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**HOUSE BILL 2234**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Tarleton and Wylie

Prefiled 12/11/19. Read first time 01/13/20. Referred to Committee on Finance.

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 certificate" 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 certificate complying with chapter 19.240 RCW; and

7 (v) A premium paid by an agricultural fair by check. For the  
8 purposes of this subsection, the following definitions apply:

9 (A) "Agricultural fair" means a fair or exhibition that is  
10 intended to promote agriculture by including a balanced variety of  
11 exhibits of livestock and agricultural products, as well as related  
12 manufactured products and arts, including products of the farm home  
13 and educational contests, displays, and demonstrations designed to  
14 train youth and to promote the welfare of farmers and rural living;  
15 and

16 (B) "Premium" means an amount paid for exhibits and educational  
17 contests, displays, and demonstrations of an educational nature. A  
18 "premium" does not include judges' fees and expenses; livestock sale  
19 revenues; or prizes or amounts paid for promotion or entertainment  
20 activities such as queen contests, parades, dances, rodeos, and  
21 races.

22 (25) "Putative holder" means a person believed by the  
23 administrator to be a holder, until the person pays or delivers to  
24 the administrator property subject to this chapter or the  
25 administrator or a court makes a final determination that the person  
26 is or is not a holder.

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

30 (27) "Security" means:

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

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

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

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

38 (iii) Specifically indorsed to the person; or

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

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

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

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

6 (29) "State" means a state of the United States, the District of  
7 Columbia, the Commonwealth of Puerto Rico, the United States Virgin  
8 Islands, or any territory or insular possession subject to the  
9 jurisdiction of the United States.

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

14 (a) Includes:

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

19 (ii) A payroll card; and

20 (b) Does not include a loyalty card, gift certificate, or game-  
21 related digital content.

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

25 (a) Transmission of communications or information;

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

28 (c) Provision of sewage or septic services, or trash, garbage, or  
29 recycling disposal.

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

34 (a) The software or protocols governing the transfer of the  
35 digital representation of value;

36 (b) Game-related digital content; or

37 (c) A loyalty card or gift certificate.

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





- 1 (i) The insurance company has knowledge of the death of the  
2 insured; or
- 3 (ii) The insured has attained, or would have attained if living,  
4 the limiting age under the mortality table on which the reserve for  
5 the policy is based; and
- 6 (b) With respect to an amount owed on an annuity contract, three  
7 years after the date the insurance company has knowledge of the death  
8 of the annuitant;
- 9 (8) Property distributable by a business association in the  
10 course of dissolution, one year after the property becomes  
11 distributable;
- 12 (9) Property held by a court, including property received as  
13 proceeds of a class action, one year after the property becomes  
14 distributable;
- 15 (10) Property held by a government or governmental subdivision,  
16 agency, or instrumentality, including municipal bond interest and  
17 unredeemed principal under the administration of a paying agent or  
18 indenture trustee, one year after the property becomes distributable;
- 19 (11) Wages, commissions, bonuses, or reimbursements to which an  
20 employee is entitled, or other compensation for personal services,  
21 one year after the amount becomes payable;
- 22 (12) A deposit or refund owed to a subscriber by a utility, one  
23 year after the deposit or refund becomes payable; and
- 24 (13) Payroll card, one year after the amount becomes payable; and
- 25 (14) Property not specified in this section or section 202  
26 through 207 of this act, the earlier of three years after the owner  
27 first has a right to demand the property or the obligation to pay or  
28 distribute the property arises.

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

35 (a) The following dates:

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

1 (ii) If the second communication is sent later than thirty days  
2 after the date the first communication is returned undelivered, the  
3 date the first communication was returned undelivered by the United  
4 States postal service; or

5 (b) The earlier of the following dates:

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

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

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

13 (B) Confirms the death of the apparent owner under subsection (2)  
14 of this section.

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

20 (3) If the holder does not send communications to the apparent  
21 owner of an account described in subsection (1) of this section by  
22 first-class United States mail, the holder shall attempt to confirm  
23 the apparent owner's interest in the property by sending the apparent  
24 owner an email communication not later than two years after the  
25 apparent owner's last indication of interest in the property.  
26 However, the holder promptly shall attempt to contact the apparent  
27 owner by first-class United States mail if:

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

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

33 (c) The apparent owner does not respond to the email  
34 communication not later than thirty days after the communication was  
35 sent.

