
SECOND SUBSTITUTE HOUSE BILL 2486

State of Washington

65th Legislature

2018 Regular Session

By House Appropriations (originally sponsored by Representative Graves; by request of Uniform Law Commission)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to the revised uniform unclaimed property act;
 2 adding a new chapter to Title 63 RCW; repealing RCW 63.29.010,
 3 63.29.020, 63.29.030, 63.29.040, 63.29.050, 63.29.060, 63.29.070,
 4 63.29.080, 63.29.090, 63.29.100, 63.29.110, 63.29.120, 63.29.130,
 5 63.29.133, 63.29.135, 63.29.140, 63.29.150, 63.29.160, 63.29.165,
 6 63.29.170, 63.29.180, 63.29.190, 63.29.192, 63.29.193, 63.29.194,
 7 63.29.195, 63.29.200, 63.29.210, 63.29.220, 63.29.230, 63.29.240,
 8 63.29.250, 63.29.260, 63.29.270, 63.29.280, 63.29.290, 63.29.300,
 9 63.29.310, 63.29.320, 63.29.330, 63.29.340, 63.29.350, 63.29.360,
 10 63.29.370, 63.29.380, 63.29.900, 63.29.902, 63.29.903, 63.29.905, and
 11 63.29.906; prescribing penalties; and providing an effective date.

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

13 **PART 1**

14 **GENERAL PROVISIONS**

15 NEW SECTION. **Sec. 101.** SHORT TITLE. This chapter may be cited
 16 as the revised uniform unclaimed property act.

17 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
 18 section apply throughout this chapter unless the context clearly
 19 requires otherwise.

1 (1) "Administrator" means the department of revenue established
2 under RCW 82.01.050.

3 (2) "Administrator's agent" means a person with which the
4 administrator contracts to conduct an examination under sections 1001
5 through 1013 of this act on behalf of the administrator. The term
6 includes an independent contractor of the person and each individual
7 participating in the examination on behalf of the person or
8 contractor.

9 (3) "Apparent owner" means a person whose name appears on the
10 records of a holder as the owner of property held, issued, or owing
11 by the holder.

12 (4) "Business association" means a corporation, joint stock
13 company, investment company other than an investment company
14 registered under the investment company act of 1940, as amended, 15
15 U.S.C. Secs. 80a-1 through 80a-64, partnership, unincorporated
16 association, joint venture, limited liability company, business
17 trust, trust company, land bank, safe deposit company, safekeeping
18 depository, financial organization, insurance company, federally
19 chartered entity, utility, sole proprietorship, or other business
20 entity, whether or not for profit.

21 (5) "Confidential information" means records, reports, and
22 information that are confidential under section 1402 of this act.

23 (6) "Domicile" means:

24 (a) For a corporation, the state of its incorporation;

25 (b) For a business association whose formation requires a filing
26 with a state, other than a corporation, the state of the principal
27 place of business of such a business association, if formed under the
28 laws of a state other than the state in which its principal place of
29 business is located, unless determined to be otherwise by a court of
30 competent jurisdiction;

31 (c) For a federally chartered entity or an investment company
32 registered under the investment company act of 1940, as amended, 15
33 U.S.C. Secs. 80a-1 through 80a-64, the state of its home office; and

34 (d) For any other holder, the state of its principal place of
35 business.

36 (7) "Electronic" means relating to technology having electrical,
37 digital, magnetic, wireless, optical, electromagnetic, or similar
38 capabilities.

1 (8) "Email" means a communication by electronic means which is
2 automatically retained and stored and may be readily accessed or
3 retrieved.

4 (9) "Financial organization" means a savings and loan
5 association, building and loan association, savings bank, industrial
6 bank, bank, banking organization, or credit union.

7 (10) "Game-related digital content" means digital content that
8 exists only in an electronic game or electronic game platform. The
9 term:

10 (a) Includes:

11 (i) Game-play currency such as a virtual wallet, even if
12 denominated in United States currency; and

13 (ii) The following if for use or redemption only within the game
14 or platform or another electronic game or electronic game platform:

15 (A) Points sometimes referred to as gems, tokens, gold, and
16 similar names; and

17 (B) Digital codes; and

18 (b) Does not include an item that the issuer:

19 (i) Permits to be redeemed for use outside a game or platform
20 for:

21 (A) Money; or

22 (B) Goods or services that have more than minimal value; or

23 (ii) Otherwise monetizes for use outside a game or platform.

24 (11) "Gift card" has the meaning given in RCW 19.240.010.

25 (12) "Holder" means a person obligated to hold for the account
26 of, or to deliver or pay to, the owner, property subject to this
27 chapter.

28 (13) "Insurance company" means an association, corporation, or
29 fraternal or mutual benefit organization, whether or not for profit,
30 engaged in the business of providing life endowments, annuities, or
31 insurance, including accident, burial, casualty, credit life,
32 contract performance, dental, disability, fidelity, fire, health,
33 hospitalization, illness, life, malpractice, marine, mortgage,
34 surety, wage protection, and worker compensation insurance.

35 (14) "Loyalty card" means a record given without direct monetary
36 consideration under an award, reward, benefit, loyalty, incentive,
37 rebate, or promotional program which may be used or redeemed only to
38 obtain goods or services or a discount on goods or services. The term
39 does not include a record that may be redeemed for money or otherwise
40 monetized by the issuer.

1 (15) "Mineral" means gas, oil, coal, oil shale, other gaseous
2 liquid or solid hydrocarbon, cement material, sand and gravel, road
3 material, building stone, chemical raw material, gemstone,
4 fissionable and nonfissionable ores, colloidal and other clay, steam
5 and other geothermal resources, and any other substance defined as a
6 mineral by law of this state other than this chapter.

7 (16) "Mineral proceeds" means an amount payable for extraction,
8 production, or sale of minerals, or, on the abandonment of the
9 amount, an amount that becomes payable after abandonment. The term
10 includes an amount payable:

11 (a) For the acquisition and retention of a mineral lease,
12 including a bonus, royalty, compensatory royalty, shut-in royalty,
13 minimum royalty, and delay rental;

14 (b) For the extraction, production, or sale of minerals,
15 including a net revenue interest, royalty, overriding royalty,
16 extraction payment, and production payment; and

17 (c) Under an agreement or option, including a joint operating
18 agreement, unit agreement, pooling agreement, and farm-out agreement.

19 (17) "Money order" means a payment order for a specified amount
20 of money. The term includes an express money order and a personal
21 money order on which the remitter is the purchaser.

22 (18) "Municipal bond" means a bond or evidence of indebtedness
23 issued by a municipality or other political subdivision of a state.

24 (19) "Net card value" means the original purchase price or
25 original issued value of a stored value card, plus amounts added to
26 the original price or value, minus amounts used and any service
27 charge, fee, or dormancy charge permitted by law.

28 (20) "Nonfreely transferable security" means a security that
29 cannot be delivered to the administrator by the depository trust
30 clearing corporation or similar custodian of securities providing
31 posttrade clearing and settlement services to financial markets or
32 cannot be delivered because there is no agent to effect transfer. The
33 term includes a worthless security.

34 (21) "Owner" means a person that has a legal, beneficial, or
35 equitable interest in property subject to this chapter or the
36 person's legal representative when acting on behalf of the owner. The
37 term includes:

38 (a) A depositor, for a deposit;

39 (b) A beneficiary, for a trust other than a deposit in trust;

40 (c) A creditor, claimant, or payee, for other property; and

1 (d) The lawful bearer of a record that may be used to obtain
2 money, a reward, or a thing of value.

3 (22) "Payroll card" means a record that evidences a payroll card
4 account as defined in Regulation E, 12 C.F.R. Part 1005, as it
5 existed on the effective date of this section.

6 (23) "Person" means an individual, estate, business association,
7 public corporation, government or governmental subdivision, agency,
8 or instrumentality, or other legal entity.

9 (24) "Property" means tangible property described in section 205
10 of this act or a fixed and certain interest in intangible property
11 held, issued, or owed in the course of a holder's business or by a
12 government, governmental subdivision, agency, or instrumentality. The
13 term:

14 (a) Includes all income from or increments to the property;

15 (b) Includes property referred to as or evidenced by:

16 (i) Money, virtual currency, interest, or a dividend, check,
17 draft, deposit, or payroll card;

18 (ii) A credit balance, customer's overpayment, stored value card,
19 security deposit, refund, credit memorandum, unpaid wage, unused
20 ticket for which the issuer has an obligation to provide a refund,
21 mineral proceeds, or unidentified remittance;

22 (iii) A security except for:

23 (A) A worthless security; or

24 (B) A security that is subject to a lien, legal hold, or
25 restriction evidenced on the records of the holder or imposed by
26 operation of law, if the lien, legal hold, or restriction restricts
27 the holder's or owner's ability to receive, transfer, sell, or
28 otherwise negotiate the security;

29 (iv) A bond, debenture, note, or other evidence of indebtedness;

30 (v) Money deposited to redeem a security, make a distribution, or
31 pay a dividend;

32 (vi) An amount due and payable under an annuity contract or
33 insurance policy; and

34 (vii) An amount distributable from a trust or custodial fund
35 established under a plan to provide health, welfare, pension,
36 vacation, severance, retirement, death, stock purchase, profit-
37 sharing, employee savings, supplemental unemployment insurance, or a
38 similar benefit; and

39 (c) Does not include:

1 (i) Property held in a plan described in section 529A of the
2 internal revenue code, as it existed on the effective date of this
3 section, 26 U.S.C. Sec. 529A;

4 (ii) Game-related digital content;

5 (iii) A loyalty card;

6 (iv) A gift card or gift certificate complying with chapter
7 19.240 RCW.

8 (25) "Putative holder" means a person believed by the
9 administrator to be a holder, until the person pays or delivers to
10 the administrator property subject to this chapter or the
11 administrator or a court makes a final determination that the person
12 is or is not a holder.

13 (26) "Record" means information that is inscribed on a tangible
14 medium or that is stored in an electronic or other medium and is
15 retrievable in perceivable form.

16 (27) "Security" means:

17 (a) A security as defined in RCW 62A.8-102;

18 (b) A security entitlement as defined in RCW 62A.8-102, including
19 a customer security account held by a registered broker-dealer, to
20 the extent the financial assets held in the security account are not:

21 (i) Registered on the books of the issuer in the name of the
22 person for which the broker-dealer holds the assets;

23 (ii) Payable to the order of the person; or

24 (iii) Specifically indorsed to the person; or

25 (c) An equity interest in a business association not included in
26 (a) or (b) of this subsection.

27 (28) "Sign" means, with present intent to authenticate or adopt a
28 record:

29 (a) To execute or adopt a tangible symbol; or

30 (b) To attach to or logically associate with the record an
31 electronic symbol, sound, or process.

32 (29) "State" means a state of the United States, the District of
33 Columbia, the Commonwealth of Puerto Rico, the United States Virgin
34 Islands, or any territory or insular possession subject to the
35 jurisdiction of the United States.

36 (30) "Stored value card" means a record evidencing a promise made
37 for consideration by the seller or issuer of the record that goods,
38 services, or money will be provided to the owner of the record to the
39 value or amount shown in the record. The term:

40 (a) Includes:

1 (i) A record that contains or consists of a microprocessor chip,
2 magnetic strip, or other means for the storage of information, which
3 is prefunded and whose value or amount is decreased on each use and
4 increased by payment of additional consideration; and

5 (ii) A payroll card; and

6 (b) Does not include a loyalty card, gift card, or game-related
7 digital content.

8 (31) "Utility" means a person that owns or operates for public
9 use a plant, equipment, real property, franchise, or license for the
10 following public services:

11 (a) Transmission of communications or information;

12 (b) Production, storage, transmission, sale, delivery, or
13 furnishing of electricity, water, steam, or gas; or

14 (c) Provision of sewage or septic services, or trash, garbage, or
15 recycling disposal.

16 (32) "Virtual currency" means a digital representation of value
17 used as a medium of exchange, unit of account, or store of value,
18 which does not have legal tender status recognized by the United
19 States. The term does not include:

20 (a) The software or protocols governing the transfer of the
21 digital representation of value;

22 (b) Game-related digital content; or

23 (c) A loyalty card or gift card.

24 (33) "Worthless security" means a security whose cost of
25 liquidation and delivery to the administrator would exceed the value
26 of the security on the date a report is due under this chapter.

27 NEW SECTION. **Sec. 103.** INAPPLICABILITY TO FOREIGN TRANSACTION.
28 This chapter does not apply to property held, due, and owing in a
29 foreign country if the transaction out of which the property arose
30 was a foreign transaction.

31 NEW SECTION. **Sec. 104.** RULE MAKING. The administrator may adopt
32 rules under chapter 34.05 RCW to implement and administer this
33 chapter.

34 **PART 2**

35 **PRESUMPTION OF ABANDONMENT**

1 NEW SECTION. **Sec. 201.** WHEN PROPERTY PRESUMED ABANDONED.

2 Subject to section 209 of this act, the following property is
3 presumed abandoned if it is unclaimed by the apparent owner during
4 the period specified below:

5 (1) A traveler's check, fifteen years after issuance;

6 (2) A money order, five years after issuance;

7 (3) A state or municipal bond, bearer bond, or original issue
8 discount bond, three years after the earliest of the date the bond
9 matures or is called or the obligation to pay the principal of the
10 bond arises;

11 (4) A debt of a business association, three years after the
12 obligation to pay arises;

13 (5) A demand, savings, or time deposit, including a deposit that
14 is automatically renewable, three years after the maturity of the
15 deposit, except a deposit that is automatically renewable is deemed
16 matured on its initial date of maturity unless the apparent owner
17 consented in a record on file with the holder to renewal at or about
18 the time of the renewal;

19 (6) Money or a credit owed to a customer as a result of a retail
20 business transaction, three years after the obligation arose;

21 (7) An amount owed by an insurance company on a life or endowment
22 insurance policy or an annuity contract that has matured or
23 terminated, three years after the obligation to pay arose under the
24 terms of the policy or contract or, if a policy or contract for which
25 an amount is owed on proof of death has not matured by proof of the
26 death of the insured or annuitant, as follows:

27 (a) With respect to an amount owed on a life or endowment
28 insurance policy, three years after the earlier of the date:

29 (i) The insurance company has knowledge of the death of the
30 insured; or

31 (ii) The insured has attained, or would have attained if living,
32 the limiting age under the mortality table on which the reserve for
33 the policy is based; and

34 (b) With respect to an amount owed on an annuity contract, three
35 years after the date the insurance company has knowledge of the death
36 of the annuitant;

37 (8) Property distributable by a business association in the
38 course of dissolution, one year after the property becomes
39 distributable;

1 (9) Property held by a court, including property received as
2 proceeds of a class action, one year after the property becomes
3 distributable;

4 (10) Property held by a government or governmental subdivision,
5 agency, or instrumentality, including municipal bond interest and
6 unredeemed principal under the administration of a paying agent or
7 indenture trustee, one year after the property becomes distributable;

8 (11) Wages, payroll cards, commissions, bonuses, or
9 reimbursements to which an employee is entitled, or other
10 compensation for personal services, one year after the amount becomes
11 payable;

12 (12) A deposit or refund owed to a subscriber by a utility, one
13 year after the deposit or refund becomes payable; and

14 (13) Property not specified in this section or section 202
15 through 207 of this act, the earlier of three years after the owner
16 first has a right to demand the property or the obligation to pay or
17 distribute the property arises.

