
SENATE BILL 6189

State of Washington 58th Legislature 2004 Regular Session

By Senators Johnson, Kline, Esser and Roach

Read first time 01/14/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to receiverships; amending RCW 4.28.320, 6.32.100,
2 6.32.150, 7.08.010, 7.08.030, 7.56.110, 11.64.022, 23B.14.320,
3 24.06.305, 87.56.065, and 87.56.100; adding new sections to chapter
4 7.60 RCW; adding a new section to chapter 31.12 RCW; adding a new
5 section to chapter 35.07 RCW; adding a new section to chapter 35A.15
6 RCW; creating new sections; and repealing RCW 4.28.081, 6.25.200,
7 6.32.290, 6.32.300, 6.32.310, 6.32.320, 6.32.330, 6.32.340, 6.32.350,
8 7.08.020, 7.08.050, 7.08.060, 7.08.070, 7.08.080, 7.08.090, 7.08.100,
9 7.08.110, 7.08.120, 7.08.130, 7.08.140, 7.08.150, 7.08.170, 7.08.180,
10 7.08.190, 7.08.200, 7.60.010, 7.60.020, 7.60.030, 7.60.040, 7.60.050,
11 23.72.010, 23.72.020, 23.72.030, 23.72.040, 23.72.050, 23.72.060,
12 24.03.275, 24.03.280, 24.03.285, 24.03.310, 24.03.315, 24.03.320,
13 87.56.070, 87.56.080, 87.56.085, 87.56.090, 87.56.110, 87.56.120,
14 87.56.130, 87.56.135, 87.56.140, 87.56.145, 87.56.150, and 87.56.155.

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

16 NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this act is to
17 create more comprehensive, streamlined, and cost-effective procedures
18 applicable to proceedings in which property of a person is administered

1 by the courts of this state for the benefit of creditors and other
2 persons having an interest therein.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.60 RCW
4 to read as follows:

5 DEFINITIONS. The definitions in this section apply throughout this
6 chapter unless the context requires otherwise.

7 (1) "Court" means the superior court of this state in which the
8 receivership is pending.

9 (2) "Entity" means a person other than a natural person.

10 (3) "Estate" means the entirety of the property with respect to
11 which a receiver's appointment applies, but does not include property
12 of an individual person exempt from execution under the laws of this
13 state. Estate property includes any nonexempt interest in property
14 that is partially exempt, including fee title to property subject to a
15 homestead exemption under chapter 6.13 RCW.

16 (4) "Executory contract" means a contract where the obligation of
17 both the person over whose property the receiver is appointed and the
18 other party to the contract are so far unperformed that the failure of
19 either party to the contract to complete performance would constitute
20 a material breach of the contract, thereby excusing the other party's
21 performance of the contract.

22 (5) "Insolvent" or "insolvency" means a financial condition of a
23 person such that the sum of the person's debts and other obligations is
24 greater than all of that person's property, at a fair valuation,
25 exclusive of (a) property transferred, concealed, or removed with
26 intent to hinder, delay, or defraud any creditors of the person, and
27 (b) any property exempt from execution under any statutes of this
28 state.

29 (6) "Lien" means a charge against or interest in property to secure
30 payment of a debt or the performance of an obligation.

31 (7) "Notice and a hearing" or any similar phrase means the notice
32 and opportunity for a hearing as is appropriate in the particular
33 circumstances.

34 (8) "Person" means an individual, corporation, limited liability
35 company, general partnership, limited partnership, limited liability
36 partnership, association, governmental entity, or other entity, of any
37 kind or nature.

1 (9) "Property" includes all right, title, and interests, both legal
2 and equitable, and including any community property interest, in or
3 with respect to any property of a person with respect to which a
4 receiver is appointed, regardless of the manner by which the property
5 has been or is acquired. "Property" includes any proceeds, products,
6 offspring, rents, or profits of or from property in the estate.
7 "Property" does not include any power that a person may exercise solely
8 for the benefit of another person.

9 (10) "Receiver" means a person appointed by the court as the
10 court's agent, and subject to the court's direction, to take possession
11 of, manage, or dispose of property of a person.

12 (11) "Receivership" means the case in which the receiver is
13 appointed. "General receivership" means a receivership in which a
14 general receiver is appointed. "Custodial receivership" means a
15 receivership in which a custodial receiver is appointed.

16 (12) "Security interest" means a lien created by an agreement.

17 (13) "State agent" means any office, department, division, bureau,
18 board, commission, or other agency of the state of Washington or of any
19 subdivision thereof, or any individual acting in an official capacity
20 on behalf of any state agent.

21 (14) "Utility" means a person providing any service regulated by
22 the utilities and transportation commission.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.60 RCW
24 to read as follows:

25 TYPES OF RECEIVERS. A receiver must be either a general receiver
26 or a custodial receiver. A receiver must be a general receiver if the
27 receiver is appointed to take possession and control of all or
28 substantially all of a person's property with authority to liquidate
29 that property and, in the case of a business over which the receiver is
30 appointed, wind up affairs. A receiver must be a custodial receiver if
31 the receiver is appointed to take charge of limited or specific
32 property of a person or is not given authority to liquidate property.
33 The court shall specify in the order appointing a receiver whether the
34 receiver is appointed as a general receiver or as a custodial receiver.
35 When the sole basis for the appointment is the pendency of an action to
36 foreclose upon a lien against real property, or the giving of a notice
37 of a trustee's sale under RCW 61.24.040 or a notice of forfeiture under

1 RCW 61.30.040, the court shall appoint the receiver as a custodial
2 receiver. The court by order may convert either a general receivership
3 or a custodial receivership into the other.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 7.60 RCW
5 to read as follows:

6 APPOINTMENT OF RECEIVER. (1) A receiver may be appointed by the
7 superior court of this state in the following instances, but except in
8 any case in which a receiver's appointment is expressly required by
9 statute, or any case in which a receiver's appointment is sought by a
10 state agent whose authority to seek the appointment of a receiver is
11 expressly conferred by statute, or any case in which a receiver's
12 appointment with respect to real property is sought under (b)(ii) of
13 this subsection, a receiver shall be appointed only if the court
14 additionally determines that the appointment of a receiver is
15 reasonably necessary and that other available remedies either are not
16 available or are inadequate:

17 (a) On application of any party, when the party is determined to
18 have a probable right to or interest in property that is a subject of
19 the action and in the possession of an adverse party, or when the
20 property or its revenue-producing potential is in danger of being lost
21 or materially injured or impaired. A receiver may be appointed under
22 this subsection (1)(a) whether or not the application for appointment
23 of a receiver is combined with, or is ancillary to, an action seeking
24 a money judgment or other relief;

25 (b) Provisionally, during the pendency of any action to foreclose
26 upon any lien against or for forfeiture of any interest in real or
27 personal property, or after notice of a trustee's sale has been given
28 under RCW 61.24.040, or after notice of forfeiture has been given under
29 RCW 61.30.040, on application of any person, when the interest in the
30 property that is the subject of foreclosure or forfeiture of the person
31 seeking the receiver's appointment is determined to be probable and
32 either:

33 (i) The property or its revenue-producing potential is in danger of
34 being lost or materially injured or impaired; or

35 (ii) The appointment of a receiver with respect to the real or
36 personal property that is the subject of the action, the notice of

1 trustee's sale or notice of forfeiture is provided for by agreement or
2 is reasonably necessary to effectuate or enforce an assignment of rents
3 or other revenues from the property;

4 (c) After judgment, in order to give effect to the judgment;

5 (d) To dispose of property according to provisions of a judgment
6 dealing with its disposition;

7 (e) To the extent that property is not exempt from execution, at
8 the instance of a judgment creditor either before or after the issuance
9 of any execution, to preserve or protect it, or prevent its transfer;

10 (f) If and to the extent that property is subject to execution to
11 satisfy a judgment, to preserve the property during the pendency of an
12 appeal, or when an execution has been returned unsatisfied, or when an
13 order requiring a judgment debtor to appear for proceedings
14 supplemental to judgment has been issued and the judgment debtor fails
15 to submit to examination as ordered;

16 (g) Upon an attachment of real or personal property when the
17 property attached is of a perishable nature or is otherwise in danger
18 of waste, impairment, or destruction, or where the abandoned property's
19 owner has absconded with, secreted, or abandoned the property, and it
20 is necessary to collect, conserve, manage, control, or protect it, or
21 to dispose of it promptly, or when the court determines that the nature
22 of the property or the exigency of the case otherwise provides cause
23 for the appointment of a receiver;

24 (h) In an action by a transferor of real or personal property to
25 avoid or rescind the transfer on the basis of fraud, or in an action to
26 subject property or a fund to the payment of a debt;

27 (i) In an action against any person who is not an individual if the
28 object of the action is the dissolution of that person, or if that
29 person has been dissolved, or if that person is insolvent or is not
30 generally paying the person's debts as those debts become due unless
31 they are the subject of bona fide dispute, or if that person is in
32 imminent danger of insolvency;

33 (j) In accordance with RCW 7.08.030 (4) and (6), in cases in which
34 a general assignment for the benefit of creditors has been made;

35 (k) In quo warranto proceedings under chapter 7.56 RCW;

36 (l) As provided under RCW 11.64.022;

37 (m) In an action by the department of licensing under RCW
38 18.35.220(3) with respect to persons engaged in the business of

1 dispensing of hearing aids, RCW 18.85.350 in the case of persons
2 engaged in the business of a real estate broker, associate real estate
3 broker, or real estate salesperson, or RCW 19.105.470 with respect to
4 persons engaged in the business of camping resorts;

5 (n) In an action under RCW 18.44.470 or 18.44.490 in the case of
6 persons engaged in the business of escrow agents;

7 (o) Upon a petition with respect to a nursing home in accordance
8 with and subject to receivership provisions under chapter 18.51 RCW;

9 (p) Under RCW 19.40.071(3), in connection with a proceeding for
10 relief with respect to a transfer fraudulent as to a creditor or
11 creditors;

12 (q) Under RCW 19.100.210(1), in an action by the attorney general
13 or director of financial institutions to restrain any actual or
14 threatened violation of the franchise investment protection act;

15 (r) In an action by the attorney general or by a prosecuting
16 attorney under RCW 19.110.160 with respect to a seller of business
17 opportunities;

18 (s) In an action by the director of financial institutions under
19 RCW 21.20.390 in cases involving actual or threatened violations of the
20 securities act of Washington or under RCW 21.30.120 in cases involving
21 actual or threatened violations of chapter 21.30 RCW with respect to
22 certain businesses and transactions involving commodities;

23 (t) In an action for dissolution of a business corporation under
24 RCW 23B.14.310 or 23B.14.320, for dissolution of a nonprofit
25 corporation under RCW 24.03.270, for dissolution of a mutual
26 corporation under RCW 24.06.305, or in any other action for the
27 dissolution or winding up of any other entity provided for by Title 23,
28 23B, 24, or 25 RCW;

29 (u) In any action in which the dissolution of any public or private
30 entity is sought, in any action involving any dispute with respect to
31 the ownership or governance of such an entity, or upon the application
32 of a person having an interest in such an entity when the appointment
33 is reasonably necessary to protect the property of the entity or its
34 business or other interests;

35 (v) Under RCW 25.05.215, in aid of a charging order with respect to
36 a partner's interest in a partnership;

37 (w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030,

1 in the case of a bank or trust company or, under and subject to RCW
2 32.24.070 through 32.24.090, in the case of a mutual savings bank;

3 (x) On a temporary basis, under and subject to RCW 31.12.721, in
4 the case of credit unions;

5 (y) Upon the application of the director of financial institutions
6 under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable
7 to agricultural lenders, under RCW 31.40.120 in actions to enforce
8 chapter 31.40 RCW applicable to entities engaged in federally
9 guaranteed small business loans, or under RCW 31.45.160 in actions to
10 enforce chapter 31.45 RCW applicable to persons licensed as check
11 cashers or check sellers;

12 (z) Under RCW 35.82.090 or 35.82.180, with respect to a housing
13 project;