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

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

4 (b) If the second communication is sent later than thirty days  
5 after the date the first communication is returned undelivered, the  
6 date the first communication was returned undelivered; or

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

8 NEW SECTION. **Sec. 203.** WHEN OTHER TAX DEFERRED ACCOUNT PRESUMED  
9 ABANDONED. Subject to section 209 of this act and except for property  
10 described in section 202 of this act and property held in a plan  
11 described in section 529A of the internal revenue code, as it existed  
12 on the effective date of this section, 26 U.S.C. Sec. 529A, property  
13 held in an account or plan, including a health savings account, that  
14 qualifies for tax deferral under the income tax laws of the United  
15 States is presumed abandoned if it is unclaimed by the apparent owner  
16 three years after the earlier of:

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

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

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

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

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 on which the custodian is required to transfer the  
37 property to the minor or the minor's estate in accordance with the

1 uniform gifts to minors act or uniform transfers to minors act of the  
2 state in which the account was opened.

3 (2) If the holder does not send communications to the custodian  
4 of the minor on whose behalf an account described in subsection (1)  
5 of this section was opened by first-class United States mail, the  
6 holder shall attempt to confirm the custodian's interest in the  
7 property by sending the custodian an email communication not later  
8 than two years after the custodian's last indication of interest in  
9 the property. However, the holder promptly shall attempt to contact  
10 the custodian by first-class United States mail if:

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

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

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

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

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

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

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

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

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

37 (2) Earliest date when the lessor of the box is authorized by law  
38 of this state other than this chapter to enter the box and remove or

1 dispose of the contents without consent or authorization of the  
2 lessee.

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

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

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

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

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

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

18 (a) The date a second consecutive communication sent by the  
19 holder by first-class United States mail to the apparent owner is  
20 returned to the holder undelivered by the United States postal  
21 service; or

22 (b) If the second communication is made later than thirty days  
23 after the first communication is returned, the date the first  
24 communication is returned undelivered to the holder by the United  
25 States postal service.

26 (2) If the holder does not send communications to the apparent  
27 owner of a security by first-class United States mail, the holder  
28 shall attempt to confirm the apparent owner's interest in the  
29 security by sending the apparent owner an email communication not  
30 later than two years after the apparent owner's last indication of  
31 interest in the security. However the holder promptly shall attempt  
32 to contact the apparent owner by first-class United States mail if:

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

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

1 (c) The apparent owner does not respond to the email  
2 communication not later than thirty days after the communication was  
3 sent.

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

8 NEW SECTION. **Sec. 208.** WHEN RELATED PROPERTY PRESUMED  
9 ABANDONED. At and after the time property is presumed abandoned under  
10 this chapter, any other property right or interest accrued or  
11 accruing from the property and not previously presumed abandoned is  
12 also presumed abandoned.

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

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

18 (b) The latest indication of interest by the apparent owner in  
19 the property.

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

22 (a) A record communicated by the apparent owner to the holder or  
23 agent of the holder concerning the property or the account in which  
24 the property is held;

25 (b) An oral communication by the apparent owner to the holder or  
26 agent of the holder concerning the property or the account in which  
27 the property is held, if the holder or its agent contemporaneously  
28 makes and preserves a record of the fact of the apparent owner's  
29 communication;

30 (c) Presentment of a check or other instrument of payment of a  
31 dividend, interest payment, or other distribution, or evidence of  
32 receipt of a distribution made by electronic or similar means, with  
33 respect to an account, underlying security, or interest in a business  
34 association;

35 (d) Activity directed by an apparent owner in the account in  
36 which the property is held, including accessing the account or  
37 information concerning the account, or a direction by the apparent

1 owner to increase, decrease, or otherwise change the amount or type  
2 of property held in the account;

3 (e) A deposit into or withdrawal from an account at a financial  
4 organization, including an automatic deposit or withdrawal previously  
5 authorized by the apparent owner other than an automatic reinvestment  
6 of dividends or interest;

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

9 (g) Any other action by the apparent owner which reasonably  
10 demonstrates to the holder that the apparent owner knows that the  
11 property exists.

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

15 (4) A communication with an apparent owner by a person other than  
16 the holder or the holder's representative is not an indication of  
17 interest in the property by the apparent owner unless a record of the  
18 communication evidences the apparent owner's knowledge of a right to  
19 the property.

