

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6189

58th Legislature
2004 Regular Session

Passed by the Senate March 10, 2004
YEAS 49 NAYS 0

President of the Senate

Passed by the House March 5, 2004
YEAS 95 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 6189 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6189

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Esser and Roach)

READ FIRST TIME 02/05/04.

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 trust fund
12 taxes or property of an individual person exempt from execution under
13 the laws of this state. Estate property includes any nonexempt
14 interest in property that is partially exempt, including fee title to
15 property subject to a 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 notice and
32 opportunity for a hearing.

33 (8) "Person" means an individual, corporation, limited liability
34 company, general partnership, limited partnership, limited liability
35 partnership, association, governmental entity, or other entity, of any
36 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 or trust fund taxes.

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

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) Under and subject to RCW 31.12.637 and 31.12.671 through
4 31.12.724, in 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, 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, or under RCW 19.230.230 in actions to enforce
12 chapter 19.230 RCW applicable to persons licensed under the uniform
13 money services act;

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

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

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

24 (cc) As contemplated by RCW 61.24.030, with respect to real
25 property that is the subject of nonjudicial foreclosure proceedings
26 under chapter 61.24 RCW;

27 (dd) As contemplated by RCW 61.30.030(3), with respect to real
28 property that is the subject of judicial or nonjudicial forfeiture
29 proceedings under chapter 61.30 RCW;

30 (ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien
31 for common expenses against a dwelling unit subject to the horizontal
32 property regimes act, chapter 64.32 RCW;

33 (ff) Under RCW 64.34.364(10), in an action by a unit owners'
34 association to foreclose a lien for nonpayment of delinquent
35 assessments against condominium units;

36 (gg) Upon application of the attorney general under RCW
37 64.36.220(3), in aid of any writ or order restraining or enjoining
38 violations of chapter 64.36 RCW applicable to timeshares;

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

4 (ii) Upon the application of the department of social and health
5 services under RCW 74.42.580, in cases involving nursing homes;

6 (jj) Upon the application of the utilities and transportation
7 commission under RCW 80.28.040, with respect to a water company that
8 has failed to comply with an order of such commission within the time
9 deadline specified therein;

10 (kk) Under RCW 87.56.065, in connection with the dissolution of an
11 irrigation district;

12 (ll) Upon application of the attorney general or the department of
13 licensing, in any proceeding that either of them are authorized by
14 statute to bring to enforce Title 18 or 19 RCW; the securities act of
15 Washington, chapter 21.20 RCW; the Washington commodities act, chapter
16 21.30 RCW; the land development act, chapter 58.19 RCW; or under
17 chapter 64.36 RCW relating to the regulation of timeshares;

18 (mm) Upon application of the director of financial institutions in
19 any proceeding that the director of financial institutions is
20 authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

21 (nn) In such other cases as may be provided for by law, or when, in
22 the discretion of the court, it may be necessary to secure ample
23 justice to the parties.

24 (2) The superior courts of this state shall appoint as receiver of
25 property located in this state a person who has been appointed by a
26 federal or state court located elsewhere as receiver with respect to
27 the property specifically or with respect to the owner's property
28 generally, upon the application of the person or of any party to that
29 foreign proceeding, and following the appointment shall give effect to
30 orders, judgments, and decrees of the foreign court affecting the
31 property in this state held by the receiver, unless the court
32 determines that to do so would be manifestly unjust or inequitable.
33 The venue of such a proceeding may be any county in which the person
34 resides or maintains any office, or any county in which any property
35 over which the receiver is to be appointed is located at the time the
36 proceeding is commenced.

37 (3) At least seven days' notice of any application for the
38 appointment of a receiver shall be given to the owner of property to be

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

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

19 (5) The court may condition the appointment of a receiver upon the
20 giving of security by the person seeking the receiver's appointment, in
21 such amount as the court may specify, for the payment of costs and
22 damages incurred or suffered by any person should it later be
23 determined that the appointment of the receiver was wrongfully
24 obtained.

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

27 ELIGIBILITY TO SERVE AS RECEIVER. Except as provided in this
28 chapter or otherwise by statute, any person, whether or not a resident
29 of this state, may serve as a receiver, with the exception that a
30 person may not be appointed as a receiver, and shall be replaced as
31 receiver if already appointed, if it should appear to the court that
32 the person:

33 (1) Has been convicted of a felony or other crime involving moral
34 turpitude or is controlled by a person who has been convicted of a
35 felony or other crime involving moral turpitude;

36 (2) Is a party to the action, or is a parent, grandparent, child,
37 grandchild, sibling, partner, director, officer, agent, attorney,

1 employee, secured or unsecured creditor or lienor of, or holder of any
2 equity interest in, or controls or is controlled by, the person whose
3 property is to be held by the receiver, or who is the agent or attorney
4 of any disqualified person;

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

7 (4) Is the sheriff of any county.

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

10 RECEIVER'S BOND. Except as otherwise provided for by statute or
11 court rule, before entering upon duties of receiver, a receiver shall
12 execute a bond with one or more sureties approved by the court, in the
13 amount the court specifies, conditioned that the receiver will
14 faithfully discharge the duties of receiver in accordance with orders
15 of the court and state law. Unless otherwise ordered by the court, the
16 receiver's bond runs in favor of all persons having an interest in the
17 receivership proceeding or property held by the receiver and in favor
18 of state agencies. The receiver's bond must provide substantially as
19 follows:

20 [Case Caption]

21 RECEIVER'S BOND

22 TO WHOM IT MAY CONCERN:

23 KNOW ALL BY THESE PRESENTS, that, as
24 Principal, and, as Surety, are held and firmly
25 bound in the amount of Dollars
26 (\$) for the faithful performance by Principal
27 of the Principal's duties as receiver with respect to property
28 of in accordance with order(s) of such court
29 previously or hereafter entered in the above-captioned
30 proceeding and state law. If the Principal faithfully
31 discharges the duties of receiver in accordance with such
32 orders, this obligation shall be void, but otherwise it will
33 remain in full force and effect.

34 Dated this . . . day of,
35

1 [Signature of Receiver]

2

3 [Signature of Surety]

4 The court, in lieu of a bond, may approve the posting of alternative
5 security, such as a letter of credit or a deposit of funds with the
6 clerk of the court, to be held by the clerk to secure the receiver's
7 faithful performance of the receiver's duties in accordance with orders
8 of the court and state law until the court authorizes the release or
9 return of the deposited sums. No part of the property over which the
10 receiver is appointed may be used in making the deposit; however, any
11 interest that may accrue on a deposit ordered by the court shall be
12 remitted to the receiver upon the receiver's discharge. A claim
13 against the bond shall be made within one year from the date the
14 receiver is discharged. Claims by state agencies against the bond
15 shall have priority.

