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HOUSE BILL 2784

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State of Washington                      62nd Legislature                      2012 Regular Session

By Representatives Hunter and Pedersen

Read first time 02/14/12. Referred to Committee on Ways & Means.

1            AN ACT Relating to legislative oversight of moneys received from  
2 fines, penalties, forfeitures, settlements, court orders, or other  
3 enforcement actions; amending RCW 43.79.270, 9.46.100, 15.13.470,  
4 15.13.470, 18.160.050, 19.146.228, 22.09.411, 28C.10.082, 43.10.200,  
5 43.10.220, 43.23.230, 43.320.110, 43.70.340, 59.21.050, 70.47.030, and  
6 15.36.454; reenacting and amending RCW 22.09.830; adding new sections  
7 to chapter 43.88 RCW; creating a new section; providing effective  
8 dates; and providing an expiration date.

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

10            NEW SECTION.    **Sec. 1.** A new section is added to chapter 43.88 RCW  
11 to read as follows:

12            A state agency shall not expend moneys except pursuant to an  
13 appropriation by law if the moneys are received in an administrative or  
14 judicial regulatory or civil enforcement action, or settlement thereof,  
15 brought by the state.

16            In any regulatory or civil enforcement action brought by the  
17 attorney general under the authority of the attorney general or another  
18 state agency where moneys are to be paid to the state or to a state-

1 administered account, the attorney general shall seek a court order or  
2 settlement that includes a requirement that the moneys received by the  
3 state shall not be expended except pursuant to an appropriation by law.

4 This section does not apply to:

5 (1) Moneys received by the state for payment by the state to  
6 injured parties or a class of parties as damages, restitution, or  
7 refunds. However, if such payments to a class of parties in lieu of  
8 damages, restitution, or refunds, such as payments under the doctrine  
9 of cy pres, include a payment to a state agency, the expenditure of the  
10 payment by the state agency shall be subject to this section;

11 (2) Fees or enforcement actions to collect fees, including  
12 investigation or examination fees, that are established by  
13 administrative rule or statute;

14 (3) Expenditures from accounts outside the state treasury,  
15 including court registries, exclusively for purposes of remedial action  
16 or natural resource damages under chapters 70.105D, 90.48, and 90.56  
17 RCW, 33 U.S.C. Sec. 2701 et seq., or 42 U.S.C. Sec. 9601 et seq., or  
18 for purposes of financial assurance under chapter 70.95 or 70.105 RCW;

19 (4) Moneys recovered by the department of social and health  
20 services for client services, benefits, or vendor overpayments or  
21 moneys collected by the division of child support; and

22 (5) Expenditures from nonappropriated funds and accounts that are  
23 specifically established by statute if the statute does not incorporate  
24 a reference to this section.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.88 RCW  
26 to read as follows:

27 Except as provided in section 1 of this act or as otherwise  
28 provided by law, recoveries of amounts expended pursuant to an  
29 appropriation, including but not limited to, payments for material  
30 supplied or services rendered under chapter 39.34 RCW, may be expended  
31 as part of the original appropriation of the fund to which such  
32 recoveries belong, without further or additional appropriation. Such  
33 expenditures shall be subject to conditions and procedures prescribed  
34 by the director of financial management. The director may authorize  
35 expenditures with respect to recoveries accrued but not received, in  
36 accordance with generally accepted accounting principles, except that  
37 such recoveries shall not be included in revenues or expended against

1 an appropriation for a subsequent fiscal period. This section does not  
2 apply to the repayment of loans, except for loans between state  
3 agencies.

4 **Sec. 3.** RCW 43.79.270 and 2005 c 319 s 105 are each amended to  
5 read as follows:

6 (1) Whenever any money, from the federal government, or from other  
7 sources, which was not anticipated in the budget approved by the  
8 legislature has actually been received and is designated to be spent  
9 for a specific purpose, the head of any department, agency, board, or  
10 commission through which such expenditure shall be made is to submit to  
11 the governor a statement which may be in the form of a request for an  
12 allotment amendment setting forth the facts constituting the need for  
13 such expenditure and the estimated amount to be expended: PROVIDED,  
14 That no expenditure shall be made in excess of the actual amount  
15 received, ~~((and))~~ no money shall be expended for any purpose except the  
16 specific purpose for which it was received, and no money shall be  
17 expended under this section if an appropriation is required under  
18 section 1 of this act. A copy of any proposal submitted to the  
19 governor to expend money from an appropriated fund or account in excess  
20 of appropriations provided by law which is based on the receipt of  
21 unanticipated revenues shall be submitted to the joint legislative  
22 audit and review committee and also to the standing committees on ways  
23 and means of the house and senate if the legislature is in session at  
24 the same time as it is transmitted to the governor.