20 (5) If the insured dies or the insured or beneficiary of an  
21 insurance policy otherwise becomes entitled to the proceeds before  
22 depletion of the cash surrender value of the policy by operation of  
23 an automatic premium loan provision or other nonforfeiture provision  
24 contained in the policy, the operation does not prevent the policy  
25 from maturing or terminating.

26 NEW SECTION. **Sec. 210.** KNOWLEDGE OF DEATH OF INSURED OR  
27 ANNUITANT. (1) In this section, "death master file" means the United  
28 States social security administration death master file or other  
29 database or service that is at least as comprehensive as the United  
30 States social security administration death master file for  
31 determining that an individual reportedly has died.

32 (2) With respect to a life or endowment insurance policy or  
33 annuity contract for which an amount is owed on proof of death, but  
34 which has not matured by proof of death of the insured or annuitant,  
35 the company has knowledge of the death of an insured or annuitant  
36 when:

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

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

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

9 (d) The administrator or the administrator's agent conducts a  
10 comparison for the purpose of finding matches during an examination  
11 conducted under sections 1001 through 1013 of this act between a  
12 death master file and the names of some or all of the company's  
13 insureds or annuitants, finds a match that provides notice that the  
14 insured or annuitant has died, and the company validates the death;  
15 or

16 (e) The company:

17 (i) Receives notice of the death of the insured or annuitant from  
18 an administrator, beneficiary, policy owner, relative of the insured,  
19 or trustee or from a personal representative or other legal  
20 representative of the insured's or annuitant's estate; and

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

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

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

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

27 (ii) A rule or policy adopted by the office of the insurance  
28 commissioner; or

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

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

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



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

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

13 NEW SECTION. **Sec. 211.** DEPOSIT ACCOUNT FOR PROCEEDS OF  
14 INSURANCE POLICY OR ANNUITY CONTRACT. If proceeds payable under a  
15 life or endowment insurance policy or annuity contract are deposited  
16 into an account with check or draft writing privileges for the  
17 beneficiary of the policy or contract and, under a supplementary  
18 contract not involving annuity benefits other than death benefits,  
19 the proceeds are retained by the insurance company or the financial  
20 organization where the account is held, the policy or contract  
21 includes the assets in the account.

### 22 **PART 3**

#### 23 **RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED**

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

27 (1) The last known address of an apparent owner is any  
28 description, code, or other indication of the location of the  
29 apparent owner which identifies the state, even if the description,  
30 code, or indication of location is not sufficient to direct the  
31 delivery of first-class United States mail to the apparent owner.

32 (2) If the United States postal zip code associated with the  
33 apparent owner is for a post office located in this state, this state  
34 is deemed to be the state of the last known address of the apparent  
35 owner unless other records associated with the apparent owner  
36 specifically identify the physical address of the apparent owner to  
37 be in another state.

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

4 (4) The address of the apparent owner of a life or endowment  
5 insurance policy or annuity contract or its proceeds is presumed to  
6 be the address of the insured or annuitant if a person other than the  
7 insured or annuitant is entitled to the amount owed under the policy  
8 or contract and the address of the other person is not known by the  
9 insurance company and cannot be determined under section 302 of this  
10 act.

11 NEW SECTION. **Sec. 302.** ADDRESS OF APPARENT OWNER IN THIS STATE.

12 The administrator may take custody of property that is presumed  
13 abandoned, whether located in this state, another state, or a foreign  
14 country if:

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

17 (2) The records of the holder do not reflect the identity or last  
18 known address of the apparent owner, but the administrator has  
19 determined that the last known address of the apparent owner is in  
20 this state.

21 NEW SECTION. **Sec. 303.** IF RECORDS SHOW MULTIPLE ADDRESSES OF

22 APPARENT OWNER. (1) Except as in subsection (2) of this section, if  
23 records of a holder reflect multiple addresses for an apparent owner  
24 and this state is the state of the most recently recorded address,  
25 this state may take custody of property presumed abandoned, whether  
26 located in this state or another state.

27 (2) If it appears from records of the holder that the most  
28 recently recorded address of the apparent owner under subsection (1)  
29 of this section is a temporary address and this state is the state of  
30 the next most recently recorded address that is not a temporary  
31 address, this state may take custody of the property presumed  
32 abandoned.