14 (aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce
15 rights under any revenue bonds issued for the purpose of financing
16 industrial development facilities or bonds of the Washington state
17 housing finance commission, or any financing document securing any such
18 bonds;

19 (bb) Under and subject to RCW 43.70.195, in an action by the
20 secretary of health or by a local health officer with respect to a
21 public water system;

22 (cc) Upon a petition by the Washington life and disability
23 insurance guaranty association under RCW 48.32A.060(7) for appointment
24 of the commissioner of insurance in the case of a domestic insurer;

25 (dd) Under RCW 48.46.130(3), in the case of a health maintenance
26 organization;

27 (ee) Under RCW 48.99.030, in proceedings ancillary to delinquency
28 proceedings involving an insurer not domiciled in this state;

29 (ff) As contemplated by RCW 61.24.030, with respect to real
30 property that is the subject of nonjudicial foreclosure proceedings
31 under chapter 61.24 RCW;

32 (gg) As contemplated by RCW 61.30.030(3), with respect to real
33 property that is the subject of judicial or nonjudicial forfeiture
34 proceedings under chapter 61.30 RCW;

35 (hh) Under RCW 64.32.200(2), in an action to foreclose upon a lien
36 for common expenses against a dwelling unit subject to the horizontal
37 property regimes act, chapter 64.32 RCW;

1 (ii) Under RCW 64.34.364(10), in an action by a unit owners'
2 association to foreclose a lien for nonpayment of delinquent
3 assessments against condominium units;

4 (jj) Upon application of the attorney general under RCW
5 64.36.220(3), in aid of any writ or order restraining or enjoining
6 violations of chapter 64.36 RCW applicable to timeshares;

7 (kk) Under RCW 70.95A.050(3), in aid of the enforcement of payment
8 or performance of municipal bonds issued with respect to facilities
9 used to abate, control, or prevent pollution;

10 (ll) Upon the application of the department of social and health
11 services under RCW 74.42.580, in cases involving nursing homes;

12 (mm) Upon the application of the utilities and transportation
13 commission under RCW 80.28.040, with respect to a water company that
14 has failed to comply with an order of such commission within the time
15 deadline specified therein;

16 (oo) Under RCW 87.56.065, in connection with the dissolution of an
17 irrigation district;

18 (pp) Upon application of the attorney general or the department of
19 licensing, in any proceeding that either of them are authorized by
20 statute to bring to enforce Title 18 or 19 RCW; the securities act of
21 Washington, chapter 21.20 RCW; the Washington commodities act, chapter
22 21.30 RCW; the land development act, chapter 58.19 RCW; or under
23 chapter 64.36 RCW relating to the regulation of timeshares;

24 (qq) Upon application of the director of financial institutions in
25 any proceeding that the director of financial institutions is
26 authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

27 (rr) In such other cases as may be provided for by law, or when, in
28 the discretion of the court, it may be necessary to secure ample
29 justice to the parties.

30 (2) The superior courts of this state shall appoint as receiver of
31 property located in this state a person who has been appointed by a
32 federal or state court located elsewhere as receiver with respect to
33 the property specifically or with respect to the owner's property
34 generally, upon the application of the person or of any party to that
35 foreign proceeding, and following the appointment shall give effect to
36 orders, judgments, and decrees of the foreign court affecting the
37 property in this state held by the receiver, unless the court
38 determines that to do so would be manifestly unjust or inequitable.

1 The venue of such a proceeding may be any county in which the person
2 resides or maintains any office, or any county in which any property
3 over which the receiver is to be appointed is located at the time the
4 proceeding is commenced.

5 (3) At least seven days' notice of any application for the
6 appointment of a receiver shall be given to the owner of property to be
7 subject thereto and to all other parties in the action, and to other
8 parties in interest as the court may require. If any execution by a
9 judgment creditor under Title 6 RCW or any application by a judgment
10 creditor for the appointment of a receiver, with respect to property
11 over which the receiver's appointment is sought, is pending in any
12 other action at the time the application is made, then notice of the
13 application for the receiver's appointment also shall be given to the
14 judgment creditor in the other action. The court may shorten or expand
15 the period for notice of an application for the appointment of a
16 receiver upon good cause shown.

17 (4) The order appointing a receiver in all cases shall reasonably
18 describe the property over which the receiver is to take charge, by
19 category, individual items, or both if the receiver is to take charge
20 of less than all of the owner's property. If the order appointing a
21 receiver does not expressly limit the receiver's authority to
22 designated property or categories of property of the owner, the
23 receiver is a general receiver with the authority to take charge over
24 all of the owner's property, wherever located.

25 (5) The court may condition the appointment of a receiver upon the
26 giving of security by the person seeking the receiver's appointment, in
27 such amount as the court may specify, for the payment of costs and
28 damages incurred or suffered by any person should it later be
29 determined that the appointment of the receiver was wrongfully
30 obtained.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.60 RCW
32 to read as follows:

33 ELIGIBILITY TO SERVE AS RECEIVER. Except as provided in this
34 chapter or otherwise by statute, any person, whether or not a resident
35 of this state, may serve as a receiver, with the exception that a
36 person may not be appointed as a receiver, and shall be replaced as

1 receiver if already appointed, if it should appear to the court that
2 the person:

3 (1) Has been convicted of a felony or other crime involving moral
4 turpitude or is controlled by a person who has been convicted of a
5 felony or other crime involving moral turpitude;

6 (2) Is a party to the action, or is a parent, grandparent, child,
7 grandchild, sibling, partner, director, officer, agent, attorney,
8 employee, secured or unsecured creditor or lienor of, or holder of any
9 equity interest in, or controls or is controlled by, the person whose
10 property is to be held by the receiver, or who is the agent or attorney
11 of any disqualified person;

12 (3) Has an interest materially adverse to the interest of persons
13 to be affected by the receivership generally; or

14 (4) Is the sheriff of any county.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 7.60 RCW
16 to read as follows:

17 RECEIVER'S BOND. Except as otherwise provided for by statute or
18 court rule, before entering upon duties of receiver, a receiver shall
19 execute a bond with one or more sureties approved by the court, in the
20 amount the court specifies, conditioned that the receiver will
21 faithfully discharge the duties of receiver in accordance with orders
22 of the court. Unless otherwise ordered by the court, the receiver's
23 bond runs in favor of all persons having an interest in the
24 receivership proceeding or property held by the receiver. The
25 receiver's bond must provide substantially as follows:

26 [Case Caption]

27 RECEIVER'S BOND

28 TO WHOM IT MAY CONCERN:

29 KNOW ALL BY THESE PRESENTS, that, as Principal, and,
30 as Surety, are held and firmly bound in the amount of Dollars
31 (\$) for the faithful performance by Principal of the
32 Principal's duties as receiver with respect to property of in
33 accordance with order(s) of such court previously or hereafter
34 entered in the above-captioned proceeding. If the Principal
35 faithfully discharges the duties of receiver in accordance with

1 such orders, this obligation shall be void, but otherwise it
2 will remain in full force and effect.

3 Dated this . . . day of,

4

5 [Signature of Receiver]

6

7 [Signature of Surety]

8 The court, in lieu of a bond, may approve the posting of alternative
9 security, such as a letter of credit or a deposit of funds with the
10 clerk of the court, to be held by the clerk to secure the receiver's
11 faithful performance of the receiver's duties in accordance with orders
12 of the court until the court authorizes the release or return of the
13 deposited sums. No part of the property over which the receiver is
14 appointed may be used in making the deposit; however, any interest that
15 may accrue on a deposit ordered by the court shall be remitted to the
16 receiver upon the receiver's discharge.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 7.60 RCW
18 to read as follows:

19 POWERS OF THE COURT. Except as otherwise provided for by this
20 chapter, the court in all cases has exclusive authority over the
21 receiver, and the exclusive possession and right of control with
22 respect to all real property and all tangible and intangible personal
23 property with respect to which the receiver is appointed, wherever
24 located, and the exclusive jurisdiction to determine all controversies
25 relating to the collection, preservation, application, and distribution
26 of all the property, and all claims against the receiver arising out of
27 the exercise of the receiver's powers or the performance of the
28 receiver's duties.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 7.60 RCW
30 to read as follows:

31 POWERS AND DUTIES OF RECEIVER GENERALLY. (1) A receiver has the
32 following powers and authority in addition to those specifically
33 conferred by this chapter or otherwise by statute, court rule, or court
34 order:

1 (a) The power to incur or pay expenses incidental to the receiver's
2 preservation and use of the property with respect to which the
3 appointment applies, and otherwise in the performance of the receiver's
4 duties, including the power to pay obligations incurred prior to the
5 receiver's appointment if and to the extent that payment is determined
6 by the receiver to be prudent in order to preserve the value of
7 property in the receiver's possession and the funds used for this
8 purpose are not subject to any lien or right of setoff in favor of a
9 creditor who has not consented to the payment and whose interest is not
10 otherwise adequately protected;

11 (b) If the appointment applies to all or substantially all of the
12 property of an operating business or any revenue-producing property of
13 any person, to do all things which the owner of the business or
14 property might do in the ordinary course of the operation of the
15 business as a going concern or use of the property including, but not
16 limited to, the purchase and sale of goods or services in the ordinary
17 course of such business, and the incurring and payment of expenses of
18 the business or property in the ordinary course;

19 (c) The power to assert any rights, claims, or choses in action of
20 the person over whose property the receiver is appointed relating
21 thereto, if and to the extent that the claims are themselves property
22 within the scope of the appointment or relate to any property, to
23 maintain in the receiver's name or in the name of such a person any
24 action to enforce any right, claim, or chose in action, and to
25 intervene in actions in which the person over whose property the
26 receiver is appointed is a party for the purpose of exercising the
27 powers under this subsection (1)(c);

28 (d) The power to intervene in any action in which a claim is
29 asserted against the person over whose property the receiver is
30 appointed relating thereto, for the purpose of prosecuting or defending
31 the claim and requesting the transfer of venue of the action to the
32 court. This power is exercisable with court approval in the case of a
33 liquidating receiver, and with or without court approval in the case of
34 a general receiver;

35 (e) The power to assert rights, claims, or choses in action of the
36 receiver arising out of transactions in which the receiver is a
37 participant;

1 (f) The power to pursue in the name of the receiver any claim under
2 chapter 19.40 RCW assertable by any creditor of the person over whose
3 property the receiver is appointed, if pursuit of the claim is
4 determined by the receiver to be appropriate;

5 (g) The power to seek and obtain advice or instruction from the
6 court with respect to any course of action with respect to which the
7 receiver is uncertain in the exercise of the receiver's powers or the
8 discharge of the receiver's duties;

9 (h) The power to obtain appraisals with respect to property in the
10 hands of the receiver;

11 (i) The power by subpoena to compel any person to submit to an
12 examination under oath, in the manner of a deposition in a civil case,
13 with respect to estate property or any other matter that may affect the
14 administration of the receivership; and

15 (j) Other powers as may be conferred upon the receiver by the court
16 or otherwise by statute or rule.

17 (2) A receiver has the following duties in addition to those
18 specifically conferred by this chapter or otherwise by statute or court
19 rule:

20 (a) The duty to notify all federal and state taxing authorities of
21 the receiver's appointment in accordance with any applicable laws
22 imposing this duty, including but not limited to 26 U.S.C. Sec. 6036
23 and RCW 51.14.073, 51.16.160, and 82.32.240, or any successor statutes;

24 (b) If the receiver is appointed with respect to any real property,
25 the duty to file with the auditor of the county in which the real
26 property is located, or the registrar of lands in accordance with RCW
27 65.12.600 in the case of registered lands, a certified copy of the
28 order of appointment, together with a legal description of the real
29 property if one is not included in that order; and

30 (c) Other duties as the receiver may be directed to perform by the
31 court or as may be provided for by statute or rule.

32 (3) The various powers and duties of a receiver provided for by
33 this chapter may be expanded, modified, or limited by order of the
34 court for good cause shown.

