
SENATE BILL 6353

State of Washington

61st Legislature

2010 Regular Session

By Senator Kline

Read first time 01/13/10. Referred to Committee on Judiciary.

1 AN ACT Relating to technical changes concerning receivership
2 statutes; and amending RCW 7.60.110, 7.60.025, 7.60.055, 7.60.130,
3 7.60.190, 7.60.090, 7.60.230, and 7.60.200.

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

5 **Sec. 1.** RCW 7.60.110 and 2004 c 165 s 13 are each amended to read
6 as follows:

7 (1) Except as otherwise ordered by the court, the entry of an order
8 appointing a general receiver or a custodial receiver with respect to
9 all of a person's property shall operate as a stay, applicable to all
10 persons, of:

11 (a) The commencement or continuation, including the issuance or
12 employment of process, of a judicial, administrative, or other action
13 or proceeding against the person over whose property the receiver is
14 appointed that was or could have been commenced before the entry of the
15 order of appointment, or to recover a claim against the person that
16 arose before the entry of the order of appointment;

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

1 (c) Any act to obtain possession of estate property from the
2 receiver, or to interfere with, or exercise control over, estate
3 property;

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

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

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

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

24 (a) The continuation of the judicial action or nonjudicial
25 proceedings or contract forfeiture in or for which the receiver is
26 appointed;

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

29 ~~((b))~~ (c) The commencement or continuation of an action or
30 proceeding to establish paternity, or to establish or modify an order
31 for alimony, maintenance, or support, or to collect alimony,
32 maintenance, or support under any order of a court;

33 ~~((e))~~ (d) Any act to perfect, or to maintain or continue the
34 perfection of, an interest in estate property if the interest perfected
35 would be effective against a creditor of the person over whose property
36 the receiver is appointed holding at the time of the entry of the order
37 of appointment either a perfected nonpurchase money security interest
38 under chapter 62A.9A RCW against the property involved, or a lien by

1 attachment, levy, or the like, whether or not such a creditor exists.
2 If perfection of an interest would require seizure of the property
3 involved or the commencement of an action, the perfection shall instead
4 be accomplished by filing, and by serving upon the receiver, or
5 receiver's counsel, if any, notice of the interest within the time
6 fixed by law for seizure or commencement;

7 ~~((d))~~ (e) The commencement or continuation of an action or
8 proceeding by a governmental unit to enforce its police or regulatory
9 power;

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

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

30 ~~((g))~~ (h) The establishment by a governmental unit of any tax
31 liability and any appeal thereof.

32 **Sec. 2.** RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as
33 follows:

34 (1) A receiver ~~((may))~~ must be appointed ~~((by the superior court of
35 this state in the following instances, but except))~~ in any case in
36 which a receiver's appointment is expressly required by statute, or any
37 case in which a receiver's appointment is sought by a state agent whose

1 authority to seek the appointment of a receiver is expressly conferred
2 by statute, (~~(or)~~) certain of which statutes are listed below, and in
3 any case in which a receiver's appointment with respect to real
4 property is sought under (b)(ii) of this subsection. In the following
5 instances, a receiver shall be appointed only if the court
6 (~~(additionally)~~) determines that the appointment of a receiver is
7 reasonably necessary and that other available remedies either are not
8 available or are inadequate:

9 (a) On application of any party, when the party is determined to
10 have a probable right to or interest in property that is a subject of
11 the action and in the possession of an adverse party, or when the
12 property or its revenue-producing potential is in danger of being lost
13 or materially injured or impaired. A receiver may be appointed under
14 this subsection (1)(a) whether or not the application for appointment
15 of a receiver is combined with, or is ancillary to, an action seeking
16 a money judgment or other relief;

17 (b) Provisionally, during the pendency of any action to foreclose
18 upon any lien against or for forfeiture of any interest in real or
19 personal property, or after notice of default has been given, or after
20 notice of a trustee's sale has been given under RCW 61.24.040, or after
21 notice of forfeiture has been given under RCW 61.30.040, on application
22 of any person, when the interest in the property that is the subject of
23 (~~(foreclosure)~~) default or forfeiture of the person seeking the
24 receiver's appointment is determined to be probable and either:

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

27 (ii) The appointment of a receiver with respect to the real or
28 personal property that is the subject of the action, the notice of
29 trustee's sale or notice of forfeiture is provided for by agreement or
30 is reasonably necessary to effectuate or enforce an assignment of rents
31 or other revenues from the property;

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

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

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

1 (f) If and to the extent that property is subject to execution to
2 satisfy a judgment, to preserve the property during the pendency of an
3 appeal, or when an execution has been returned unsatisfied, or when an
4 order requiring a judgment debtor to appear for proceedings
5 supplemental to judgment has been issued and the judgment debtor fails
6 to submit to examination as ordered;

7 (g) Upon an attachment of real or personal property when the
8 property attached is (~~of a perishable nature~~) subject to eroding
9 value or is otherwise in danger of waste, impairment, or destruction,
10 or where the abandoned property's owner has absconded with, secreted,
11 or abandoned the property, and it is necessary to collect, conserve,
12 manage, control, or protect it, or to dispose of it promptly, or when
13 the court determines that the nature of the property or the exigency of
14 the case otherwise provides cause for the appointment of a receiver;

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

18 (i) In an action against any person who is not an individual if the
19 object of the action is the dissolution of that person, or if that
20 person has been dissolved, or if that person is insolvent or is not
21 generally paying the person's debts as those debts become due unless
22 they are the subject of bona fide dispute, or if that person is in
23 imminent danger of insolvency;

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

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

27 (l) As provided under RCW 11.64.022;

28 (m) In an action by the department of licensing under RCW
29 18.35.220(3) with respect to persons engaged in the business of
30 dispensing of hearing aids, RCW (~~18.85.350~~) 18.85.430 in the case of
31 persons engaged in the business of a real estate broker, associate real
32 estate broker, or real estate salesperson, or RCW 19.105.470 with
33 respect to persons engaged in the business of camping resorts;

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

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

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

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

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

10 (s) In an action by the director of financial institutions under
11 RCW 21.20.390 in cases involving actual or threatened violations of the
12 securities act of Washington or under RCW 21.30.120 in cases involving
13 actual or threatened violations of chapter 21.30 RCW with respect to
14 certain businesses and transactions involving commodities;

15 (t) In an action for or relating to dissolution of a business
16 corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or
17 23B.14.320, for dissolution of a nonprofit corporation under RCW
18 24.03.270, for dissolution of a mutual corporation under RCW 24.06.305,
19 or in any other action for the dissolution or winding up of any other
20 entity provided for by Title 23, 23B, 24, or 25 RCW;

21 (u) In any action in which the dissolution of any public or private
22 entity is sought, in any action involving any dispute with respect to
23 the ownership or governance of such an entity, or upon the application
24 of a person having an interest in such an entity when the appointment
25 is reasonably necessary to protect the property of the entity or its
26 business or other interests;

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

29 (w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030,
30 in the case of a bank or trust company or, under and subject to RCW
31 32.24.070 through 32.24.090, in the case of a mutual savings bank;

32 (x) Under and subject to RCW 31.12.637 and 31.12.671 through
33 31.12.724, in the case of credit unions;

34 (y) Upon the application of the director of financial institutions
35 under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable
36 to agricultural lenders, under RCW 31.40.120 in actions to enforce
37 chapter 31.40 RCW applicable to entities engaged in federally
38 guaranteed small business loans, under RCW 31.45.160 in actions to

1 enforce chapter 31.45 RCW applicable to persons licensed as check
2 cashers or check sellers, or under RCW 19.230.230 in actions to enforce
3 chapter 19.230 RCW applicable to persons licensed under the uniform
4 money services act;

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

7 (aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce
8 rights under any revenue bonds issued for the purpose of financing
9 industrial development facilities or bonds of the Washington state
10 housing finance commission, or any financing document securing any such
11 bonds;

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

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

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

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

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

27 (gg) Upon application of the attorney general under RCW
28 64.36.220(3), in aid of any writ or order restraining or enjoining
29 violations of chapter 64.36 RCW applicable to timeshares;

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

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

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

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

3 (ll) Upon application of the attorney general or the department of
4 licensing, in any proceeding that either of them are authorized by
5 statute to bring to enforce Title 18 or 19 RCW; the securities act of
6 Washington, chapter 21.20 RCW; the Washington commodities act, chapter
7 21.30 RCW; the land development act, chapter 58.19 RCW; or under
8 chapter 64.36 RCW relating to the regulation of timeshares;

