered,  
21 imported, exported, stored, sold, purchased, transported, abandoned,  
22 detonated, or used, or intended to be used, in violation of a  
23 provision of this chapter are subject to seizure and forfeiture by a  
24 law enforcement agency and no property right exists in them.

25 (2) The law enforcement agency making the seizure shall notify  
26 the Washington state department of labor and industries of the  
27 seizure.

28 (3) Seizure of explosives, improvised devices, and components of  
29 explosives and improvised devices under subsection (1) of this  
30 section may be made if:

31 (a) The seizure is incident to arrest or a search under a search  
32 warrant;

33 (b) The explosives, improvised devices, or components have been  
34 the subject of a prior judgment in favor of the state in an  
35 injunction or forfeiture proceeding based upon this chapter;

36 (c) A law enforcement officer has probable cause to believe that  
37 the explosives, improvised devices, or components are directly or  
38 indirectly dangerous to health or safety; or

1 (d) The law enforcement officer has probable cause to believe  
2 that the explosives, improvised devices, or components were used or  
3 were intended to be used in violation of this chapter.

4 (4) A law enforcement agency shall destroy explosives seized  
5 under this chapter when it is necessary to protect the public safety  
6 and welfare. When destruction is not necessary to protect the public  
7 safety and welfare, and the explosives are not being held for  
8 evidence, a seizure pursuant to this section commences proceedings  
9 for forfeiture, which proceedings are governed by chapter 7.--- RCW  
10 (the new chapter created in section 18 of this act).

11 ~~(5) ((The law enforcement agency under whose authority the~~  
12 ~~seizure was made shall issue a written notice of the seizure and~~  
13 ~~commencement of the forfeiture proceedings to the person from whom~~  
14 ~~the explosives were seized, to any known owner of the explosives, and~~  
15 ~~to any person who has a known interest in the explosives. The notice~~  
16 ~~shall be issued within fifteen days of the seizure. The notice of~~  
17 ~~seizure and commencement of the forfeiture proceedings shall be~~  
18 ~~served in the same manner as provided in RCW 4.28.080 for service of~~  
19 ~~a summons. The law enforcement agency shall provide a form by which~~  
20 ~~the person or persons may request a hearing before the law~~  
21 ~~enforcement agency to contest the seizure.~~

22 ~~(6) If no person notifies the seizing law enforcement agency in~~  
23 ~~writing of the person's claim of ownership or right to possession of~~  
24 ~~the explosives, improvised devices, or components within thirty days~~  
25 ~~of the date the notice was issued, the seized explosives, devices, or~~  
26 ~~components shall be deemed forfeited.~~

27 ~~(7) If, within thirty days of the issuance of the notice, any~~  
28 ~~person notifies the seizing law enforcement agency in writing of the~~  
29 ~~person's claim of ownership or right to possession of items seized,~~  
30 ~~the person or persons shall be afforded a reasonable opportunity to~~  
31 ~~be heard as to the claim or right. The hearing shall be before the~~  
32 ~~chief law enforcement or the officer's designee of the seizing~~  
33 ~~agency, except that the person asserting the claim or right may~~  
34 ~~remove the matter to a court of competent jurisdiction if the~~  
35 ~~aggregate value of the items seized is more than five hundred~~  
36 ~~dollars. The hearing and any appeal shall be conducted according to~~  
37 ~~chapter 34.05 RCW. The seizing law enforcement agency shall bear the~~  
38 ~~burden of proving that the person (a) has no lawful right of~~  
39 ~~ownership or possession and (b) that the items seized were possessed,~~  
40 ~~manufactured, stored, sold, purchased, transported, abandoned,~~

1 ~~detonated, or used in violation of a provision of this chapter with~~  
2 ~~the person's knowledge or consent.~~

3 ~~(8) The seizing law enforcement agency shall promptly return the~~  
4 ~~items seized to the claimant upon a determination that the claimant~~  
5 ~~is entitled to possession of the items seized.~~

6 (9)) If the items seized are forfeited under this statute, the  
7 seizing agency shall dispose of the explosives by summary  
8 destruction. However, when explosives are destroyed either to protect  
9 public safety or because the explosives were forfeited, the person  
10 from whom the explosives were seized loses all rights of action  
11 against the law enforcement agency or its employees acting within the  
12 scope of their employment, or other governmental entity or employee  
13 involved with the seizure and destruction of explosives.