35 NEW SECTION. **Sec. 9.** A new section is added to chapter 7.60 RCW
36 to read as follows:

37 **TURNOVER OF PROPERTY.** Upon demand by a receiver appointed under

1 this chapter, any person shall turn over any property over which the
2 receiver has been appointed that is within the possession or control of
3 that person unless otherwise ordered by the court for good cause shown.
4 A receiver by motion may seek to compel turnover of estate property
5 unless there exists a bona fide dispute with respect to the existence
6 or nature of the receiver's interest in the property, in which case
7 turnover shall be sought by means of an action under section 18 of this
8 act. In the absence of a bona fide dispute with respect to the
9 receiver's right to possession of estate property, the failure to
10 relinquish possession and control to the receiver shall be punishable
11 as a contempt of the court.

12 NEW SECTION. **Sec. 10.** A new section is added to chapter 7.60 RCW
13 to read as follows:

14 DUTIES OF PERSON OVER WHOSE PROPERTY THE RECEIVER IS APPOINTED.
15

16 The person over whose property the receiver is appointed shall:

17 (1) Assist and cooperate fully with the receiver in the
18 administration of the estate and the discharge of the receiver's
19 duties, and comply with all orders of the court;

20 (2) Supply to the receiver information necessary to enable the
21 receiver to complete any schedules that the receiver may be required to
22 file under section 11 of this act, and otherwise assist the receiver in
23 the completion of the schedules;

24 (3) Upon the receiver's appointment, deliver into the receiver's
25 possession all of the property of the estate in the person's
26 possession, custody, or control, including, but not limited to, all
27 accounts, books, papers, records, and other documents; and

28 (4) Following the receiver's appointment, submit to examination by
29 the receiver, or by any other person upon order of the court, under
30 oath, concerning the acts, conduct, property, liabilities, and
31 financial condition of that person or any matter relating to the
32 receiver's administration of the estate.

33 When the person over whose property the receiver is appointed is an
34 entity, each of the officers, directors, managers, members, partners,
35 or other individuals exercising or having the power to exercise control
36 over the affairs of the entity are subject to the requirements of this
37 section.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 7.60 RCW
 2 to read as follows:

3 SCHEDULES OF PROPERTY AND LIABILITIES--INVENTORY OF PROPERTY--
 4 APPRAISALS. (1) In the event of a general assignment of property for
 5 the benefit of creditors under chapter 7.08 RCW, the assignment shall
 6 have annexed as schedule a true list of all of the person's known
 7 creditors, their mailing addresses, the amount and nature of their
 8 claims, and whether their claims are disputed; and as schedule B a true
 9 list of all property of the estate, including the estimated liquidation
 10 value and location of the property and, if real property, a legal
 11 description thereof, as of the date of the assignment.

12 (2) In all other cases, within twenty days after the date of
 13 appointment of a general receiver, the receiver shall file as schedule
 14 A a true list of all of the known creditors of the person over whose
 15 assets the receiver is appointed, their mailing addresses, the amount
 16 and nature of their claims, and whether their claims are disputed; and
 17 as schedule B a true list of all property of the estate identifiable by
 18 the receiver, including the estimated liquidation value and location of
 19 the property and, if real property, a legal description thereof, as of
 20 the date of appointment of the receiver.

21 (3) The schedules must be in substantially the following forms:

22 SCHEDULE A--CREDITOR LIST

23 1. List all creditors having security interests or liens, showing:

24 Name Address Amount Collateral Whether or not disputed

25 2. List all wages, salaries, commissions, or contributions to an employee benefit plan owed, showing:

26 Name Address Amount Whether or not disputed

27 3. List all consumer deposits owed, showing:

28 Name Address Amount Whether or not disputed

29 4. List all taxes owed, showing:

30 Name Address Amount Whether or not disputed

31 5. List all unsecured claims, showing:

32 Name Address Amount Whether or not disputed

33 6. List all owners or shareholders, showing:

34 Name Address Percentage of Ownership

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SCHEDULE B--LIST OF PROPERTY

List each category of property and for each give approximate value obtainable for the asset on the date of assignment/appointment of the receiver, and address where asset is located.

I. Nonexempt Property

	Description	Liquidation Value on Date of
	and Location	Assignment/Appointment of Receiver

- 1. Legal Description and street address of real property, including leasehold interests:
- 2. Fixtures:
- 3. Cash and bank accounts:
- 4. Inventory:
- 5. Accounts receivable:
- 6. Equipment:
- 7. Prepaid expenses, including deposits, insurance, rents, and utilities:
- 8. Other, including loans to third parties, claims, and choses in action:

II. Exempt Property

	Description	Liquidation Value on Date of
	and Location	Assignment/Appointment of Receiver

I DECLARE under penalty of perjury under the laws of the state of Washington that the foregoing is true, correct, and complete to the best of my knowledge. DATED this . . . day of,, at, state of

.....
[SIGNATURE]

(4) When schedules are filed by a person making a general assignment of property for the benefit of creditors under chapter 7.08 RCW, the schedules shall be duly verified upon oath by such person.

1 (5) The receiver shall obtain an appraisal or other independent
2 valuation of the property in the receiver's possession if ordered by
3 the court.

4 (6) The receiver shall file a complete inventory of the property in
5 the receiver's possession if ordered by the court.

6 NEW SECTION. **Sec. 12.** A new section is added to chapter 7.60 RCW
7 to read as follows:

8 RECEIVER'S REPORTS. A general receiver shall file with the court
9 a monthly report of the receiver's operations and financial affairs
10 unless otherwise ordered by the court. Except as otherwise ordered by
11 the court, each report of a general receiver shall be due by the last
12 day of the subsequent month and shall include the following:

13 (1) A balance sheet;

14 (2) A statement of income and expenses;

15 (3) A statement of cash receipts and disbursements;

16 (4) A statement of accrued accounts receivable of the receiver.
17 The statement shall disclose amounts considered to be uncollectable;

18 (5) A statement of accounts payable of the receiver, including
19 professional fees. The statement shall list the name of each creditor
20 and the amounts owing and remaining unpaid over thirty days; and

21 (6) A tax disclosure statement, which shall list postfiling taxes
22 due or tax deposits required, the name of the taxing agency, the amount
23 due, the date due, and an explanation for any failure to make payments
24 or deposits.

25 A custodial receiver shall file with the court all such reports the
26 court may require.

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 7.60 RCW
28 to read as follows:

29 AUTOMATIC STAY OF CERTAIN PROCEEDINGS. (1) Except as otherwise
30 ordered by the court, the entry of an order appointing a general
31 receiver or a custodial receiver with respect to all of a person's
32 property shall operate as a stay, applicable to all persons, of:

33 (a) The commencement or continuation, including the issuance or
34 employment of process, of a judicial, administrative, or other action
35 or proceeding against the person over whose property the receiver is

1 appointed that was or could have been commenced before the entry of the
2 order of appointment, or to recover a claim against the person that
3 arose before the entry of the order of appointment;

4 (b) The enforcement, against the person over whose property the
5 receiver is appointed or any estate property, of a judgment obtained
6 before the order of appointment;

7 (c) Any act to obtain possession of estate property from the
8 receiver, or to interfere with, or exercise control over, estate
9 property;

10 (d) Any act to create, perfect, or enforce any lien or claim
11 against estate property except by exercise of a right of setoff, to the
12 extent that the lien secures a claim against the person that arose
13 before the entry of the order of appointment; or

14 (e) Any act to collect, assess, or recover a claim against the
15 person that arose before the entry of the order of appointment.

16 (2) The stay shall automatically expire as to the acts specified in
17 subsection (1)(a), (b), and (e) of this section sixty days after the
18 entry of the order of appointment unless before the expiration of the
19 sixty-day period the receiver, for good cause shown, obtains an order
20 of the court extending the stay, after notice and a hearing. A person
21 whose action or proceeding is stayed by motion to the court may seek
22 relief from the stay for good cause shown. Any judgment obtained
23 against the person over whose property the receiver is appointed or
24 estate property following the entry of the order of appointment is not
25 a lien against estate property unless the receivership is terminated
26 prior to a conveyance of the property against which the judgment would
27 otherwise constitute a lien.

28 (3) The entry of an order appointing a receiver does not operate as
29 a stay of:

30 (a) The commencement or continuation of a criminal proceeding
31 against the person over whose property the receiver is appointed;

32 (b) The commencement or continuation of an action or proceeding to
33 establish paternity, or to establish or modify an order for alimony,
34 maintenance, or support, or to collect alimony, maintenance, or support
35 under any order of a court;

36 (c) Any act to perfect, or to maintain or continue the perfection
37 of, an interest in estate property if the interest perfected would be
38 effective against a creditor of the person over whose property the

1 receiver is appointed holding at the time of the entry of the order of
2 appointment either a perfected nonpurchase money security interest
3 under chapter 62A.9A RCW against the property involved, or a lien by
4 attachment, levy, or the like, whether or not such a creditor exists.
5 If perfection of an interest would require seizure of the property
6 involved or the commencement of an action, the perfection shall instead
7 be accomplished by filing, and by serving upon the receiver, or
8 receiver's counsel, if any, notice of the interest within the time
9 fixed by law for seizure or commencement;

10 (d) The commencement or continuation of an action or proceeding by
11 a governmental unit to enforce its police or regulatory power;

12 (e) The enforcement of a judgment, other than a money judgment,
13 obtained in an action or proceeding by a governmental unit to enforce
14 its police or regulatory power, or with respect to any licensure of the
15 person over whose property the receiver is appointed;

16 (f) The exercise of a right of setoff, including but not limited to
17 (i) any right of a commodity broker, forward contract merchant,
18 stockbroker, financial institution, or securities clearing agency to
19 set off a claim for a margin payment or settlement payment arising out
20 of a commodity contract, forward contract, or securities contract
21 against cash, securities, or other property held or due from the
22 commodity broker, forward contract merchant, stockbroker, financial
23 institution, or securities clearing agency to margin, guarantee,
24 secure, or settle the commodity contract, forward contract, or
25 securities contract, and (ii) any right of a swap participant to set
26 off a claim for a payment due to the swap participant under or in
27 connection with a swap agreement against any payment due from the swap
28 participant under or in connection with the swap agreement or against
29 cash, securities, or other property of the debtor held by or due from
30 the swap participant to guarantee, secure, or settle the swap
31 agreement; or

32 (g) The issuance by a governmental unit of a notice of a tax
33 deficiency.

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 7.60 RCW
35 to read as follows:

36 UTILITY SERVICE. A utility providing service to estate property
37 may not alter, refuse, or discontinue service to the property without

1 first giving the receiver fifteen days' notice of any default or
2 intention to alter, refuse, or discontinue service to estate property.
3 This section does not prohibit the court, upon motion by the receiver,
4 to prohibit the alteration or cessation of utility service if the
5 receiver can furnish adequate assurance of payment, in the form of
6 deposit or other security, for service to be provided after entry of
7 the order appointing the receiver.

8 NEW SECTION. **Sec. 15.** A new section is added to chapter 7.60 RCW
9 to read as follows:

10 EXECUTORY CONTRACTS AND UNEXPIRED LEASES. (1) A general receiver
11 may assume or reject any executory contract or unexpired lease of the
12 person over whose property the receiver is appointed upon order of the
13 court following notice to the other party to the contract or lease upon
14 notice and a hearing. The court may condition assumption or rejection
15 of any executory contract or unexpired lease on the terms and
16 conditions the court believes are just and proper under the particular
17 circumstances of the case. A general receiver's performance of an
18 executory contract or unexpired lease prior to the court's
19 authorization of its assumption or rejection shall not constitute an
20 assumption of the contract or lease, or an agreement by the receiver to
21 assume it, nor otherwise preclude the receiver thereafter from seeking
22 the court's authority to reject it.

23 (2) Any obligation or liability incurred by a general receiver on
24 account of the receiver's assumption of an executory contract or
25 unexpired lease shall be treated as an expense of the receivership. A
26 general receiver's rejection of an executory contract or unexpired
27 lease shall be treated as a breach of the contract or lease occurring
28 immediately prior to the receiver's appointment; and the receiver's
29 right to possess or use property pursuant to any executory contract or
30 lease shall terminate upon rejection of the contract or lease. The
31 other party to an executory contract or unexpired lease that is
32 rejected by a general receiver may take such steps as may be necessary
33 under applicable law to terminate or cancel the contract or lease. The
34 claim of a party to an executory contract or unexpired lease resulting
35 from a general receiver's rejection of it shall be served upon the
36 receiver in the manner provided for by section 23 of this act within
37 thirty days following the rejection.