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

18 POWERS OF THE COURT. Except as otherwise provided for by this
19 chapter, the court in all cases has exclusive authority over the
20 receiver, and the exclusive possession and right of control with
21 respect to all real property and all tangible and intangible personal
22 property with respect to which the receiver is appointed, wherever
23 located, and the exclusive jurisdiction to determine all controversies
24 relating to the collection, preservation, application, and distribution
25 of all the property, and all claims against the receiver arising out of
26 the exercise of the receiver's powers or the performance of the
27 receiver's duties. However, the court does not have exclusive
28 jurisdiction over actions in which a state agency is a party and in
29 which a statute expressly vests jurisdiction or venue elsewhere.

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

32 POWERS AND DUTIES OF RECEIVER GENERALLY. (1) A receiver has the
33 following powers and authority in addition to those specifically
34 conferred by this chapter or otherwise by statute, court rule, or court
35 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. However, the court shall not transfer actions in which both a
33 state agency is a party and as to which a statute expressly vests
34 jurisdiction or venue elsewhere. This power is exercisable with court
35 approval in the case of a liquidating receiver, and with or without
36 court approval in the case of a general receiver;

37 (e) The power to assert rights, claims, or choses in action of the

1 receiver arising out of transactions in which the receiver is a
2 participant;

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

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

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

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

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

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

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

27 (b) The duty to comply with state law;

28 (c) If the receiver is appointed with respect to any real property,
29 the duty to file with the auditor of the county in which the real
30 property is located, or the registrar of lands in accordance with RCW
31 65.12.600 in the case of registered lands, a certified copy of the
32 order of appointment, together with a legal description of the real
33 property if one is not included in that order; and

34 (d) Other duties as the receiver may be directed to perform by the
35 court or as may be provided for by statute or rule.

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

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

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

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

17 DUTIES OF PERSON OVER WHOSE PROPERTY THE RECEIVER IS APPOINTED.
18 The person over whose property the receiver is appointed shall:

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

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

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

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

35 When the person over whose property the receiver is appointed is an
36 entity, each of the officers, directors, managers, members, partners,

1 or other individuals exercising or having the power to exercise control
2 over the affairs of the entity are subject to the requirements of this
3 section.

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

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

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

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

26 SCHEDULE A--CREDITOR LIST

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

28 Name Address Amount Collateral Whether or not disputed

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

30 Name Address Amount Whether or not disputed

31 3. List all consumer deposits owed, showing:

32 Name Address Amount Whether or not disputed

33 4. List all taxes owed, showing:

34 Name Address Amount Whether or not disputed

- 1 5. List all unsecured claims, showing:
- | | | | | |
|---|------|---------|--------|-------------------------|
| 2 | Name | Address | Amount | Whether or not disputed |
|---|------|---------|--------|-------------------------|
- 3 6. List all owners or shareholders, showing:
- | | | | |
|---|------|---------|-------------------------|
| 4 | Name | Address | Percentage of Ownership |
|---|------|---------|-------------------------|
- 5 7. List all applicable regulatory agencies, showing:
- | | | |
|---|------|---------|
| 6 | Name | Address |
|---|------|---------|

7

SCHEDULE B--LIST OF PROPERTY

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

10 I. Nonexempt Property

| | | |
|----|--------------|------------------------------------|
| 11 | Description | Liquidation Value on Date of |
| 12 | and Location | Assignment/Appointment of Receiver |

- 13 1. Legal Description and
 14 street address of real
 15 property, including
 16 leasehold interests:
- 17 2. Fixtures:
- 18 3. Cash and bank
 19 accounts:
- 20 4. Inventory:
- 21 5. Accounts receivable:
- 22 6. Equipment:
- 23 7. Prepaid expenses,
 24 including deposits,
 25 insurance, rents, and
 26 utilities:
- 27 8. Other, including loans
 28 to third parties,
 29 claims, and choses in
 30 action:

31 II. Exempt Property

| | | |
|----|--------------|------------------------------------|
| 32 | Description | Liquidation Value on Date of |
| 33 | and Location | Assignment/Appointment of Receiver |

1 I DECLARE under penalty of perjury under the laws of the state of Washington that the foregoing is true, correct,
2 and complete to the best of my knowledge. DATED this ... day of,, at, state of,
3

4 [SIGNATURE]

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

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

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

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

15 RECEIVER'S REPORTS. A general receiver shall file with the court
16 a monthly report of the receiver's operations and financial affairs
17 unless otherwise ordered by the court. Except as otherwise ordered by
18 the court, each report of a general receiver shall be due by the last
19 day of the subsequent month and shall include the following:

- 20 (1) A balance sheet;
21 (2) A statement of income and expenses;
22 (3) A statement of cash receipts and disbursements;
23 (4) A statement of accrued accounts receivable of the receiver.
24 The statement shall disclose amounts considered to be uncollectable;

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

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

32 A custodial receiver shall file with the court all such reports the
33 court may require.

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

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

5 (a) The commencement or continuation, including the issuance or
6 employment of process, of a judicial, administrative, or other action
7 or proceeding against the person over whose property the receiver is
8 appointed that was or could have been commenced before the entry of the
9 order of appointment, or to recover a claim against the person that
10 arose before the entry of the order of appointment;

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

14 (c) Any act to obtain possession of estate property from the
15 receiver, or to interfere with, or exercise control over, estate
16 property;

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

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

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

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

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

1 (b) The commencement or continuation of an action or proceeding to
2 establish paternity, or to establish or modify an order for alimony,
3 maintenance, or support, or to collect alimony, maintenance, or support
4 under any order of a court;

5 (c) Any act to perfect, or to maintain or continue the perfection
6 of, an interest in estate property if the interest perfected would be
7 effective against a creditor of the person over whose property the
8 receiver is appointed holding at the time of the entry of the order of
9 appointment either a perfected nonpurchase money security interest
10 under chapter 62A.9A RCW against the property involved, or a lien by
11 attachment, levy, or the like, whether or not such a creditor exists.
12 If perfection of an interest would require seizure of the property
13 involved or the commencement of an action, the perfection shall instead
14 be accomplished by filing, and by serving upon the receiver, or
15 receiver's counsel, if any, notice of the interest within the time
16 fixed by law for seizure or commencement;

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

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

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

1 (g) The establishment by a governmental unit of any tax liability
2 and any appeal thereof.

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

5 UTILITY SERVICE. A utility providing service to estate property
6 may not alter, refuse, or discontinue service to the property without
7 first giving the receiver fifteen days' notice of any default or
8 intention to alter, refuse, or discontinue service to estate property.
9 This section does not prohibit the court, upon motion by the receiver,
10 to prohibit the alteration or cessation of utility service if the
11 receiver can furnish adequate assurance of payment, in the form of
12 deposit or other security, for service to be provided after entry of
13 the order appointing the receiver.