14 ((10)) (6) This section is not intended to change the seizure  
15 and forfeiture powers, enforcement, and penalties available to the  
16 department of labor and industries pursuant to chapter 49.17 RCW as  
17 provided in RCW 70.74.390.

18 **Sec. 15.** RCW 77.15.070 and 2005 c 406 s 2 are each amended to  
19 read as follows:

20 (1) Fish and wildlife officers and ex officio fish and wildlife  
21 officers may seize without warrant boats, airplanes, vehicles,  
22 motorized implements, conveyances, gear, appliances, or other  
23 articles they have probable cause to believe have been held with  
24 intent to violate or used in violation of this title or rule of the  
25 commission or director. However, fish and wildlife officers or ex  
26 officio fish and wildlife officers may not seize any item or article,  
27 other than for evidence, if under the circumstances, it is reasonable  
28 to conclude that the violation was inadvertent. The property seized  
29 is subject to forfeiture to the state under this section regardless  
30 of ownership. Property seized may be recovered by its owner by  
31 depositing with the department or into court a cash bond or  
32 equivalent security equal to the value of the seized property but not  
33 more than one hundred thousand dollars. Such cash bond or security is  
34 subject to forfeiture in lieu of the property. Forfeiture of property  
35 seized under this section is a civil forfeiture against property and  
36 is intended to be a remedial civil sanction.

37 (2) In the event of a seizure of property under this section,  
38 jurisdiction to begin the forfeiture proceedings shall commence upon  
39 seizure, and shall be governed by chapter 7.--- RCW (the new chapter

1 created in section 18 of this act). (~~Within fifteen days following~~  
2 ~~the seizure, the seizing authority shall serve a written notice of~~  
3 ~~intent to forfeit property on the owner of the property seized and on~~  
4 ~~any person having any known right or interest in the property seized.~~  
5 ~~Notice may be served by any method authorized by law or court rule,~~  
6 ~~including service by certified mail with return receipt requested.~~  
7 ~~Service by mail is deemed complete upon mailing within the fifteen-~~  
8 ~~day period following the seizure.~~

9 ~~(3) Persons claiming a right of ownership or right to possession~~  
10 ~~of property are entitled to a hearing to contest forfeiture. Such a~~  
11 ~~claim shall specify the claim of ownership or possession and shall be~~  
12 ~~made in writing and served on the director within forty-five days of~~  
13 ~~the seizure. If the seizing authority has complied with notice~~  
14 ~~requirements and there is no claim made within forty-five days, then~~  
15 ~~the property shall be forfeited to the state.~~

16 ~~(4) If any person timely serves the director with a claim to~~  
17 ~~property, the person shall be afforded an opportunity to be heard as~~  
18 ~~to the person's claim or right. The hearing shall be before the~~  
19 ~~director or director's designee, or before an administrative law~~  
20 ~~judge appointed under chapter 34.12 RCW, except that a person~~  
21 ~~asserting a claim or right may remove the matter to a court of~~  
22 ~~competent jurisdiction if the aggregate value of the property seized~~  
23 ~~is more than five thousand dollars. The department may settle a~~  
24 ~~person's claim of ownership prior to the administrative hearing.~~

25 ~~(5) The hearing to contest forfeiture and any subsequent appeal~~  
26 ~~shall be as provided for in chapter 34.05 RCW, the administrative~~  
27 ~~procedure act. The seizing authority has the burden to demonstrate~~  
28 ~~that it had reason to believe the property was held with intent to~~  
29 ~~violate or was used in violation of this title or rule of the~~  
30 ~~commission or director. The person contesting forfeiture has the~~  
31 ~~burden of production and proof by a preponderance of evidence that~~  
32 ~~the person owns or has a right to possess the property and:~~

33 ~~(a) That the property was not held with intent to violate or used~~  
34 ~~in violation of this title; or~~

35 ~~(b) If the property is a boat, airplane, or vehicle, that the~~  
36 ~~illegal use or planned illegal use of the boat, airplane, or vehicle~~  
37 ~~occurred without the owner's knowledge or consent, and that the owner~~  
38 ~~acted reasonably to prevent illegal uses of such boat, airplane, or~~  
39 ~~vehicle.~~