25 (2) Notwithstanding subsection (1) of this section, whenever money  
26 from any source that was not anticipated in the transportation budget  
27 approved by the legislature has actually been received and is  
28 designated to be spent for a specific purpose, the head of a  
29 department, agency, board, or commission through which the expenditure  
30 must be made shall submit to the governor a statement, which may be in  
31 the form of a request for an allotment amendment, setting forth the  
32 facts constituting the need for the expenditure and the estimated  
33 amount to be expended. However, no expenditure may be made in excess  
34 of the actual amount received, and no money may be expended for any  
35 purpose except the specific purpose for which it was received. A copy  
36 of any proposal submitted to the governor to expend money from an  
37 appropriated transportation fund or account in excess of appropriations

1 provided by law that is based on the receipt of unanticipated revenues  
2 must be submitted, at a minimum, to the standing committees on  
3 transportation of the house and senate at the same time as it is  
4 transmitted to the governor.

5 **Sec. 4.** RCW 9.46.100 and 2004 c 276 s 903 are each amended to read  
6 as follows:

7 There is hereby created the gambling revolving fund which shall  
8 consist of all moneys receivable for licensing, penalties, forfeitures,  
9 and all other moneys, income, or revenue received by the commission.  
10 The state treasurer shall be custodian of the fund. All moneys  
11 received by the commission or any employee thereof, except for change  
12 funds and an amount of petty cash as fixed by rule or regulation of the  
13 commission, shall be deposited each day in a depository approved by the  
14 state treasurer and transferred to the state treasurer to be credited  
15 to the gambling revolving fund. Disbursements from the revolving fund  
16 shall be on authorization of the commission or a duly authorized  
17 representative thereof. In order to maintain an effective expenditure  
18 and revenue control the gambling revolving fund shall be subject in all  
19 respects to chapter 43.88 RCW but no appropriation shall be required to  
20 permit expenditures and payment of obligations from such fund except as  
21 provided in section 1 of this act. All expenses relative to commission  
22 business, including but not limited to salaries and expenses of the  
23 director and other commission employees shall be paid from the gambling  
24 revolving fund.

25 During the 2003-2005 fiscal biennium, the legislature may transfer  
26 from the gambling revolving fund to the problem gambling treatment  
27 account, contingent on enactment of chapter ..., Laws of 2004 (Second  
28 Substitute House Bill No. 2776, problem gambling treatment). Also  
29 during the 2003-2005 fiscal biennium, the legislature may transfer from  
30 the gambling revolving fund to the state general fund such amounts as  
31 reflect the excess nontribal fund balance of the fund. The commission  
32 shall not increase fees during the 2003-2005 fiscal biennium for the  
33 purpose of restoring the excess fund balance transferred under this  
34 section.

35 **Sec. 5.** RCW 15.13.470 and 2007 c 335 s 17 are each amended to read  
36 as follows:

1 (1) Except as provided in RCW 15.13.285 and in subsections (2),  
2 (3), and (4) of this section, all moneys collected under this chapter  
3 shall be paid to the director, deposited in an account within the  
4 agricultural local fund, and used solely for carrying out this chapter.  
5 Except as provided in section 1 of this act, no appropriation is  
6 required for the disbursement of moneys from the account by the  
7 director.

8 (2) All fees collected under RCW 15.13.310 shall be deposited in  
9 the planting stock certification account within the agricultural local  
10 fund to be used only for the Washington grapevine and fruit tree  
11 certification and nursery improvement programs as set forth in this  
12 chapter and chapter 15.14 RCW.

13 (3) All fees collected under RCW 15.13.311 shall be deposited in  
14 the Christmas tree account within the agricultural local fund to be  
15 used only for the Washington Christmas tree program as established  
16 under this chapter, which may include market surveys and research  
17 related to Christmas trees.