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

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

29 (2) Any obligation or liability incurred by a general receiver on
30 account of the receiver's assumption of an executory contract or
31 unexpired lease shall be treated as an expense of the receivership. A
32 general receiver's rejection of an executory contract or unexpired
33 lease shall be treated as a breach of the contract or lease occurring
34 immediately prior to the receiver's appointment; and the receiver's
35 right to possess or use property pursuant to any executory contract or
36 lease shall terminate upon rejection of the contract or lease. The

1 other party to an executory contract or unexpired lease that is
2 rejected by a general receiver may take such steps as may be necessary
3 under applicable law to terminate or cancel the contract or lease. The
4 claim of a party to an executory contract or unexpired lease resulting
5 from a general receiver's rejection of it shall be served upon the
6 receiver in the manner provided for by section 23 of this act within
7 thirty days following the rejection.

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

15 (4) A general receiver may not assume an executory contract or
16 unexpired lease of the person over whose property the receiver is
17 appointed without the consent of the other party to the contract or
18 lease if:

19 (a) Applicable law would excuse a party, other than the person over
20 whose property the receiver is appointed, from accepting performance
21 from or rendering performance to anyone other than the person even in
22 the absence of any provisions in the contract or lease expressly
23 restricting or prohibiting an assignment of the person's rights or the
24 performance of the person's duties;

25 (b) The contract or lease is a contract to make a loan or extend
26 credit or financial accommodations to or for the benefit of the person
27 over whose property the receiver is appointed, or to issue a security
28 of the person; or

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

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

34 (6) If the receiver rejects an executory contract or unexpired
35 lease for:

36 (a) The sale of real property under which the person over whose
37 property the receiver is appointed is the seller and the purchaser is
38 in possession of the real property;

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

3 (c) The license of intellectual property rights under which the
4 person over whose property the receiver is appointed is the licensor;
5 or

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

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

29 (7) Any contract with the state shall be deemed rejected if not
30 assumed within sixty days of appointment of a general receiver unless
31 the receiver and state agency agree to its assumption.

32 (8) Nothing in this chapter affects the enforceability of
33 antiassignment prohibitions provided under contract or applicable law.

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

36 RECEIVERSHIP FINANCING. (1) If a receiver is authorized to operate
37 the business of a person or manage a person's property, the receiver

1 may obtain unsecured credit and incur unsecured debt in the ordinary
2 course of business allowable under section 25(1)(a) of this act as an
3 administrative expense of the receiver without order of the court.

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

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

11 ABANDONMENT OF PROPERTY. The receiver, or any party in interest,
12 upon order of the court following notice and a hearing, and upon the
13 conditions or terms the court considers just and proper, may abandon
14 any estate property that is burdensome to the receiver or is of
15 inconsequential value or benefit. However, a receiver may not abandon
16 property that is a hazard or potential hazard to the public in
17 contravention of a state statute or rule that is reasonably designed to
18 protect the public health or safety from identified hazards, including
19 but not limited to chapters 70.105 and 70.105D RCW. Property that is
20 abandoned no longer constitutes estate property.

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

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

31 (2) Litigation by or against a receiver is adjunct to the
32 receivership case. The clerk of the court shall assign a cause number
33 that reflects the relationship of any litigation to the receivership
34 case. All pleadings in adjunct litigation shall include the cause
35 number of the receivership case as well as the adjunct litigation

1 number assigned by the clerk of the court. All adjunct litigation
2 shall be referred to the judge, if any, assigned to the receivership
3 case.

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

9 (4) Venue for adjunct litigation by or against the receiver shall
10 lie in the court in which the receivership is pending, if the courts of
11 this state have jurisdiction over the cause. Actions in other courts
12 in this state shall be transferred to the court upon the receiver's
13 filing of a motion for change of venue, provided that the receiver
14 files the motion within thirty days following service of original
15 process upon the receiver. However, actions in other courts or forums
16 in which a state agency is a party shall not be transferred on request
17 of the receiver absent consent of the affected state agency or grounds
18 provided under other applicable law.

19 (5) Action by or against a receiver does not abate by reason of
20 death or resignation of the receiver, but continues against the
21 successor receiver or against the entity in receivership, if a
22 successor receiver is not appointed.

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

28 (7) A judgment against a general receiver is not a lien on the
29 property or funds of the receivership, nor shall any execution issue
30 thereon, but upon entry of the judgment in the court in which a general
31 receivership is pending, or upon filing in a general receivership of a
32 certified copy of the judgment from another jurisdiction, the judgment
33 shall be treated as an allowed claim in the receivership. A judgment
34 against a custodial receiver shall be treated and has the same effect
35 as a judgment against the person over whose property the receiver is
36 appointed, except that the judgment is not enforceable against estate
37 property unless otherwise ordered by the court upon notice and a
38 hearing.

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

3 PERSONAL LIABILITY OF RECEIVER. (1)(a) The receiver is personally
4 liable to the person over whose property the receiver is appointed or
5 its record or beneficial owners, or to the estate, for loss or
6 diminution in value of or damage to estate property, only if (i) the
7 loss or damage is caused by a failure on the part of the receiver to
8 comply with an order of the court, or (ii) the loss or damage is caused
9 by an act or omission for which members of a board of directors of a
10 business corporation organized and existing under the laws of this
11 state who vote to approve the act or omission are liable to the
12 corporation in cases in which the liability of directors is limited to
13 the maximum extent permitted by RCW 23B.08.320.

14 (b) A general receiver is personally liable to state agencies for
15 failure to remit sales tax collected after appointment. A custodial
16 receiver is personally liable to state agencies for failure to remit
17 sales tax collected after appointment with regard to assets
18 administered by the receiver.

19 (2) The receiver has no personal liability to a person other than
20 the person over whose property the receiver is appointed or its record
21 or beneficial owners for any loss or damage occasioned by the
22 receiver's performance of the duties imposed by the appointment, or out
23 of the receiver's authorized operation of any business of a person,
24 except loss or damage occasioned by fraud on the part of the receiver,
25 by acts intended by the receiver to cause loss or damage to the
26 specific claimant, or by acts or omissions for which an officer of a
27 business corporation organized and existing under the laws of this
28 state are liable to the claimant under the same circumstances.

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

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

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

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

6 (2) A person is not disqualified for employment under this section
7 solely because of the person's employment by, representation of, or
8 other relationship with a creditor or other party in interest, if the
9 relationship is disclosed in the application for the person's
10 employment and if the court determines that there is no actual conflict
11 of interest or inappropriate appearance of a conflict.

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

15 (4) The receiver, and any professionals employed by the receiver,
16 is permitted to file an itemized billing statement with the court
17 indicating both the time spent, billing rates of all who perform work
18 to be compensated, and a detailed list of expenses and serve copies on
19 any person who has been joined as a party in the action, or any person
20 requesting the same, advising that unless objections are filed with the
21 court, the receiver may make the payments specified in the notice. If
22 an objection is filed, the receiver or professional whose compensation
23 is affected may request the court to hold a hearing on the objection on
24 five days' notice to the persons who have filed objections. If the
25 receiver is a custodial receiver appointed in aid of foreclosure,
26 payment of fees and expenses may be allowed upon the stipulation of any
27 creditor holding a security interest in the property for whose benefit
28 the receiver is appointed.