18 NEW SECTION. **Sec. 202.** WHEN TAX DEFERRED RETIREMENT ACCOUNT
19 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property
20 held in a pension account or retirement account that qualifies for
21 tax deferral under the income tax laws of the United States is
22 presumed abandoned if it is unclaimed by the apparent owner three
23 years after the later of:

24 (a) The following dates:

25 (i) Except as in (a)(ii) of this subsection, the date a second
26 consecutive communication sent by the holder by first-class United
27 States mail to the apparent owner is returned to the holder
28 undelivered by the United States postal service; or

29 (ii) If the second communication is sent later than thirty days
30 after the date the first communication is returned undelivered, the
31 date the first communication was returned undelivered by the United
32 States postal service; or

33 (b) The earlier of the following dates:

34 (i) The date the apparent owner becomes seventy and one-half
35 years of age, if determinable by the holder; or

36 (ii) If the internal revenue code, as it existed on the effective
37 date of this section, 26 U.S.C. Sec. 1 et seq., requires distribution
38 to avoid a tax penalty, two years after the date the holder:

1 (A) Receives confirmation of the death of the apparent owner in
2 the ordinary course of its business; or

3 (B) Confirms the death of the apparent owner under subsection (2)
4 of this section.

5 (2) If a holder in the ordinary course of its business receives
6 notice or an indication of the death of an apparent owner and
7 subsection (1)(b) of this section applies, the holder shall attempt
8 not later than ninety days after receipt of the notice or indication
9 to confirm whether the apparent owner is deceased.

10 (3) If the holder does not send communications to the apparent
11 owner of an account described in subsection (1) of this section by
12 first-class United States mail, the holder shall attempt to confirm
13 the apparent owner's interest in the property by sending the apparent
14 owner an email communication not later than two years after the
15 apparent owner's last indication of interest in the property.
16 However, the holder promptly shall attempt to contact the apparent
17 owner by first-class United States mail if:

18 (a) The holder does not have information needed to send the
19 apparent owner an email communication or the holder believes that the
20 apparent owner's email address in the holder's records is not valid;

21 (b) The holder receives notification that the email communication
22 was not received; or

23 (c) The apparent owner does not respond to the email
24 communication not later than thirty days after the communication was
25 sent.

26 (4) If first-class United States mail sent under subsection (3)
27 of this section is returned to the holder undelivered by the United
28 States postal service, the property is presumed abandoned three years
29 after the later of:

30 (a) Except as in (b) of this subsection, the date a second
31 consecutive communication to contact the apparent owner sent by
32 first-class United States mail is returned to the holder undelivered;

33 (b) If the second communication is sent later than thirty days
34 after the date the first communication is returned undelivered, the
35 date the first communication was returned undelivered; or

36 (c) The date established by subsection (1)(b) of this section.

37 NEW SECTION. **Sec. 203.** WHEN OTHER TAX DEFERRED ACCOUNT PRESUMED
38 ABANDONED. Subject to section 209 of this act and except for property
39 described in section 202 of this act and property held in a plan

1 described in section 529A of the internal revenue code, as it existed
2 on the effective date of this section, 26 U.S.C. Sec. 529A, property
3 held in an account or plan, including a health savings account, that
4 qualifies for tax deferral under the income tax laws of the United
5 States is presumed abandoned if it is unclaimed by the apparent owner
6 three years after the earlier of:

7 (1) The date, if determinable by the holder, specified in the
8 income tax laws and regulations of the United States by which
9 distribution of the property must begin to avoid a tax penalty, with
10 no distribution having been made; or

11 (2) Thirty years after the date the account was opened.

12 NEW SECTION. **Sec. 204.** WHEN CUSTODIAL ACCOUNT FOR MINOR
13 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property
14 held in an account established under a state's uniform gifts to
15 minors act or uniform transfers to minors act is presumed abandoned
16 if it is unclaimed by or on behalf of the minor on whose behalf the
17 account was opened three years after the later of:

18 (a) Except as in (b) of this subsection, the date a second
19 consecutive communication sent by the holder by first-class United
20 States mail to the custodian of the minor on whose behalf the account
21 was opened is returned undelivered to the holder by the United States
22 postal service;

23 (b) If the second communication is sent later than thirty days
24 after the date the first communication is returned undelivered, the
25 date the first communication was returned undelivered; or

26 (c) The date on which the custodian is required to transfer the
27 property to the minor or the minor's estate in accordance with the
28 uniform gifts to minors act or uniform transfers to minors act of the
29 state in which the account was opened.

30 (2) If the holder does not send communications to the custodian
31 of the minor on whose behalf an account described in subsection (1)
32 of this section was opened by first-class United States mail, the
33 holder shall attempt to confirm the custodian's interest in the
34 property by sending the custodian an email communication not later
35 than two years after the custodian's last indication of interest in
36 the property. However, the holder promptly shall attempt to contact
37 the custodian by first-class United States mail if:

1 (a) The holder does not have information needed to send the
2 custodian an email communication or the holder believes that the
3 custodian's email address in the holder's records is not valid;

4 (b) The holder receives notification that the email communication
5 was not received; or

6 (c) The custodian does not respond to the email communication not
7 later than thirty days after the communication was sent.

8 (3) If first-class United States mail sent under subsection (2)
9 of this section is returned undelivered to the holder by the United
10 States postal service, the property is presumed abandoned three years
11 after the later of:

12 (a) The date a second consecutive communication to contact the
13 custodian by first-class United States mail is returned to the holder
14 undelivered by the United States postal service; or

15 (b) The date established by subsection (1)(c) of this section.

16 (4) When the property in the account described in subsection (1)
17 of this section is transferred to the minor on whose behalf an
18 account was opened or to the minor's estate, the property in the
19 account is no longer subject to this section.

20 NEW SECTION. **Sec. 205.** WHEN CONTENTS OF SAFE DEPOSIT BOX
21 PRESUMED ABANDONED. Tangible property held in a safe deposit box and
22 proceeds from a sale of the property by the holder permitted by law
23 of this state other than this chapter are presumed abandoned if the
24 property remains unclaimed by the apparent owner five years after the
25 earlier of the:

26 (1) Expiration of the lease or rental period for the box; or

27 (2) Earliest date when the lessor of the box is authorized by law
28 of this state other than this chapter to enter the box and remove or
29 dispose of the contents without consent or authorization of the
30 lessee.

31 NEW SECTION. **Sec. 206.** WHEN STORED VALUE CARD PRESUMED
32 ABANDONED. (1) Subject to section 209 of this act, the net card value
33 of a stored value card, other than a payroll card, is presumed
34 abandoned on the latest of three years after:

35 (a) December 31st of the year in which the card is issued or
36 additional funds are deposited into it;

37 (b) The most recent indication of interest in the card by the
38 apparent owner; or

1 (c) A verification or review of the balance by or on behalf of
2 the apparent owner.

3 (2) The amount presumed abandoned in a stored value card is the
4 net card value at the time it is presumed abandoned.

5 NEW SECTION. **Sec. 207.** WHEN SECURITY PRESUMED ABANDONED. (1)
6 Subject to section 209 of this act, a security is presumed abandoned
7 three years after:

8 (a) The date a second consecutive communication sent by the
9 holder by first-class United States mail to the apparent owner is
10 returned to the holder undelivered by the United States postal
11 service; or

12 (b) If the second communication is made later than thirty days
13 after the first communication is returned, the date the first
14 communication is returned undelivered to the holder by the United
15 States postal service.

16 (2) If the holder does not send communications to the apparent
17 owner of a security by first-class United States mail, the holder
18 shall attempt to confirm the apparent owner's interest in the
19 security by sending the apparent owner an email communication not
20 later than two years after the apparent owner's last indication of
21 interest in the security. However the holder promptly shall attempt
22 to contact the apparent owner by first-class United States mail if:

23 (a) The holder does not have information needed to send the
24 apparent owner an email communication or the holder believes that the
25 apparent owner's email address in the holder's records is not valid;

26 (b) The holder receives notification that the email communication
27 was not received; or

28 (c) The apparent owner does not respond to the email
29 communication not later than thirty days after the communication was
30 sent.

31 (3) If first-class United States mail sent under subsection (2)
32 of this section is returned to the holder undelivered by the United
33 States postal service, the security is presumed abandoned three years
34 after the date the mail is returned.

35 NEW SECTION. **Sec. 208.** WHEN RELATED PROPERTY PRESUMED
36 ABANDONED. At and after the time property is presumed abandoned under
37 this chapter, any other property right or interest accrued or

1 accruing from the property and not previously presumed abandoned is
2 also presumed abandoned.

3 NEW SECTION. **Sec. 209.** INDICATION OF APPARENT OWNER INTEREST IN
4 PROPERTY. (1) The period after which property is presumed abandoned
5 is measured from the later of:

6 (a) The date the property is presumed abandoned under this
7 section and sections 201 through 208, 210, and 211 of this act; or

8 (b) The latest indication of interest by the apparent owner in
9 the property.

10 (2) Under this chapter, an indication of an apparent owner's
11 interest in property includes:

12 (a) A record communicated by the apparent owner to the holder or
13 agent of the holder concerning the property or the account in which
14 the property is held;

15 (b) An oral communication by the apparent owner to the holder or
16 agent of the holder concerning the property or the account in which
17 the property is held, if the holder or its agent contemporaneously
18 makes and preserves a record of the fact of the apparent owner's
19 communication;

20 (c) Presentment of a check or other instrument of payment of a
21 dividend, interest payment, or other distribution, or evidence of
22 receipt of a distribution made by electronic or similar means, with
23 respect to an account, underlying security, or interest in a business
24 association;

25 (d) Activity directed by an apparent owner in the account in
26 which the property is held, including accessing the account or
27 information concerning the account, or a direction by the apparent
28 owner to increase, decrease, or otherwise change the amount or type
29 of property held in the account;

30 (e) A deposit into or withdrawal from an account at a financial
31 organization, including an automatic deposit or withdrawal previously
32 authorized by the apparent owner other than an automatic reinvestment
33 of dividends or interest;

34 (f) Subject to subsection (5) of this section, payment of a
35 premium on an insurance policy; and

36 (g) Any other action by the apparent owner which reasonably
37 demonstrates to the holder that the apparent owner knows that the
38 property exists.

1 (3) An action by an agent or other representative of an apparent
2 owner, other than the holder acting as the apparent owner's agent, is
3 presumed to be an action on behalf of the apparent owner.

4 (4) A communication with an apparent owner by a person other than
5 the holder or the holder's representative is not an indication of
6 interest in the property by the apparent owner unless a record of the
7 communication evidences the apparent owner's knowledge of a right to
8 the property.

9 (5) If the insured dies or the insured or beneficiary of an
10 insurance policy otherwise becomes entitled to the proceeds before
11 depletion of the cash surrender value of the policy by operation of
12 an automatic premium loan provision or other nonforfeiture provision
13 contained in the policy, the operation does not prevent the policy
14 from maturing or terminating.

15 NEW SECTION. **Sec. 210.** KNOWLEDGE OF DEATH OF INSURED OR
16 ANNUITANT. (1) In this section, "death master file" means the United
17 States social security administration death master file or other
18 database or service that is at least as comprehensive as the United
19 States social security administration death master file for
20 determining that an individual reportedly has died.

21 (2) With respect to a life or endowment insurance policy or
22 annuity contract for which an amount is owed on proof of death, but
23 which has not matured by proof of death of the insured or annuitant,
24 the company has knowledge of the death of an insured or annuitant
25 when:

26 (a) The company receives a death certificate or court order
27 determining that the insured or annuitant has died;

28 (b) Due diligence, performed as required under chapter 48.23 RCW
29 and rules promulgated thereunder to maintain contact with the insured
30 or annuitant or determine whether the insured or annuitant has died,
31 validates the death of the insured or annuitant;

32 (c) The company conducts a comparison for any purpose between a
33 death master file and the names of some or all of the company's
34 insureds or annuitants, finds a match that provides notice that the
35 insured or annuitant has died, and validates the death;

36 (d) The administrator or the administrator's agent conducts a
37 comparison for the purpose of finding matches during an examination
38 conducted under sections 1001 through 1013 of this act between a
39 death master file and the names of some or all of the company's

1 insureds or annuitants, finds a match that provides notice that the
2 insured or annuitant has died, and the company validates the death;
3 or

4 (e) The company:

5 (i) Receives notice of the death of the insured or annuitant from
6 an administrator, beneficiary, policy owner, relative of the insured,
7 or trustee or from a personal representative or other legal
8 representative of the insured's or annuitant's estate; and

9 (ii) Validates the death of the insured or annuitant.

10 (3) The following rules apply under this section:

11 (a) A death master file match under subsection (2)(c) or (d) of
12 this section occurs if the criteria for an exact or partial match are
13 satisfied as provided by:

14 (i) Law of this state other than this chapter;

15 (ii) A rule or policy adopted by the office of the insurance
16 commissioner; or

17 (iii) Absent a law, rule, or policy under (a)(i) or (ii) of this
18 subsection standards in the national conference of insurance
19 legislators' "model unclaimed life insurance benefits act" as
20 published in 2014.