1       ~~(6) A forfeiture of a conveyance encumbered by a perfected~~  
2 ~~security interest is subject to the interest of the secured party if~~  
3 ~~the secured party neither had knowledge of nor consented to the act~~  
4 ~~or omission. No security interest in seized property may be perfected~~  
5 ~~after seizure.~~

6       ~~(7))~~ (3) If seized property is forfeited under this section the  
7 department may retain it for official use unless the property is  
8 required to be destroyed, or upon application by any law enforcement  
9 agency of the state, release such property to the agency for the use  
10 of enforcing this title, or sell such property, and deposit the  
11 proceeds to the fish and wildlife enforcement reward account created  
12 in RCW 77.15.425.

13       **Sec. 16.** RCW 69.50.505 and 2022 c 162 s 1 and 2022 c 16 s 98 are  
14 each reenacted and amended to read as follows:

15       (1) The following are subject to seizure and forfeiture and no  
16 property right exists in them:

17       (a) All controlled substances which have been manufactured,  
18 distributed, dispensed, acquired, or possessed in violation of this  
19 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,  
20 as defined in RCW 64.44.010, used or intended to be used in the  
21 manufacture of controlled substances;

22       (b) All raw materials, products, and equipment of any kind which  
23 are used, or intended for use, in manufacturing, compounding,  
24 processing, delivering, importing, or exporting any controlled  
25 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

26       (c) All property which is used, or intended for use, as a  
27 container for property described in (a) or (b) of this subsection;

28       (d) All conveyances, including aircraft, vehicles, or vessels,  
29 which are used, or intended for use, in any manner to facilitate the  
30 sale, delivery, or receipt of property described in (a) or (b) of  
31 this subsection, except that:

32       (i) No conveyance used by any person as a common carrier in the  
33 transaction of business as a common carrier is subject to forfeiture  
34 under this section unless it appears that the owner or other person  
35 in charge of the conveyance is a consenting party or privy to a  
36 violation of this chapter or chapter 69.41 or 69.52 RCW;

37       (ii) No conveyance is subject to forfeiture under this section by  
38 reason of any act or omission (~~established by the owner thereof to~~

1 ~~have been~~) committed or omitted without the owner's knowledge or  
2 consent;

3 (iii) No conveyance is subject to forfeiture under this section  
4 if used in the receipt of only an amount of cannabis for which  
5 possession constitutes a misdemeanor under RCW 69.50.4014;

6 (iv) A forfeiture of a conveyance encumbered by a bona fide  
7 security interest is subject to the interest of the secured party if  
8 the secured party neither had knowledge of nor consented to the act  
9 or omission; and

10 (v) When the owner of a conveyance has been arrested under this  
11 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the  
12 person is arrested may not be subject to forfeiture unless it is  
13 seized or process is issued for its seizure within ten days of the  
14 owner's arrest;

15 (e) All books, records, and research products and materials,  
16 including formulas, microfilm, tapes, and data which are used, or  
17 intended for use, in violation of this chapter or chapter 69.41 or  
18 69.52 RCW;

19 (f) All drug paraphernalia other than paraphernalia possessed,  
20 sold, or used solely to facilitate cannabis-related activities that  
21 are not violations of this chapter;

22 (g) All moneys, negotiable instruments, securities, or other  
23 tangible or intangible property of value furnished or intended to be  
24 furnished by any person in exchange for a controlled substance in  
25 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
26 or intangible personal property, proceeds, or assets acquired in  
27 whole or in part with proceeds traceable to an exchange or series of  
28 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
29 and all moneys, negotiable instruments, and securities used or  
30 intended to be used to facilitate any violation of this chapter or  
31 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable  
32 instruments, securities, or other tangible or intangible property  
33 encumbered by a bona fide security interest is subject to the  
34 interest of the secured party if, at the time the security interest  
35 was created, the secured party neither had knowledge of nor consented  
36 to the act or omission. No personal property may be forfeited under  
37 this subsection (1)(g), to the extent of the interest of an owner, by  
38 reason of any act or omission (~~which that owner establishes was~~)  
39 committed or omitted without the owner's knowledge or consent; and