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

31 PARTICIPATION OF CREDITORS AND PARTIES IN INTEREST IN RECEIVERSHIP
32 PROCEEDING--EFFECT OF COURT ORDERS ON NONPARTIES. (1) Creditors and
33 parties in interest to whom written notice of the pendency of the
34 receivership is given in accordance with section 23 of this act, and
35 creditors or other persons submitting written claims in the
36 receivership or otherwise appearing and participating in the

1 receivership, are bound by the acts of the receiver with regard to
2 management and disposition of estate property whether or not they are
3 formally joined as parties.

4 (2) Any person having a claim against or interest in any estate
5 property or in the receivership proceedings may appear in the
6 receivership, either in person or by an attorney. Appearance must be
7 made by filing a written notice of appearance, including the name and
8 mailing address of the party in interest, and the name and address of
9 the person's attorney, if any, with the clerk, and by serving a copy of
10 the notice upon the receiver and the receiver's attorney of record, if
11 any. The receiver shall maintain a master mailing list of all persons
12 joined as parties in the receivership and of all persons serving and
13 filing notices of appearance in the receivership in accordance with
14 this section. A creditor or other party in interest has a right to be
15 heard with respect to all matters affecting the person, whether or not
16 the person is joined as a party to the action.

17 (3) Any request for relief against a state agency shall be mailed
18 to or otherwise served on the agency and on the office of the attorney
19 general.

20 (4) Orders of the court with respect to the treatment of claims and
21 disposition of estate property, including but not limited to orders
22 providing for sales of property free and clear of liens, are effective
23 as to any person having a claim against or interest in the receivership
24 estate and who has actual knowledge of the receivership, whether or not
25 the person receives written notice from the receiver and whether or not
26 the person appears or participates in the receivership.

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

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

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

35 (b) Abandonment, disposition, or distribution of estate property,
36 other than an emergency disposition of perishable property or a
37 disposition of property in the ordinary course of business;

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

3 (d) Compensation of the receiver or any professional employed by
4 the receiver; or

5 (e) Application for termination of the receivership or discharge of
6 the receiver. Notice of the application shall also be sent to state
7 taxing and applicable regulatory agencies.

8 Any opposition to any motion to authorize any of the actions under
9 (a) through (e) of this subsection must be filed and served upon the
10 receiver and the receiver's attorney, if any, at least three days
11 before the date of the proposed action. Persons on the master mailing
12 list shall be served with all pleadings or in opposition to any motion.
13 The court may require notice to be given to persons on the master
14 mailing list of additional matters the court deems appropriate, and may
15 enlarge or reduce any time period provided for by this section for good
16 cause shown. The receiver shall make a copy of the current master
17 mailing list available to any person on that list upon the person's
18 request.

19 (7) All persons duly notified by the receiver of any hearing to
20 approve or authorize an action or a proposed action by the receiver is
21 bound by any order of the court with respect to the action, whether or
22 not the persons have appeared or objected to the action or proposed
23 action or have been joined formally as parties to the particular
24 action.

25 (8) Whenever notice is not specifically required to be given under
26 this chapter, the court may consider motions and grant or deny relief
27 without notice or hearing, if it appears that no person joined as a
28 party or who has appeared in the receivership would be prejudiced or
29 harmed by the relief requested.

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

32 NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST. (1) A general
33 receiver shall give notice of the receivership by publication in a
34 newspaper of general circulation published in the county or counties in
35 which estate property is known to be located once a week for three
36 consecutive weeks, the first notice to be published within twenty days
37 after the date of appointment of the receiver; and by mailing notice to

1 all known creditors and other known parties in interest within twenty
2 days after the date of appointment of the receiver. The notice of the
3 receivership shall include the date of appointment of the receiver; the
4 name of the court and the case number; the last day on which claims may
5 be filed and served upon the receiver; and the name and address of the
6 debtor, the receiver, and the receiver's attorney, if any. For
7 purposes of this section, all intangible property of a person is deemed
8 to be located in the county in which an individual owner thereof
9 resides, or in which any entity owning the property maintains its
10 principal administrative offices.

11 (2) The notice of the receivership shall be in substantially the
12 following form:

13 IN THE SUPERIOR COURT, IN AND FOR
14 _____ COUNTY, WASHINGTON
15 [Case Name]) Case No.
16)
17) NOTICE OF RECEIVERSHIP
18)
19)
20 _____)

21 TO CREDITORS AND OTHER PARTIES IN INTEREST:
22 PLEASE TAKE NOTICE that a receiver was appointed for _____, whose last known
23 address is _____, on _____, ____.
24 YOU ARE HEREBY FURTHER NOTIFIED that in order to receive any dividend in this proceeding you
25 must file proof of claim with the receiver on or before _____, ____ (120 days from the date of
26 appointment of the receiver).

27 _____
28 RECEIVER
29 Attorney for receiver (if any): _____
30 Address: _____

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

33 SUBMISSION OF CLAIMS IN GENERAL RECEIVERSHIPS. (1) All claims,
34 whether contingent, liquidated, unliquidated, or disputed, other than
35 claims of creditors with security interests in or other liens against

1 property of the estate, arising prior to the receiver's appointment,
2 must be served in accordance with this chapter, and any claim not so
3 filed is barred from participating in any distribution to creditors in
4 any general receivership.

5 (2) Claims must be served by delivering the claim to the general
6 receiver within thirty days from the date notice is given by mail under
7 this section, unless the court reduces or extends the period for cause
8 shown, except that a claim arising from the rejection of an executory
9 contract or an unexpired lease of the person over whose property the
10 receiver is appointed may be filed within thirty days after the
11 rejection. Claims need not be filed. Claims must be served by state
12 agencies on the general receiver within one hundred eighty days from
13 the date notice is given by mail under this section.

14 (3) Claims must be in written form entitled "Proof of Claim,"
15 setting forth the name and address of the creditor and the nature and
16 amount of the claim, and executed by the creditor or the creditor's
17 authorized agent. When a claim, or an interest in estate property of
18 securing the claim, is based on a writing, the original or a copy of
19 the writing must be included as a part of the proof of claim, together
20 with evidence of perfection of any security interest or other lien
21 asserted by the claimant.

22 (4) A claim, executed and served in accordance with this section,
23 constitutes prima facie evidence of the validity and amount of the
24 claim.

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

27 OBJECTION TO AND ALLOWANCE OF CLAIMS. (1) At any time prior to the
28 entry of an order approving the general receiver's final report, the
29 general receiver or any party in interest may file with the court an
30 objection to a claim, which objection must be in writing and must set
31 forth the grounds for the objection. A copy of the objection, together
32 with notice of hearing, must be mailed to the creditor at least thirty
33 days prior to the hearing. Claims properly served upon the general
34 receiver and not disallowed by the court are entitled to share in
35 distributions from the estate in accordance with the priorities
36 provided for by this chapter or otherwise by law.