1 (3) A general receiver's power under this section to assume an
2 executory contract or unexpired lease shall not be affected by any
3 provision in the contract or lease that would effect or permit a
4 forfeiture, modification, or termination of it on account of either the
5 receiver's appointment, the financial condition of the person over
6 whose property the receiver is appointed, or an assignment for the
7 benefit of creditors by that person.

8 (4) A general receiver may not assume an executory contract or
9 unexpired lease of the person over whose property the receiver is
10 appointed without the consent of the other party to the contract or
11 lease if:

12 (a) Applicable law would excuse a party, other than the person over
13 whose property the receiver is appointed, from accepting performance
14 from or rendering performance to anyone other than the person even in
15 the absence of any provisions in the contract or lease expressly
16 restricting or prohibiting an assignment of the person's rights or the
17 performance of the person's duties;

18 (b) The contract or lease is a contract to make a loan or extend
19 credit or financial accommodations to or for the benefit of the person
20 over whose property the receiver is appointed, or to issue a security
21 of the person; or

22 (c) The executory contract or lease expires by its own terms, or
23 under applicable law prior to the receiver's assumption thereof.

24 (5) A receiver may not assign an executory contract or unexpired
25 lease without assuming it, absent the consent of the other parties to
26 the contract or lease.

27 (6) If the receiver rejects an executory contract or unexpired
28 lease for:

29 (a) The sale of real property under which the person over whose
30 property the receiver is appointed is the seller and the purchaser is
31 in possession of the real property;

32 (b) The sale of a real property timeshare interest under which the
33 person over whose property the receiver is appointed is the seller;

34 (c) The license of intellectual property rights under which the
35 person over whose property the receiver is appointed is the licensor;
36 or

37 (d) The lease of real property in which the person over whose
38 property the receiver is appointed is the lessor;

1 then the purchaser, licensee, or lessee may treat the rejection as a
2 termination of the contract, license agreement, or lease, or
3 alternatively, the purchaser, licensee, or lessee may remain in
4 possession in which case the purchaser, licensee, or lessee shall
5 continue to perform all obligations arising thereunder as and when they
6 may fall due, but may offset against any payments any damages occurring
7 on account of the rejection after it occurs. The purchaser of real
8 property in such a case is entitled to receive from the receiver any
9 deed or any other instrument of conveyance which the person over whose
10 property the receiver is appointed is obligated to deliver under the
11 executory contract when the purchaser becomes entitled to receive it,
12 and the deed or instrument has the same force and effect as if given by
13 the person. A purchaser, licensee, or lessee who elects to remain in
14 possession under the terms of this subsection has no rights against the
15 receiver on account of any damages arising from the receiver's
16 rejection except as expressly provided for by this subsection. A
17 purchaser of real property who elects to treat rejection of an
18 executory contract as a termination has a lien against the interest in
19 that real property of the person over whose property the receiver is
20 appointed for the recovery of any portion of the purchase price that
21 the purchaser has paid.

22 NEW SECTION. **Sec. 16.** A new section is added to chapter 7.60 RCW
23 to read as follows:

24 RECEIVERSHIP FINANCING. (1) If a receiver is authorized to operate
25 the business of a person or manage a person's property, the receiver
26 may obtain unsecured credit and incur unsecured debt in the ordinary
27 course of business allowable under section 25(1)(a) of this act as an
28 administrative expense of the receiver without order of the court.

29 (2) The court, after notice and a hearing, may authorize a receiver
30 to obtain credit or incur indebtedness other than in the ordinary
31 course of business. The court may allow the receiver to mortgage,
32 pledge, hypothecate, or otherwise encumber estate property as security
33 for repayment of any indebtedness that the receiver may incur.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 7.60 RCW
35 to read as follows:

36 ABANDONMENT OF PROPERTY. The receiver, or any party in interest,

1 upon order of the court following notice and a hearing, and upon the
2 conditions or terms the court considers just and proper, may abandon
3 any estate property that is burdensome to the receiver or is of
4 inconsequential value or benefit. Property that is abandoned no longer
5 constitutes estate property.

6 NEW SECTION. **Sec. 18.** A new section is added to chapter 7.60 RCW
7 to read as follows:

8 ACTIONS BY AND AGAINST THE RECEIVER OR AFFECTING PROPERTY HELD BY
9 RECEIVER. (1) The receiver has the right to sue and be sued in the
10 receiver's capacity as such, without leave of court, in all cases
11 necessary or proper for the conduct of the receivership. However,
12 action seeking to dispossess the receiver of any estate property or
13 otherwise to interfere with the receiver's management or control of any
14 estate property may not be maintained or continued unless permitted by
15 order of the court obtained upon notice and a hearing.

16 (2) Litigation by or against a receiver is adjunct to the
17 receivership case. The clerk of the court shall assign a cause number
18 that reflects the relationship of any litigation to the receivership
19 case. All pleadings in adjunct litigation shall include the cause
20 number of the receivership case as well as the adjunct litigation
21 number assigned by the clerk of the court. All adjunct litigation
22 shall be referred to the judge, if any, assigned to the receivership
23 case.

24 (3) The receiver may be joined or substituted as a party in any
25 suit or proceeding that was pending at the time of the receiver's
26 appointment and in which the person over whose property the receiver is
27 appointed is a party, upon application by the receiver to the court or
28 agency before which the action is pending.

29 (4) Venue for adjunct litigation by or against the receiver shall
30 lie in the court in which the receivership is pending, if the courts of
31 this state have jurisdiction over the cause. Actions in other courts
32 in this state shall be transferred to the court upon the receiver's
33 filing of a motion for change of venue, provided that the receiver
34 files the motion within thirty days following service of original
35 process upon the receiver.

36 (5) Action by or against a receiver does not abate by reason of

1 death or resignation of the receiver, but continues against the
2 successor receiver or against the entity in receivership, if a
3 successor receiver is not appointed.

4 (6) Whenever the assets of any domestic or foreign corporation,
5 that has been doing business in this state, has been placed in the
6 hands of any general receiver and the receiver is in possession of its
7 assets, service of all process upon the corporation may be made upon
8 the receiver.

9 (7) A judgment against a general receiver is not a lien on the
10 property or funds of the receivership, nor shall any execution issue
11 thereon, but upon entry of the judgment in the court in which a general
12 receivership is pending, or upon filing in a general receivership of a
13 certified copy of the judgment from another jurisdiction, the judgment
14 shall be treated as an allowed claim in the receivership. A judgment
15 against a custodial receiver shall be treated and has the same effect
16 as a judgment against the person over whose property the receiver is
17 appointed, except that the judgment is not enforceable against estate
18 property unless otherwise ordered by the court upon notice and a
19 hearing.

20 NEW SECTION. **Sec. 19.** A new section is added to chapter 7.60 RCW
21 to read as follows:

22 **PERSONAL LIABILITY OF RECEIVER.** (1) The receiver is personally
23 liable to the person over whose property the receiver is appointed or
24 its record or beneficial owners, or to the estate, for loss or
25 diminution in value of or damage to estate property, only if (a) the
26 loss or damage is caused by a failure on the part of the receiver to
27 comply with an order of the court, or (b) the loss or damage is caused
28 by an act or omission for which members of a board of directors of a
29 business corporation organized and existing under the laws of this
30 state who vote to approve the act or omission are liable to the
31 corporation in cases in which the liability of directors is limited to
32 the maximum extent permitted by RCW 23B.08.320.

33 (2) The receiver has no personal liability to a person other than
34 the person over whose property the receiver is appointed or its record
35 or beneficial owners for any loss or damage occasioned by the
36 receiver's performance of the duties imposed by the appointment, or out
37 of the receiver's authorized operation of any business of a person,

1 except loss or damage occasioned by fraud on the part of the receiver,
2 by acts intended by the receiver to cause loss or damage to the
3 specific claimant, or by acts or omissions for which an officer of a
4 business corporation organized and existing under the laws of this
5 state are liable to the claimant under the same circumstances.

6 (3) Notwithstanding subsections (1) and (2) of this section, a
7 receiver has no personal liability to any person for acts or omissions
8 of the receiver specifically contemplated by any order of the court.

9 (4) A person other than a successor receiver duly appointed by the
10 court does not have a right of action against a receiver under this
11 section to recover property or the value thereof for or on behalf of
12 the estate.

13 NEW SECTION. **Sec. 20.** A new section is added to chapter 7.60 RCW
14 to read as follows:

15 EMPLOYMENT AND COMPENSATION OF PROFESSIONALS. (1) The receiver,
16 with the court's approval, may employ one or more attorneys,
17 accountants, appraisers, auctioneers, or other professional persons
18 that do not hold or represent an interest adverse to the estate to
19 represent or assist the receiver in carrying out the receiver's duties.

20 (2) A person is not disqualified for employment under this section
21 solely because of the person's employment by, representation of, or
22 other relationship with a creditor or other party in interest, if the
23 relationship is disclosed in the application for the person's
24 employment and if the court determines that there is no actual conflict
25 of interest.

26 (3) This section does not preclude the court from authorizing the
27 receiver to act as attorney or accountant if the authorization is in
28 the best interests of the estate.

29 (4) The receiver, and any professionals employed by the receiver,
30 is permitted to file an itemized billing statement with the court
31 indicating both the time spent, billing rates of all who perform work
32 to be compensated, and a detailed list of expenses and serve copies on
33 any person who has been joined as a party in the action, or any person
34 requesting the same, advising that unless objections are filed with the
35 court, the receiver may make the payments specified in the notice. If
36 an objection is filed, the receiver or professional whose compensation
37 is affected may request the court to hold a hearing on the objection on

1 five days' notice to the persons who have filed objections. If the
2 receiver is a custodial receiver appointed in aid of foreclosure,
3 payment of fees and expenses may be allowed upon the stipulation of any
4 creditor holding a security interest in the property for whose benefit
5 the receiver is appointed.

6 NEW SECTION. **Sec. 21.** A new section is added to chapter 7.60 RCW
7 to read as follows:

8 PARTICIPATION OF CREDITORS AND PARTIES IN INTEREST IN RECEIVERSHIP
9 PROCEEDING--EFFECT OF COURT ORDERS ON NONPARTIES. (1) Creditors and
10 parties in interest to whom written notice of the pendency of the
11 receivership is given in accordance with section 23 of this act, and
12 creditors or other persons submitting written claims in the
13 receivership or otherwise appearing and participating in the
14 receivership, are bound by the acts of the receiver with regard to
15 management and disposition of estate property whether or not they are
16 formally joined as parties.

17 (2) Any person having a claim against or interest in any estate
18 property or in the receivership proceedings may appear in the
19 receivership, either in person or by an attorney. Appearance must be
20 made by filing a written notice of appearance, including the name and
21 mailing address of the party in interest, and the name and address of
22 the person's attorney, if any, with the clerk, and by serving a copy of
23 the notice upon the receiver and the receiver's attorney of record, if
24 any. The receiver shall maintain a master mailing list of all persons
25 joined as parties in the receivership and of all persons serving and
26 filing notices of appearance in the receivership in accordance with
27 this section. A creditor or other party in interest has a right to be
28 heard with respect to all matters affecting the person, whether or not
29 the person is joined as a party to the action.

30 (3) Orders of the court with respect to the treatment of claims and
31 disposition of estate property, including but not limited to orders
32 providing for sales of property free and clear of liens, are effective
33 as to any person having a claim against or interest in the receivership
34 estate and who has actual knowledge of the receivership, whether or not
35 the person receives written notice from the receiver and whether or not
36 the person appears or participates in the receivership.

1 (4) The receiver shall give not less than ten days' written notice
2 by mail of any examination by the receiver of the person with respect
3 to whose property the receiver has been appointed and to persons who
4 serve and file an appearance in the proceeding.