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

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

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

28 (3) At least seven days' notice of any application for the
29 appointment of a receiver shall be given to the owner of property to be
30 subject thereto and to all other parties in the action, and to other
31 parties in interest as the court may require. If any execution by a
32 judgment creditor under Title 6 RCW or any application by a judgment
33 creditor for the appointment of a receiver, with respect to property
34 over which the receiver's appointment is sought, is pending in any
35 other action at the time the application is made, then notice of the
36 application for the receiver's appointment also shall be given to the
37 judgment creditor in the other action. The court may shorten or expand

1 the period for notice of an application for the appointment of a
2 receiver upon good cause shown.

3 (4) The order appointing a receiver in all cases shall reasonably
4 describe the property over which the receiver is to take charge, by
5 category, individual items, or both if the receiver is to take charge
6 of less than all of the owner's property. If the order appointing a
7 receiver does not expressly limit the receiver's authority to
8 designated property or categories of property of the owner, the
9 receiver is a general receiver with the authority to take charge over
10 all of the owner's property, wherever located.

11 (5) The court may condition the appointment of a receiver upon the
12 giving of security by the person seeking the receiver's appointment, in
13 such amount as the court may specify, for the payment of costs and
14 damages incurred or suffered by any person should it later be
15 determined that the appointment of the receiver was wrongfully
16 obtained.

17 **Sec. 3.** RCW 7.60.055 and 2004 c 165 s 7 are each amended to read
18 as follows:

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

31 (2) For good cause shown the court has power to shorten or expand
32 the time frames specified in this chapter.

33 **Sec. 4.** RCW 7.60.130 and 2004 c 165 s 15 are each amended to read
34 as follows:

35 (1) A general receiver may assume or reject any executory contract
36 or unexpired lease of the person over whose property the receiver is

1 appointed upon order of the court following notice to the other party
2 to the contract or lease upon notice and a hearing. The court may
3 condition assumption or rejection of any executory contract or
4 unexpired lease on the terms and conditions the court believes are just
5 and proper under the particular circumstances of the case. A general
6 receiver's performance of an executory contract or unexpired lease
7 prior to the court's authorization of its assumption or rejection shall
8 not constitute an assumption of the contract or lease, or an agreement
9 by the receiver to assume it, nor otherwise preclude the receiver
10 thereafter from seeking the court's authority to reject it.

11 (2) Any obligation or liability incurred by a general receiver on
12 account of the receiver's assumption of an executory contract or
13 unexpired lease shall be treated as an expense of the receivership. A
14 general receiver's rejection of an executory contract or unexpired
15 lease shall be treated as a breach of the contract or lease occurring
16 immediately prior to the receiver's appointment; and the receiver's
17 right to possess or use property pursuant to any executory contract or
18 lease shall terminate upon rejection of the contract or lease. The
19 other party to an executory contract or unexpired lease that is
20 rejected by a general receiver may take such steps as may be necessary
21 under applicable law to terminate or cancel the contract or lease. The
22 claim of a party to an executory contract or unexpired lease resulting
23 from a general receiver's rejection of it shall be served upon the
24 receiver in the manner provided for by RCW 7.60.210 within thirty days
25 following the rejection.

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

33 (4) A general receiver may not assume an executory contract or
34 unexpired lease of the person over whose property the receiver is
35 appointed without the consent of the other party to the contract or
36 lease if:

37 (a) Applicable law would excuse a party, other than the person over
38 whose property the receiver is appointed, from accepting performance

1 from or rendering performance to anyone other than the person even in
2 the absence of any provisions in the contract or lease expressly
3 restricting or prohibiting an assignment of the person's rights or the
4 performance of the person's duties;

5 (b) The contract or lease is a contract to make a loan or extend
6 credit or financial accommodations to or for the benefit of the person
7 over whose property the receiver is appointed, or to issue a security
8 of the person; or

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

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

14 (6) If the receiver rejects an executory contract or unexpired
15 lease for:

16 (a) The sale of real property under which the person over whose
17 property the receiver is appointed is the seller and the purchaser is
18 in possession of the real property;