1 (2) Upon the request of a creditor, the general receiver, or any
2 party in interest objecting to the creditor's claim, or upon order of
3 the court, an objection is subject to mediation prior to adjudication
4 of the objection, under the rules or orders adopted or issued with
5 respect to mediations. However, state claims are not subject to
6 mediation absent agreement of the state.

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

11 (a) Any contingent or unliquidated claim, the fixing or liquidation
12 of which, as the case may be, would unduly delay the administration of
13 the case; or

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

16 Claims subject to this subsection shall be allowed in the estimated
17 amount thereof.

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

20 PRIORITIES. (1) Allowed claims in a general receivership shall
21 receive distribution under this chapter in the order of priority under
22 (a) through (h) of this subsection and, with the exception of (a) and
23 (c) of this subsection, on a pro rata basis.

24 (a) Creditors with liens on property of the estate, which liens are
25 duly perfected under applicable law, shall receive the proceeds from
26 the disposition of their collateral. However, the receiver may recover
27 from property securing an allowed secured claim the reasonable,
28 necessary expenses of preserving, protecting, or disposing of the
29 property to the extent of any benefit to the creditors. If and to the
30 extent that the proceeds are less than the amount of a creditor's
31 allowed claim or a creditor's lien is avoided on any basis, the
32 creditor is an unsecured claim under (h) of this subsection. Secured
33 claims shall be paid from the proceeds in accordance with their
34 respective priorities under otherwise applicable law.

35 (b) Actual, necessary costs and expenses incurred during the
36 administration of the estate, other than those expenses allowable under
37 (a) of this subsection, including allowed fees and reimbursement of

1 reasonable charges and expenses of the receiver and professional
2 persons employed by the receiver under section 20 of this act.
3 Notwithstanding (a) of this subsection, expenses incurred during the
4 administration of the estate have priority over the secured claim of
5 any creditor obtaining or consenting to the appointment of the
6 receiver.

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

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

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

23 (f) Claims for a support debt as defined in RCW 74.20A.020(10), but
24 not to the extent that the debt (i) is assigned to another entity,
25 voluntarily, by operation of law, or otherwise; or (ii) includes a
26 liability designated as a support obligation unless that liability is
27 actually in the nature of a support obligation.

28 (g) Unsecured claims of governmental units for taxes which accrued
29 prior to the date of appointment of the receiver.

30 (h) Other unsecured claims.

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

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

36 SECURED CLAIMS AGAINST AFTER-ACQUIRED PROPERTY. Except as
37 otherwise provided for by statute, property acquired by the estate or

1 by the person over whose property the receiver is appointed after the
2 date of appointment of the receiver is subject to an allowed secured
3 claim to the same extent as would be the case in the absence of a
4 receivership.

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

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

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

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

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

30 (a) The property is real property used principally in the
31 production of crops, livestock, or aquaculture, or the property is a
32 homestead under RCW 6.13.010(1), and the owner of the property has not
33 consented to the sale following the appointment of the receiver; or

34 (b) The owner of the property or a creditor with an interest in the
35 property serves and files a timely opposition to the receiver's sale,

1 and the court determines that the amount likely to be realized by the
2 objecting person from the receiver's sale is less than the person would
3 realize within a reasonable time in the absence of the receiver's sale.

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

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

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

31 (5) The reversal or modification on appeal of an authorization to
32 sell or lease estate property under this section does not affect the
33 validity of a sale or lease under that authorization to an entity that
34 purchased or leased the property in good faith, whether or not the
35 entity knew of the pendency of the appeal, unless the authorization and
36 sale or lease were stayed pending the appeal.

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

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

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

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

30 RESIGNATION OR REMOVAL OF RECEIVER. (1) The court shall remove or
31 replace the receiver on application of the person over whose property
32 the receiver is appointed, the receiver, or any creditor, or on the
33 court's own motion, if the receiver fails to execute and file the bond
34 required by section 6 of this act, or if the receiver resigns or
35 refuses or fails to serve for any reason, or for other good cause.

36 (2) Upon removal, resignation, or death of the receiver, the court
37 shall appoint a successor receiver if the court determines that further

1 administration of the estate is required. Upon executing and filing a
2 bond under section 6 of this act, the successor receiver shall
3 immediately take possession of the estate and assume the duties of
4 receiver.

5 (3) Whenever the court is satisfied that the receiver so removed or
6 replaced has fully accounted for and turned over to the successor
7 receiver appointed by the court all of the property of the estate and
8 has filed a report of all receipts and disbursements during the
9 person's tenure as receiver, the court shall enter an order discharging
10 that person from all further duties and responsibilities as receiver
11 after notice and a hearing.

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

14 TERMINATION OF RECEIVERSHIP. (1) Upon distribution or disposition
15 of all property of the estate, or the completion of the receiver's
16 duties with respect to estate property, the receiver shall move the
17 court to be discharged upon notice and a hearing.

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

21 (3) Upon approval of the final report, the court shall discharge
22 the receiver.

23 (4) The receiver's discharge releases the receiver from any further
24 duties and responsibilities as receiver under this chapter.

25 (5) Upon motion of any party in interest, or upon the court's own
26 motion, the court has the power to discharge the receiver and terminate
27 the court's administration of the property over which the receiver was
28 appointed. If the court determines that the appointment of the
29 receiver was wrongfully procured or procured in bad faith, the court
30 may assess against the person who procured the receiver's appointment
31 (a) all of the receiver's fees and other costs of the receivership and
32 (b) any other sanctions the court determines to be appropriate.

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

35 APPLICABILITY. This chapter applies to receivers and receiverships
36 otherwise provided for by the laws of this state except as otherwise

1 expressly provided for by statute or as necessary to give effect to the
2 laws of this state. This chapter does not apply to any proceeding
3 authorized by or commenced under Title 48 RCW.