5 (5) Persons on the master mailing list are entitled to not less
6 than twenty days' written notice of the hearing of any motion or other
7 proceeding involving any proposed:

8 (a) Allowance or disallowance of any claim or claims;

9 (b) Abandonment, disposition, or distribution of estate property,
10 other than an emergency disposition of perishable property or a
11 disposition of property in the ordinary course of business;

12 (c) Compromise or settlement of a controversy that might affect the
13 distribution to creditors from the estate;

14 (d) Compensation of the receiver or any professional employed by
15 the receiver; or

16 (e) Application for discharge of the receiver and exoneration of
17 the receiver's bond.

18 Any opposition to any motion to authorize any of the actions under
19 (a) through (e) of this subsection must be filed and served upon the
20 receiver and the receiver's attorney, if any, at least three days
21 before the date of the proposed action. Persons on the master mailing
22 list shall be served with all pleadings or in opposition to any motion.
23 The court may require notice to be given to persons on the master
24 mailing list of additional matters the court deems appropriate, and may
25 enlarge or reduce any time period provided for by this section for good
26 cause shown. The receiver shall make a copy of the current master
27 mailing list available to any person on that list upon the person's
28 request.

29 (6) All persons duly notified by the receiver of any hearing to
30 approve or authorize an action or a proposed action by the receiver is
31 bound by any order of the court with respect to the action, whether or
32 not the persons have appeared or objected to the action or proposed
33 action or have been joined formally as parties to the particular
34 action.

35 (7) Whenever notice is not specifically required to be given under
36 this chapter, the court may consider motions and grant or deny relief
37 without notice or hearing, if it appears that no person joined as a

1 party or who has appeared in the receivership would be prejudiced or
2 harmed by the relief requested.

3 NEW SECTION. **Sec. 22.** A new section is added to chapter 7.60 RCW
4 to read as follows:

5 NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST. (1) A general
6 receiver shall give notice of the receivership by publication in a
7 newspaper of general circulation published in the county or counties in
8 which estate property is known to be located once a week for three
9 consecutive weeks, the first notice to be published within twenty days
10 after the date of appointment of the receiver; and by mailing notice to
11 all known creditors and other known parties in interest within twenty
12 days after the date of appointment of the receiver. The notice of the
13 receivership shall include the date of appointment of the receiver; the
14 name of the court and the case number; the last day on which claims may
15 be filed and served upon the receiver; and the name and address of the
16 debtor, the receiver, and the receiver's attorney, if any. For
17 purposes of this section, all intangible property of a person is deemed
18 to be located in the county in which an individual owner thereof
19 resides, or in which any entity owning the property maintains its
20 principal administrative offices.

21 (2) The notice of the receivership shall be in substantially the
22 following form:

23 IN THE SUPERIOR COURT, IN AND FOR
24 _____ COUNTY, WASHINGTON
25 [Case Name]) Case No.
26)
27) NOTICE OF RECEIVERSHIP
28)
29)
30 _____)

31 TO CREDITORS AND OTHER PARTIES IN INTEREST:
32 PLEASE TAKE NOTICE that a receiver was appointed for _____, whose last known
33 address is _____, on _____, ____.

1 YOU ARE HEREBY FURTHER NOTIFIED that in order to receive any dividend in this proceeding you
2 must file proof of claim with the receiver on or before _____, ____ (120 days from the date of
3 appointment of the receiver).

4 _____
5 RECEIVER

6 Attorney for receiver (if any): _____

7 Address: _____

8 NEW SECTION. **Sec. 23.** A new section is added to chapter 7.60 RCW
9 to read as follows:

10 SUBMISSION OF CLAIMS IN GENERAL RECEIVERSHIPS. (1) All claims,
11 whether contingent, liquidated, unliquidated, or disputed, other than
12 claims of creditors with security interests in or other liens against
13 property of the estate, arising prior to the receiver's appointment,
14 must be served in accordance with this chapter, and any claim not so
15 filed is barred from participating in any distribution to creditors in
16 any general receivership.

17 (2) Claims must be served by delivering the claim to the general
18 receiver within thirty days from the date notice is given by mail under
19 this section, unless the court reduces or extends the period for cause
20 shown, except that a claim arising from the rejection of an executory
21 contract or an unexpired lease of the person over whose property the
22 receiver is appointed may be filed within thirty days after the
23 rejection. Claims need not be filed.

24 (3) Claims must be in written form entitled "Proof of Claim,"
25 setting forth the name and address of the creditor and the nature and
26 amount of the claim, and executed by the creditor or the creditor's
27 authorized agent. When a claim, or an interest in estate property of
28 securing the claim, is based on a writing, the original or a copy of
29 the writing must be included as a part of the proof of claim, together
30 with evidence of perfection of any security interest or other lien
31 asserted by the claimant.

32 (4) A claim, executed and served in accordance with this section,
33 constitutes prima facie evidence of the validity and amount of the
34 claim.

35 NEW SECTION. **Sec. 24.** A new section is added to chapter 7.60 RCW
36 to read as follows:

1 OBJECTION TO AND ALLOWANCE OF CLAIMS. (1) At any time prior to the
2 entry of an order approving the general receiver's final report, the
3 general receiver or any party in interest may file with the court an
4 objection to a claim, which objection must be in writing and must set
5 forth the grounds for the objection. A copy of the objection, together
6 with notice of hearing, must be mailed to the creditor at least twenty
7 days prior to the hearing. Claims properly served upon the general
8 receiver and not disallowed by the court are entitled to share in
9 distributions from the estate in accordance with the priorities
10 provided for by this chapter or otherwise by law.

11 (2) Upon the request of a creditor, the general receiver, or any
12 party in interest objecting to the creditor's claim, or upon order of
13 the court, an objection is subject to mediation prior to adjudication
14 of the objection, under the rules or orders adopted or issued with
15 respect to mediations.

16 (3) Upon motion of the general receiver or other party in interest,
17 the following claims may be estimated for purpose of allowance under
18 this section under the rules or orders applicable to the estimation of
19 claims under this subsection:

20 (a) Any contingent or unliquidated claim, the fixing or liquidation
21 of which, as the case may be, would unduly delay the administration of
22 the case; or

23 (b) Any right to payment arising from a right to an equitable
24 remedy for breach of performance.

25 Claims subject to this subsection shall be allowed in the estimated
26 amount thereof.

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 7.60 RCW
28 to read as follows:

29 PRIORITIES. (1) Allowed claims in a general receivership shall
30 receive distribution under this chapter in the order of priority under
31 (a) through (g) of this subsection and, with the exception of (a) and
32 (c) of this subsection, on a pro rata basis.

33 (a) Creditors with liens on property of the estate, which liens are
34 duly perfected under applicable law, shall receive the proceeds from
35 the disposition of their collateral. However, the receiver may recover
36 from property securing an allowed secured claim the reasonable,
37 necessary expenses of preserving, protecting, or disposing of the

1 property to the extent of any benefit to the creditors. If and to the
2 extent that the proceeds are less than the amount of a creditor's
3 allowed claim or a creditor's lien is avoided on any basis, the
4 creditor is an unsecured claim under (g) of this subsection. Secured
5 claims shall be paid from the proceeds in accordance with their
6 respective priorities under otherwise applicable law.

7 (b) Actual, necessary costs and expenses incurred during the
8 administration of the estate, other than those expenses allowable under
9 (a) of this subsection, including allowed fees and reimbursement of
10 reasonable charges and expenses of the receiver and professional
11 persons employed by the receiver under section 20 of this act.
12 Notwithstanding (a) of this subsection, expenses incurred during the
13 administration of the estate have priority over the secured claim of
14 any creditor obtaining or consenting to the appointment of the
15 receiver.

16 (c) Creditors with liens on property of the estate, which liens
17 have not been duly perfected under applicable law, shall receive the
18 proceeds from the disposition of their collateral if and to the extent
19 that unsecured claims are made subject to those liens under applicable
20 law.

21 (d) Claims for wages, salaries, or commissions, including vacation,
22 severance, and sick leave pay, or contributions to an employee benefit
23 plan, earned by the claimant within ninety days of the date of
24 appointment of the receiver or the cessation of the estate's business,
25 whichever occurs first, but only to the extent of two thousand dollars.

26 (e) Allowed unsecured claims, to the extent of nine hundred dollars
27 for each individual, arising from the deposit with the person over
28 whose property the receiver is appointed before the date of appointment
29 of the receiver of money in connection with the purchase, lease, or
30 rental of property or the purchase of services for personal, family, or
31 household use by individuals that were not delivered or provided.

32 (f) Unsecured claims of governmental units for taxes which accrued
33 prior to the date of appointment of the receiver.

34 (g) Other unsecured claims.

35 (2) If all of the classes under subsection (1) of this section have
36 been paid in full, any residue shall be paid to the person over whose
37 property the receiver is appointed.

1 NEW SECTION. **Sec. 26.** A new section is added to chapter 7.60 RCW
2 to read as follows:

3 SECURED CLAIMS AGAINST AFTER-ACQUIRED PROPERTY. Except as
4 otherwise provided for by statute, property acquired by the estate or
5 by the person over whose property the receiver is appointed after the
6 date of appointment of the receiver is subject to an allowed secured
7 claim to the same extent as would be the case in the absence of a
8 receivership.

9 NEW SECTION. **Sec. 27.** A new section is added to chapter 7.60 RCW
10 to read as follows:

11 INTEREST ON CLAIMS. To the extent that funds are available in the
12 estate for distribution to creditors in a general receivership, the
13 holder of an allowed noncontingent, liquidated claim is entitled to
14 receive interest at the legal rate or other applicable rate from the
15 date of appointment of the receiver or the date on which the claim
16 became a noncontingent, liquidated claim. If there are sufficient
17 funds in the estate to fully pay all interest owing to all members of
18 the class, then interest shall be paid proportionately to each member
19 of the class.

20 NEW SECTION. **Sec. 28.** A new section is added to chapter 7.60 RCW
21 to read as follows:

22 RECEIVER'S DISPOSITION OF PROPERTY--SALES FREE AND CLEAR. (1) The
23 receiver, with the court's approval after notice and a hearing, may
24 use, sell, or lease estate property other than in the ordinary course
25 of business. Except in the case of a leasehold estate with a remaining
26 term of less than two years or a vendor's interest in a real estate
27 contract, estate property consisting of real property may not be sold
28 by a custodial receiver other than in the ordinary course of business.

29 (2) The court may order that a general receiver's sale of estate
30 property under subsection (1) of this section be effected free and
31 clear of liens and of all rights of redemption, whether or not the sale
32 will generate proceeds sufficient to fully satisfy all claims secured
33 by the property, unless either:

34 (a) The property is real property used principally in the
35 production of crops, livestock, or aquaculture, or the property is a

1 homestead under RCW 6.13.010(1), and the owner of the property has not
2 consented to the sale following the appointment of the receiver; or

3 (b) The owner of the property or a creditor with an interest in the
4 property serves and files a timely opposition to the receiver's sale,
5 and the court determines that the amount likely to be realized by the
6 objecting person from the receiver's sale is less than the person would
7 realize within a reasonable time in the absence of the receiver's sale.

8 Upon any sale free and clear of liens authorized by this section,
9 all security interests and other liens encumbering the property
10 conveyed transfer and attach to the proceeds of the sale, net of
11 reasonable expenses incurred in the disposition of the property, in the
12 same order, priority, and validity as the liens had with respect to the
13 property immediately before the conveyance. The court may authorize
14 the receiver at the time of sale to satisfy, in whole or in part, any
15 allowed claim secured by the property out of the proceeds of its sale
16 if the interest of any other creditor having a lien against the
17 proceeds of the sale would not thereby be impaired.

18 (3) At a public sale of property under subsection (1) of this
19 section, a creditor with an allowed claim secured by a lien against the
20 property to be sold may bid at the sale of the property. A secured
21 creditor who purchases the property from a receiver may offset against
22 the purchase price its allowed secured claim against the property,
23 provided that the secured creditor tenders cash sufficient to satisfy
24 in full all secured claims payable out of the proceeds of sale having
25 priority over the secured creditor's secured claim. If the lien or the
26 claim it secures is the subject of a bona fide dispute, the court may
27 order the holder of the claim to provide the receiver with adequate
28 security to assure full payment of the purchase price in the event the
29 lien, the claim, or any part thereof is determined to be invalid or
30 unenforceable.