21 (b) The death master file match does not constitute proof of
22 death for the purpose of submission to an insurance company of a
23 claim by a beneficiary, annuitant, or owner of the policy or contract
24 for an amount due under an insurance policy or annuity contract.

25 (c) The death master file match or validation of the insured's or
26 annuitant's death does not alter the requirements for a beneficiary,
27 annuitant, or owner of the policy or contract to make a claim to
28 receive proceeds under the terms of the policy or contract.

29 (d) If no provision in Title 48 RCW or rules promulgated
30 thereunder establishes a time for validation of a death of an insured
31 or annuitant, the insurance company shall make a good faith effort
32 using other available records and information to validate the death
33 and document the effort taken not later than ninety days after the
34 insurance company has notice of the death.

35 (4) This chapter does not affect the determination of the extent
36 to which an insurance company before the effective date of this
37 section had knowledge of the death of an insured or annuitant or was
38 required to conduct a death master file comparison to determine
39 whether amounts owed by the company on a life or endowment insurance
40 policy or annuity contract were presumed abandoned or unclaimed.

1 NEW SECTION. **Sec. 211.** DEPOSIT ACCOUNT FOR PROCEEDS OF
2 INSURANCE POLICY OR ANNUITY CONTRACT. If proceeds payable under a
3 life or endowment insurance policy or annuity contract are deposited
4 into an account with check or draft writing privileges for the
5 beneficiary of the policy or contract and, under a supplementary
6 contract not involving annuity benefits other than death benefits,
7 the proceeds are retained by the insurance company or the financial
8 organization where the account is held, the policy or contract
9 includes the assets in the account.

10 **PART 3**

11 **RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED**

12 NEW SECTION. **Sec. 301.** ADDRESS OF APPARENT OWNER TO ESTABLISH
13 PRIORITY. In this section and sections 302 through 307 of this act,
14 the following rules apply:

15 (1) The last known address of an apparent owner is any
16 description, code, or other indication of the location of the
17 apparent owner which identifies the state, even if the description,
18 code, or indication of location is not sufficient to direct the
19 delivery of first-class United States mail to the apparent owner.

20 (2) If the United States postal zip code associated with the
21 apparent owner is for a post office located in this state, this state
22 is deemed to be the state of the last known address of the apparent
23 owner unless other records associated with the apparent owner
24 specifically identify the physical address of the apparent owner to
25 be in another state.

26 (3) If the address under subsection (2) of this section is in
27 another state, the other state is deemed to be the state of the last
28 known address of the apparent owner.

29 (4) The address of the apparent owner of a life or endowment
30 insurance policy or annuity contract or its proceeds is presumed to
31 be the address of the insured or annuitant if a person other than the
32 insured or annuitant is entitled to the amount owed under the policy
33 or contract and the address of the other person is not known by the
34 insurance company and cannot be determined under section 302 of this
35 act.

36 NEW SECTION. **Sec. 302.** ADDRESS OF APPARENT OWNER IN THIS STATE.
37 The administrator may take custody of property that is presumed

1 abandoned, whether located in this state, another state, or a foreign
2 country if:

3 (1) The last known address of the apparent owner in the records
4 of the holder is in this state; or

5 (2) The records of the holder do not reflect the identity or last
6 known address of the apparent owner, but the administrator has
7 determined that the last known address of the apparent owner is in
8 this state.

9 NEW SECTION. **Sec. 303.** IF RECORDS SHOW MULTIPLE ADDRESSES OF
10 APPARENT OWNER. (1) Except as in subsection (2) of this section, if
11 records of a holder reflect multiple addresses for an apparent owner
12 and this state is the state of the most recently recorded address,
13 this state may take custody of property presumed abandoned, whether
14 located in this state or another state.

15 (2) If it appears from records of the holder that the most
16 recently recorded address of the apparent owner under subsection (1)
17 of this section is a temporary address and this state is the state of
18 the next most recently recorded address that is not a temporary
19 address, this state may take custody of the property presumed
20 abandoned.

21 NEW SECTION. **Sec. 304.** HOLDER DOMICILED IN THIS STATE. (1)
22 Except as in subsection (2) of this section or section 302 or 303 of
23 this act, the administrator may take custody of property presumed
24 abandoned, whether located in this state, another state, or a foreign
25 country, if the holder is domiciled in this state or is this state or
26 a governmental subdivision, agency, or instrumentality of this state,
27 and:

28 (a) Another state or foreign country is not entitled to the
29 property because there is no last known address of the apparent owner
30 or other person entitled to the property in the records of the
31 holder; or

32 (b) The state or foreign country of the last known address of the
33 apparent owner or other person entitled to the property does not
34 provide for custodial taking of the property.

35 (2) Property is not subject to custody of the administrator under
36 subsection (1) of this section if the property is specifically exempt
37 from custodial taking under the law of this state or the state or
38 foreign country of the last known address of the apparent owner.

1 (3) If a holder's state of domicile has changed since the time
2 property was presumed abandoned, the holder's state of domicile in
3 this section is deemed to be the state where the holder was domiciled
4 at the time the property was presumed abandoned.

5 NEW SECTION. **Sec. 305.** CUSTODY IF TRANSACTION TOOK PLACE IN
6 THIS STATE. Except as in section 302, 303, or 304 of this act, the
7 administrator may take custody of property presumed abandoned whether
8 located in this state or another state if:

9 (1) The transaction out of which the property arose took place in
10 this state;

11 (2) The holder is domiciled in a state that does not provide for
12 the custodial taking of the property, except that if the property is
13 specifically exempt from custodial taking under the law of the state
14 of the holder's domicile, the property is not subject to the custody
15 of the administrator; and

16 (3) The last known address of the apparent owner or other person
17 entitled to the property is unknown or in a state that does not
18 provide for the custodial taking of the property, except that if the
19 property is specifically exempt from custodial taking under the law
20 of the state of the last known address, the property is not subject
21 to the custody of the administrator.

22 NEW SECTION. **Sec. 306.** TRAVELER'S CHECK, MONEY ORDER, OR
23 SIMILAR INSTRUMENT. The administrator may take custody of sums
24 payable on a traveler's check, money order, or similar instrument
25 presumed abandoned to the extent permissible under 12 U.S.C. Secs.
26 2501 through 2503, as it existed on the effective date of this
27 section.

28 NEW SECTION. **Sec. 307.** BURDEN OF PROOF TO ESTABLISH
29 ADMINISTRATOR'S RIGHT TO CUSTODY. If the administrator asserts a
30 right to custody of unclaimed property, the administrator has the
31 burden to prove:

32 (1) The existence and amount of the property;

33 (2) The property is presumed abandoned; and

34 (3) The property is subject to the custody of the administrator.

35 **PART 4**

36 **REPORT BY HOLDER**

1 NEW SECTION. **Sec. 401.** REPORT REQUIRED BY HOLDER. (1) A holder
2 of property presumed abandoned and subject to the custody of the
3 administrator shall report in a record to the administrator
4 concerning the property.

5 (2) A holder may contract with a third party to make the report
6 required under subsection (1) of this section.

7 (3) Whether or not a holder contracts with a third party under
8 subsection (2) of this section, the holder is responsible:

9 (a) To the administrator for the complete, accurate, and timely
10 reporting of property presumed abandoned; and

11 (b) For paying or delivering to the administrator property
12 described in the report.

13 (4)(a) Reports due under this section must be filed
14 electronically in a form or manner provided or authorized by the
15 administrator. However, the administrator, upon request or its own
16 initiative, may relieve any holder or class of holders from the
17 electronic filing requirement under this subsection for good cause as
18 determined by the administrator.

19 (b) For purposes of this subsection, "good cause" means:

20 (i) A circumstance or condition exists that, in the
21 administrator's judgment, prevents the holder from electronically
22 filing the report due under this section; or

23 (ii) The administrator determines that relief from the electronic
24 filing requirement under this subsection supports the efficient or
25 effective administration of this chapter.

26 NEW SECTION. **Sec. 402.** CONTENT OF REPORT. (1) The report
27 required under section 401 of this act must:

28 (a) Be signed by or on behalf of the holder and verified as to
29 its completeness and accuracy;

30 (b) If filed electronically, be in a secure format approved by
31 the administrator which protects confidential information of the
32 apparent owner in the same manner as required of the administrator
33 and the administrator's agent under sections 1401 through 1408 of
34 this act;

35 (c) Describe the property;

36 (d) Except for a traveler's check, money order, or similar
37 instrument, contain the name, if known, last known address, if known,
38 and social security number or taxpayer identification number, if

1 known or readily ascertainable, of the apparent owner of property
2 with a value of fifty dollars or more;

3 (e) For an amount held or owing under a life or endowment
4 insurance policy or annuity contract, contain the name and last known
5 address of the insured, annuitant, or other apparent owner of the
6 policy or contract and of the beneficiary;

7 (f) For property held in or removed from a safe deposit box,
8 indicate the location of the property, where it may be inspected by
9 the administrator, and any amounts owed to the holder under section
10 606 of this act;

11 (g) Contain the commencement date for determining abandonment
12 under sections 201 through 211 of this act;

13 (h) State that the holder has complied with the notice
14 requirements of section 501 of this act;

15 (i) Identify property that is a nonfreely transferable security
16 and explain why it is a nonfreely transferable security; and

17 (j) Contain other information the administrator prescribes by
18 rules.

19 (2) A report under section 401 of this act may include in the
20 aggregate items valued under fifty dollars each. If the report
21 includes items in the aggregate valued under fifty dollars each, the
22 administrator may not require the holder to provide the name and
23 address of an apparent owner of an item unless the information is
24 necessary to verify or process a claim in progress by the apparent
25 owner.

26 (3) A report under section 401 of this act may include personal
27 information as defined in section 1401(1) of this act about the
28 apparent owner or the apparent owner's property to the extent not
29 otherwise prohibited by federal law.

30 (4) If a holder has changed its name while holding property
31 presumed abandoned or is a successor to another person that
32 previously held the property for the apparent owner, the holder must
33 include in the report under section 401 of this act its former name
34 or the name of the previous holder, if any, and the known name and
35 address of each previous holder of the property.

36 NEW SECTION. **Sec. 403.** WHEN REPORT TO BE FILED. (1) Except as
37 otherwise provided in subsection (2) of this section and subject to
38 subsection (3) of this section, the report under section 401 of this

1 act must be filed before November 1st of each year and cover the
2 twelve months preceding July 1st of that year.

3 (2) Subject to subsection (3) of this section, the report under
4 section 401 of this act to be filed by an insurance company must be
5 filed before May 1st of each year for the immediately preceding
6 calendar year.

7 (3) Before the date for filing the report under section 401 of
8 this act, the holder of property presumed abandoned may request the
9 administrator to extend the time for filing. The administrator may
10 grant an extension. If the extension is granted, the holder may pay
11 or make a partial payment of the amount the holder estimates
12 ultimately will be due. The payment or partial payment terminates
13 accrual of interest on the amount paid.

14 NEW SECTION. **Sec. 404.** RETENTION OF RECORDS BY HOLDER. A holder
15 required to file a report under section 401 of this act shall retain
16 records for ten years after the later of the date the report was
17 filed or the last date a timely report was due to be filed, unless a
18 shorter period is provided by rule of the administrator. The holder
19 may satisfy the requirement to retain records under this section
20 through an agent. The records must contain:

- 21 (1) The information required to be included in the report;
- 22 (2) The date, place, and nature of the circumstances that gave
23 rise to the property right;
- 24 (3) The amount or value of the property;
- 25 (4) The last address of the apparent owner, if known to the
26 holder; and
- 27 (5) If the holder sells, issues, or provides to others for sale
28 or issue in this state traveler's checks, money orders, or similar
29 instruments, other than third-party bank checks, on which the holder
30 is directly liable, a record of the instruments while they remain
31 outstanding indicating the state and date of issue.

32 NEW SECTION. **Sec. 405.** PROPERTY REPORTABLE AND PAYABLE OR
33 DELIVERABLE ABSENT OWNER DEMAND. Property is reportable and payable
34 or deliverable under this chapter even if the owner fails to make
35 demand or present an instrument or document otherwise required to
36 obtain payment.

1 to the apparent owner's last known mailing address and by email,
2 unless the holder believes that the apparent owner's email address is
3 invalid.

4 NEW SECTION. **Sec. 502.** CONTENTS OF NOTICE BY HOLDER. (1) Notice
5 under section 501 of this act must contain a heading that reads
6 substantially as follows:

7 "Notice

8 The state of Washington requires us to notify you that your
9 property may be transferred to the custody of the department of
10 revenue if you do not contact us before (insert date that is thirty
11 days after the date of this notice)."

12 (2) The notice under section 501 of this act must:

13 (a) Identify the nature and, except for property that does not
14 have a fixed value, the value of the property that is the subject of
15 the notice;

16 (b) State that the property will be turned over to the
17 administrator;

18 (c) State that after the property is turned over to the
19 administrator an apparent owner that seeks return of the property
20 must file a claim with the administrator;

21 (d) State that property that is not legal tender of the United
22 States may be sold by the administrator; and

23 (e) Provide instructions that the apparent owner must follow to
24 prevent the holder from reporting and paying or delivering the
25 property to the administrator.

26 NEW SECTION. **Sec. 503.** NOTICE BY ADMINISTRATOR. (1) The
27 administrator shall give notice to an apparent owner that property
28 presumed abandoned and appears to be owned by the apparent owner is
29 held by the administrator under this chapter.

30 (2) In providing notice under subsection (1) of this section, the
31 administrator shall:

32 (a) Except as otherwise provided in (b) of this subsection, send
33 written notice by first-class United States mail to each apparent
34 owner of property valued at seventy-five dollars or more held by the
35 administrator, unless the administrator determines that a mailing by
36 first-class United States mail would not be received by the apparent
37 owner, and, in the case of a security held in an account for which

1 the apparent owner had consented to receiving email from the holder,
2 send notice by email if the email address of the apparent owner is
3 known to the administrator instead of by first-class United States
4 mail; or

5 (b) Send the notice to the apparent owner's email address if the
6 administrator does not have a valid United States mail address for an
7 apparent owner, but has an email address that the administrator does
8 not know to be invalid.