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

21 (c) The license of intellectual property rights under which the
22 person over whose property the receiver is appointed is the licensor;
23 or

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

26 then the purchaser, licensee, or lessee may treat the rejection as a
27 termination of the contract, license agreement, or lease, or
28 alternatively, the purchaser, licensee, or lessee may remain in
29 possession in which case the purchaser, licensee, or lessee shall
30 continue to perform all obligations arising thereunder as and when they
31 may fall due, but may offset against any payments any damages occurring
32 on account of the rejection after it occurs. The purchaser of real
33 property in such a case is entitled to receive from the receiver any
34 deed or any other instrument of conveyance which the person over whose
35 property the receiver is appointed is obligated to deliver under the
36 executory contract when the purchaser becomes entitled to receive it,
37 and the deed or instrument has the same force and effect as if given by
38 the person. A purchaser, licensee, or lessee who elects to remain in

1 possession under the terms of this subsection has no rights against the
2 receiver on account of any damages arising from the receiver's
3 rejection except as expressly provided for by this subsection. A
4 purchaser of real property who elects to treat rejection of an
5 executory contract as a termination has a lien against the interest in
6 that real property of the person over whose property the receiver is
7 appointed for the recovery of any portion of the purchase price that
8 the purchaser has paid.

9 (7) Any contract with the state shall be deemed rejected if not
10 assumed within sixty days of appointment of a general receiver unless
11 the receiver and state agency agree to its assumption or otherwise
12 ordered by the court for good cause shown.

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

15 **Sec. 5.** RCW 7.60.190 and 2004 c 165 s 21 are each amended to read
16 as follows:

17 (1) Creditors and parties in interest to whom written notice of the
18 pendency of the receivership is given in accordance with RCW 7.60.210,
19 and creditors or other persons submitting written claims in the
20 receivership or otherwise appearing and participating in the
21 receivership, are bound by the acts of the receiver with regard to
22 management and disposition of estate property whether or not they are
23 formally joined as parties.

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

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

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

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

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

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

19 (b) Abandonment, disposition, or distribution of estate property,
20 other than an emergency disposition of (~~perishable~~) property subject
21 to eroding value or a disposition of property in the ordinary course of
22 business;

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

25 (d) Compensation of the receiver or any professional employed by
26 the receiver; or

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

30 Any opposition to any motion to authorize any of the actions under
31 (a) through (e) of this subsection must be filed and served upon the
32 receiver and the receiver's attorney, if any, at least three days
33 before the date of the proposed action. Persons on the master mailing
34 list shall be served with all pleadings or in opposition to any motion.
35 The court may require notice to be given to persons on the master
36 mailing list of additional matters the court deems appropriate(~~, and~~
37 ~~may enlarge or reduce any time period provided for by this section for~~

1 ~~good cause shown~~). The receiver shall make a copy of the current
2 master mailing list available to any person on that list upon the
3 person's request.

4 (7) All persons duly notified by the receiver of any hearing to
5 approve or authorize an action or a proposed action by the receiver is
6 bound by any order of the court with respect to the action, whether or
7 not the persons have appeared or objected to the action or proposed
8 action or have been joined formally as parties to the particular
9 action.

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

15 **Sec. 6.** RCW 7.60.090 and 2004 c 165 s 11 are each amended to read
16 as follows:

17 (1) In the event of a general assignment of property for the
18 benefit of creditors under chapter 7.08 RCW, the assignment shall have
19 annexed as schedule ~~((A))~~ A a true list of all of the person's known
20 creditors, their mailing addresses, the amount and nature of their
21 claims, and whether their claims are disputed; and as schedule B a true
22 list of all property of the estate, including the estimated liquidation
23 value and location of the property and, if real property, a legal
24 description thereof, as of the date of the assignment.

25 (2) In all other cases, within ~~((twenty))~~ thirty-five days after
26 the date of appointment of a general receiver, the receiver shall file
27 as schedule A a true list of all of the known creditors and applicable
28 regulatory and taxing agencies of the person over whose assets the
29 receiver is appointed, their mailing addresses, the amount and nature
30 of their claims, and whether their claims are disputed; and as schedule
31 B a true list of all property of the estate identifiable by the
32 receiver, including the estimated liquidation value and location of the
33 property and, if real property, a legal description thereof, as of the
34 date of appointment of the receiver.