18 (4) All moneys collected for civil penalties under this chapter  
19 shall be deposited in the nursery research account within the  
20 agricultural local fund.

21 **Sec. 6.** RCW 15.13.470 and 2002 c 215 s 4 are each amended to read  
22 as follows:

23 (1) Except as provided in RCW 15.13.285 and in subsections (2) and  
24 (3) of this section, all moneys collected under this chapter shall be  
25 paid to the director, deposited in an account within the agricultural  
26 local fund, and used solely for carrying out this chapter. Except as  
27 provided in section 1 of this act, no appropriation is required for the  
28 disbursement of moneys from the account by the director.

29 (2) All fees collected under RCW 15.13.310 shall be deposited in  
30 the planting stock certification account within the agricultural local  
31 fund to be used only for the Washington grapevine and fruit tree  
32 certification and nursery improvement programs as set forth in this  
33 chapter and chapter 15.14 RCW.

34 (3) All moneys collected for civil penalties under this chapter  
35 shall be deposited in the nursery research account within the  
36 agricultural local fund.

1       **Sec. 7.** RCW 18.160.050 and 2011 c 331 s 2 are each amended to read  
2 as follows:

3       (1)(a) All certificate of competency holders that desire to  
4 continue in the fire protection sprinkler business shall annually,  
5 prior to January 1st, secure from the state director of fire protection  
6 a renewal certificate of competency upon payment of the fee as  
7 prescribed by the state director of fire protection. Application for  
8 renewal shall be upon a form prescribed by the state director of fire  
9 protection and the certificate holder shall furnish the information  
10 required by the director.

11       (b) Failure of any certificate of competency holder to secure his  
12 or her renewal certificate of competency within sixty days after the  
13 due date shall constitute sufficient cause for the state director of  
14 fire protection to suspend the certificate of competency.

15       (c) The state director of fire protection may, upon the receipt of  
16 payment of all delinquent fees including a late charge, restore a  
17 certificate of competency that has been suspended for failure to pay  
18 the renewal fee.

19       (d) A certificate of competency holder may voluntarily surrender  
20 his or her certificate of competency to the state director of fire  
21 protection and be relieved of the annual renewal fee. After  
22 surrendering the certificate of competency, he or she shall not be  
23 known as a certificate of competency holder and shall desist from the  
24 practice thereof. Within two years from the time of surrender of the  
25 certificate of competency, he or she may again qualify for a  
26 certificate of competency, without examination, by the payment of the  
27 required fee. If two or more years have elapsed, he or she shall  
28 return to the status of a new applicant.

29       (2)(a) All licensed fire protection sprinkler system contractors  
30 desiring to continue to be licensed shall annually, prior to January  
31 1st, secure from the state director of fire protection a renewal  
32 license upon payment of the fee as prescribed by the state director of  
33 fire protection. Application for renewal shall be upon a form  
34 prescribed by the state director of fire protection and the license  
35 holder shall furnish the information required by the director.

36       (b) Failure of any license holder to secure his or her renewal  
37 license within sixty days after the due date shall constitute

1 sufficient cause for the state director of fire protection to suspend  
2 the license.

3 (c) The state director of fire protection may, upon the receipt of  
4 payment of all delinquent fees including a late charge, restore a  
5 license that has been suspended for failure to pay the renewal fee.

6 (3) The initial certificate of competency or license fee shall be  
7 prorated based upon the portion of the year such certificate of  
8 competency or license is in effect, prior to renewal on January 1st.

9 (4) The fire protection contractor license fund is created in the  
10 custody of the state treasurer. All receipts from license and  
11 certificate fees and charges or from the money generated by the rules  
12 and regulations promulgated under this chapter shall be deposited into  
13 the fund. Expenditures from the fund may be used only for purposes  
14 authorized under this chapter and standards for fire protection and its  
15 enforcement, with respect to all hospitals as required by RCW  
16 70.41.080; for providing assistance in identifying fire sprinkler  
17 system components that have been subject to either a recall or  
18 voluntary replacement program by a manufacturer of fire sprinkler  
19 products, a nationally recognized testing laboratory, or the federal  
20 consumer product safety commission; and for use in developing and  
21 publishing educational materials related to the effectiveness of  
22 residential fire sprinklers. Assistance shall include, but is not  
23 limited to, aiding in the identification of recalled components,  
24 information sharing strategies aimed at ensuring the consumer is made  
25 aware of recalls and voluntary replacement programs, and providing  
26 training and assistance to local fire authorities, the fire sprinkler  
27 industry, and the public. Only the state director of fire protection  
28 or the director's designee may authorize expenditures from the fund.  
29 The fund is subject to allotment procedures under chapter 43.88 RCW(~~—~~  
30 ~~but~~). Except as provided in section 1 of this act, no appropriation  
31 is required for expenditures from the fund.