9 (3) In addition to the notice under subsection (2) of this
10 section, the administrator shall:

11 (a) Publish every twelve months in the printed or online version
12 of a newspaper of general circulation within this state, which the
13 administrator determines is most likely to give notice to the
14 apparent owner of the property, notice of property held by the
15 administrator which must include:

16 (i) The total value of property received by the administrator
17 during the preceding twelve-month period, taken from the reports
18 under section 401 of this act;

19 (ii) The total value of claims paid by the administrator during
20 the preceding twelve-month period;

21 (iii) The internet web address of the unclaimed property web site
22 maintained by the administrator;

23 (iv) A telephone number and email address to contact the
24 administrator to inquire about or claim property; and

25 (v) A statement that a person may access the internet by a
26 computer to search for unclaimed property and a computer may be
27 available as a service to the public at a local public library; and

28 (b) Maintain a web site or database accessible by the public and
29 electronically searchable which contains the names reported to the
30 administrator of all apparent owners for whom property is being held
31 by the administrator.

32 (4) The web site or database maintained under subsection (3)(b)
33 of this section must include instructions for filing with the
34 administrator a claim to property and a printable claim form with
35 instructions for its use.

36 (5) In addition to giving notice under subsection (2) of this
37 section, publishing the information under subsection (3)(a) of this
38 section and maintaining the web site or database under subsection
39 (3)(b) of this section, the administrator may use other printed
40 publication, telecommunications, the internet, or other media to

1 inform the public of the existence of unclaimed property held by the
2 administrator.

3 NEW SECTION. **Sec. 504.** COOPERATION AMONG STATE OFFICERS AND
4 AGENCIES TO LOCATE APPARENT OWNER. Unless prohibited by law of this
5 state other than this chapter, on request of the administrator, each
6 officer, agency, board, commission, division, and department of this
7 state, any body politic and corporate created by this state for a
8 public purpose, and each political subdivision of this state shall
9 make its books and records available to the administrator and
10 cooperate with the administrator to determine the current address of
11 an apparent owner of property held by the administrator under this
12 chapter.

13 **PART 6**

14 **TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

15 NEW SECTION. **Sec. 601.** DEFINITION OF GOOD FAITH. In this
16 section and sections 602 through 610 of this act, payment or delivery
17 of property is made in good faith if a holder:

18 (1) Had a reasonable basis for believing, based on the facts then
19 known, that the property was required or permitted to be paid or
20 delivered to the administrator under this chapter; or

21 (2) Made payment or delivery:

22 (a) In response to a demand by the administrator or
23 administrator's agent; or

24 (b) Under a guidance or ruling issued by the administrator which
25 the holder reasonably believed required or permitted the property to
26 be paid or delivered.

27 NEW SECTION. **Sec. 602.** DORMANCY CHARGE. (1) A holder may deduct
28 a dormancy charge from property required to be paid or delivered to
29 the administrator if:

30 (a) A valid contract between the holder and the apparent owner
31 authorizes imposition of the charge for the apparent owner's failure
32 to claim the property within a specified time; and

33 (b) The holder regularly imposes the charge and regularly does
34 not reverse or otherwise cancel the charge.

35 (2) The amount of the deduction under subsection (1) of this
36 section is limited to an amount that is not unconscionable

1 considering all relevant factors, including the marginal
2 transactional costs incurred by the holder in maintaining the
3 apparent owner's property and any services received by the apparent
4 owner.

5 NEW SECTION. **Sec. 603.** PAYMENT OR DELIVERY OF PROPERTY TO
6 ADMINISTRATOR. (1)(a) Except as otherwise provided in this section,
7 on filing a report under section 401 of this act, the holder shall
8 pay or deliver to the administrator the property described in the
9 report. Holders who are required to file a report electronically
10 under this chapter must remit payments under this section by
11 electronic funds transfer or other form of electronic payment
12 acceptable to the administrator. However, the administrator, upon
13 request or its own initiative, may relieve any holder or class of
14 holders from the electronic payment requirement under this subsection
15 for good cause as determined by the administrator.

16 (b) For purposes of this subsection, "good cause" means:

17 (i) A circumstance or condition exists that, in the
18 administrator's judgment, prevents the holder from remitting payments
19 due under this section electronically; or

20 (ii) The administrator determines that relief from the electronic
21 payment requirement under this subsection supports the efficient or
22 effective administration of this chapter.

23 (2) If property in a report under section 401 of this act is an
24 automatically renewable deposit and a penalty or forfeiture in the
25 payment of interest would result from paying the deposit to the
26 administrator at the time of the report, the date for payment of the
27 property to the administrator is extended until a penalty or
28 forfeiture no longer would result from payment, if the holder informs
29 the administrator of the extended date.

30 (3) Tangible property in a safe deposit box may not be delivered
31 to the administrator until one hundred eighty days after filing the
32 report under section 401 of this act.

33 (4) If property reported to the administrator under section 401
34 of this act is a security, the administrator may:

35 (a) Make an endorsement, instruction, or entitlement order on
36 behalf of the apparent owner to invoke the duty of the issuer, its
37 transfer agent, or the securities intermediary to transfer the
38 security; or

39 (b) Dispose of the security under section 702 of this act.

1 (5) If the holder of that property reported to the administrator
2 under section 401 of this act is the issuer of a certificated
3 security, the administrator may obtain a replacement certificate in
4 physical or book-entry form under RCW 62A.8-405. An indemnity bond is
5 not required.

6 (6) The administrator shall establish procedures for the
7 registration, issuance, method of delivery, transfer, and maintenance
8 of securities delivered to the administrator by a holder.

9 (7) An issuer, holder, and transfer agent or other person acting
10 under this section under instructions of and on behalf of the issuer
11 or holder is not liable to the apparent owner for, and must be
12 indemnified by the state against, a claim arising with respect to
13 property after the property has been delivered to the administrator.

14 (8) A holder is not required to deliver to the administrator a
15 security identified by the holder as a nonfreely transferable
16 security. If the administrator or holder determines that a security
17 is no longer a nonfreely transferable security, the holder shall
18 deliver the security on the next regular date prescribed for delivery
19 of securities under this chapter. The holder shall make a
20 determination annually whether a security identified in a report
21 filed under section 401 of this act as a nonfreely transferable
22 security is no longer a nonfreely transferable security.

23 NEW SECTION. **Sec. 604.** EFFECT OF PAYMENT OR DELIVERY OF
24 PROPERTY TO ADMINISTRATOR. (1) On payment or delivery of property to
25 the administrator under this chapter, the administrator as agent for
26 the state assumes custody and responsibility for safekeeping the
27 property. A holder that pays or delivers property to the
28 administrator in good faith and substantially complies with sections
29 501 and 502 of this act is relieved of liability arising thereafter
30 with respect to payment or delivery of the property to the
31 administrator.

32 (2) This state shall defend and indemnify a holder against
33 liability on a claim against the holder resulting from the payment or
34 delivery of property to the administrator made in good faith and
35 after the holder substantially complied with sections 501 and 502 of
36 this act.

37 NEW SECTION. **Sec. 605.** RECOVERY OF PROPERTY BY HOLDER FROM
38 ADMINISTRATOR. (1) A holder that under this chapter pays money to the

1 administrator may file a claim for reimbursement from the
2 administrator of the amount paid if the holder:

3 (a) Paid the money in error; or

4 (b) After paying the money to the administrator, paid money to a
5 person the holder reasonably believed was entitled to the money.

6 (2) If a claim for reimbursement under subsection (1) of this
7 section is made for a payment made on a negotiable instrument,
8 including a traveler's check, money order, or similar instrument, the
9 holder must submit proof that the instrument was presented and
10 payment was made to a person the holder reasonably believed was
11 entitled to payment. The holder may claim reimbursement even if the
12 payment was made to a person whose claim was made after expiration of
13 a period of limitation on the owner's right to receive or recover
14 property, whether specified by contract, statute, or court order.

15 (3) If a holder is reimbursed by the administrator under
16 subsection (1)(b) of this section, the holder may also recover from
17 the administrator income or gain under section 607 of this act that
18 would have been paid to the owner if the money had been claimed from
19 the administrator by the owner to the extent the income or gain was
20 paid by the holder to the owner.

21 (4) A holder that under this chapter delivers property other than
22 money to the administrator may file a claim for return of the
23 property from the administrator if:

24 (a) The holder delivered the property in error; or

25 (b) The apparent owner has claimed the property from the holder.

26 (5) If a claim for return of property under subsection (4) of
27 this section is made, the holder shall include with the claim
28 evidence sufficient to establish that the apparent owner has claimed
29 the property from the holder or that the property was delivered by
30 the holder to the administrator in error.

31 (6) The administrator may determine that an affidavit submitted
32 by a holder is evidence sufficient to establish that the holder is
33 entitled to reimbursement or to recover property under this section.

34 (7) A holder is not required to pay a fee or other charge for
35 reimbursement or return of property under this section.

36 (8) Not later than ninety days after a claim is filed under
37 subsection (1) or (4) of this section, the administrator shall allow
38 or deny the claim and give the claimant notice of the decision in a
39 record. If the administrator does not take action on a claim during
40 the ninety day period, the claim is deemed denied.

1 (9) Decisions under this section are subject to review under
2 sections 1103 and 1104 of this act.

3 NEW SECTION. **Sec. 606.** PROPERTY REMOVED FROM SAFE DEPOSIT BOX.
4 Property removed from a safe deposit box and delivered to the
5 administrator under this chapter is subject to the holder's right to
6 reimbursement for the cost of opening the box and a lien or contract
7 providing reimbursement to the holder for unpaid rent charges for the
8 box. The administrator shall reimburse the holder from the proceeds
9 remaining after deducting the expense incurred by the administrator
10 in selling the property.

11 NEW SECTION. **Sec. 607.** CREDITING INCOME OR GAIN TO OWNER'S
12 ACCOUNT. If property other than money is delivered to the
13 administrator, the owner is entitled to receive from the
14 administrator income or gain realized or accrued on the property
15 before the property is sold. If the property was an interest-bearing
16 demand, savings, or time deposit, the administrator shall pay
17 interest at the lesser of the rate set in RCW 82.32.050. Interest
18 begins to accrue when the property is delivered to the administrator
19 and ends on the earlier of the expiration of ten years after its
20 delivery or the date on which payment is made to the owner.

21 NEW SECTION. **Sec. 608.** ADMINISTRATOR'S OPTIONS AS TO CUSTODY.
22 (1) The administrator may decline to take custody of property
23 reported under section 401 of this act if the administrator
24 determines that:

25 (a) The property has a value less than the estimated expenses of
26 notice and sale of the property; or

27 (b) Taking custody of the property would be unlawful.

28 (2) A holder may pay or deliver property to the administrator
29 before the property is presumed abandoned under this chapter if the
30 holder:

31 (a) Sends the apparent owner of the property notice required by
32 section 501 of this act and provides the administrator evidence of
33 the holder's compliance with this subsection (2)(a);

34 (b) Includes with the payment or delivery a report regarding the
35 property conforming to section 402 of this act; and

36 (c) First obtains the administrator's consent in a record to
37 accept payment or delivery.

1 (3) A holder's request for the administrator's consent under
2 subsection (2)(c) of this section must be in a record. If the
3 administrator fails to respond to the request not later than thirty
4 days after receipt of the request, the administrator is deemed to
5 consent to the payment or delivery of the property and the payment or
6 delivery is considered to have been made in good faith.

7 (4) On payment or delivery of property under subsection (2) of
8 this section, the property is presumed abandoned.

9 NEW SECTION. **Sec. 609.** DISPOSITION OF PROPERTY HAVING NO
10 SUBSTANTIAL VALUE—IMMUNITY FROM LIABILITY. (1) If the administrator
11 takes custody of property delivered under this chapter and later
12 determines that the property has no substantial commercial value or
13 that the cost of disposing of the property will exceed the value of
14 the property, the administrator may return the property to the holder
15 or destroy or otherwise dispose of the property.

16 (2) An action or proceeding may not be commenced against the
17 state, an agency of the state, the administrator, another officer,
18 employee, or agent of the state, or a holder for or because of an act
19 of the administrator under this section, except for intentional
20 misconduct or malfeasance.

21 NEW SECTION. **Sec. 610.** PERIODS OF LIMITATION AND REPOSE. (1)
22 Expiration, before, on, or after the effective date of this section,
23 of a period of limitation on an owner's right to receive or recover
24 property, whether specified by contract, statute, or court order,
25 does not prevent the property from being presumed abandoned or affect
26 the duty of a holder under this chapter to file a report or pay or
27 deliver property to the administrator.

28 (2) The administrator may not commence an action or proceeding to
29 enforce this chapter with respect to the reporting, payment, or
30 delivery of property more than five years after the holder filed a
31 nonfraudulent report under section 401 of this act with the
32 administrator. The parties may agree in a record to extend the
33 limitation in this subsection.

34 (3) The administrator may not commence an action, proceeding, or
35 examination with respect to a duty of a holder under this chapter
36 more than ten years after the duty arose.

1 **SALE OF PROPERTY BY ADMINISTRATOR**

2 NEW SECTION. Sec. 701. PUBLIC SALE OF PROPERTY. (1) Except as
3 otherwise provided in section 702 of this act, not earlier than three
4 years after receipt of property presumed abandoned, the administrator
5 may sell the property.

6 (2) Before selling property under subsection (1) of this section,
7 the administrator shall give notice to the public of:

8 (a) The date of the sale; and

9 (b) A reasonable description of the property.

10 (3) A sale under subsection (1) of this section must be to the
11 highest bidder:

12 (a) At public sale at a location in this state which the
13 administrator determines to be the most favorable market for the
14 property;

15 (b) On the internet; or

16 (c) On another forum the administrator determines is likely to
17 yield the highest net proceeds of sale.

18 (4) The administrator may decline the highest bid at a sale under
19 this section and reoffer the property for sale if the administrator
20 determines the highest bid is insufficient.

21 (5) If a sale held under this section is to be conducted other
22 than on the internet, the administrator must publish at least one
23 notice of the sale, at least three weeks but not more than five weeks
24 before the sale, in a newspaper of general circulation in the county
25 in which the property is sold.