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

SCHEDULE A--CREDITOR LIST

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

Name	Address	Amount	Collateral	Whether or not disputed
------	---------	--------	------------	-------------------------

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

Name	Address	Amount	Whether or not disputed
------	---------	--------	-------------------------

3. List all consumer deposits owed, showing:

Name	Address	Amount	Whether or not disputed
------	---------	--------	-------------------------

4. List all taxes owed, showing:

Name	Address	Amount	Whether or not disputed
------	---------	--------	-------------------------

5. List all unsecured claims, showing:

Name	Address	Amount	Whether or not disputed
------	---------	--------	-------------------------

6. List all owners or shareholders, showing:

Name	Address	Percentage of Ownership
------	---------	-------------------------

7. List all applicable regulatory agencies, showing:

Name	Address
------	---------

SCHEDULE B--LIST OF PROPERTY

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

I. Nonexempt Property

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

1. Legal Description and street address of real property, including leasehold interests:
2. Fixtures:
3. Cash and bank accounts:
4. Inventory:
5. Accounts receivable:
6. Equipment:
7. Prepaid expenses, including deposits, insurance, rents, and utilities:

1 8. Other, including loans to third
2 parties, claims, and choses in
3 action:

4 II. Exempt Property

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

5
6
7
8 I DECLARE under penalty of perjury under the laws of the state of Washington that the foregoing is true, correct,
9 and complete to the best of my knowledge. DATED this ... day of,, at, state of

10

11 [SIGNATURE]

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

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

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

20 **Sec. 7.** RCW 7.60.230 and 2004 c 165 s 25 are each amended to read
21 as follows:

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

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

1 claims shall be paid from the proceeds in accordance with their
2 respective priorities under otherwise applicable law.

3 (b) Actual, necessary costs and expenses incurred during the
4 administration of the estate, other than those expenses allowable under
5 (a) of this subsection, including allowed fees and reimbursement of
6 reasonable charges and expenses of the receiver and professional
7 persons employed by the receiver under RCW 7.60.180. Notwithstanding
8 (a) of this subsection, expenses incurred during the administration of
9 the estate have priority over the secured claim of any creditor
10 obtaining or consenting to the appointment of the receiver.

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

16 (d) Claims for wages, salaries, or commissions, including vacation,
17 severance, and sick leave pay, or contributions to an employee benefit
18 plan, earned by the claimant within (~~ninety~~) one hundred eighty days
19 of the date of appointment of the receiver or the cessation of the
20 estate's business, whichever occurs first, but only to the extent of
21 (~~two thousand~~) ten thousand nine hundred fifty dollars.

22 (e) Allowed unsecured claims, to the extent of (~~nine hundred~~) two
23 thousand four hundred twenty-five dollars for each individual, arising
24 from the deposit with the person over whose property the receiver is
25 appointed before the date of appointment of the receiver of money in
26 connection with the purchase, lease, or rental of property or the
27 purchase of services for personal, family, or household use by
28 individuals that were not delivered or provided.

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

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

36 (h) Other unsecured claims.

37 (2) If all of the classes under subsection (1) of this section have

1 been paid in full, any residue shall be paid to the person over whose
2 property the receiver is appointed.

3 **Sec. 8.** RCW 7.60.200 and 2004 c 165 s 22 are each amended to read
4 as follows:

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

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

23 IN THE SUPERIOR COURT, IN AND FOR
24 _____ COUNTY, WASHINGTON
25 [Case Name]) Case No.
26)
27) NOTICE OF RECEIVERSHIP
28)
29)
30 _____)
31 TO CREDITORS AND OTHER PARTIES IN INTEREST:
32 PLEASE TAKE NOTICE that a receiver was appointed for _____, whose last known address
33 is _____, on _____, ____.

1 YOU ARE HEREBY FURTHER NOTIFIED that in order to receive any dividend in this proceeding you
2 must file proof of claim with the receiver on or before _____, ~~___ ((+20)) 180~~ days from the date ~~((of~~
3 ~~appointment of the receiver))~~ notice is given by mail for state agencies, or 30 days from the date notice is
4 given by mail for all other parties).

5 _____
6 RECEIVER

7 Attorney for receiver (if any): _____

8 Address: _____

--- END ---