31 (4) If estate property includes an interest as a coowner of
32 property, the receiver shall have the rights and powers of a coowner
33 afforded by applicable state or federal law, including but not limited
34 to any rights of partition.

35 (5) The reversal or modification on appeal of an authorization to
36 sell or lease estate property under this section does not affect the
37 validity of a sale or lease under that authorization to an entity that

1 purchased or leased the property in good faith, whether or not the
2 entity knew of the pendency of the appeal, unless the authorization and
3 sale or lease were stayed pending the appeal.

4 NEW SECTION. **Sec. 29.** A new section is added to chapter 7.60 RCW
5 to read as follows:

6 ANCILLARY RECEIVERSHIPS. (1) A receiver appointed in any action
7 pending in the courts of this state, without first seeking approval of
8 the court, may apply to any court outside of this state for appointment
9 as receiver with respect to any property or business of the person over
10 whose property the receiver is appointed constituting estate property
11 which is located in any other jurisdiction, if the appointment is
12 necessary to the receiver's possession, control, management, or
13 disposition of property in accordance with orders of the court.

14 (2) A receiver appointed by a court of another state, or by a
15 federal court in any district outside of this state, or any other
16 person having an interest in that proceeding, may obtain appointment by
17 a superior court of this state of that same receiver with respect to
18 any property or business of the person over whose property the receiver
19 is appointed constituting property of the foreign receivership that is
20 located in this jurisdiction, if the person is eligible under section
21 5 of this act to serve as receiver, and if the appointment is necessary
22 to the receiver's possession, control, or disposition of the property
23 in accordance with orders of the court in the foreign proceeding. The
24 superior court upon the receiver's request shall enter the orders, not
25 offensive to the laws and public policy of this state, necessary to
26 effectuate orders entered by the court in the foreign receivership
27 proceeding. A receiver appointed in an ancillary receivership in this
28 state is required to comply with this chapter requiring notice to
29 creditors or other parties in interest only as may be required by the
30 superior court in the ancillary receivership.

31 NEW SECTION. **Sec. 30.** A new section is added to chapter 7.60 RCW
32 to read as follows:

33 RESIGNATION OR REMOVAL OF RECEIVER. (1) The court shall remove or
34 replace the receiver on application of the person over whose property
35 the receiver is appointed, the receiver, or any creditor, or on the

1 court's own motion, if the receiver fails to execute and file the bond
2 required by section 6 of this act, or if the receiver resigns or
3 refuses or fails to serve for any reason, or for other good cause.

4 (2) Upon removal, resignation, or death of the receiver, the court
5 shall appoint a successor receiver if the court determines that further
6 administration of the estate is required. Upon executing and filing a
7 bond under section 6 of this act, the successor receiver shall
8 immediately take possession of the estate and assume the duties of
9 receiver.

10 (3) Whenever the court is satisfied that the receiver so removed or
11 replaced has fully accounted for and turned over to the successor
12 receiver appointed by the court all of the property of the estate and
13 has filed a report of all receipts and disbursements during the
14 person's tenure as receiver, the court shall enter an order discharging
15 that person from all further duties, liabilities, and responsibilities
16 as receiver after notice and a hearing, and upon finding that the
17 receiver so removed or replaced has fully complied with this
18 subsection, shall release any bond filed by such receiver under section
19 6 of this act.

20 NEW SECTION. **Sec. 31.** A new section is added to chapter 7.60 RCW
21 to read as follows:

22 **TERMINATION OF RECEIVERSHIP.** (1) Upon distribution or disposition
23 of all property of the estate, or the completion of the receiver's
24 duties with respect to estate property, the receiver shall move the
25 court to be discharged upon notice and a hearing.

26 (2) The receiver's final report and accounting setting forth all
27 receipts and disbursements of the estate shall be annexed to the
28 petition for discharge and filed with the court.

29 (3) Upon approval of the final report, the court shall discharge
30 the receiver and release the receiver's bond.

31 (4) The receiver's discharge releases the receiver from any further
32 duties, liabilities, and responsibilities as receiver under this
33 chapter.

34 (5) Upon motion of any party in interest, or upon the court's own
35 motion, the court has the power to discharge the receiver and terminate
36 the court's administration of the property over which the receiver was
37 appointed. If the court determines that the appointment of the

1 receiver was wrongfully procured or procured in bad faith, the court
2 may assess against the person who procured the receiver's appointment
3 (a) all of the receiver's fees and other costs of the receivership and
4 (b) any other sanctions the court determines to be appropriate.

5 (6) Notice of any motion for termination of a receivership or
6 discharge of a receiver shall be given to all persons interested in the
7 receivership as far as they can conveniently be ascertained.

8 NEW SECTION. **Sec. 32.** A new section is added to chapter 7.60 RCW
9 to read as follows:

10 APPLICABILITY. This chapter applies to receivers and receiverships
11 otherwise provided for by the laws of this state except as otherwise
12 expressly provided for by statute or as necessary to give effect to the
13 laws of this state.

14 **Sec. 33.** RCW 4.28.320 and 1999 c 233 s 1 are each amended to read
15 as follows:

16 (~~In an action affecting the title to real property the plaintiff,
17 at the time of filing the complaint, or at any time afterwards, or
18 whenever a writ of attachment of property shall be issued, or at any
19 time afterwards, the plaintiff or a defendant, when he sets up an
20 affirmative cause of action in his answer, and demands substantive
21 relief at the time of filing his answer, or at any time afterwards, if
22 the same be intended to affect real property,)~~ At any time after an
23 action affecting title to real property has been commenced, or after a
24 writ of attachment with respect to real property has been issued in an
25 action, or after a receiver has been appointed with respect to any real
26 property, the plaintiff, the defendant, or such a receiver may file
27 with the auditor of each county in which the property is situated a
28 notice of the pendency of the action, containing the names of the
29 parties, the object of the action, and a description of the real
30 property in that county affected thereby. From the time of the filing
31 only shall the pendency of the action be constructive notice to a
32 purchaser or encumbrancer of the property affected thereby, and every
33 person whose conveyance or encumbrance is subsequently executed or
34 subsequently recorded shall be deemed a subsequent purchaser or
35 encumbrancer, and shall be bound by all proceedings taken after the
36 filing of such notice to the same extent as if he or she were a party

1 to the action. For the purpose of this section an action shall be
2 deemed to be pending from the time of filing such notice: PROVIDED,
3 HOWEVER, That such notice shall be of no avail unless it shall be
4 followed by the first publication of the summons, or by the personal
5 service thereof on a defendant within sixty days after such filing.
6 And the court in which the said action was commenced may, at its
7 discretion, at any time after the action shall be settled, discontinued
8 or abated, on application of any person aggrieved and on good cause
9 shown and on such notice as shall be directed or approved by the court,
10 order the notice authorized in this section to be canceled of record,
11 in whole or in part, by the county auditor of any county in whose
12 office the same may have been filed or recorded, and such cancellation
13 shall be evidenced by the recording of the court order.

14 **Sec. 34.** RCW 6.32.100 and 1893 c 133 s 10 are each amended to read
15 as follows:

16 ~~((After a receiver has been appointed or a receivership has been
17 extended to the special proceedings, the judge must, by order, direct
18 the sheriff to pay the money, or the proceeds of the property,
19 deducting his fees, to the receiver; or if the case so requires to
20 deliver to the receiver the property in his hands. But if it appears
21 to the satisfaction of the judge that an order appointing a receiver or
22 extending a receivership is not necessary, he may, by an order reciting
23 that fact,))~~ Unless a receiver has been appointed or extended with
24 respect to money or property in the hands of the sheriff, the judge may
25 direct the sheriff to apply the money (~~(so paid)~~), the property, or the
26 proceeds of the property (~~(so delivered)~~), upon an execution in favor
27 of the judgment creditor issued either before or after the payment or
28 delivery to the sheriff.

29 **Sec. 35.** RCW 6.32.150 and 1893 c 133 s 15 are each amended to read
30 as follows:

31 A special proceeding instituted as prescribed in this chapter may
32 be discontinued at any time upon such terms as justice requires, by an
33 order of the judge made upon the application of the judgment creditor.
34 Where the judgment creditor unreasonably delays or neglects to proceed,
35 or where it appears that (~~(his)~~) the judgment has been satisfied,
36 (~~(his)~~) the special proceedings may be dismissed upon like terms by a

1 like order made upon the application of the judgment debtor, or of
2 plaintiff in a judgment creditor's action against the debtor, or of a
3 judgment creditor who has instituted either of the special proceedings
4 authorized by this chapter. (~~Where an order appointing a receiver or~~
5 ~~extending a receivership has been made in the course of the special~~
6 ~~proceeding, notice of the application for an order specified in this~~
7 ~~section must be given in such manner as the judge deems proper, to all~~
8 ~~persons interested in the receivership as far as they can conveniently~~
9 ~~be ascertained.))~~

10 **Sec. 36.** RCW 7.08.010 and 1893 c 100 s 1 are each amended to read
11 as follows:

12 No general assignment of property by an insolvent, or in
13 contemplation of insolvency, for the benefit of creditors, shall be
14 valid unless it be made for the benefit of all (~~his~~) of the
15 assignor's creditors in proportion to the amount of their respective
16 claims(~~and after the payment of the costs and disbursements thereof,~~
17 ~~including the attorney fees allowed by law in case of judgment, out of~~
18 ~~the estate of the insolvent, such claim or claims shall be deemed as~~
19 ~~presented, and shall share pro rata with other claims as hereinafter~~
20 ~~provided)).~~

21 **Sec. 37.** RCW 7.08.030 and 1890 p 83 s 3 are each amended to read
22 as follows:

23 (~~The debtor shall annex to such assignment an inventory, under~~
24 ~~oath, of all his estate, real and personal, according to the best of~~
25 ~~his knowledge, and also a list of his creditors, with their post office~~
26 ~~address and a list of the amount of their respective demands, but such~~
27 ~~inventory shall not be conclusive as to the amount of the debtor's~~
28 ~~estate. Every assignment shall be in writing, and duly acknowledged in~~
29 ~~the same manner as conveyances of real estate, and recorded in the~~
30 ~~record of deeds of the county where the person making the same resides,~~
31 ~~or where the business in respect to which the same is made has been~~
32 ~~carried on.))~~

33 (1) An assignment under this chapter must be in substantially the
34 following form:

35 ASSIGNMENT

1 THIS ASSIGNMENT is made this day of,
2 by and between, with a principal place of business at (hereinafter
3 "assignor"), and, whose address is (hereinafter "assignee")

4 WHEREAS, the assignor has been engaged in the business of
5

6 WHEREAS, the assignor is indebted to creditors, as set forth in
7 Schedule A annexed hereto, is unable to pay debts as they become due,
8 and is desirous of providing for the payment of debts, so far as it is
9 possible by an assignment of all property for that purpose.

10 NOW, THEREFORE, the assignor, in consideration of the assignee's
11 acceptance of this assignment, and for other good and valuable
12 consideration, hereby grants, assigns, conveys, transfers, and sets
13 over, unto the assignee, and the assignee's successors and assigns, all
14 of assignor's property, except such property as is exempt by law from
15 levy and sale under an execution (and then only to the extent of such
16 exemption), including, but not limited to, all real property, fixtures,
17 goods, stock, inventory, equipment, furniture, furnishings, accounts
18 receivable, general intangibles, bank deposits, cash, promissory notes,
19 cash value and proceeds of insurance policies, claims, and demands
20 belonging to the assignor, wherever such property may be located
21 (hereinafter collectively the "estate"), which property is, to the best
22 knowledge and belief of the assignor, fully and accurately set forth on
23 Schedule B annexed hereto.

24 By making this assignment, the assignor consents to the appointment
25 of the assignee as a general receiver with respect to the assignee's
26 property in accordance with Chapter 7.60 RCW.