26 NEW SECTION. Sec. 702. DISPOSAL OF SECURITIES. (1) Except as
27 otherwise provided in this subsection, the administrator must sell
28 all securities delivered to the administrator as required by this
29 chapter as soon as practicable, in the judgment of the administrator,
30 after receipt by the administrator. However, this subsection does not
31 apply with respect to any securities that, in the judgment of the
32 administrator, cannot be sold, are worthless, or are not cost-
33 effective to sell.

34 (2) Securities listed on an established stock exchange must be
35 sold at prices prevailing at the time of sale on the exchange. Other
36 securities may be sold over the counter at prices prevailing at the
37 time of sale or by any other method the administrator considers
38 advisable. All securities may be sold over the counter at prices

1 prevailing at the time of the sale, or by any other method the
2 administrator deems advisable.

3 NEW SECTION. **Sec. 703.** RECOVERY OF SECURITIES OR VALUE BY
4 OWNER. (1) Except as otherwise provided in this section, a person
5 making a claim under this chapter with respect to securities is only
6 entitled to receive the proceeds received from sale, even if the sale
7 of the securities has not been completed at the time the
8 administrator receives the claim. However, if the administrator
9 receives a claim for securities and the administrator has not ordered
10 those securities to be sold as of the time the claim is received by
11 the administrator, the claimant is entitled to receive either the
12 securities delivered to the administrator by the holder, or the
13 proceeds received from the sale, less any amounts deducted pursuant
14 to section 803 of this act.

15 (2) With respect to securities that, in the judgment of the
16 administrator, cannot be sold or are not cost-effective to sell and
17 that remain in the possession of the administrator, a person making a
18 claim under this chapter is only entitled to receive the securities
19 delivered to the administrator by the holder.

20 NEW SECTION. **Sec. 704.** PURCHASER OWNS PROPERTY AFTER SALE. A
21 purchaser of property at a sale conducted by the administrator under
22 this chapter takes the property free of all claims of the owner, a
23 previous holder, or a person claiming through the owner or holder.
24 The administrator shall execute documents necessary to complete the
25 transfer of ownership to the purchaser.

26 NEW SECTION. **Sec. 705.** MILITARY MEDAL OR DECORATION. (1) The
27 administrator may not sell a medal or decoration awarded for military
28 service in the armed forces of the United States.

29 (2) The administrator, with the consent of the respective
30 organization under (a) of this subsection, agency under (b) of this
31 subsection, or entity under (c) of this subsection, may deliver a
32 medal or decoration described in subsection (1) of this section to be
33 held in custody for the owner, to:

34 (a) A military veterans organization qualified under the internal
35 revenue code, as it existed on the effective date of this section, 26
36 U.S.C. Sec. 501(c)(19);

37 (b) The agency that awarded the medal or decoration; or

1 (c) A governmental entity.

2 (3) On delivery under subsection (2) of this section, the
3 administrator is not responsible for safekeeping the medal or
4 decoration.

5 **PART 8**

6 **ADMINISTRATION OF PROPERTY**

7 NEW SECTION. **Sec. 801.** DEPOSIT OF FUNDS BY ADMINISTRATOR. (1)

8 Except as otherwise provided by this section, the administrator shall
9 promptly deposit in the general fund of this state all funds received
10 under this chapter, including the proceeds from the sale of property
11 under sections 701 through 705 of this act. The administrator shall
12 retain in a separate trust fund, the nonappropriated unclaimed
13 personal property account, an amount not less than seven hundred
14 fifty thousand dollars from which prompt payment of claims duly
15 allowed must be made by the administrator.

16 (2) The administrator may pay from the trust fund provided in
17 subsection (1) of this section any costs of administering this
18 chapter including those costs set forth in section 803 of this act.
19 Such amounts may be expended without appropriation.

20 (3) The treasurer may periodically transfer from the general fund
21 of this state to the unclaimed personal property account amounts
22 necessary to accommodate the requirements of this section.

23 NEW SECTION. **Sec. 802.** ADMINISTRATOR TO RETAIN RECORDS OF
24 PROPERTY. The administrator shall:

25 (1) Record and retain the name and last known address of each
26 person shown on a report filed under section 401 of this act to be
27 the apparent owner of property delivered to the administrator;

28 (2) Record and retain the name and last known address of each
29 insured or annuitant and beneficiary shown on the report;

30 (3) For each policy of insurance or annuity contract listed in
31 the report of an insurance company, record and retain the policy or
32 account number, the name of the company, and the amount due or paid;
33 and

34 (4) For each apparent owner listed in the report, record and
35 retain the name of the holder that filed the report and the amount
36 due or paid.

1 (ii) Under the law of the other state, the property has become
2 subject to a claim by the other state of abandonment;

3 (b) The records of the holder did not accurately identify the
4 owner of the property, the last known address of the owner was in
5 another state, and, under the law of the other state, the property
6 has become subject to a claim by the other state of abandonment;

7 (c) The property was subject to the custody of the administrator
8 of this state under section 305 of this act and, under the law of the
9 state of domicile of the holder, the property has become subject to a
10 claim by the state of domicile of the holder of abandonment; or

11 (d) The property:

12 (i) Is a sum payable on a traveler's check, money order, or
13 similar instrument that was purchased in the other state and
14 delivered to the administrator under section 306 of this act; and

15 (ii) Under the law of the other state, has become subject to a
16 claim by the other state of abandonment.

17 (2) A claim by another state to recover property under this
18 section must be presented in a form prescribed by the administrator,
19 unless the administrator waives presentation of the form.

20 (3) The administrator shall decide a claim under this section not
21 later than ninety days after it is presented. If the administrator
22 determines that the other state is entitled under subsection (1) of
23 this section to custody of the property, the administrator shall
24 allow the claim and pay or deliver the property to the other state.

25 (4) The administrator may require another state, before
26 recovering property under this section, to agree to indemnify this
27 state and its agents, officers, and employees against any liability
28 on a claim to the property.

29 NEW SECTION. **Sec. 903.** CLAIM FOR PROPERTY BY PERSON CLAIMING TO
30 BE OWNER. (1) A person claiming to be the owner of property held
31 under this chapter by the administrator may file a claim for the
32 property on a form prescribed by the administrator. The claimant must
33 verify the claim as to its completeness and accuracy.

34 (2) The administrator may waive the requirement in subsection (1)
35 of this section and may pay or deliver property directly to a person
36 if:

37 (a) The person receiving the property or payment is shown to be
38 the apparent owner included on a report filed under section 401 of
39 this act;

1 (b) The administrator reasonably believes the person is entitled
2 to receive the property or payment; and

3 (c) The property has a value of less than two hundred fifty
4 dollars.

5 NEW SECTION. **Sec. 904.** WHEN ADMINISTRATOR MUST HONOR CLAIM FOR
6 PROPERTY. (1) The administrator shall pay or deliver property to a
7 claimant under section 903(1) of this act if the administrator
8 receives evidence sufficient to establish to the satisfaction of the
9 administrator that the claimant is the owner of the property.

10 (2) Not later than ninety days after a claim is filed under
11 section 903(1) of this act, the administrator shall allow or deny the
12 claim and give the claimant notice in a record of the decision.

13 (3) If the claim is denied under subsection (2) of this section:

14 (a) The administrator shall inform the claimant of the reason for
15 the denial and specify what additional evidence, if any, is required
16 for the claim to be allowed;

17 (b) The claimant may file an amended claim with the administrator
18 or commence an action under section 906 of this act; and

19 (c) The administrator shall consider an amended claim filed under
20 (b) of this subsection as an initial claim.

21 (4) If the administrator does not take action on a claim during
22 the ninety-day period following the filing of a claim under section
23 903(1) of this act, the claim is deemed denied.

24 NEW SECTION. **Sec. 905.** ALLOWANCE OF CLAIM FOR PROPERTY. (1) Not
25 later than thirty days after a claim is allowed under section 904(2)
26 of this act, the administrator shall pay or deliver to the owner the
27 property or pay to the owner the net proceeds of a sale of the
28 property, together with income or gain to which the owner is entitled
29 under section 607 of this act. On request of the owner, the
30 administrator may sell or liquidate a security and pay the net
31 proceeds to the owner, even if the security had been held by the
32 administrator for less than three years or the administrator has not
33 complied with the notice requirements under section 702 of this act.

34 (2) Property held under this chapter by the administrator is
35 subject to a claim for the payment of an enforceable debt the owner
36 owes in this state for:

1 (a) Child support arrearages, including child support collection
2 costs and child support arrearages that are combined with
3 maintenance;

4 (b) A civil or criminal fine or penalty, court costs, a
5 surcharge, or restitution imposed by a final order of an
6 administrative agency or a final court judgment; or

7 (c) State or local taxes, penalties, and interest that have been
8 determined to be delinquent.

9 (3) Before delivery or payment to an owner under subsection (1)
10 of this section of property or payment to the owner of net proceeds
11 of a sale of the property, the administrator first shall apply the
12 property or net proceeds to a debt under subsection (2) of this
13 section the administrator determines is owed by the owner. The
14 administrator shall pay the amount to the appropriate state or local
15 agency and notify the owner of the payment.

16 (4) The administrator may make periodic inquiries of state and
17 local agencies in the absence of a claim filed under section 903 of
18 this act to determine whether an apparent owner included in the
19 unclaimed property records of this state has enforceable debts
20 described in subsection (2) of this section. The administrator first
21 shall apply the property or net proceeds of a sale of property held
22 by the administrator to a debt under subsection (2) of this section
23 of an apparent owner which appears in the records of the
24 administrator and deliver the amount to the appropriate state or
25 local agency. The administrator shall notify the apparent owner of
26 the payment.

27 NEW SECTION. **Sec. 906.** ACTION BY PERSON WHOSE CLAIM IS DENIED.
28 Not later than one year after filing a claim under section 904(1) of
29 this act, the claimant may commence an action against the
30 administrator in Thurston county superior court to establish a claim
31 that has been denied or deemed denied under section 904 of this act.

32 **PART 10**

33 **VERIFIED REPORT OF PROPERTY—EXAMINATION OF RECORDS**

34 NEW SECTION. **Sec. 1001.** VERIFIED REPORT OF PROPERTY. If a
35 person does not file a report required by section 401 of this act or
36 the administrator believes that a person may have filed an
37 inaccurate, incomplete, or false report, the administrator may

1 require the person to file a verified report in a form prescribed by
2 the administrator. The verified report must:

3 (1) State whether the person is holding property reportable under
4 this chapter;

5 (2) Describe property not previously reported or about which the
6 administrator has inquired;

7 (3) Specifically identify property described under subsection (2)
8 of this section about which there is a dispute whether it is
9 reportable under this section; and

10 (4) State the amount or value of the property.

11 NEW SECTION. **Sec. 1002.** EXAMINATION OF RECORDS TO DETERMINE
12 COMPLIANCE. The administrator, at reasonable times and on reasonable
13 notice, may:

14 (1) Examine the records of a person, including examination of
15 appropriate records in the possession of an agent of the person under
16 examination, if the records are reasonably necessary to determine
17 whether the person has complied with this chapter;

18 (2) Issue an administrative subpoena requiring the person or
19 agent of the person to make records available for examination; and

20 (3) Bring an action seeking judicial enforcement of the subpoena.

21 NEW SECTION. **Sec. 1003.** RULES FOR CONDUCTING EXAMINATION. (1)
22 The administrator shall adopt rules governing procedures and
23 standards for an examination under section 1002 of this act,
24 including rules for use of an estimation, extrapolation, and
25 statistical sampling in conducting an examination.

26 (2) An examination under section 1002 of this act must be
27 performed under rules adopted under subsection (1) of this section
28 and with generally accepted examination practices and standards
29 applicable to an unclaimed property examination.

30 (3) If a person subject to examination under section 1002 of this
31 act has filed the reports required under sections 401 and 1001 of
32 this act and has retained the records required by section 404 of this
33 act, the following rules apply:

34 (a) The examination must include a review of the person's
35 records.

36 (b) The examination may not be based on an estimate unless the
37 person expressly consents in a record to the use of an estimate or

1 the person has failed to make its records available to the
2 administrator for examination.

3 (c) The person conducting the examination shall consider the
4 evidence presented in good faith by the person in preparing the
5 findings of the examination under section 1007 of this act.

6 NEW SECTION. **Sec. 1004.** RECORDS OBTAINED IN EXAMINATION.
7 Records obtained and records, including work papers, compiled by the
8 administrator in the course of conducting an examination under
9 section 1002 of this act:

10 (1) Are subject to the confidentiality and security provisions of
11 sections 1401 through 1408 of this act and are not public records;

12 (2) May be used by the administrator in an action to collect
13 property or otherwise enforce this chapter;

14 (3) May be used in a joint examination conducted with another
15 state, the United States, a foreign country or subordinate unit of a
16 foreign country, or any other governmental entity if the governmental
17 entity conducting the examination is legally bound to maintain the
18 confidentiality and security of information obtained from a person
19 subject to examination in a manner substantially equivalent to
20 sections 1401 through 1408 of this act;

21 (4) Must be disclosed, on request, to the person that administers
22 the unclaimed property law of another state for that state's use in
23 circumstances equivalent to circumstances described in this section
24 and sections 1001 through 1003 and 1005 through 1013 of this act, if
25 the other state is required to maintain the confidentiality and
26 security of information obtained in a manner substantially equivalent
27 to sections 1401 through 1408 of this act;

28 (5) Must be produced by the administrator under an administrative
29 or judicial subpoena or administrative or court order; and

30 (6) Must be produced by the administrator on request of the
31 person subject to the examination in an administrative or judicial
32 proceeding relating to the property.

33 NEW SECTION. **Sec. 1005.** EVIDENCE OF UNPAID DEBT OR UNDISCHARGED
34 OBLIGATION. (1) A record of a putative holder showing an unpaid debt
35 or undischarged obligation is prima facie evidence of the debt or
36 obligation.

37 (2) A putative holder may establish by a preponderance of the
38 evidence that there is no unpaid debt or undischarged obligation for

1 a debt or obligation described in subsection (1) of this section or
2 that the debt or obligation was not, or no longer is, a fixed and
3 certain obligation of the putative holder.