33 NEW SECTION. **Sec. 304.** HOLDER DOMICILED IN THIS STATE. (1)

34 Except as in subsection (2) of this section or section 302 or 303 of  
35 this act, the administrator may take custody of property presumed  
36 abandoned, whether located in this state, another state, or a foreign  
37 country, if the holder is domiciled in this state or is this state or

1 a governmental subdivision, agency, or instrumentality of this state,  
2 and:

3 (a) Another state or foreign country is not entitled to the  
4 property because there is no last known address of the apparent owner  
5 or other person entitled to the property in the records of the  
6 holder; or

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

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

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

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

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

24 (2) The holder is domiciled in a state that does not provide for  
25 the custodial taking of the property, except that if the property is  
26 specifically exempt from custodial taking under the law of the state  
27 of the holder's domicile, the property is not subject to the custody  
28 of the administrator; and

29 (3) The last known address of the apparent owner or other person  
30 entitled to the property is unknown or in a state that does not  
31 provide for the custodial taking of the property, except that if the  
32 property is specifically exempt from custodial taking under the law  
33 of the state of the last known address, the property is not subject  
34 to the custody of the administrator.

35 NEW SECTION. **Sec. 306.** TRAVELER'S CHECK, MONEY ORDER, OR  
36 SIMILAR INSTRUMENT. The administrator may take custody of sums  
37 payable on a traveler's check, money order, or similar instrument  
38 presumed abandoned to the extent permissible under 12 U.S.C. Secs.

1 2501 through 2503, as it existed on the effective date of this  
2 section.

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

- 7 (1) The existence and amount of the property;
- 8 (2) The property is presumed abandoned; and
- 9 (3) The property is subject to the custody of the administrator.

10 **PART 4**  
11 **REPORT BY HOLDER**

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

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

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

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

22 (b) For paying or delivering to the administrator property  
23 described in the report.

24 (4)(a) Reports due under this section must be filed  
25 electronically in a form or manner provided or authorized by the  
26 administrator. However, the administrator, upon request or its own  
27 initiative, may relieve any holder or class of holders from the  
28 electronic filing requirement under this subsection for good cause as  
29 determined by the administrator.

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

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

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

1        NEW SECTION.        **Sec. 402.**        CONTENT OF REPORT. (1) The report

2 required under section 401 of this act must:

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

5        (b) If filed electronically, be in a secure format approved by  
6 the administrator which protects confidential information of the  
7 apparent owner in the same manner as required of the administrator  
8 and the administrator's agent under sections 1401 through 1408 of  
9 this act;

10        (c) Describe the property;

11        (d) Except for a traveler's check, money order, or similar  
12 instrument, contain the name, if known, last known address, if known,  
13 and social security number or taxpayer identification number, if  
14 known or readily ascertainable, of the apparent owner of property  
15 with a value of fifty dollars or more;

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

20        (f) For property held in or removed from a safe deposit box,  
21 indicate the location of the property, where it may be inspected by  
22 the administrator, and any amounts owed to the holder under section  
23 606 of this act;

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

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

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

30        (j) Contain other information the administrator prescribes by  
31 rules.

32        (2) A report under section 401 of this act may include in the  
33 aggregate items valued under fifty dollars each. If the report  
34 includes items in the aggregate valued under fifty dollars each, the  
35 administrator may not require the holder to provide the name and  
36 address of an apparent owner of an item unless the information is  
37 necessary to verify or process a claim in progress by the apparent  
38 owner.

39        (3) A report under section 401 of this act may include personal  
40 information as defined in section 1401(1) of this act about the

1 apparent owner or the apparent owner's property to the extent not  
2 otherwise prohibited by federal law.

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

9 NEW SECTION. **Sec. 403.** WHEN REPORT TO BE FILED. (1) Except as  
10 otherwise provided in subsection (2) of this section and subject to  
11 subsection (3) of this section, the report under section 401 of this  
12 act must be filed before November 1st of each year and cover the  
13 twelve months preceding July 1st of that year.

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

18 (3) Before the date for filing the report under section 401 of  
19 this act, the holder of property presumed abandoned may request the  
20 administrator to extend the time for filing. The administrator may  
21 grant an extension. If the extension is granted, the holder may pay  
22 or make a partial payment of the amount the holder estimates  
23 ultimately will be due. The payment or partial payment terminates  
24 accrual of interest on the amount paid.