27 The assignee shall take possession and administer the estate, and
28 shall liquidate the estate with reasonable dispatch and convert the
29 estate into money, collect all claims and demands hereby assigned as
30 and to the extent they may be collectible, and pay and discharge all
31 reasonable expenses, costs, and disbursements in connection with the
32 execution and administration of this assignment from the proceeds of
33 such liquidations and collections.

34 The assignee shall then pay and discharge in full, to the extent
35 that funds are available in the estate after payment of administrative
36 expenses, costs, and disbursements, all of the debts and liabilities

1 now due from the assignor, including interest on such debts and
2 liabilities in full, according to their priority as established by law,
3 and on a pro rata basis within each class.

4 In the event that all debts and liabilities are paid in full, the
5 remainder of the estate shall be returned to the assignor.

6 To accomplish the purposes of this assignment, the assignor hereby
7 irrevocably appoints the assignee as the assignor's true and lawful
8 attorney in fact, with full power and authority to do all acts and
9 things which may be necessary to execute and fulfill the assignment
10 hereby created, to the same extent as such acts and things might be
11 done by assignor in the absence of this assignment, including but not
12 limited to the power to demand and recover from all persons all
13 property of the estate; to sue for the recovery of such property; to
14 execute, acknowledge, and deliver all necessary deeds, instruments, and
15 conveyances, and to grant and convey any or all of the real or personal
16 property of the estate pursuant thereto; and to appoint one or more
17 attorneys to assist the assignee in carrying out the assignee's duties
18 hereunder.

19 The assignor hereby authorizes the assignee to sign the name of the
20 assignor to any check, draft, promissory note, or other instrument in
21 writing which is payable to the order of the assignor, or to sign the
22 name of the assignor to any instrument in writing, whenever it shall be
23 necessary to do so, to carry out the purposes of this assignment.

24 The assignor declares, under penalty of perjury under the laws of
25 the state of Washington, that the attached list of creditors and of the
26 property of the assignor is true and complete to the best of the
27 assignor's knowledge.

28 The assignment shall be signed by the assignor and duly
29 acknowledged in the same manner as conveyances of real property before
30 a notary public of this state, and shall include an acceptance of the
31 assignment by the assignee in substantially the following form:

32 The assignee hereby accepts the trust created by the foregoing
33 assignment, and agrees faithfully and without delay to carry out the
34 assignee's duties under the foregoing assignment.

1

2 Assignor Assignee

3 Dated: Dated:

4 (2) The assignor shall annex to such assignment schedules in the
5 form provided for by section 11(3) of this act in the case of general
6 receiverships, setting forth the creditors and the property of the
7 assignor.

8 (3) Every assignment shall be effective when a petition to appoint
9 the assignee as receiver has been filed by the assignor, by the
10 assignee, or by any creditor of the assignor with the clerk of the
11 superior court in the county of the assignor's residence if the
12 assignor is an individual or a marital community, or in the county of
13 the assignor's principal place of business or registered office within
14 this state if the assignor is any other person. A petition shall set
15 forth the name and address of the assignor and the name and address of
16 the assignee, and shall include a copy of the assignment and the
17 schedules affixed thereto, and a request that the court fix the amount
18 of the receiver's bond to be filed with the clerk of the court.

19 (4) A person to whom a general assignment of property for the
20 benefit of creditors has been made shall be appointed as general
21 receiver with respect to the assignor's property by the superior court
22 upon the filing of a petition under subsection (3) of this section.
23 Except as provided for by subsection (5) of this section, following the
24 assignee's appointment as general receiver, all proceedings involving
25 the administration of the assignor's property and the claims of the
26 assignee's creditors shall be governed by the provisions of chapter
27 7.60 RCW applicable to general receiverships and court rules applicable
28 thereto.

29 (5) Upon ((the application)) motion of two or more creditors of
30 ((said debtor therefor, by petition to the judge of the superior court
31 of the county in which such assignment is or should be recorded,)) the
32 assignor served and filed at any time within thirty days ((from the
33 making or recording of such assignment)) following the date upon which
34 notice is mailed to all known creditors under section 22 of this act,
35 it shall be the duty of ((said superior judge)) the court to direct the
36 clerk of ((said superior)) the court to order a meeting of the

1 creditors of ~~((said debtors))~~ the assignor, to ~~((choose an assignee of~~
2 ~~the estate of said debtor in lieu of))~~ determine whether a person other
3 than the assignee named ~~((by the debtor in his))~~ in the assignment
4 should be appointed as general receiver with respect to the property of
5 the assignor; and thereupon the clerk of ~~((said))~~ the court shall
6 ~~((forthwith))~~ immediately give notice to all the creditors ~~((of said~~
7 ~~debtor))~~ identified in the schedules affixed to the assignment to meet
8 at ~~((his))~~ the clerk's office or at such other location within the
9 county as the clerk may specify, at a time stated ~~((7))~~ not to exceed
10 fifteen days from the date of such notice, to ~~((select one or more~~
11 ~~assignees in the place of the assignee named by the debtor in his~~
12 ~~assignment))~~ determine whether a person other than the assignee named
13 in the assignment should be appointed as general receiver with respect
14 to the property of the assignor. ~~((Such))~~ The assignor's creditors may
15 appear in person or by proxy at the meeting, and a majority in both
16 number and value of ~~((said))~~ claims of the creditors attending ~~((such))~~
17 or represented at the meeting ~~((shall))~~ may select ~~((one or more~~
18 ~~assignees; and in the event that no one shall receive a majority vote~~
19 ~~of said creditors who represent at least one half in amount of all~~
20 ~~claims represented at such meeting, then, and in that event, said clerk~~
21 ~~shall certify that fact to the judge of the superior court aforesaid,~~
22 ~~and thereupon said superior judge shall select and appoint an assignee.~~

23 When such assignee shall have been selected by such creditors, or
24 appointed by the superior judge as herein provided, then the assignee
25 named in the debtor's assignment shall forthwith make to the assignee
26 elected by the creditors or appointed by the superior judge, an
27 assignment and conveyance of all the estate, real and personal, that
28 has been assigned or conveyed to him by said debtor; and such assignee
29 so elected by the creditors or appointed by the superior judge, upon
30 giving the bond required of an assignee by RCW 7.08.010 through
31 7.08.170, shall possess all the powers, and be subject to all the
32 duties imposed by RCW 7.08.010 through 7.08.170, as fully to all
33 intents and purposes as though named in the debtor's assignment.) a
34 person other than the assignee named in the assignment to serve as
35 general receiver with respect to the assignor's property, whereupon the
36 court shall appoint the selected person as receiver under subsection
37 (4) of this section if a receiver has not already been appointed, and
38 shall appoint the person to replace the original assignee as receiver

1 if the appointment already has been made, unless the court determines
2 upon good cause shown that the appointment as receiver of the person
3 selected by the creditors would not be in the best interests of
4 creditors in general, in which event the court shall appoint or
5 substitute as the receiver a person selected by the court other than
6 the original assignee. If at least one-third of the number or amount
7 of claims represented in person or by proxy at the meeting of creditors
8 vote for the appointment as receiver of a person or persons other than
9 the assignee named in the assignment, then the court upon motion of any
10 creditor served and filed within ten days following the meeting shall
11 appoint as receiver a person selected by the court other than the
12 original assignee, discharging the original assignee if the person
13 previously was appointed as receiver. A creditor may not vote at any
14 meeting of creditors called for the purpose of determining whether a
15 person other than the assignee named in the assignment should be
16 appointed as receiver, until the creditor has presented to the clerk,
17 who presides at the meeting, a proof of claim in accordance with
18 section 23 of this act.

19 (6) From the time ((of the pending of an application to elect an
20 assignee by the creditors, and until the time shall be terminated by an
21 election or appointment as herein provided)) a motion is made to elect
22 a new assignee in accordance with subsection (5) of this section, and
23 until either the meeting of creditors occurs without a selection of a
24 new assignee, or until the court enters an order appointing as receiver
25 a person other than the original assignee if the creditors vote to
26 select a new assignee at that meeting, no property of the ((debtor))
27 assignor, except perishable property, ((shall)) may be sold or disposed
28 of by ((any)) the assignee, whether or not the assignee has been
29 appointed as receiver; but the same shall be safely and securely kept
30 until ((the election or appointment of an assignee as herein provided.
31 No creditor shall be entitled to vote at any such meeting called for
32 the purpose of electing an assignee, until he shall have presented to
33 the clerk of the superior court, who shall preside at such meeting, a
34 verified statement of his claim against the debtor)) then.

35 **Sec. 38.** RCW 7.56.110 and Code 1881 s 712 are each amended to read
36 as follows:

37 If judgment be rendered against any corporation or against any

1 persons claiming to be a corporation, the court may cause the costs to
2 be collected by executions against the persons claiming to be a
3 corporation or by attachment against the directors or other officers of
4 the corporation, and shall restrain the corporation, (~~appoint a~~
5 ~~receiver of its property and effects,~~) take an account, and make a
6 distribution thereof among the creditors. The prosecuting attorney
7 shall immediately institute proceedings for that purpose.

8 **Sec. 39.** RCW 11.64.022 and 1989 c 373 s 15 are each amended to
9 read as follows:

10 If the surviving partner or partners fail or refuse to furnish an
11 inventory or list of liabilities, to permit an appraisal, or to account
12 to the personal representative, or to furnish a bond when required
13 pursuant to RCW 11.64.016, the court shall order a citation to issue
14 requiring the surviving partner or partners to appear and show cause
15 why they have not furnished an inventory list of liabilities, or
16 permitted an appraisal or why they should not account to the personal
17 representative or file a bond. The citation shall be served not less
18 than ten days before the return day designated therein, or such shorter
19 period as the court upon a showing of good cause deems appropriate. If
20 the surviving partner or partners neglect or refuse to file an
21 inventory or list of liabilities, or to permit an appraisal, or fail to
22 account to the court or to file a bond, after they have been directed
23 to do so, they may be punished for a contempt of court as provided in
24 chapter 7.21 RCW. Where the surviving partner or partners fail to file
25 a bond after being ordered to do so by the court, the court may also
26 appoint a receiver of the partnership estate (~~with like powers and~~
27 ~~duties of receivers in equity~~) under chapter 7.60 RCW, and may order
28 the costs and expenses of the proceedings to be paid out of the
29 partnership estate or out of the estate of the decedent, or by the
30 surviving partner or partners personally, or partly by each of the
31 parties.

32 **Sec. 40.** RCW 23B.14.320 and 1989 c 165 s 165 are each amended to
33 read as follows:

34 (1) A court in a judicial proceeding brought to dissolve a
35 corporation may appoint one or more receivers to wind up and liquidate,
36 or one or more custodians to manage, the business and affairs of the

1 corporation. The court shall hold a hearing, after notifying all
2 parties to the proceeding and any interested persons designated by the
3 court, before appointing a receiver or custodian. ((The court
4 appointing a receiver or custodian has exclusive jurisdiction over the
5 corporation and all of its property wherever located.))

6 (2) The court may appoint an individual or a domestic or foreign
7 corporation, authorized to transact business in this state, as a
8 receiver or custodian. The court may require the receiver or custodian
9 to post bond, with or without sureties, in an amount the court directs.

10 (3) The ((court shall describe the powers and duties of the
11 receiver or custodian in its appointing order, which may be amended
12 from time to time. Among other powers:

13 (a) The receiver (i) may dispose of all or any part of the assets
14 of the corporation wherever located, at a public or private sale, if
15 authorized by the court, and (ii) may sue and defend in the receiver's
16 own name as receiver of the corporation in all courts of this state;
17 and

18 (b) The)) receiver or custodian may exercise all of the powers of
19 the corporation, through or in place of its board of directors or
20 officers, to the extent necessary to manage the affairs of the
21 corporation in the best interests of its shareholders and creditors.

22 (4) The court, during a receivership, may redesignate the receiver
23 a custodian, and during a custodianship may redesignate the custodian
24 a receiver, if doing so is in the best interests of the corporation,
25 its shareholders, and creditors.