32 **Sec. 8.** RCW 19.146.228 and 2009 c 528 s 5 are each amended to read  
33 as follows:

34 The director shall establish fees sufficient to cover, but not  
35 exceed, the costs of administering this chapter. These fees may  
36 include:

1 (1) An annual assessment paid by each licensee on or before a date  
2 specified by rule;

3 (2) An investigation fee to cover the costs of any investigation of  
4 the books and records of a licensee or other person subject to this  
5 chapter; and

6 (3) An application fee to cover the costs of processing  
7 applications made to the director under this chapter.

8 Mortgage brokers and loan originators shall not be charged  
9 investigation fees for the processing of complaints when the  
10 investigation determines that no violation of this chapter occurred or  
11 when the mortgage broker or loan originator provides a remedy  
12 satisfactory to the complainant and the director and no order of the  
13 director is issued. All moneys, fees, and penalties collected under  
14 the authority of this chapter shall be subject to section 1 of this act  
15 and shall be deposited into the financial services regulation fund,  
16 unless the consumer services account is created as a dedicated,  
17 nonappropriated account, in which case all moneys, fees, and penalties  
18 collected under this chapter shall be deposited in the consumer  
19 services account.

20 **Sec. 9.** RCW 22.09.411 and 1991 sp.s. c 13 s 67 are each amended to  
21 read as follows:

22 (1) There is hereby established a fund to be known as the grain  
23 indemnity fund. The grain indemnity fund shall consist of assessments  
24 remitted by licensees pursuant to the provisions of RCW 22.09.416  
25 through 22.09.426.

26 (2) All assessments shall be paid to the department and shall be  
27 deposited in the grain indemnity fund. The state treasurer shall be  
28 the custodian of the grain indemnity fund. Disbursements shall be on  
29 authorization of the director. Except as provided in section 1 of this  
30 act, no appropriation is required for disbursements from this fund.

31 (3) The grain indemnity fund shall be used exclusively for purposes  
32 of paying claimants pursuant to this chapter, and paying necessary  
33 expenses of administering the grain indemnity fund, provided however,  
34 that moneys equivalent to one-half of the interest earned by the fund  
35 for deposit to the general fund may be paid to the department to defray  
36 costs of administering the warehouse audit program. The state of

1 Washington shall not be liable for any claims presented against the  
2 fund.

3 **Sec. 10.** RCW 22.09.830 and 1994 sp.s. c 6 s 901 and 1994 c 46 s 6  
4 are each reenacted and amended to read as follows:

5 (1) All moneys collected as fees for weighing, grading, and  
6 inspecting commodities and all other fees collected under the  
7 provisions of this chapter, except as provided in subsections (2) and  
8 (3) of this section, shall be deposited in the grain inspection  
9 revolving fund, which is hereby established. The state treasurer is  
10 the custodian of the revolving fund. Disbursements from the revolving  
11 fund shall be on authorization of the director of the department of  
12 agriculture. The revolving fund is subject to the allotment procedure  
13 provided in chapter 43.88 RCW(~~, but~~). Except as provided in section  
14 1 of this act, no appropriation is required for disbursements from the  
15 fund. The fund shall be used for all expenses directly incurred by the  
16 grain inspection program in carrying out the provisions of this chapter  
17 and for departmental administrative expenses during the 1993-95  
18 biennium. The department may use so much of such fund not exceeding  
19 five percent thereof as the director of agriculture may determine  
20 necessary for research and promotional work, including rate studies,  
21 relating to wheat and wheat products.