4 (3) A putative holder may overcome prima facie evidence under
5 subsection (1) of this section by establishing by a preponderance of
6 the evidence that a check, draft, or similar instrument was:

7 (a) Issued as an unaccepted offer in settlement of an
8 unliquidated amount;

9 (b) Issued but later was replaced with another instrument because
10 the earlier instrument was lost or contained an error that was
11 corrected;

12 (c) Issued to a party affiliated with the issuer;

13 (d) Paid, satisfied, or discharged;

14 (e) Issued in error;

15 (f) Issued without consideration;

16 (g) Issued but there was a failure of consideration;

17 (h) Voided within a reasonable time after issuance for a valid
18 business reason set forth in a contemporaneous record; or

19 (i) Issued but not delivered to the third-party payee for a
20 sufficient reason recorded within a reasonable time after issuance.

21 (4) In asserting a defense under this section, a putative holder
22 may present evidence of a course of dealing between the putative
23 holder and the apparent owner or of custom and practice.

24 NEW SECTION. **Sec. 1006.** FAILURE OF PERSON EXAMINED TO RETAIN
25 RECORDS. If a person subject to examination under section 1002 of
26 this act does not retain the records required by section 404 of this
27 act, the administrator may determine the value of property due using
28 a reasonable method of estimation based on all information available
29 to the administrator, including extrapolation and use of statistical
30 sampling when appropriate and necessary, consistent with examination
31 procedures and standards adopted under section 1003(1) of this act
32 and in accordance with section 1003(2) of this act.

33 NEW SECTION. **Sec. 1007.** REPORT TO PERSON WHOSE RECORDS WERE
34 EXAMINED. At the conclusion of an examination under section 1002 of
35 this act, the administrator shall provide to the person whose records
36 were examined a complete and unredacted examination report that
37 specifies:

38 (1) The work performed;

1 (2) The property types reviewed;

2 (3) The methodology of any estimation technique, extrapolation,
3 or statistical sampling used in conducting the examination;

4 (4) Each calculation showing the value of property determined to
5 be due; and

6 (5) The findings of the person conducting the examination.

7 NEW SECTION. **Sec. 1008.** COMPLAINT TO ADMINISTRATOR ABOUT
8 CONDUCT OF PERSON CONDUCTING EXAMINATION. (1) If a person subject to
9 examination under section 1002 of this act believes the person
10 conducting the examination has made an unreasonable or unauthorized
11 request or is not proceeding expeditiously to complete the
12 examination, the person in a record may ask the administrator to
13 intervene and take appropriate remedial action, including
14 countermanding the request of the person conducting the examination,
15 imposing a time limit for completion of the examination, or
16 reassigning the examination to another person.

17 (2) If a person in a record requests a conference with the
18 administrator to present matters that are the basis of a request
19 under subsection (1) of this section, the administrator shall hold
20 the conference not later than thirty days after receiving the
21 request. The administrator may hold the conference in person, by
22 telephone, or by electronic means.

23 (3) If a conference is held under subsection (2) of this section,
24 not later than thirty days after the conference ends, the
25 administrator shall provide a report in a record of the conference to
26 the person that requested the conference.

27 NEW SECTION. **Sec. 1009.** ADMINISTRATOR'S CONTRACT WITH ANOTHER
28 TO CONDUCT EXAMINATION. (1) In this section, "related to the
29 administrator" refers to an individual who is:

30 (a) The administrator's spouse, partner in a civil union,
31 domestic partner, or reciprocal beneficiary;

32 (b) The administrator's child, stepchild, grandchild, parent,
33 stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece,
34 or nephew;

35 (c) A spouse, partner in a civil union, domestic partner, or
36 reciprocal beneficiary of an individual under (b) of this subsection;
37 or

38 (d) Any individual residing in the administrator's household.

1 (2) The administrator may contract with a person to conduct an
2 examination under this section and sections 1001 through 1008 and
3 1010 through 1013 of this act. The contract may be awarded only under
4 chapter 39.26 RCW.

5 (3) If the person with which the administrator contracts under
6 subsection (2) of this section is:

7 (a) An individual, the individual may not be related to the
8 administrator; or

9 (b) A business entity, the entity may not be owned in whole or in
10 part by the administrator or an individual related to the
11 administrator.

12 (4) At least sixty days before assigning a person under contract
13 with the administrator under subsection (2) of this section to
14 conduct an examination, the administrator shall demand in a record
15 that the person to be examined submit a report and deliver property
16 that is previously unreported.

17 (5) If the administrator contracts with a person under subsection
18 (2) of this section:

19 (a) The contract may provide for compensation of the person based
20 on a fixed fee, hourly fee, or contingent fee;

21 (b) A contingent fee arrangement may not provide for a payment
22 that exceeds ten percent of the amount or value of property paid or
23 delivered as a result of the examination; and

24 (c) On request by a person subject to examination by a
25 contractor, the administrator shall deliver to the person a complete
26 and unredacted copy of the contract.

27 (6) A contract under subsection (2) of this section is subject to
28 public disclosure without redaction under chapter 42.56 RCW.

29 NEW SECTION. **Sec. 1010.** LIMIT ON FUTURE EMPLOYMENT. The
30 administrator or an individual employed by the administrator who
31 participates in, recommends, or approves the award of a contract
32 under section 1009(2) of this act on or after the effective date of
33 this section may not be employed by, contracted with, or compensated
34 in any capacity by the contractor or an affiliate of the contractor
35 for two years after the latest of participation in, recommendation
36 of, or approval of the award or conclusion of the contract.

37 NEW SECTION. **Sec. 1011.** REPORT BY ADMINISTRATOR TO STATE
38 OFFICIAL. (1) Not later than three months after the end of the state

1 fiscal year, the administrator shall compile and submit a report to
2 the governor and legislature. The report must contain the following
3 information about property presumed abandoned for the preceding
4 fiscal year for the state:

5 (a) The total amount and value of all property paid or delivered
6 under this chapter to the administrator, separated into:

7 (i) The part voluntarily paid or delivered; and

8 (ii) The part paid or delivered as a result of an examination
9 under section 1002 of this act, separated into the part recovered as
10 a result of an examination conducted by:

11 (A) A state employee; and

12 (B) A contractor under section 1009 of this act;

13 (b) The name of and amount paid to each contractor under section
14 1009 of this act and the percentage the total compensation paid to
15 all contractors under section 1009 of this act bears to the total
16 amount paid or delivered to the administrator as a result of all
17 examinations performed under section 1009 of this act;

18 (c) The total amount and value of all property paid or delivered
19 by the administrator to persons that made claims for property held by
20 the administrator under this chapter and the percentage the total
21 payments made and value of property delivered to claimants bears to
22 the total amounts paid and value delivered to the administrator; and

23 (d) The total amount of claims made by persons claiming to be
24 owners which:

25 (i) Were denied;

26 (ii) Were allowed; and

27 (iii) Are pending.

28 (2) The report under subsection (1) of this section is a public
29 record subject to public disclosure without redaction under chapter
30 42.56 RCW.

31 NEW SECTION. **Sec. 1012.** DETERMINATION OF LIABILITY FOR
32 UNREPORTED REPORTABLE PROPERTY. If the administrator determines from
33 an examination conducted under section 1002 of this act that a
34 putative holder failed or refused to pay or deliver to the
35 administrator property which is reportable under this chapter, the
36 administrator shall issue a determination of the putative holder's
37 liability to pay or deliver and give notice in a record to the
38 putative holder of the determination.

1 NEW SECTION. **Sec. 1013.** INTEREST AND PENALTIES. (1) A person
2 who fails to pay or deliver property when due is required to pay to
3 the administrator interest at the rate as computed under RCW
4 82.32.050(2) from the date the property should have been paid or
5 delivered until the property is paid or delivered. However, the
6 administrator must waive or cancel interest imposed under this
7 subsection if:

8 (a) The administrator finds that the failure to pay or deliver
9 the property within the time prescribed by this chapter was the
10 result of circumstances beyond the person's control sufficient for
11 waiver or cancellation of interest under RCW 82.32.105;

12 (b) The failure to timely pay or deliver the property within the
13 time prescribed by this chapter was the direct result of written
14 instructions given to the person by the administrator; or

15 (c) The extension of a due date for payment or delivery under an
16 assessment issued by the administrator was not at the person's
17 request and was for the sole convenience of the administrator.

18 (2) If a person fails to file any report or to pay or deliver any
19 amounts or property when due under a report required under this
20 chapter, there is assessed a penalty equal to ten percent of the
21 amount unpaid and the value of any property not delivered.

22 (3) If an examination results in an assessment for amounts unpaid
23 or property not delivered, there is assessed a penalty equal to ten
24 percent of the amount unpaid and the value of any property not
25 delivered.

26 (4) If a person fails to pay or deliver to the administrator by
27 the due date any amounts or property due under an assessment issued
28 by the administrator to the person, there is assessed an additional
29 penalty of five percent of the amount unpaid and the value of any
30 property not delivered.

31 (5) Penalties under subsections (2) through (4) of this section
32 may be waived or canceled only if the administrator finds that the
33 failure to pay or deliver within the time prescribed by this chapter
34 was the result of circumstances beyond the person's control
35 sufficient for waiver or cancellation of penalties under RCW
36 82.32.105.

37 (6) If a person willfully fails to file a report or to provide
38 written notice to apparent owners as required under this chapter, the
39 administrator may assess a civil penalty of one hundred dollars for

1 each day the report is withheld or the notice is not sent, but not
2 more than five thousand dollars.

3 (7) If a holder, having filed a report, failed to file the report
4 electronically as required by RCW 63.29.170, or failed to pay
5 electronically any amounts due under the report as required by RCW
6 63.29.190, the administrator must assess a penalty equal to five
7 percent of the amount payable or deliverable under the report, unless
8 the administrator grants the taxpayer relief from the electronic
9 filing and payment requirements. Total penalties assessed under this
10 subsection may not exceed five percent of the amount payable and
11 value of property deliverable under the report.

12 (8) The penalties imposed in this section are cumulative.

13 **PART 11**

14 **DETERMINATION OF LIABILITY—PUTATIVE HOLDER REMEDIES**

15 NEW SECTION. **Sec. 1101.** INFORMAL CONFERENCE. (1) Not later than
16 thirty days after receipt of a notice under section 1012 of this act,
17 the putative holder may request an informal conference with the
18 administrator to review the determination. Except as otherwise
19 provided in this section, the administrator may designate an employee
20 to act on behalf of the administrator.

21 (2) If a putative holder makes a timely request under subsection
22 (1) of this section for an informal conference:

23 (a) Not later than twenty days after the date of the request, the
24 administrator shall set the time and place of the conference;

25 (b) The administrator shall give the putative holder notice in a
26 record of the time and place of the conference;

27 (c) The conference may be held in person, by telephone, or by
28 electronic means, as determined by the administrator;

29 (d) The request tolls the ninety-day period under sections 1103
30 and 1104 of this act until notice of a decision under (g) of this
31 subsection has been given to the putative holder or the putative
32 holder withdraws the request for the conference;

33 (e) The conference may be postponed, adjourned, and reconvened as
34 the administrator determines appropriate;

35 (f) The administrator or administrator's designee with the
36 approval of the administrator may modify a determination made under
37 section 1012 of this act or withdraw it; and

1 (g) The administrator shall issue a decision in a record and
2 provide a copy of the record to the putative holder and examiner not
3 later than twenty days after the conference ends.

4 (3) A conference under subsection (2) of this section is not an
5 administrative remedy and is not a contested case subject to chapter
6 34.05 RCW. An oath is not required and rules of evidence do not apply
7 in the conference.

8 (4) At a conference under subsection (2) of this section, the
9 putative holder must be given an opportunity to confer informally
10 with the administrator and the person that examined the records of
11 the putative holder to:

12 (a) Discuss the determination made under section 1012 of this
13 act; and

14 (b) Present any issue concerning the validity of the
15 determination.

16 (5) If the administrator fails to act within the period
17 prescribed in subsection (2)(a) or (g) of this section, the failure
18 does not affect a right of the administrator, except that interest
19 does not accrue on the amount for which the putative holder was
20 determined to be liable under section 1012 of this act during the
21 period in which the administrator failed to act until the earlier of:

22 (a) The date under section 1103 of this act the putative holder
23 initiates administrative review or files an action under section 1104
24 of this act; or

25 (b) Ninety days after the putative holder received notice of the
26 administrator's determination under section 1012 of this act if no
27 review was initiated under section 1103 of this act and no action was
28 filed under section 1104 of this act.

29 (6) The administrator may hold an informal conference with a
30 putative holder about a determination under section 1012 of this act
31 without a request at any time before the putative holder initiates
32 administrative review under section 1103 of this act or files an
33 action under section 1104 of this act.

34 (7) Interest and penalties under section 1204 of this act
35 continue to accrue on property not reported, paid, or delivered as
36 required by this chapter after the initiation, and during the
37 pendency, of an informal conference under this section.

1 NEW SECTION. **Sec. 1102.** REVIEW OF ADMINISTRATOR'S
2 DETERMINATION. A putative holder may seek relief from a determination
3 under section 1012 of this act by:

- 4 (1) Administrative review under section 1103 of this act; or
5 (2) Judicial review under section 1104 of this act.

6 NEW SECTION. **Sec. 1103.** ADMINISTRATIVE REVIEW. Any person
7 having been issued an assessment by the administrator, or a denial of
8 an application for a refund or return of property, under the
9 provisions of this chapter is entitled to a review by the
10 administrator conducted in accordance with the provisions of RCW
11 34.05.410 through 34.05.494, subject to judicial review under RCW
12 34.05.510 through 34.05.598. A petition for review under this section
13 is timely if received in writing by the administrator before the due
14 date of the assessment, including any extension of the due date
15 granted by the administrator, or in the case of a refund or return
16 application, thirty days after the administrator rejects the
17 application in writing, regardless of any subsequent action by the
18 administrator to reconsider its initial decision. The period for
19 filing a petition for review under this section may be extended as
20 provided in a rule adopted by the administrator under chapter 34.05
21 RCW or upon a written agreement signed by the holder and the
22 administrator.