25 NEW SECTION. **Sec. 404.** RETENTION OF RECORDS BY HOLDER. A holder  
26 required to file a report under section 401 of this act must retain  
27 records for six years after the later of the date the report was  
28 filed or the last date a timely report was due to be filed, unless a  
29 shorter period is provided by rule of the administrator. The holder  
30 may satisfy the requirement to retain records under this section  
31 through an agent. The records must contain:

- 32 (1) The information required to be included in the report;  
33 (2) The date, place, and nature of the circumstances that gave  
34 rise to the property right;  
35 (3) The amount or value of the property;  
36 (4) The last address of the apparent owner, if known to the  
37 holder; and

1 (5) If the holder sells, issues, or provides to others for sale  
2 or issue in this state traveler's checks, money orders, or similar  
3 instruments, other than third-party bank checks, on which the holder  
4 is directly liable, a record of the instruments while they remain  
5 outstanding indicating the state and date of issue.

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

11 NEW SECTION. **Sec. 406.** ABANDONED INTANGIBLE PROPERTY HELD BY A  
12 LOCAL GOVERNMENT. (1) A local government holding abandoned intangible  
13 property that is not forwarded to the department of revenue in  
14 subsection (2) of this section is not required to maintain current  
15 records of this property for longer than five years after the  
16 property is presumed abandoned, and at that time may archive records  
17 of this intangible property and transfer the intangible property to  
18 its general fund. However, the local government remains liable to pay  
19 the intangible property to a person or entity subsequently  
20 establishing its ownership of this intangible property.

21 (2) Counties, cities, towns, and other municipal and quasi-  
22 municipal corporations that hold funds representing warrants canceled  
23 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and  
24 property tax overpayments or refunds may retain the funds until the  
25 owner notifies them and establishes ownership as provided in this  
26 chapter. Counties, cities, towns, or other municipal and quasi-  
27 municipal corporations must provide to the administrator a report of  
28 property it is holding pursuant to this section. The report must  
29 identify the property and owner in the manner provided in this part 4  
30 and the administrator must publish the information as provided in  
31 section 503 of this act.

32 **PART 5**

33 **NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED**

34 NEW SECTION. **Sec. 501.** NOTICE TO APPARENT OWNER BY HOLDER. (1)  
35 Subject to subsection (2) of this section, the holder of property  
36 presumed abandoned shall send to the apparent owner notice by first-

1 class United States mail that complies with section 502 of this act  
2 in a format acceptable to the administrator not more than one hundred  
3 eighty days nor less than sixty days before filing the report under  
4 section 401 of this act if:

5 (a) The holder has in its records an address for the apparent  
6 owner which the holder's records do not disclose to be invalid and is  
7 sufficient to direct the delivery of first-class United States mail  
8 to the apparent owner; and

9 (b) The value of the property is seventy-five dollars or more.

10 (2) If an apparent owner has consented to receive email delivery  
11 from the holder, the holder shall send the notice described in  
12 subsection (1) of this section both by first-class United States mail  
13 to the apparent owner's last known mailing address and by email,  
14 unless the holder believes that the apparent owner's email address is  
15 invalid.

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

19 "Notice

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

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

25 (a) Identify the nature and, except for property that does not  
26 have a fixed value, the value of the property that is the subject of  
27 the notice;

28 (b) State that the property will be turned over to the  
29 administrator;

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

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

35 (e) Provide instructions that the apparent owner must follow to  
36 prevent the holder from reporting and paying or delivering the  
37 property to the administrator.



1 NEW SECTION.

2 **Sec. 503.**

3 NOTICE BY ADMINISTRATOR. (1) The

4 administrator shall give notice to an apparent owner that property  
5 presumed abandoned and appears to be owned by the apparent owner is  
6 held by the administrator under this chapter.