22 (2) All fees collected for the inspection, grading, and testing of  
23 hops shall be deposited into the hop inspection fund, which is hereby  
24 established, and shall be retained by the department for the purpose of  
25 inspecting, grading, and testing hops. Any moneys in any fund retained  
26 by the department on July 1, 1963, and derived from hop inspection and  
27 grading shall be deposited to this hop inspection fund. For the  
28 purposes of research which would contribute to the development of  
29 superior hop varieties and to improve hop production and harvest  
30 practices, the department may expend up to twenty percent of the moneys  
31 deposited in the hop inspection fund during the fiscal year ending June  
32 30th immediately preceding the year in which such expenditures are to  
33 be made. No expenditures shall be made under the provisions of this  
34 subsection when the hop inspection fund is, or the director may  
35 reasonably anticipate that it will be, reduced below twenty thousand  
36 dollars as the result of such expenditure or other necessary

1 expenditures made to carry out the inspection, grading, and testing of  
2 hops.

3 (3) All moneys collected by the grain warehouse audit program,  
4 including grain warehouse license fees pursuant to RCW 22.09.050 and  
5 22.09.055, shall be deposited by the director into the grain warehouse  
6 audit account, hereby created within the agricultural local fund  
7 established in RCW 43.23.230. Moneys collected shall be used to  
8 support the grain warehouse audit program.

9 **Sec. 11.** RCW 28C.10.082 and 1991 sp.s. c 13 s 85 are each amended  
10 to read as follows:

11 The tuition recovery trust fund is hereby established in the  
12 custody of the state treasurer. The agency shall deposit in the fund  
13 all moneys received under RCW 28C.10.084. Moneys in the fund may be  
14 spent only for the purposes under RCW 28C.10.084. Disbursements from  
15 the fund shall be on authorization of the agency. The fund is subject  
16 to the allotment procedure provided under chapter 43.88 RCW(~~(, but)~~).  
17 Except as provided in section 1 of this act, no appropriation is  
18 required for disbursements from the fund.

19 **Sec. 12.** RCW 43.10.200 and 1971 ex.s. c 71 s 6 are each amended to  
20 read as follows:

21 Except as provided in section 1 of this act, court costs,  
22 attorneys' fees, and other expenses recovered by the attorney general  
23 shall be deposited in the legal services revolving fund and shall be  
24 considered as returned loans of materials supplied or services  
25 rendered. Such amounts may be expended in the same manner and under  
26 the same conditions and restrictions as set forth in section 11,  
27 chapter 282, Laws of 1969 ex. sess.

28 **Sec. 13.** RCW 43.10.220 and 2002 c 371 s 907 are each amended to  
29 read as follows:

30 Except as provided in section 1 of this act, the attorney general  
31 is authorized to expend from the antitrust revolving fund, created by  
32 RCW 43.10.210 through 43.10.220, such funds as are necessary for the  
33 payment of costs, expenses and charges incurred in the preparation,  
34 institution and maintenance of antitrust actions under the state and

1 federal antitrust acts. During the 2001-03 fiscal biennium, the  
2 attorney general may expend from the antitrust revolving fund for the  
3 purposes of the consumer protection activities of the office.

4 **Sec. 14.** RCW 43.23.230 and 2011 c 204 s 7 are each amended to read  
5 as follows:

6 (1) The agricultural local fund is hereby established in the  
7 custody of the state treasurer. The fund shall consist of such money  
8 as is directed by law for deposit in the fund, and such other money not  
9 subject to appropriation that the department authorizes to be deposited  
10 in the fund. Any money deposited in the fund, the use of which has  
11 been restricted by law, may only be expended in accordance with those  
12 restrictions. The department may make disbursements from the fund.  
13 The fund is not subject to legislative appropriation except as provided  
14 in section 1 of this act.

15 (2) There is created within the agricultural local fund the animal  
16 disease traceability account which must be used to account for the  
17 costs associated with the implementation of chapter 16.36 RCW.