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

6 ~~((In an action affecting the title to real property the plaintiff,~~
7 ~~at the time of filing the complaint, or at any time afterwards, or~~
8 ~~whenever a writ of attachment of property shall be issued, or at any~~
9 ~~time afterwards, the plaintiff or a defendant, when he sets up an~~
10 ~~affirmative cause of action in his answer, and demands substantive~~
11 ~~relief at the time of filing his answer, or at any time afterwards, if~~
12 ~~the same be intended to affect real property,)) At any time after an~~

13 action affecting title to real property has been commenced, or after a
14 writ of attachment with respect to real property has been issued in an
15 action, or after a receiver has been appointed with respect to any real
16 property, the plaintiff, the defendant, or such a receiver may file
17 with the auditor of each county in which the property is situated a
18 notice of the pendency of the action, containing the names of the
19 parties, the object of the action, and a description of the real
20 property in that county affected thereby. From the time of the filing
21 only shall the pendency of the action be constructive notice to a
22 purchaser or encumbrancer of the property affected thereby, and every
23 person whose conveyance or encumbrance is subsequently executed or
24 subsequently recorded shall be deemed a subsequent purchaser or
25 encumbrancer, and shall be bound by all proceedings taken after the
26 filing of such notice to the same extent as if he or she were a party
27 to the action. For the purpose of this section an action shall be
28 deemed to be pending from the time of filing such notice: PROVIDED,
29 HOWEVER, That such notice shall be of no avail unless it shall be
30 followed by the first publication of the summons, or by the personal
31 service thereof on a defendant within sixty days after such filing.
32 And the court in which the said action was commenced may, at its
33 discretion, at any time after the action shall be settled, discontinued
34 or abated, on application of any person aggrieved and on good cause
35 shown and on such notice as shall be directed or approved by the court,
36 order the notice authorized in this section to be canceled of record,

1 in whole or in part, by the county auditor of any county in whose
2 office the same may have been filed or recorded, and such cancellation
3 shall be evidenced by the recording of the court order.

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

6 ~~((After a receiver has been appointed or a receivership has been
7 extended to the special proceedings, the judge must, by order, direct
8 the sheriff to pay the money, or the proceeds of the property,
9 deducting his fees, to the receiver; or if the case so requires to
10 deliver to the receiver the property in his hands. But if it appears
11 to the satisfaction of the judge that an order appointing a receiver or
12 extending a receivership is not necessary, he may, by an order reciting
13 that fact,))~~ Unless a receiver has been appointed or extended with
14 respect to money or property in the hands of the sheriff, the judge may
15 direct the sheriff to apply the money ~~((so paid))~~, the property, or the
16 proceeds of the property ~~((so delivered))~~, upon an execution in favor
17 of the judgment creditor issued either before or after the payment or
18 delivery to the sheriff.

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

21 A special proceeding instituted as prescribed in this chapter may
22 be discontinued at any time upon such terms as justice requires, by an
23 order of the judge made upon the application of the judgment creditor.
24 Where the judgment creditor unreasonably delays or neglects to proceed,
25 or where it appears that ~~((his))~~ the judgment has been satisfied,
26 ~~((his))~~ the special proceedings may be dismissed upon like terms by a
27 like order made upon the application of the judgment debtor, or of
28 plaintiff in a judgment creditor's action against the debtor, or of a
29 judgment creditor who has instituted either of the special proceedings
30 authorized by this chapter. ~~((Where an order appointing a receiver or
31 extending a receivership has been made in the course of the special
32 proceeding, notice of the application for an order specified in this
33 section must be given in such manner as the judge deems proper, to all
34 persons interested in the receivership as far as they can conveniently
35 be ascertained.))~~

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

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

18 The assignee shall take possession and administer the estate, and
19 shall liquidate the estate with reasonable dispatch and convert the
20 estate into money, collect all claims and demands hereby assigned as
21 and to the extent they may be collectible, and pay and discharge all
22 reasonable expenses, costs, and disbursements in connection with the
23 execution and administration of this assignment from the proceeds of
24 such liquidations and collections.

25 The assignee shall then pay and discharge in full, to the extent
26 that funds are available in the estate after payment of administrative
27 expenses, costs, and disbursements, all of the debts and liabilities
28 now due from the assignor, including interest on such debts and
29 liabilities in full, according to their priority as established by law,
30 and on a pro rata basis within each class.

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

33 To accomplish the purposes of this assignment, the assignor hereby
34 irrevocably appoints the assignee as the assignor's true and lawful
35 attorney in fact, with full power and authority to do all acts and
36 things which may be necessary to execute and fulfill the assignment

1 superior court in the county of the assignor's residence if the
2 assignor is an individual or a marital community, or in the county of
3 the assignor's principal place of business or registered office within
4 this state if the assignor is any other person. A petition shall set
5 forth the name and address of the assignor and the name and address of
6 the assignee, and shall include a copy of the assignment and the
7 schedules affixed thereto, and a request that the court fix the amount
8 of the receiver's bond to be filed with the clerk of the court.

9 (4) A person to whom a general assignment of property for the
10 benefit of creditors has been made shall be appointed as general
11 receiver with respect to the assignor's property by the superior court
12 upon the filing of a petition under subsection (3) of this section.
13 Except as provided for by subsection (5) of this section, following the
14 assignee's appointment as general receiver, all proceedings involving
15 the administration of the assignor's property and the claims of the
16 assignee's creditors shall be governed by the provisions of chapter
17 7.60 RCW applicable to general receiverships and court rules applicable
18 thereto.

19 (5) Upon ((the application)) motion of two or more creditors of
20 ((said debtor therefor, by petition to the judge of the superior court
21 of the county in which such assignment is or should be recorded,)) the
22 assignor served and filed at any time within thirty days ((from the
23 making or recording of such assignment)) following the date upon which
24 notice is mailed to all known creditors under section 22 of this act,
25 it shall be the duty of ((said superior judge)) the court to direct the
26 clerk of ((said superior)) the court to order a meeting of the
27 creditors of ((said debtors)) the assignor, to ((choose an assignee of
28 the estate of said debtor in lieu of)) determine whether a person other
29 than the assignee named ((by the debtor in his)) in the assignment
30 should be appointed as general receiver with respect to the property of
31 the assignor; and thereupon the clerk of ((said)) the court shall
32 ((forthwith)) immediately give notice to all the creditors ((of said
33 debtor)) identified in the schedules affixed to the assignment to meet
34 at ((his)) the clerk's office or at such other location within the
35 county as the clerk may specify, at a time stated((7)) not to exceed
36 fifteen days from the date of such notice, to ((select one or more
37 assignees in the place of the assignee named by the debtor in his
38 assignment)) determine whether a person other than the assignee named

1 in the assignment should be appointed as general receiver with respect
2 to the property of the assignor. ((Such)) The assignor's creditors may
3 appear in person or by proxy at the meeting, and a majority in both
4 number and value of ~~((said))~~ claims of the creditors attending ~~((such))~~
5 or represented at the meeting ~~((shall))~~ may select ~~((one or more~~
6 ~~assignees; and in the event that no one shall receive a majority vote~~
7 ~~of said creditors who represent at least one half in amount of all~~
8 ~~claims represented at such meeting, then, and in that event, said clerk~~
9 ~~shall certify that fact to the judge of the superior court aforesaid,~~
10 ~~and thereupon said superior judge shall select and appoint an assignee.~~