23 NEW SECTION. **Sec. 1104.** JUDICIAL REMEDY. (1) Any person who has
24 paid or delivered property to the administrator under the provisions
25 of this chapter, except one who has failed to keep and preserve
26 records as required in this chapter, feeling aggrieved by such
27 payment or delivery, may appeal to the Thurston county superior
28 court. The person filing a notice of appeal under this section is
29 deemed the plaintiff, and the administrator, the defendant.

30 (2) An appeal under this section must be made within thirty days
31 after the administrator rejects in writing an application for refund
32 or return of property, regardless of any subsequent action by the
33 administrator to reconsider its initial decision.

34 (3)(a) In an appeal filed under this section, the plaintiff must
35 set forth the amount or property, if any, payable or deliverable on
36 the report or assessment that the plaintiff is contesting, which the
37 holder concedes to be the correct amount payable or deliverable, and

1 the reason why the amount payable or deliverable should be reduced or
2 abated.

3 (b) The appeal is perfected only by serving a copy of the notice
4 of appeal upon the administrator and filing the original with proof
5 of service with the clerk of the superior court of Thurston county,
6 within the time specified in subsection (2) of this section.

7 (4)(a) The trial in the superior court on appeal must be de novo
8 and without the necessity of any pleadings other than the notice of
9 appeal. At trial, the burden is on the plaintiff to (i) prove that
10 the amount paid by that person is incorrect, either in whole or in
11 part, or the property in question was delivered in error to the
12 administrator, and (ii) establish the correct amount payable or the
13 property required to be delivered to the administrator, if any.

14 (b) Both parties are entitled to subpoena the attendance of
15 witnesses as in other civil actions and to produce evidence that is
16 competent, relevant, and material to determine the correct amount
17 due, if any, that should be paid by the plaintiff.

18 (c) Either party may seek appellate review in the same manner as
19 other civil actions are appealed to the appellate courts.

20 (5) An appeal may be maintained under this section without the
21 need for the plaintiff to first:

22 (a) Protest against the payment of any amount due or reportable
23 under this chapter or to make any demand to have such amount refunded
24 or returned; or

25 (b) Petition the administrator for a refund, return of property,
26 or a review of its action as authorized in section 1103 of this act.

27 (6) No court action or proceeding of any kind may be maintained
28 by the plaintiff to recover any amount paid, delivered, or reported
29 to the administrator under this chapter, except as provided in this
30 section or as may be available to the plaintiff under RCW 34.05.510
31 through 34.05.598.

32 (7) No appeal may be maintained under this section with respect
33 to matters reviewed by the administrator under the provisions of
34 chapter 34.05 RCW.

35 **PART 12**
36 **ENFORCEMENT BY ADMINISTRATOR**

37 NEW SECTION. **Sec. 1201.** JUDICIAL ACTION TO ENFORCE LIABILITY.
38 (1) If a determination under section 1012 of this act becomes final

1 and is not subject to administrative or judicial review, the
2 administrator may commence an action in superior court or in an
3 appropriate court of another state to enforce the determination and
4 secure payment or delivery of past due, unpaid, or undelivered
5 property. The action must be brought not later than one year after
6 the determination becomes final.

7 (2) In an action under subsection (1) of this section, if no
8 court in this state has jurisdiction over the defendant, the
9 administrator may commence an action in any court having jurisdiction
10 over the defendant.

11 NEW SECTION. **Sec. 1202.** INTERSTATE AND INTERNATIONAL AGREEMENT—
12 COOPERATION. (1) Subject to subsection (2) of this section, the
13 administrator may:

14 (a) Exchange information with another state or foreign country
15 relating to property presumed abandoned or relating to the possible
16 existence of property presumed abandoned; and

17 (b) Authorize in a record another state or foreign country or a
18 person acting on behalf of the other state or country to examine its
19 records of a putative holder as provided in sections 1001 through
20 1013 of this act.

21 (2) An exchange or examination under subsection (1) of this
22 section may be done only if the state or foreign country has
23 confidentiality and security requirements substantially equivalent to
24 those in sections 1401 through 1408 of this act or agrees in a record
25 to be bound by this state's confidentiality and security
26 requirements.

27 NEW SECTION. **Sec. 1203.** ACTION INVOLVING ANOTHER STATE OR
28 FOREIGN COUNTRY. (1) The administrator may join another state or
29 foreign country to examine and seek enforcement of this chapter
30 against a putative holder.

31 (2) On request of another state or foreign country, the attorney
32 general may commence an action on behalf of the other state or
33 country to enforce, in this state, the law of the other state or
34 country against a putative holder subject to a claim by the other
35 state or country, if the other state or country agrees to pay costs
36 incurred by the attorney general in the action.

37 (3) The administrator may request the official authorized to
38 enforce the unclaimed property law of another state or foreign

1 country to commence an action to recover property in the other state
2 or country on behalf of the administrator. This state shall pay the
3 costs, including reasonable attorneys' fees and expenses, incurred by
4 the other state or foreign country in an action under this
5 subsection.

6 (4) The administrator may pursue an action on behalf of this
7 state to recover property subject to this chapter but delivered to
8 the custody of another state if the administrator believes the
9 property is subject to the custody of the administrator.

10 (5) The administrator may retain an attorney in this state,
11 another state, or a foreign country to commence an action to recover
12 property on behalf of the administrator and may agree to pay
13 attorneys' fees based in whole or in part on a fixed fee, hourly fee,
14 or a percentage of the amount or value of property recovered in the
15 action.

16 (6) Expenses incurred by this state in an action under this
17 section may be paid from property received under this chapter or the
18 net proceeds of the property. Expenses paid to recover property may
19 not be deducted from the amount that is subject to a claim under this
20 chapter by the owner.

21 NEW SECTION. **Sec. 1204.** INTEREST AND PENALTY FOR FAILURE TO ACT
22 IN TIMELY MANNER. A holder that fails to report, pay, or deliver
23 property within the time prescribed by this chapter shall pay to the
24 administrator interest at the rate set by RCW 82.32.050 on the
25 property or value of the property from the date the property should
26 have been reported, paid, or delivered to the administrator until the
27 date reported, paid, or delivered.

28 NEW SECTION. **Sec. 1205.** OTHER CIVIL PENALTIES. (1) If a holder
29 enters into a contract or other arrangement for the purpose of
30 evading an obligation under this chapter or otherwise willfully fails
31 to perform a duty imposed on the holder under this chapter, the
32 administrator may require the holder to pay the administrator, in
33 addition to interest as provided in section 1204 of this act, a civil
34 penalty of one thousand dollars for each day the obligation is evaded
35 or the duty is not performed, up to a cumulative maximum amount of
36 twenty-five thousand dollars, plus twenty-five percent of the amount
37 or value of property that should have been but was not reported,
38 paid, or delivered as a result of the evasion or failure to perform.

1 (2) If a holder makes a fraudulent report under this chapter, the
2 administrator may require the holder to pay to the administrator, in
3 addition to interest under section 1204 of this act, a civil penalty
4 of one thousand dollars for each day from the date the report was
5 made until corrected, up to a cumulative maximum amount of twenty-
6 five thousand dollars, plus twenty-five percent of the amount or
7 value of any property that should have been reported but was not
8 included in the report or was underreported.

9 NEW SECTION. **Sec. 1206.** WAIVER OF INTEREST AND PENALTY. The
10 administrator: May waive, in whole or in part, interest under section
11 1204 of this act and penalties under section 1205 of this act.

12 **PART 13**

13 **AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR**

14 NEW SECTION. **Sec. 1301.** WHEN AGREEMENT TO LOCATE PROPERTY
15 ENFORCEABLE. An agreement by an apparent owner and another person,
16 the primary purpose of which is to locate, deliver, recover, or
17 assist in the location, delivery, or recovery of property held by the
18 administrator, is enforceable only if the agreement:

- 19 (1) Is in a record that clearly states the nature of the property
20 and the services to be provided;
21 (2) Is signed by or on behalf of the apparent owner; and
22 (3) States the amount or value of the property reasonably
23 expected to be recovered, computed before and after a fee or other
24 compensation to be paid to the person has been deducted.

25 NEW SECTION. **Sec. 1302.** WHEN AGREEMENT TO LOCATE PROPERTY VOID.
26 (1) Subject to subsection (2) of this section, an agreement under
27 section 1301 of this act is void if it is entered into during the
28 period beginning on the date the property was paid or delivered by a
29 holder to the administrator and ending twenty-four months after the
30 payment or delivery.

31 (2) If a provision in an agreement described in subsection (1) of
32 this section applies to mineral proceeds for which compensation is to
33 be paid to the other person based in whole or in part on a part of
34 the underlying minerals or mineral proceeds not then presumed
35 abandoned, the provision is void regardless of when the agreement was
36 entered into.

1 (3) An agreement under subsection (1) of this section which
2 provides for compensation in an amount that is unconscionable is
3 unenforceable except by the apparent owner. An apparent owner that
4 believes the compensation the apparent owner has agreed to pay is
5 unconscionable or the administrator, acting on behalf of an apparent
6 owner, or both, may file an action in superior court to reduce the
7 compensation to the maximum amount that is not unconscionable.

8 (4) An apparent owner or the administrator may assert that an
9 agreement described in this section is void on a ground other than it
10 provides for payment of unconscionable compensation.

11 (5) This section does not apply to an apparent owner's agreement
12 with an attorney to pursue a claim for recovery of specifically
13 identified property held by the administrator or to contest the
14 administrator's denial of a claim for recovery of the property.

15 NEW SECTION. **Sec. 1303.** RIGHT OF AGENT OF APPARENT OWNER TO
16 RECOVER PROPERTY HELD BY ADMINISTRATOR. (1) An apparent owner that
17 contracts with another person to locate, deliver, recover, or assist
18 in the location, delivery, or recovery of property of the apparent
19 owner which is held by the administrator may designate the person as
20 the agent of the apparent owner. The designation must be in a record
21 signed by the apparent owner.

22 (2) The administrator shall give the agent of the apparent owner
23 all information concerning the property which the apparent owner is
24 entitled to receive, including information that otherwise is
25 confidential information under section 1402 of this act.

26 (3) If authorized by the apparent owner, the agent of the
27 apparent owner may bring an action against the administrator on
28 behalf of and in the name of the apparent owner.

29 **PART 14**

30 **CONFIDENTIALITY AND SECURITY OF INFORMATION**

31 NEW SECTION. **Sec. 1401.** DEFINITIONS—APPLICABILITY. (1) In this
32 section and sections 1402 through 1408 of this act, "personal
33 information" means:

34 (a) Information that identifies or reasonably can be used to
35 identify an individual, such as first and last name in combination
36 with the individual's:

1 (i) Social security number or other government-issued number or
2 identifier;
3 (ii) Date of birth;
4 (iii) Home or physical address;
5 (iv) Email address or other online contact information or
6 internet provider address;
7 (v) Financial account number or credit or debit card number;
8 (vi) Biometric data, health or medical data, or insurance
9 information; or
10 (vii) Passwords or other credentials that permit access to an
11 online or other account;
12 (b) Personally identifiable financial or insurance information,
13 including nonpublic personal information defined by applicable
14 federal law; and
15 (c) Any combination of data that, if accessed, disclosed,
16 modified, or destroyed without authorization of the owner of the data
17 or if lost or misused, would require notice or reporting under
18 chapter 19.255 RCW and federal privacy and data security law, whether
19 or not the administrator or the administrator's agent is subject to
20 the law.
21 (2) A provision of this section or sections 1402 through 1408 of
22 this act that applies to the administrator or the administrator's
23 records applies to an administrator's agent.

24 NEW SECTION. **Sec. 1402.** CONFIDENTIAL INFORMATION. (1) Except as
25 otherwise provided in this chapter, the following are confidential
26 and exempt from public inspection or disclosure:

27 (a) Reports and records of a holder in the possession of the
28 administrator or the administrator's agent; and

29 (b) Personal information and other information derived or
30 otherwise obtained by or communicated to the administrator or the
31 administrator's agent from an examination under this chapter of the
32 records of a person.

33 (2) A record or other information that is confidential under law
34 of this state other than this chapter, another state, or the United
35 States continues to be confidential when disclosed or delivered under
36 this chapter to the administrator or administrator's agent.

37 NEW SECTION. **Sec. 1403.** WHEN CONFIDENTIAL INFORMATION MAY BE
38 DISCLOSED. (1) When reasonably necessary to enforce or implement this

1 chapter, the administrator may disclose confidential information
2 concerning property held by the administrator or the administrator's
3 agent only to:

4 (a) An apparent owner or the apparent owner's personal
5 representative, attorney, other legal representative, relative, or
6 agent designated under section 1303 of this act to have the
7 information;

8 (b) The personal representative, other legal representative,
9 relative of a deceased apparent owner, agent designated under section
10 1303 of this act by the deceased apparent owner, or a person entitled
11 to inherit from the deceased apparent owner;

12 (c) Another department or agency of this state or the United
13 States;

14 (d) The person that administers the unclaimed property law of
15 another state, if the other state accords substantially reciprocal
16 privileges to the administrator of this state if the other state is
17 required to maintain the confidentiality and security of information
18 obtained in a manner substantially equivalent to this section and
19 sections 1401, 1402, and 1404 through 1408 of this act; or

20 (e) A person subject to an examination as required by section
21 1004(6) of this act.

22 (2) Except as otherwise provided in section 1402(1) of this act,
23 the administrator shall include on the web site or in the database
24 required by section 503(3)(b) of this act the name of each apparent
25 owner of property held by the administrator. The administrator may
26 include in published notices, printed publications,
27 telecommunications, the internet, or other media and on the web site
28 or in the database additional information concerning the apparent
29 owner's property if the administrator believes the information will
30 assist in identifying and returning property to the owner and does
31 not disclose personal information except the home or physical address
32 of an apparent owner.

33 (3) The administrator and the administrator's agent may not use
34 confidential information provided to them or in their possession
35 except as expressly authorized by this chapter or required by law
36 other than this chapter.

37 NEW SECTION. **Sec. 1404.** CONFIDENTIALITY AGREEMENT. A person to
38 be examined under section 1002 of this act may require, as a
39 condition of disclosure of the records of the person to be examined,

1 that each person having access to the records disclosed in the
2 examination execute and deliver to the person to be examined a
3 confidentiality agreement that:

4 (1) Is in a form that is reasonably satisfactory to the
5 administrator; and

6 (2) Requires the person having access to the records to comply
7 with the provisions of this section and sections 1401 through 1403
8 and 1405 through 1408 of this act applicable to the person.