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

9 (a) Except as otherwise provided in (b) of this subsection, send  
10 written notice by first-class United States mail to each apparent  
11 owner of property valued at seventy-five dollars or more held by the  
12 administrator, unless the administrator determines that a mailing by  
13 first-class United States mail would not be received by the apparent  
14 owner, and, in the case of a security held in an account for which  
15 the apparent owner had consented to receiving email from the holder,  
16 send notice by email if the email address of the apparent owner is  
17 known to the administrator instead of by first-class United States  
18 mail; or

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

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

25 (a) Publish every twelve months in the printed or online version  
26 of a newspaper of general circulation within this state, which the  
27 administrator determines is most likely to give notice to the  
28 apparent owner of the property, notice of property held by the  
29 administrator which must include:

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

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

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

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

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

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

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

9 (5) In addition to giving notice under subsection (2) of this  
10 section, publishing the information under subsection (3)(a) of this  
11 section and maintaining the web site or database under subsection  
12 (3)(b) of this section, the administrator may use other printed  
13 publication, telecommunications, the internet, or other media to  
14 inform the public of the existence of unclaimed property held by the  
15 administrator.

16 NEW SECTION. **Sec. 504.** COOPERATION AMONG STATE OFFICERS AND  
17 AGENCIES TO LOCATE APPARENT OWNER. Unless prohibited by law of this  
18 state other than this chapter, on request of the administrator, each  
19 officer, agency, board, commission, division, and department of this  
20 state, any body politic and corporate created by this state for a  
21 public purpose, and each political subdivision of this state shall  
22 make its books and records available to the administrator and  
23 cooperate with the administrator to determine the current address of  
24 an apparent owner of property held by the administrator under this  
25 chapter.

26 **PART 6**

27 **TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

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

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

34 (2) Made payment or delivery:

35 (a) In response to a demand by the administrator or  
36 administrator's agent; or

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

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

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

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

12 (2) The amount of the deduction under subsection (1) of this  
13 section is limited to an amount that is not unconscionable  
14 considering all relevant factors, including the marginal  
15 transactional costs incurred by the holder in maintaining the  
16 apparent owner's property and any services received by the apparent  
17 owner.

18 NEW SECTION. **Sec. 603.** PAYMENT OR DELIVERY OF PROPERTY TO  
19 ADMINISTRATOR. (1)(a) Except as otherwise provided in this section,  
20 on filing a report under section 401 of this act, the holder shall  
21 pay or deliver to the administrator the property described in the  
22 report. Holders who are required to file a report electronically  
23 under this chapter must remit payments under this section by  
24 electronic funds transfer or other form of electronic payment  
25 acceptable to the administrator. However, the administrator, upon  
26 request or its own initiative, may relieve any holder or class of  
27 holders from the electronic payment requirement under this subsection  
28 for good cause as determined by the administrator.

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

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

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

36 (2) If property in a report under section 401 of this act is an  
37 automatically renewable deposit and a penalty or forfeiture in the  
38 payment of interest would result from paying the deposit to the

1 administrator at the time of the report, the date for payment of the  
2 property to the administrator is extended until a penalty or  
3 forfeiture no longer would result from payment, if the holder informs  
4 the administrator of the extended date.

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

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

10 (a) Make an endorsement, instruction, or entitlement order on  
11 behalf of the apparent owner to invoke the duty of the issuer, its  
12 transfer agent, or the securities intermediary to transfer the  
13 security; or

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

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

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

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

28 (8) A holder is not required to deliver to the administrator a  
29 security identified by the holder as a nonfreely transferable  
30 security. If the administrator or holder determines that a security  
31 is no longer a nonfreely transferable security, the holder shall  
32 deliver the security on the next regular date prescribed for delivery  
33 of securities under this chapter. The holder shall make a  
34 determination annually whether a security identified in a report  
35 filed under section 401 of this act as a nonfreely transferable  
36 security is no longer a nonfreely transferable security.

37 NEW SECTION. **Sec. 604.** EFFECT OF PAYMENT OR DELIVERY OF  
38 PROPERTY TO ADMINISTRATOR. (1) On payment or delivery of property to  
39 the administrator under this chapter, the administrator as agent for

1 the state assumes custody and responsibility for safekeeping the  
2 property. A holder that pays or delivers property to the  
3 administrator in good faith and substantially complies with sections  
4 501 and 502 of this act is relieved of liability arising thereafter  
5 with respect to payment or delivery of the property to the  
6 administrator.

7 (2) This state shall defend and indemnify a holder against  
8 liability on a claim against the holder resulting from the payment or  
9 delivery of property to the administrator made in good faith and  
10 after the holder substantially complied with sections 501 and 502 of  
11 this act.