18 **Sec. 15.** RCW 43.320.110 and 2011 2nd sp.s. c 9 s 909 are each  
19 amended to read as follows:

20 There is created a local fund known as the "financial services  
21 regulation fund" which shall consist of all moneys received by the  
22 divisions of the department of financial institutions, except for the  
23 division of securities which shall deposit thirteen percent of all  
24 moneys received, except as provided in RCW 43.320.115, and which shall  
25 be used for the purchase of supplies and necessary equipment; the  
26 payment of salaries, wages, and utilities; the establishment of  
27 reserves; and other incidental costs required for the proper regulation  
28 of individuals and entities subject to regulation by the department.  
29 The state treasurer shall be the custodian of the fund. Disbursements  
30 from the fund shall be on authorization of the director of financial  
31 institutions or the director's designee. In order to maintain an  
32 effective expenditure and revenue control, the fund shall be subject in  
33 all respects to chapter 43.88 RCW(~~, but~~). Except as provided in  
34 section 1 of this act, no appropriation is required to permit  
35 expenditures and payment of obligations from the fund.

1 During the 2011-2013 fiscal biennium, the legislature may transfer  
2 from the financial services regulation fund to the state general fund  
3 such amounts as reflect the excess fund balance of the fund.

4 **Sec. 16.** RCW 43.70.340 and 1998 c 37 s 7 are each amended to read  
5 as follows:

6 (1) The temporary worker housing fund is established in the custody  
7 of the state treasury. The department shall deposit all funds received  
8 under subsections (2) and (3) of this section and from the legislature  
9 to administer a temporary worker housing permitting, licensing, and  
10 inspection program conducted by the department. Disbursement from the  
11 fund shall be on authorization of the secretary of health or the  
12 secretary's designee. The fund is subject to the allotment procedure  
13 provided under chapter 43.88 RCW(~~, but~~). Except as provided in  
14 section 1 of this act, no appropriation is required for disbursements.

15 (2) There is imposed a fee on each operating license issued by the  
16 department to every operator of temporary worker housing that is  
17 regulated by the state board of health. In establishing the fee to be  
18 paid under this subsection the department shall consider the cost of  
19 administering a license as well as enforcing applicable state board of  
20 health rules on temporary worker housing.

21 (3) There is imposed a fee on each temporary worker housing  
22 building permit issued by the department to every operator of temporary  
23 worker housing as required by RCW 43.70.337. The fee shall include the  
24 cost of administering a permit as well as enforcing the department's  
25 temporary worker building code as adopted under RCW 70.114A.081.

26 (4) The department shall conduct a fee study for:

27 (a) A temporary worker housing operator's license;

28 (b) On-site inspections; and

29 (c) A plan review and building permit for new construction.

30 After completion of the study, the department shall adopt these  
31 fees by rule by no later than December 31, 1998.

32 (5) The term of the operating license and the application  
33 procedures shall be established, by rule, by the department.

34 **Sec. 17.** RCW 59.21.050 and 2011 c 158 s 7 are each amended to read  
35 as follows:

36 (1) The existence of the mobile home park relocation fund in the

1 custody of the state treasurer is affirmed. Expenditures from the fund  
2 may be used only for relocation assistance awarded under this chapter.  
3 Only the director or the director's designee may authorize expenditures  
4 from the fund. All relocation payments to tenants shall be made from  
5 the fund. The fund is subject to allotment procedures under chapter  
6 43.88 RCW(~~(, but)~~). Except as provided in section 1 of this act, no  
7 appropriation is required for expenditures from the fund.

8 (2) A park tenant is eligible for assistance under this chapter  
9 only after an application is submitted by that tenant or an  
10 organization acting on the tenant's account under RCW 59.21.021(4) on  
11 a form approved by the director which shall include:

12 (a) For those persons who maintained ownership of and relocated  
13 their homes or removed their homes from the park: (i) A copy of the  
14 notice from the park-owner, or other adequate proof, that the tenancy  
15 is terminated due to closure of the park or its conversion to another  
16 use; (ii) a copy of the rental agreement then in force, or other proof  
17 that the applicant was a tenant at the time of notice of closure; (iii)  
18 a copy of the contract for relocating the home which includes the date  
19 of relocation, or other proof of actual relocation expenses incurred on  
20 a date certain; and (iv) a statement of any other available assistance;

21 (b) For those persons who sold their homes and incurred no  
22 relocation expenses: (i) A copy of the notice from the park-owner, or  
23 other adequate proof, that the tenancy is terminated due to closure of  
24 the park or its conversion to another use; (ii) a copy of the rental  
25 agreement then in force, or other proof that the applicant was a tenant  
26 at the time of notice of closure; and (iii) a copy of the record of  
27 title transfer issued by the department of licensing when the tenant  
28 sold the home rather than relocate it due to park closure or  
29 conversion.