11 ~~When such assignee shall have been selected by such creditors, or~~
12 ~~appointed by the superior judge as herein provided, then the assignee~~
13 ~~named in the debtor's assignment shall forthwith make to the assignee~~
14 ~~elected by the creditors or appointed by the superior judge, an~~
15 ~~assignment and conveyance of all the estate, real and personal, that~~
16 ~~has been assigned or conveyed to him by said debtor; and such assignee~~
17 ~~so elected by the creditors or appointed by the superior judge, upon~~
18 ~~giving the bond required of an assignee by RCW 7.08.010 through~~
19 ~~7.08.170, shall possess all the powers, and be subject to all the~~
20 ~~duties imposed by RCW 7.08.010 through 7.08.170, as fully to all~~
21 ~~intents and purposes as though named in the debtor's assignment.))~~ a
22 person other than the assignee named in the assignment to serve as
23 general receiver with respect to the assignor's property, whereupon the
24 court shall appoint the selected person as receiver under subsection
25 (4) of this section if a receiver has not already been appointed, and
26 shall appoint the person to replace the original assignee as receiver
27 if the appointment already has been made, unless the court determines
28 upon good cause shown that the appointment as receiver of the person
29 selected by the creditors would not be in the best interests of
30 creditors in general, in which event the court shall appoint or
31 substitute as the receiver a person selected by the court other than
32 the original assignee. If at least one-third of the number or amount
33 of claims represented in person or by proxy at the meeting of creditors
34 vote for the appointment as receiver of a person or persons other than
35 the assignee named in the assignment, then the court upon motion of any
36 creditor served and filed within ten days following the meeting shall
37 appoint as receiver a person selected by the court other than the
38 original assignee, discharging the original assignee if the person

1 previously was appointed as receiver. A creditor may not vote at any
2 meeting of creditors called for the purpose of determining whether a
3 person other than the assignee named in the assignment should be
4 appointed as receiver, until the creditor has presented to the clerk,
5 who presides at the meeting, a proof of claim in accordance with
6 section 23 of this act.

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

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

25 If judgment be rendered against any corporation or against any
26 persons claiming to be a corporation, the court may cause the costs to
27 be collected by executions against the persons claiming to be a
28 corporation or by attachment against the directors or other officers of
29 the corporation, and shall restrain the corporation, ~~((appoint a~~
30 ~~receiver of its property and effects,)) take an account, and make a~~
31 distribution thereof among the creditors. The prosecuting attorney
32 shall immediately institute proceedings for that purpose.

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

35 If the surviving partner or partners fail or refuse to furnish an
36 inventory or list of liabilities, to permit an appraisal, or to account

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

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

23 (1) A court in a judicial proceeding brought to dissolve a
24 corporation may appoint one or more receivers to wind up and liquidate,
25 or one or more custodians to manage, the business and affairs of the
26 corporation. The court shall hold a hearing, after notifying all
27 parties to the proceeding and any interested persons designated by the
28 court, before appointing a receiver or custodian. (~~The court~~
29 ~~appointing a receiver or custodian has exclusive jurisdiction over the~~
30 ~~corporation and all of its property wherever located.~~)

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

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

1 ~~(a) The receiver (i) may dispose of all or any part of the assets~~
2 ~~of the corporation wherever located, at a public or private sale, if~~
3 ~~authorized by the court, and (ii) may sue and defend in the receiver's~~
4 ~~own name as receiver of the corporation in all courts of this state;~~
5 ~~and~~

6 ~~(b) The~~) receiver or custodian may exercise all of the powers of
7 the corporation, through or in place of its board of directors or
8 officers, to the extent necessary to manage the affairs of the
9 corporation in the best interests of its shareholders and creditors.

10 (4) The court, during a receivership, may redesignate the receiver
11 a custodian, and during a custodianship may redesignate the custodian
12 a receiver, if doing so is in the best interests of the corporation,
13 its shareholders, and creditors.

14 (5) The court from time to time during the receivership or
15 custodianship may order compensation paid and expense disbursements or
16 reimbursements made to the receiver or custodian and counsel from the
17 assets of the corporation or proceeds from the sale of the assets.

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

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

22 (a) Issue injunctions;

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

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

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

29 After a hearing had upon such notice as the court may direct to be
30 given to all parties to the proceedings, and to any other parties in
31 interest designated by the court, the court may appoint a receiver
32 (~~with authority to collect the assets of the corporation. Such~~
33 ~~receiver shall have authority, subject to the order of the court, to~~
34 ~~sell, convey and dispose of all or any part of the assets of the~~
35 ~~corporation wherever situated, either at public or private sale. The~~
36 ~~order appointing such receiver shall state his powers and duties. Such~~

1 ~~powers and duties may be increased or diminished at any time during the~~
2 ~~proceedings)).~~

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

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

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

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

16 (3) The court shall have power to make periodic allowances, as
17 expenses of the liquidation and compensation to the receivers and
18 attorneys in the proceeding accrue, and to direct the payment thereof
19 from the assets of the corporation or from the proceeds of any sale or
20 disposition of such assets.

21 ~~((A receiver appointed under the provisions of this section shall~~
22 ~~have authority to sue and defend in all courts in his own name, as~~
23 ~~receiver of such corporation. The court appointing such receiver shall~~
24 ~~have exclusive jurisdiction of the corporation and its property,~~
25 ~~wherever situated.))~~

26 NEW SECTION. Sec. 42. A new section is added to chapter 31.12 RCW
27 to read as follows:

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

32 NEW SECTION. Sec. 43. A new section is added to chapter 35.07 RCW
33 to read as follows:

34 The provisions of Title 7 RCW generally applicable to receivers and
35 receiverships do not apply to receivers elected or appointed under this
36 chapter.

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

3 The provisions of Title 7 RCW generally applicable to receivers and
4 receiverships do not apply to receivers elected or appointed under this
5 chapter.

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

8 At the time and place fixed in ~~((said))~~ the notice the court shall
9 hear the objections of interested persons and shall determine whether
10 the district is insolvent within the provisions of this chapter and
11 whether the district shall be dissolved. If the court concludes that
12 the district shall not dissolve, ~~((he))~~ the court shall so find and
13 dismiss the action. If the court concludes that the district should be
14 dissolved, ~~((he))~~ the court shall appoint a receiver ~~((with bond~~
15 ~~conditioned for faithful performance of his duties in such sum as the~~
16 ~~court shall determine,))~~ to take charge of the district assets and to
17 perform such other duties as may be required by the court or by law.

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

20 If the owner or holder of a claim of indebtedness against the
21 district not yet due or matured ~~((shall be entitled to serve upon the~~
22 ~~receiver and file a statement of his claim with the clerk of the court,~~
23 ~~as in the case of due and matured indebtedness, and the filing of such~~
24 ~~claim shall constitute an election on the part of the claimant~~
25 ~~authorizing the court in its discretion to accelerate the maturity of~~
26 ~~said indebtedness))~~ files a claim in any case in which a receiver is
27 appointed under RCW 87.56.065, the maturity of the indebtedness owing
28 to the person by the district shall be accelerated to such date as the
29 court shall determine upon.