1 (h) All real property, including any right, title, and interest  
2 in the whole of any lot or tract of land, and any appurtenances or  
3 improvements which are being used with the knowledge of the owner for  
4 the manufacturing, compounding, processing, delivery, importing, or  
5 exporting of any controlled substance, or which have been acquired in  
6 whole or in part with proceeds traceable to an exchange or series of  
7 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
8 if such activity is not less than a class C felony and a substantial  
9 nexus exists between the commercial production or sale of the  
10 controlled substance and the real property. However:

11 (i) No property may be forfeited pursuant to this subsection  
12 (1)(h), to the extent of the interest of an owner, by reason of any  
13 act or omission committed or omitted without the owner's knowledge or  
14 consent;

15 (ii) The bona fide gift of a controlled substance, legend drug,  
16 or imitation controlled substance shall not result in the forfeiture  
17 of real property;

18 (iii) The possession of cannabis shall not result in the  
19 forfeiture of real property unless the cannabis is possessed for  
20 commercial purposes that are unlawful under Washington state law, the  
21 amount possessed is five or more plants or one pound or more of  
22 cannabis, and a substantial nexus exists between the possession of  
23 cannabis and the real property. In such a case, the intent of the  
24 offender shall be determined by the preponderance of the evidence,  
25 including the offender's prior criminal history, the amount of  
26 cannabis possessed by the offender, the sophistication of the  
27 activity or equipment used by the offender, whether the offender was  
28 licensed to produce, process, or sell cannabis, or was an employee of  
29 a licensed producer, processor, or retailer, and other evidence which  
30 demonstrates the offender's intent to engage in unlawful commercial  
31 activity;

32 (iv) The unlawful sale of cannabis or a legend drug shall not  
33 result in the forfeiture of real property unless the sale was forty  
34 grams or more in the case of cannabis or one hundred dollars or more  
35 in the case of a legend drug, and a substantial nexus exists between  
36 the unlawful sale and the real property; and

37 (v) A forfeiture of real property encumbered by a bona fide  
38 security interest is subject to the interest of the secured party if  
39 the secured party, at the time the security interest was created,  
40 neither had knowledge of nor consented to the act or omission.



1           (2) Real or personal property subject to forfeiture under this  
2 chapter may be seized by any commission inspector or law enforcement  
3 officer of this state upon process issued by any superior court  
4 having jurisdiction over the property. Seizure of real property shall  
5 include the filing of a lis pendens by the seizing agency. Real  
6 property seized under this section shall not be transferred or  
7 otherwise conveyed until ninety days after seizure or until a  
8 judgment of forfeiture is entered, whichever is later: PROVIDED, That  
9 real property seized under this section may be transferred or  
10 conveyed to any person or entity who acquires title by foreclosure or  
11 deed in lieu of foreclosure of a security interest. Seizure of  
12 personal property without process may be made if:

13           (a) The seizure is incident to an arrest or a search under a  
14 search warrant or an inspection under an administrative inspection  
15 warrant;

16           (b) The property subject to seizure has been the subject of a  
17 prior judgment in favor of the state in a criminal injunction or  
18 forfeiture proceeding based upon this chapter;

19           (c) A commission inspector or law enforcement officer has  
20 probable cause to believe that the property is directly or indirectly  
21 dangerous to health or safety; or

22           (d) The commission inspector or law enforcement officer has  
23 probable cause to believe that the property was used or is intended  
24 to be used in violation of this chapter.

25           (3) In the event of seizure pursuant to subsection (2) of this  
26 section, proceedings for forfeiture shall be deemed commenced by the  
27 seizure. The law enforcement agency under whose authority the seizure  
28 was made shall cause notice to be served within fifteen days  
29 following the seizure on the owner of the property seized and the  
30 person in charge thereof and any person having any known right or  
31 interest therein, including any community property interest, of the  
32 seizure and intended forfeiture of the seized property. Service of  
33 notice of seizure of real property shall be made according to the  
34 rules of civil procedure. However, the state may not obtain a default  
35 judgment with respect to real property against a party who is served  
36 by substituted service absent an affidavit stating that a good faith  
37 effort has been made to ascertain if the defaulted party is  
38 incarcerated within the state, and that there is no present basis to  
39 believe that the party is incarcerated within the state. Notice of  
40 seizure in the case of property subject to a security interest that

1 has been perfected by filing a financing statement in accordance with  
2 chapter 62A.9A RCW, or a certificate of title, shall be made by  
3 service upon the secured party or the secured party's assignee at the  
4 address shown on the financing statement or the certificate of title.  
5 The notice of seizure in other cases may be served by any method  
6 authorized by law or court rule including but not limited to service  
7 by certified mail with return receipt requested. Service by mail  
8 shall be deemed complete upon mailing within the fifteen day period  
9 following the seizure.