30 (3) The department may deduct a percentage amount of the fee  
31 collected under RCW 46.17.155 for administration expenses incurred by  
32 the department.

33 **Sec. 18.** RCW 70.47.030 and 2004 c 192 s 2 are each amended to read  
34 as follows:

35 (1) The basic health plan trust account is hereby established in  
36 the state treasury. Any nongeneral fund-state funds collected for this  
37 program shall be deposited in the basic health plan trust account and

1 may be expended without further appropriation. Moneys in the account  
2 shall be used exclusively for the purposes of this chapter, including  
3 payments to participating managed health care systems on behalf of  
4 enrollees in the plan and payment of costs of administering the plan.

5 During the 1995-97 fiscal biennium, the legislature may transfer  
6 funds from the basic health plan trust account to the state general  
7 fund.

8 (2) The basic health plan subscription account is created in the  
9 custody of the state treasurer. All receipts from amounts due from or  
10 on behalf of nonsubsidized enrollees and health coverage tax credit  
11 eligible enrollees shall be deposited into the account. Funds in the  
12 account shall be used exclusively for the purposes of this chapter,  
13 including payments to participating managed health care systems on  
14 behalf of nonsubsidized enrollees and health coverage tax credit  
15 eligible enrollees in the plan and payment of costs of administering  
16 the plan. The account is subject to allotment procedures under chapter  
17 43.88 RCW(~~(, but)~~). Except as provided in section 1 of this act, no  
18 appropriation is required for expenditures.

19 (3) The (~~(administrator)~~) director shall take every precaution to  
20 see that none of the funds in the separate accounts created in this  
21 section or that any premiums paid either by subsidized or nonsubsidized  
22 enrollees are commingled in any way, except that the (~~(administrator)~~)  
23 director may combine funds designated for administration of the plan  
24 into a single administrative account.

25 **Sec. 19.** RCW 15.36.454 and 1999 c 291 s 18 are each amended to  
26 read as follows:

27 (1) Except as provided in RCW 15.36.471 or subsection (2) or (3) of  
28 this section, any person who fails to comply with this chapter or the  
29 rules adopted under this chapter may be subject to a civil penalty in  
30 an amount of not more than one thousand dollars per violation per day.

31 (2) The director shall adopt rules establishing civil penalties  
32 assessed under RCW 15.36.111(1) and 15.36.201(2). The penalties shall  
33 be equitably based on the volume of milk or milk product handled by the  
34 producer or milk processor subject to the penalty.

35 (3) Whenever the results of an antibiotic, pesticide, or other drug  
36 residue test on a producer's milk are above the actionable level  
37 established in the PMO, the producer is subject to a civil penalty in

1 an amount equal to one-half the value of the sum of the volumes of milk  
2 produced on the day prior to and the day of the adulteration. The  
3 value of the milk shall be computed using the weighted average price  
4 for the federal market order under which the milk is delivered.

5 (4) Each violation is a separate and distinct offense. The  
6 director shall impose the civil penalty in accordance with chapter  
7 34.05 RCW. Except as otherwise provided in section 1 of this act,  
8 moneys collected under this section and RCW 15.36.471 shall be remitted  
9 to the department and deposited into the revolving fund of the  
10 Washington state dairy products commission.

11 NEW SECTION. Sec. 20. If any part of this act is found to be in  
12 conflict with federal requirements that are a prescribed condition to  
13 the allocation of federal funds to the state, the conflicting part of  
14 this act is inoperative solely to the extent of the conflict and with  
15 respect to the agencies directly affected, and this finding does not  
16 affect the operation of the remainder of this act in its application to  
17 the agencies concerned. Rules adopted under this act must meet federal  
18 requirements that are a necessary condition to the receipt of federal  
19 funds by the state.

20 NEW SECTION. Sec. 21. If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. Sec. 22. Except for section 6 of this act, this act  
25 takes effect July 1, 2012.

26 NEW SECTION. Sec. 23. Section 5 of this act expires July 1, 2014.

27 NEW SECTION. Sec. 24. Section 6 of this act takes effect July 1,  
28 2014.

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