9 NEW SECTION. **Sec. 1405.** NO CONFIDENTIAL INFORMATION IN NOTICE.
10 Except as otherwise provided in sections 501 and 502 of this act, a
11 holder is not required under this chapter to include confidential
12 information in a notice the holder is required to provide to an
13 apparent owner under this chapter.

14 NEW SECTION. **Sec. 1406.** SECURITY OF INFORMATION. (1) If a
15 holder is required to include confidential information in a report to
16 the administrator, the information must be provided by a secure
17 means.

18 (2) If confidential information in a record is provided to and
19 maintained by the administrator or administrator's agent as required
20 by this chapter, the administrator or agent shall:

21 (a) Implement administrative, technical, and physical safeguards
22 to protect the security, confidentiality, and integrity of the
23 information required by chapter 19.255 RCW and federal privacy and
24 data security law whether or not the administrator or the
25 administrator's agent is subject to the law;

26 (b) Protect against reasonably anticipated threats or hazards to
27 the security, confidentiality, or integrity of the information; and

28 (c) Protect against unauthorized access to or use of the
29 information which could result in substantial harm or inconvenience
30 to a holder or the holder's customers, including insureds,
31 annuitants, and policy or contract owners and their beneficiaries.

32 (3) The administrator:

33 (a) After notice and comment, shall adopt and implement a
34 security plan that identifies and assesses reasonably foreseeable
35 internal and external risks to confidential information in the
36 administrator's possession and seeks to mitigate the risks; and

1 (b) Shall ensure that an administrator's agent adopts and
2 implements a similar plan with respect to confidential information in
3 the agent's possession.

4 (4) The administrator and the administrator's agent shall educate
5 and train their employees regarding the plan adopted under subsection
6 (3) of this section.

7 (5) The administrator and the administrator's agent shall in a
8 secure manner return or destroy all confidential information no
9 longer reasonably needed under this chapter.

10 NEW SECTION. **Sec. 1407.** SECURITY BREACH. (1) Except to the
11 extent prohibited by law other than this chapter, the administrator
12 or administrator's agent shall notify a holder as soon as practicable
13 of:

14 (a) A suspected loss, misuse, or unauthorized access, disclosure,
15 modification, or destruction of confidential information obtained
16 from the holder in the possession of the administrator or an
17 administrator's agent; and

18 (b) Any interference with operations in any system hosting or
19 housing confidential information which:

20 (i) Compromises the security, confidentiality, or integrity of
21 the information; or

22 (ii) Creates a substantial risk of identity fraud or theft.

23 (2) Except as necessary to inform an insurer, attorney,
24 investigator, or others as required by law, the administrator and an
25 administrator's agent may not disclose, without the express consent
26 in a record of the holder, an event described in subsection (1) of
27 this section to a person whose confidential information was supplied
28 by the holder.

29 (3) If an event described in subsection (1) of this section
30 occurs, the administrator and the administrator's agent shall:

31 (a) Take action necessary for the holder to understand and
32 minimize the effect of the event and determine its scope; and

33 (b) Cooperate with the holder with respect to:

34 (i) Any notification required by law concerning a data or other
35 security breach; and

36 (ii) A regulatory inquiry, litigation, or similar action.

37 NEW SECTION. **Sec. 1408.** INDEMNIFICATION FOR BREACH. (1) If a
38 claim is made or action commenced arising out of an event described

1 in section 1407(1) of this act relating to confidential information
2 possessed by the administrator, this state shall indemnify, defend,
3 and hold harmless a holder and the holder's affiliates, officers,
4 directors, employees, and agents as to:

5 (a) Any claim or action; and

6 (b) A liability, obligation, loss, damage, cost, fee, penalty,
7 fine, settlement, charge, or other expense, including reasonable
8 attorneys' fees and costs, established by the claim or action.

9 (2) If a claim is made or action commenced arising out of an
10 event described in section 1407(1) of this act relating to
11 confidential information possessed by an administrator's agent, the
12 administrator's agent shall indemnify, defend, and hold harmless a
13 holder and the holder's affiliates, officers, directors, employees,
14 and agents as to:

15 (a) Any claim or action; and

16 (b) A liability, obligation, loss, damage, cost, fee, penalty,
17 fine, settlement, charge, or other expense, including reasonable
18 attorneys' fees and costs, established by the claim or action.

19 (3) The administrator shall require an administrator's agent that
20 will receive confidential information required under this chapter to
21 maintain adequate insurance for indemnification obligations of the
22 administrator's agent under subsection (2) of this section. The agent
23 required to maintain the insurance shall provide evidence of the
24 insurance to:

25 (a) The administrator not less frequently than annually; and

26 (b) The holder on commencement of an examination and annually
27 thereafter until all confidential information is returned or
28 destroyed under section 1406(5) of this act.

29 **PART 15**

30 **MISCELLANEOUS PROVISIONS**

31 NEW SECTION. **Sec. 1501.** UNIFORMITY OF APPLICATION AND
32 CONSTRUCTION. In applying and construing this uniform chapter and
33 this act, consideration must be given to the need to promote
34 uniformity of the law with respect to its subject matter among states
35 that enact it.

36 NEW SECTION. **Sec. 1502.** RELATION TO ELECTRONIC SIGNATURES IN
37 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or

1 supersedes the electronic signatures in global and national commerce
2 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
3 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
4 authorize electronic delivery of any of the notices described in
5 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

6 NEW SECTION. **Sec. 1503.** TRANSITIONAL PROVISION. (1) An initial
7 report filed under this chapter for property that was not required to
8 be reported before the effective date of this section, but that is
9 required to be reported under this chapter, must include all items of
10 property that would have been presumed abandoned during the ten-year
11 period preceding the effective date of this section as if this
12 chapter had been in effect during that period.

13 (2) This chapter does not relieve a holder of a duty that arose
14 before the effective date of this section to report, pay, or deliver
15 property. Subject to section 610 (2) and (3) of this act, a holder
16 that did not comply with the law governing unclaimed property before
17 the effective date of this section is subject to applicable
18 provisions for enforcement and penalties in effect before the
19 effective date of this section.

20 NEW SECTION. **Sec. 1504.** SEVERABILITY. If any provision of this
21 act or its application to any person or circumstance is held invalid,
22 the remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 1505.** REPEALS. The following acts or parts of
25 acts are each repealed:

26 (1) RCW 63.29.010 (Definitions and use of terms) and 2012 c 117 s
27 177, 2005 c 285 s 1, 2004 c 168 s 13, & 1983 c 179 s 1;

28 (2) RCW 63.29.020 (Property presumed abandoned—General rule—
29 Exceptions) and 2015 3rd sp.s. c 6 s 2101, 2011 c 116 s 1, & 2010 c
30 29 s 1;

31 (3) RCW 63.29.030 (General rules for taking custody of intangible
32 unclaimed property) and 1983 c 179 s 3;

33 (4) RCW 63.29.040 (Travelers checks and money orders) and 1983 c
34 179 s 4;

35 (5) RCW 63.29.050 (Checks, drafts, and similar instruments issued
36 or certified by banking and financial organizations) and 2003 1st
37 sp.s. c 13 s 2 & 1983 c 179 s 5;

1 (6) RCW 63.29.060 (Bank deposits and funds in financial
2 organizations) and 2003 1st sp.s. c 13 s 3 & 1983 c 179 s 6;
3 (7) RCW 63.29.070 (Funds owing under life insurance policies) and
4 2012 c 117 s 178, 2003 1st sp.s. c 13 s 4, & 1983 c 179 s 7;
5 (8) RCW 63.29.080 (Deposits held by utilities) and 1983 c 179 s
6 8;
7 (9) RCW 63.29.090 (Refunds held by business associations) and
8 1983 c 179 s 9;
9 (10) RCW 63.29.100 (Stock and other intangible interests in
10 business associations) and 2003 1st sp.s. c 13 s 5, 1996 c 45 s 1, &
11 1983 c 179 s 10;
12 (11) RCW 63.29.110 (Property of business associations held in
13 course of dissolution) and 1983 c 179 s 11;
14 (12) RCW 63.29.120 (Property held by agents and fiduciaries) and
15 2012 c 117 s 179, 2003 1st sp.s. c 13 s 6, & 1983 c 179 s 12;
16 (13) RCW 63.29.130 (Property held by courts and public agencies—
17 When abandoned—Overpayments) and 2007 c 183 s 1, 1993 c 498 s 2, &
18 1983 c 179 s 13;
19 (14) RCW 63.29.133 (Property held by landlord) and 1992 c 38 s 9;
20 (15) RCW 63.29.135 (Abandoned intangible property held by local
21 government) and 1990 2nd ex.s. c 1 s 301;
22 (16) RCW 63.29.140 (Gift certificates and credit memos) and 2015
23 3rd sp.s. c 6 s 2102, 2004 c 168 s 15, 2003 1st sp.s. c 13 s 7, &
24 1983 c 179 s 14;
25 (17) RCW 63.29.150 (Wages) and 1983 c 179 s 15;
26 (18) RCW 63.29.160 (Contents of safe deposit box or other
27 safekeeping repository) and 1983 c 179 s 16;
28 (19) RCW 63.29.165 (Property in self-storage facility) and 1993 c
29 498 s 4 & 1988 c 240 s 21;
30 (20) RCW 63.29.170 (Report of abandoned property) and 2015 3rd
31 sp.s. c 6 s 2103, 2004 c 168 s 16, 2003 c 237 s 1, 1996 c 45 s 2,
32 1993 c 498 s 7, & 1983 c 179 s 17;
33 (21) RCW 63.29.180 (Notice and publication of information about
34 unclaimed property) and 2015 3rd sp.s. c 6 s 2104, 2005 c 367 s 2,
35 2003 c 237 s 2, 1993 c 498 s 9, 1986 c 84 s 1, & 1983 c 179 s 18;
36 (22) RCW 63.29.190 (Payment or delivery of abandoned property)
37 and 2015 3rd sp.s. c 6 s 2105;
38 (23) RCW 63.29.192 (Penalty and interest paid in excess—Refunds—
39 Returns) and 2015 3rd sp.s. c 6 s 2110;

1 (24) RCW 63.29.193 (Petition for review—Denied application for
2 refund or return) and 2015 3rd sp.s. c 6 s 2111;
3 (25) RCW 63.29.194 (Appeal of payment or delivered property) and
4 2015 3rd sp.s. c 6 s 2112;
5 (26) RCW 63.29.195 (Agreement—Established between a holder and
6 the department) and 2015 3rd sp.s. c 6 s 2113;
7 (27) RCW 63.29.200 (Custody by state—Holder relieved from
8 liability—Reimbursement of holder paying claim—Reclaiming for owner
9 —Defense of holder—Payment of safe deposit box or repository
10 charges) and 2012 c 117 s 180 & 1983 c 179 s 20;
11 (28) RCW 63.29.210 (Crediting of dividends, interest, or
12 increments to owner's account) and 1983 c 179 s 21;
13 (29) RCW 63.29.220 (Public sale of abandoned property) and 2011
14 2nd sp.s. c 8 s 1, 2005 c 367 s 4, 1996 c 45 s 3, 1993 c 498 s 10, &
15 1983 c 179 s 22;
16 (30) RCW 63.29.230 (Deposit of funds) and 1983 c 179 s 23;
17 (31) RCW 63.29.240 (Filing of claim with department) and 2011 2nd
18 sp.s. c 8 s 2 & 1983 c 179 s 24;
19 (32) RCW 63.29.250 (Claim of another state to recover property—
20 Procedure) and 1983 c 179 s 25;
21 (33) RCW 63.29.260 (Action to establish claim) and 1983 c 179 s
22 26;
23 (34) RCW 63.29.270 (Election to take payment or delivery) and
24 1983 c 179 s 27;
25 (35) RCW 63.29.280 (Destruction or disposition of property having
26 insubstantial commercial value—Immunity from liability) and 2005 c
27 367 s 5 & 1983 c 179 s 28;
28 (36) RCW 63.29.290 (Periods of limitation) and 2015 3rd sp.s. c 6
29 s 2106 & 1983 c 179 s 29;
30 (37) RCW 63.29.300 (Requests for reports and examination of
31 records) and 2015 3rd sp.s. c 6 s 2107 & 1983 c 179 s 30;
32 (38) RCW 63.29.310 (Retention of records) and 1983 c 179 s 31;
33 (39) RCW 63.29.320 (Enforcement) and 1983 c 179 s 32;
34 (40) RCW 63.29.330 (Interstate agreements and cooperation—Joint
35 and reciprocal actions with other states) and 1983 c 179 s 33;
36 (41) RCW 63.29.340 (Interest and penalties) and 2015 3rd sp.s. c
37 6 s 2108 & 2011 c 96 s 45;

1 (42) RCW 63.29.350 (Penalty for excessive fee for locating
2 abandoned property—Consumer protection act application) and 2012 c
3 117 s 181, 2010 c 29 s 2, & 1983 c 179 s 35;
4 (43) RCW 63.29.360 (Foreign transactions) and 1983 c 179 s 36;
5 (44) RCW 63.29.370 (Rules) and 1983 c 179 s 38;
6 (45) RCW 63.29.380 (Information and records confidential) and
7 1983 c 179 s 39;
8 (46) RCW 63.29.900 (Effect of new provisions—Clarification of
9 application) and 1983 c 179 s 37;
10 (47) RCW 63.29.902 (Uniformity of application and construction)
11 and 1983 c 179 s 41;
12 (48) RCW 63.29.903 (Short title) and 1983 c 179 s 42;
13 (49) RCW 63.29.905 (Effective date—1983 c 179) and 1983 c 179 s
14 47; and
15 (50) RCW 63.29.906 (Effective date—1996 c 45) and 1996 c 45 s 5.

16 NEW SECTION. **Sec. 1506.** CODIFICATION. Sections 101 through 1503
17 and 1507 of this act constitute a new chapter in Title 63 RCW.

18 NEW SECTION. **Sec. 1507.** EFFECTIVE DATE. This act takes effect
19 January 1, 2019.

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