10 (4) If no person notifies the seizing law enforcement agency in  
11 writing of the person's claim of ownership or right to possession of  
12 items specified in subsection (1)(d), (g), or (h) of this section  
13 within (~~(forty-five)~~) 60 days of the service of notice from the  
14 seizing agency in the case of personal property and (~~(ninety)~~) 120  
15 days in the case of real property, the item seized shall be deemed  
16 forfeited. The community property interest in real property of a  
17 person whose spouse or domestic partner committed a violation giving  
18 rise to seizure of the real property may not be forfeited if the  
19 person did not participate in the violation.

20 (5) If any person notifies the seizing law enforcement agency in  
21 writing of the person's claim of ownership or right to possession of  
22 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)  
23 of this section within (~~(forty-five)~~) 60 days of the service of  
24 notice from the seizing agency in the case of personal property and  
25 (~~(ninety)~~) 120 days in the case of real property, the person or  
26 persons shall be afforded a reasonable opportunity to be heard as to  
27 the claim or right. The notice of claim may be served by any method  
28 authorized by law or court rule including, but not limited to,  
29 service by first-class mail. Service by mail shall be deemed complete  
30 upon mailing within the (~~(forty-five)~~) 60-day period following  
31 service of the notice of seizure in the case of personal property and  
32 within the (~~(ninety-day)~~) 120-day period following service of the  
33 notice of seizure in the case of real property. The hearing shall be  
34 before the chief law enforcement officer of the seizing agency or the  
35 chief law enforcement officer's designee, except where the seizing  
36 agency is a state agency as defined in RCW 34.12.020(4), the hearing  
37 shall be before the chief law enforcement officer of the seizing  
38 agency or an administrative law judge appointed under chapter 34.12  
39 RCW, except that any person asserting a claim or right may remove the  
40 matter to a court of competent jurisdiction. Removal of any matter

1 involving personal property may only be accomplished according to the  
2 rules of civil procedure. The person seeking removal of the matter  
3 must serve process against the state, county, political subdivision,  
4 or municipality that operates the seizing agency, and any other party  
5 of interest, in accordance with RCW 4.28.080 or 4.92.020, within  
6 forty-five days after the person seeking removal has notified the  
7 seizing law enforcement agency of the person's claim of ownership or  
8 right to possession. The court to which the matter is to be removed  
9 shall be the district court when the aggregate value of personal  
10 property is within the jurisdictional limit set forth in RCW  
11 3.66.020. A hearing before the seizing agency and any appeal  
12 therefrom shall be under Title 34 RCW. In all cases, the burden of  
13 proof is upon the law enforcement agency to establish, by a  
14 preponderance of the evidence, that the property is subject to  
15 forfeiture.

16 The seizing law enforcement agency shall promptly return the  
17 article or articles to the claimant, in the same or substantially  
18 similar condition as when seized, upon a determination by the  
19 administrative law judge or court that the claimant is the present  
20 lawful owner or is lawfully entitled to possession thereof of items  
21 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of  
22 this section.

23 (6) In any proceeding to forfeit property under this title, where  
24 the claimant substantially prevails, the claimant is entitled to  
25 reasonable attorneys' fees reasonably incurred by the claimant. In  
26 addition, in a court hearing between two or more claimants to the  
27 article or articles involved, the prevailing party is entitled to a  
28 judgment for costs and reasonable attorneys' fees.

29 (7) When property is forfeited under this chapter the commission  
30 or seizing law enforcement agency may:

31 (a) Retain it for official use or upon application by any law  
32 enforcement agency of this state release such property to such agency  
33 for the exclusive use of enforcing the provisions of this chapter;

34 (b) Sell that which is not required to be destroyed by law and  
35 which is not harmful to the public;

36 (c) Request the appropriate sheriff or director of public safety  
37 to take custody of the property and remove it for disposition in  
38 accordance with law; or

39 (d) Forward it to the drug enforcement administration for  
40 disposition.