26 (5) The court from time to time during the receivership or
27 custodianship may order compensation paid and expense disbursements or
28 reimbursements made to the receiver or custodian and counsel from the
29 assets of the corporation or proceeds from the sale of the assets.

30 **Sec. 41.** RCW 24.06.305 and 1969 ex.s. c 120 s 61 are each amended
31 to read as follows:

32 (1) In proceedings to liquidate the assets and affairs of a
33 corporation the court shall have the power to:

34 (a) Issue injunctions;

35 (b) Appoint a receiver or receivers pendente lite, with such powers
36 and duties as the court may, from time to time, direct;

1 (c) Take such other proceedings as may be requisite to preserve the
2 corporate assets wherever situated; and

3 (d) Carry on the affairs of the corporation until a full hearing
4 can be had.

5 After a hearing had upon such notice as the court may direct to be
6 given to all parties to the proceedings, and to any other parties in
7 interest designated by the court, the court may appoint a receiver
8 ~~((with authority to collect the assets of the corporation. Such
9 receiver shall have authority, subject to the order of the court, to
10 sell, convey and dispose of all or any part of the assets of the
11 corporation wherever situated, either at public or private sale. The
12 order appointing such receiver shall state his powers and duties. Such
13 powers and duties may be increased or diminished at any time during the
14 proceedings))~~.

15 (2) The assets of the corporation or the proceeds resulting from
16 the sale, conveyance, or other disposition thereof shall be applied and
17 distributed as follows:

18 (a) All costs and expenses of the court proceedings, and all
19 liabilities and obligations of the corporation shall be paid, satisfied
20 and discharged, or adequate provision made therefor;

21 (b) Assets held by the corporation upon condition requiring return,
22 transfer, or conveyance, which condition occurs by reason of the
23 dissolution or liquidation, shall be returned, transferred, or conveyed
24 in accordance with such requirements;

25 (c) Remaining assets, if any, shall be distributed to the members,
26 shareholders, or others in accordance with the provisions of the
27 articles of incorporation.

28 (3) The court shall have power to make periodic allowances, as
29 expenses of the liquidation and compensation to the receivers and
30 attorneys in the proceeding accrue, and to direct the payment thereof
31 from the assets of the corporation or from the proceeds of any sale or
32 disposition of such assets.

33 ~~((A receiver appointed under the provisions of this section shall
34 have authority to sue and defend in all courts in his own name, as
35 receiver of such corporation. The court appointing such receiver shall
36 have exclusive jurisdiction of the corporation and its property,
37 wherever situated.))~~

1 NEW SECTION. **Sec. 42.** A new section is added to chapter 31.12 RCW
2 to read as follows:

3 Except in cases in which a receiver is appointed by a court on a
4 temporary basis under RCW 31.12.721, the provisions of Title 7 RCW
5 generally applicable to receivers and receiverships do not apply to
6 receivers elected or appointed under this chapter.

7 NEW SECTION. **Sec. 43.** A new section is added to chapter 35.07 RCW
8 to read as follows:

9 The provisions of Title 7 RCW generally applicable to receivers and
10 receiverships do not apply to receivers elected or appointed under this
11 chapter.

12 NEW SECTION. **Sec. 44.** A new section is added to chapter 35A.15
13 RCW to read as follows:

14 The provisions of Title 7 RCW generally applicable to receivers and
15 receiverships do not apply to receivers elected or appointed under this
16 chapter.

17 **Sec. 45.** RCW 87.56.065 and 1925 ex.s. c 124 s 7 are each amended
18 to read as follows:

19 At the time and place fixed in (~~said~~) the notice the court shall
20 hear the objections of interested persons and shall determine whether
21 the district is insolvent within the provisions of this chapter and
22 whether the district shall be dissolved. If the court concludes that
23 the district shall not dissolve, (~~he~~) the court shall so find and
24 dismiss the action. If the court concludes that the district should be
25 dissolved, (~~he~~) the court shall appoint a receiver (~~with bond~~
26 ~~conditioned for faithful performance of his duties in such sum as the~~
27 ~~court shall determine,~~) to take charge of the district assets and to
28 perform such other duties as may be required by the court or by law.

29 **Sec. 46.** RCW 87.56.100 and 1925 ex.s. c 124 s 12 are each amended
30 to read as follows:

31 If the owner or holder of a claim of indebtedness against the
32 district not yet due or matured (~~shall be entitled to serve upon the~~
33 ~~receiver and file a statement of his claim with the clerk of the court,~~
34 ~~as in the case of due and matured indebtedness, and the filing of such~~

1 ~~claim shall constitute an election on the part of the claimant~~
2 ~~authorizing the court in its discretion to accelerate the maturity of~~
3 ~~said indebtedness)) files a claim in any case in which a receiver is~~
4 ~~appointed under RCW 87.56.065, the maturity of the indebtedness owing~~
5 ~~to the person by the district shall be accelerated to such date as the~~
6 court shall determine upon.

7 NEW SECTION. **Sec. 47.** The following acts or parts of acts are
8 each repealed:

- 9 (1) RCW 4.28.081 (Summons, how served--When corporation in hands of
10 receiver) and 1897 c 97 s 1;
- 11 (2) RCW 6.25.200 (Appointment of receiver for property) and 1987 c
12 442 s 820, 1957 c 9 s 9, & 1886 p 42 s 15;
- 13 (3) RCW 6.32.290 (Appointment of receiver--Notice) and 1893 c 133
14 s 28;
- 15 (4) RCW 6.32.300 (Effect on pending supplemental proceedings) and
16 1893 c 133 s 29;
- 17 (5) RCW 6.32.310 (Only one receiver may be appointed--Extending
18 receivership) and 1893 c 133 s 30;
- 19 (6) RCW 6.32.320 (Order, where to be filed) and 1893 c 133 s 31;
- 20 (7) RCW 6.32.330 (Property vested in receiver) and 1893 c 133 s 32;
- 21 (8) RCW 6.32.340 (Receiver's title extends back by relation) and
22 1893 c 133 s 33;
- 23 (9) RCW 6.32.350 (Records to be kept by clerk) and 2002 c 30 s 2 &
24 1893 c 133 s 34;
- 25 (10) RCW 7.08.020 (Assent of creditors presumed) and 1890 p 83 s 2;
- 26 (11) RCW 7.08.050 (Inventory by assignee--Bond) and 1890 p 85 s 4;
- 27 (12) RCW 7.08.060 (Notice to creditors) and 1890 p 85 s 5;
- 28 (13) RCW 7.08.070 (List of creditors' claims) and 1890 p 85 s 6;
- 29 (14) RCW 7.08.080 (Exceptions to claims) and 1957 c 9 s 7 & 1890 p
30 85 s 7;
- 31 (15) RCW 7.08.090 (Dividends--Final account--Compensation) and 1893
32 c 26 s 1 & 1890 p 86 s 8;
- 33 (16) RCW 7.08.100 (Assignee subject to court's control) and 1890 p
34 86 s 9;
- 35 (17) RCW 7.08.110 (Assignment not void, when) and 1957 c 9 s 8 &
36 1890 p 86 s 10;
- 37 (18) RCW 7.08.120 (Additional inventory) and 1890 p 86 s 11;

1 (19) RCW 7.08.130 (Procedure on claims not due--Limitation on
2 presentment of claims) and 1890 p 86 s 12;
3 (20) RCW 7.08.140 (Authority of assignee to dispose of assets) and
4 1890 p 87 s 13;
5 (21) RCW 7.08.150 (Procedure when assignee dies, fails to act,
6 misapplies estate, or if bond insufficient) and 1890 p 87 s 14;
7 (22) RCW 7.08.170 (Discharge of assignor) and 1895 c 151 s 1 & 1890
8 p 88 s 15;
9 (23) RCW 7.08.180 (Sheriff disqualified from acting) and 1893 c 137
10 s 1;
11 (24) RCW 7.08.190 (Right of assignor to exemption) and 1897 c 6 s
12 1;
13 (25) RCW 7.08.200 (Exemption, how claimed--Objections) and 1897 c
14 6 s 2;
15 (26) RCW 7.60.010 (Receiver defined) and 1891 c 52 s 1;
16 (27) RCW 7.60.020 (Grounds for appointment) and 1998 c 295 s 18,
17 1937 c 47 s 1, Code 1881 s 193, 1877 p 40 s 197, 1869 p 48 s 196, &
18 1854 p 162 s 171;
19 (28) RCW 7.60.030 (Oath--Bond) and Code 1881 s 194, 1877 p 41 s
20 198, 1869 p 48 s 198, & 1854 p 162 s 173;
21 (29) RCW 7.60.040 (Powers of receiver) and Code 1881 s 198, 1877 p
22 41 s 202, 1869 p 49 s 202, & 1854 p 163 s 177;
23 (30) RCW 7.60.050 (Order when part of claim admitted) and Code 1881
24 s 199, 1877 p 41 s 203, 1869 p 49 s 203, & 1854 p 163 s 178;
25 (31) RCW 23.72.010 (Definitions) and 1959 c 219 s 1 & 1941 c 103 s
26 1;
27 (32) RCW 23.72.020 (Action to recover--Limitation) and 1941 c 103
28 s 2;
29 (33) RCW 23.72.030 (Preference voidable, when--Recovery) and 1959
30 c 219 s 2 & 1941 c 103 s 3;
31 (34) RCW 23.72.040 (Mutual debts and credits) and 1941 c 103 s 4;
32 (35) RCW 23.72.050 (Attorney's fees--Reexamination) and 1941 c 103
33 s 5;
34 (36) RCW 23.72.060 (Setoffs and counterclaims) and 1941 c 103 s 6;
35 (37) RCW 24.03.275 (Qualification of receivers--Bond) and 1967 c
36 235 s 56;
37 (38) RCW 24.03.280 (Filing of claims in liquidation proceedings)
38 and 1967 c 235 s 57;

1 (39) RCW 24.03.285 (Discontinuance of liquidation proceedings) and
2 1967 c 235 s 58;
3 (40) RCW 24.03.310 (Powers of foreign corporation) and 1967 c 235
4 s 63;
5 (41) RCW 24.03.315 (Corporate name of foreign corporation--
6 Fictitious name) and 1982 c 35 s 98 & 1967 c 235 s 64;
7 (42) RCW 24.03.320 (Change of name by foreign corporation) and 1986
8 c 240 s 44 & 1967 c 235 s 65;
9 (43) RCW 87.56.070 (Qualifications, duties, compensation of
10 receiver) and 1925 ex.s. c 124 s 8;
11 (44) RCW 87.56.080 (Notice to creditors) and 1985 c 469 s 93 & 1925
12 ex.s. c 124 s 9;
13 (45) RCW 87.56.085 (Notice to creditors--Contents) and 1925 ex.s.
14 c 124 s 10;
15 (46) RCW 87.56.090 (Unfiled claims barred--Effect of not filing
16 claim of bond lien) and 1925 ex.s. c 124 s 11;
17 (47) RCW 87.56.110 (Collection and disbursement of funds) and 1925
18 ex.s. c 124 s 13;
19 (48) RCW 87.56.120 (Receiver's report--Plan of liquidation) and
20 1925 ex.s. c 124 s 14;
21 (49) RCW 87.56.130 (Time for hearing receiver's report to be
22 fixed--Notice) and 1985 c 469 s 94 & 1925 ex.s. c 124 s 15;
23 (50) RCW 87.56.135 (Time for hearing receiver's report to be
24 fixed--Contents) and 1925 ex.s. c 124 s 16;
25 (51) RCW 87.56.140 (Objections to report) and 1925 ex.s. c 124 s
26 17;
27 (52) RCW 87.56.145 (Objections to report--Fee) and 1925 ex.s. c 124
28 s 18;
29 (53) RCW 87.56.150 (Hearing--Court's powers and duties) and 1925
30 ex.s. c 124 s 19; and
31 (54) RCW 87.56.155 (Decree--Plan of liquidation) and 1925 ex.s. c
32 124 s 20.

33 NEW SECTION. **Sec. 48.** Captions used in this act are not part of
34 the law.

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