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

- 32 (1) RCW 4.28.081 (Summons, how served--When corporation in hands of
33 receiver) and 1897 c 97 s 1;
34 (2) RCW 6.25.200 (Appointment of receiver for property) and 1987 c
35 442 s 820, 1957 c 9 s 9, & 1886 p 42 s 15;

1 (3) RCW 6.32.290 (Appointment of receiver--Notice) and 1893 c 133
2 s 28;

3 (4) RCW 6.32.300 (Effect on pending supplemental proceedings) and
4 1893 c 133 s 29;

5 (5) RCW 6.32.310 (Only one receiver may be appointed--Extending
6 receivership) and 1893 c 133 s 30;

7 (6) RCW 6.32.320 (Order, where to be filed) and 1893 c 133 s 31;

8 (7) RCW 6.32.330 (Property vested in receiver) and 1893 c 133 s 32;

9 (8) RCW 6.32.340 (Receiver's title extends back by relation) and
10 1893 c 133 s 33;

11 (9) RCW 6.32.350 (Records to be kept by clerk) and 2002 c 30 s 2 &
12 1893 c 133 s 34;

13 (10) RCW 7.08.020 (Assent of creditors presumed) and 1890 p 83 s 2;

14 (11) RCW 7.08.050 (Inventory by assignee--Bond) and 1890 p 85 s 4;

15 (12) RCW 7.08.060 (Notice to creditors) and 1890 p 85 s 5;

16 (13) RCW 7.08.070 (List of creditors' claims) and 1890 p 85 s 6;

17 (14) RCW 7.08.080 (Exceptions to claims) and 1957 c 9 s 7 & 1890 p
18 85 s 7;

19 (15) RCW 7.08.090 (Dividends--Final account--Compensation) and 1893
20 c 26 s 1 & 1890 p 86 s 8;

21 (16) RCW 7.08.100 (Assignee subject to court's control) and 1890 p
22 86 s 9;

23 (17) RCW 7.08.110 (Assignment not void, when) and 1957 c 9 s 8 &
24 1890 p 86 s 10;

25 (18) RCW 7.08.120 (Additional inventory) and 1890 p 86 s 11;

26 (19) RCW 7.08.130 (Procedure on claims not due--Limitation on
27 presentment of claims) and 1890 p 86 s 12;

28 (20) RCW 7.08.140 (Authority of assignee to dispose of assets) and
29 1890 p 87 s 13;

30 (21) RCW 7.08.150 (Procedure when assignee dies, fails to act,
31 misapplies estate, or if bond insufficient) and 1890 p 87 s 14;

32 (22) RCW 7.08.170 (Discharge of assignor) and 1895 c 151 s 1 & 1890
33 p 88 s 15;

34 (23) RCW 7.08.180 (Sheriff disqualified from acting) and 1893 c 137
35 s 1;

36 (24) RCW 7.08.190 (Right of assignor to exemption) and 1897 c 6 s
37 1;

1 (25) RCW 7.08.200 (Exemption, how claimed--Objections) and 1897 c
2 6 s 2;
3 (26) RCW 7.60.010 (Receiver defined) and 1891 c 52 s 1;
4 (27) RCW 7.60.020 (Grounds for appointment) and 1998 c 295 s 18,
5 1937 c 47 s 1, Code 1881 s 193, 1877 p 40 s 197, 1869 p 48 s 196, &
6 1854 p 162 s 171;
7 (28) RCW 7.60.030 (Oath--Bond) and Code 1881 s 194, 1877 p 41 s
8 198, 1869 p 48 s 198, & 1854 p 162 s 173;
9 (29) RCW 7.60.040 (Powers of receiver) and Code 1881 s 198, 1877 p
10 41 s 202, 1869 p 49 s 202, & 1854 p 163 s 177;
11 (30) RCW 7.60.050 (Order when part of claim admitted) and Code 1881
12 s 199, 1877 p 41 s 203, 1869 p 49 s 203, & 1854 p 163 s 178;
13 (31) RCW 23.72.010 (Definitions) and 1959 c 219 s 1 & 1941 c 103 s
14 1;
15 (32) RCW 23.72.020 (Action to recover--Limitation) and 1941 c 103
16 s 2;
17 (33) RCW 23.72.030 (Preference voidable, when--Recovery) and 1959
18 c 219 s 2 & 1941 c 103 s 3;
19 (34) RCW 23.72.040 (Mutual debts and credits) and 1941 c 103 s 4;
20 (35) RCW 23.72.050 (Attorney's fees--Reexamination) and 1941 c 103
21 s 5;
22 (36) RCW 23.72.060 (Setoffs and counterclaims) and 1941 c 103 s 6;
23 (37) RCW 24.03.275 (Qualification of receivers--Bond) and 1967 c
24 235 s 56;
25 (38) RCW 24.03.280 (Filing of claims in liquidation proceedings)
26 and 1967 c 235 s 57;
27 (39) RCW 24.03.285 (Discontinuance of liquidation proceedings) and
28 1967 c 235 s 58;
29 (40) RCW 24.03.310 (Powers of foreign corporation) and 1967 c 235
30 s 63;
31 (41) RCW 24.03.315 (Corporate name of foreign corporation--
32 Fictitious name) and 1982 c 35 s 98 & 1967 c 235 s 64;
33 (42) RCW 24.03.320 (Change of name by foreign corporation) and 1986
34 c 240 s 44 & 1967 c 235 s 65;
35 (43) RCW 87.56.070 (Qualifications, duties, compensation of
36 receiver) and 1925 ex.s. c 124 s 8;
37 (44) RCW 87.56.080 (Notice to creditors) and 1985 c 469 s 93 & 1925
38 ex.s. c 124 s 9;

1 (45) RCW 87.56.085 (Notice to creditors--Contents) and 1925 ex.s.
2 c 124 s 10;
3 (46) RCW 87.56.090 (Unfiled claims barred--Effect of not filing
4 claim of bond lien) and 1925 ex.s. c 124 s 11;
5 (47) RCW 87.56.110 (Collection and disbursement of funds) and 1925
6 ex.s. c 124 s 13;
7 (48) RCW 87.56.120 (Receiver's report--Plan of liquidation) and
8 1925 ex.s. c 124 s 14;
9 (49) RCW 87.56.130 (Time for hearing receiver's report to be
10 fixed--Notice) and 1985 c 469 s 94 & 1925 ex.s. c 124 s 15;
11 (50) RCW 87.56.135 (Time for hearing receiver's report to be
12 fixed--Contents) and 1925 ex.s. c 124 s 16;
13 (51) RCW 87.56.140 (Objections to report) and 1925 ex.s. c 124 s
14 17;
15 (52) RCW 87.56.145 (Objections to report--Fee) and 1925 ex.s. c 124
16 s 18;
17 (53) RCW 87.56.150 (Hearing--Court's powers and duties) and 1925
18 ex.s. c 124 s 19; and
19 (54) RCW 87.56.155 (Decree--Plan of liquidation) and 1925 ex.s. c
20 124 s 20.

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

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