1           (8) ~~((a) When property is forfeited, the seizing agency shall~~  
2 ~~keep a record indicating the identity of the prior owner, if known, a~~  
3 ~~description of the property, the disposition of the property, the~~  
4 ~~value of the property at the time of seizure, and the amount of~~  
5 ~~proceeds realized from disposition of the property.~~

6           ~~(b) Each seizing agency shall retain records of forfeited~~  
7 ~~property for at least seven years.~~

8           ~~(c) Each seizing agency shall file a report including a copy of~~  
9 ~~the records of forfeited property with the state treasurer each~~  
10 ~~calendar quarter.~~

11           ~~(d) The quarterly report need not include a record of forfeited~~  
12 ~~property that is still being held for use as evidence during the~~  
13 ~~investigation or prosecution of a case or during the appeal from a~~  
14 ~~conviction.)) Seizing agencies are subject to the requirements of~~  
15 ~~section 5 of this act.~~

16           (9) (a) By January 31st of each year, each seizing agency shall  
17 remit to the state an amount equal to ten percent of the net proceeds  
18 of any property forfeited during the preceding calendar year for  
19 deposit into the behavioral health loan repayment program account  
20 created in RCW 28B.115.135 through June 30, 2027, and into the state  
21 general fund thereafter.

22           (b) The net proceeds of forfeited property is the value of the  
23 forfeitable interest in the property after deducting the cost of  
24 satisfying any bona fide security interest to which the property is  
25 subject at the time of seizure; and in the case of sold property,  
26 after deducting the cost of sale, including reasonable fees or  
27 commissions paid to independent selling agents, and the cost of any  
28 valid landlord's claim for damages under subsection (15) of this  
29 section.

30           (c) The value of sold forfeited property is the sale price. The  
31 value of retained forfeited property is the fair market value of the  
32 property at the time of seizure, determined when possible by  
33 reference to an applicable commonly used index, such as the index  
34 used by the department of licensing for valuation of motor vehicles.  
35 A seizing agency may use, but need not use, an independent qualified  
36 appraiser to determine the value of retained property. If an  
37 appraiser is used, the value of the property appraised is net of the  
38 cost of the appraisal. The value of destroyed property and retained  
39 firearms or illegal property is zero.

1 (10) Forfeited property and net proceeds not required to be  
2 remitted to the state shall be retained by the seizing law  
3 enforcement agency exclusively for the expansion and improvement of  
4 controlled substances related law enforcement activity. If the  
5 seizing agency is a port district operating an airport in a county  
6 with a population of more than one million, it may use the net  
7 proceeds not required to be remitted to the state for purposes  
8 related to controlled substances law enforcement, substance abuse  
9 education, human trafficking interdiction, and responsible gun  
10 ownership. Money retained under this section may not be used to  
11 supplant preexisting funding sources.

12 (11) Controlled substances listed in Schedule I, II, III, IV, and  
13 V that are possessed, transferred, sold, or offered for sale in  
14 violation of this chapter are contraband and shall be seized and  
15 summarily forfeited to the state. Controlled substances listed in  
16 Schedule I, II, III, IV, and V, which are seized or come into the  
17 possession of the commission, the owners of which are unknown, are  
18 contraband and shall be summarily forfeited to the commission.

19 (12) Species of plants from which controlled substances in  
20 Schedules I and II may be derived which have been planted or  
21 cultivated in violation of this chapter, or of which the owners or  
22 cultivators are unknown, or which are wild growths, may be seized and  
23 summarily forfeited to the commission.

24 (13) The failure, upon demand by a commission inspector or law  
25 enforcement officer, of the person in occupancy or in control of land  
26 or premises upon which the species of plants are growing or being  
27 stored to produce an appropriate registration or proof that he or she  
28 is the holder thereof constitutes authority for the seizure and  
29 forfeiture of the plants.

30 (14) Upon the entry of an order of forfeiture of real property,  
31 the court shall forward a copy of the order to the assessor of the  
32 county in which the property is located. Orders for the forfeiture of  
33 real property shall be entered by the superior court, subject to  
34 court rules. Such an order shall be filed by the seizing agency in  
35 the county auditor's records in the county in which the real property  
36 is located.

37 (15)(a) A landlord may assert a claim against proceeds from the  
38 sale of assets seized and forfeited under subsection (7)(b) of this  
39 section, only if:

1 (i) A law enforcement officer, while acting in his or her  
2 official capacity, directly caused damage to the complaining  
3 landlord's property while executing a search of a tenant's residence;  
4 and

5 (ii) The landlord has applied any funds remaining in the tenant's  
6 deposit, to which the landlord has a right under chapter 59.18 RCW,  
7 to cover the damage directly caused by a law enforcement officer  
8 prior to asserting a claim under the provisions of this section;

9 (A) Only if the funds applied under (a)(ii) of this subsection  
10 are insufficient to satisfy the damage directly caused by a law  
11 enforcement officer, may the landlord seek compensation for the  
12 damage by filing a claim against the governmental entity under whose  
13 authority the law enforcement agency operates within thirty days  
14 after the search;

15 (B) Only if the governmental entity denies or fails to respond to  
16 the landlord's claim within sixty days of the date of filing, may the  
17 landlord collect damages under this subsection by filing within  
18 thirty days of denial or the expiration of the sixty-day period,  
19 whichever occurs first, a claim with the seizing law enforcement  
20 agency. The seizing law enforcement agency must notify the landlord  
21 of the status of the claim by the end of the thirty-day period.  
22 Nothing in this section requires the claim to be paid by the end of  
23 the sixty-day or thirty-day period.

24 (b) For any claim filed under (a)(ii) of this subsection, the law  
25 enforcement agency shall pay the claim unless the agency provides  
26 substantial proof that the landlord either:

27 (i) Knew or consented to actions of the tenant in violation of  
28 this chapter or chapter 69.41 or 69.52 RCW; or

29 (ii) Failed to respond to a notification of the illegal activity,  
30 provided by a law enforcement agency under RCW 59.18.075, within  
31 seven days of receipt of notification of the illegal activity.

32 (16) The landlord's claim for damages under subsection (15) of  
33 this section may not include a claim for loss of business and is  
34 limited to:

35 (a) Damage to tangible property and clean-up costs;

36 (b) The lesser of the cost of repair or fair market value of the  
37 damage directly caused by a law enforcement officer;

38 (c) The proceeds from the sale of the specific tenant's property  
39 seized and forfeited under subsection (7)(b) of this section; and

1 (d) The proceeds available after the seizing law enforcement  
2 agency satisfies any bona fide security interest in the tenant's  
3 property and costs related to sale of the tenant's property as  
4 provided by subsection (9)(b) of this section.

5 (17) Subsections (15) and (16) of this section do not limit any  
6 other rights a landlord may have against a tenant to collect for  
7 damages. However, if a law enforcement agency satisfies a landlord's  
8 claim under subsection (15) of this section, the rights the landlord  
9 has against the tenant for damages directly caused by a law  
10 enforcement officer under the terms of the landlord and tenant's  
11 contract are subrogated to the law enforcement agency.

12 (18) The protections afforded by the service members' civil  
13 relief act, chapter 38.42 RCW, are applicable to proceedings under  
14 this section.

15 **Sec. 17.** RCW 38.42.020 and 2014 c 65 s 2 are each amended to  
16 read as follows:

17 (1) Any service member who is ordered to report for military  
18 service and his or her dependents are entitled to the rights and  
19 protections of this chapter during the period beginning on the date  
20 on which the service member receives the order and ending one hundred  
21 eighty days after termination of or release from military service.

22 (2) This chapter applies to any judicial or administrative  
23 proceeding commenced in any court or agency in Washington state in  
24 which a service member or his or her dependent is a party. This  
25 chapter applies to civil asset forfeiture proceedings. This chapter  
26 does not apply to criminal proceedings.

27 (3) This chapter shall be construed liberally so as to provide  
28 fairness and do substantial justice to service members and their  
29 dependents.

30 NEW SECTION. **Sec. 18.** Sections 1 through 7 of this act  
31 constitute a new chapter in Title 7 RCW.

32 NEW SECTION. **Sec. 19.** This act applies to seizures occurring on  
33 or after the effective date of this section.

1        NEW SECTION.    **Sec. 20.**    Except for section 7 of this act, this  
2    act takes effect January 1, 2024.

--- **END** ---