12 NEW SECTION. **Sec. 605.** RECOVERY OF PROPERTY BY HOLDER FROM  
13 ADMINISTRATOR. (1) A holder that under this chapter pays money to the  
14 administrator may file a claim for reimbursement from the  
15 administrator of the amount paid if the holder:

16 (a) Paid the money in error; or

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

19 (2) If a claim for reimbursement under subsection (1) of this  
20 section is made for a payment made on a negotiable instrument,  
21 including a traveler's check, money order, or similar instrument, the  
22 holder must submit proof that the instrument was presented and  
23 payment was made to a person the holder reasonably believed was  
24 entitled to payment. The holder may claim reimbursement even if the  
25 payment was made to a person whose claim was made after expiration of  
26 a period of limitation on the owner's right to receive or recover  
27 property, whether specified by contract, statute, or court order.

28 (3) If a holder is reimbursed by the administrator under  
29 subsection (1)(b) of this section, the holder may also recover from  
30 the administrator income or gain under section 607 of this act that  
31 would have been paid to the owner if the money had been claimed from  
32 the administrator by the owner to the extent the income or gain was  
33 paid by the holder to the owner.

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

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

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

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

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

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

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

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

18 NEW SECTION. **Sec. 606.** PROPERTY REMOVED FROM SAFE DEPOSIT BOX.  
19 Property removed from a safe deposit box and delivered to the  
20 administrator under this chapter is subject to the holder's right to  
21 reimbursement for the cost of opening the box and a lien or contract  
22 providing reimbursement to the holder for unpaid rent charges for the  
23 box. The administrator shall reimburse the holder from the proceeds  
24 remaining after deducting the expense incurred by the administrator  
25 in selling the property.

26 NEW SECTION. **Sec. 607.** CREDITING INCOME OR GAIN TO OWNER'S  
27 ACCOUNT. If property other than money is delivered to the  
28 administrator, the owner is entitled to receive from the  
29 administrator income or gain realized or accrued on the property  
30 before the property is sold. If the property was an interest-bearing  
31 demand, savings, or time deposit, the administrator shall pay  
32 interest at the rate set in RCW 82.32.050(2). Interest begins to  
33 accrue when the property is delivered to the administrator and ends  
34 on the earlier of the expiration of ten years after its delivery or  
35 the date on which payment is made to the owner.

36 NEW SECTION. **Sec. 608.** ADMINISTRATOR'S OPTIONS AS TO CUSTODY.  
37 (1) The administrator may decline to take custody of property

1 reported under section 401 of this act if the administrator  
2 determines that:

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

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

6 (2) A holder may pay or deliver property to the administrator  
7 before the property is presumed abandoned under this chapter if the  
8 holder:

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

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

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

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

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

24 NEW SECTION. **Sec. 609.** DISPOSITION OF PROPERTY HAVING NO  
25 SUBSTANTIAL VALUE—IMMUNITY FROM LIABILITY. (1) If the administrator  
26 takes custody of property delivered under this chapter and later  
27 determines that the property has no substantial commercial value or  
28 that the cost of disposing of the property will exceed the value of  
29 the property, the administrator may return the property to the holder  
30 or destroy or otherwise dispose of the property.

31 (2) An action or proceeding may not be commenced against the  
32 state, an agency of the state, the administrator, another officer,  
33 employee, or agent of the state, or a holder for or because of an act  
34 of the administrator under this section, except for intentional  
35 misconduct or malfeasance.

36 NEW SECTION. **Sec. 610.** PERIODS OF LIMITATION AND REPOSE. (1)  
37 Expiration, before, on, or after the effective date of this section,  
38 of a period of limitation on an owner's right to receive or recover

1 property, whether specified by contract, statute, or court order,  
2 does not prevent the property from being presumed abandoned or affect  
3 the duty of a holder under this chapter to file a report or pay or  
4 deliver property to the administrator.

5 (2) The administrator may not commence an action or proceeding to  
6 enforce this chapter with respect to the reporting, payment, or  
7 delivery of property more than five years after the holder filed a  
8 nonfraudulent report under section 401 of this act with the  
9 administrator. The parties may agree in a record to extend the  
10 limitation in this subsection.

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

## 14 PART 7

### 15 SALE OF PROPERTY BY ADMINISTRATOR

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

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

22 (a) The date of the sale; and

23 (b) A reasonable description of the property.

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

26 (a) At public sale at a location in this state which the  
27 administrator determines to be the most favorable market for the  
28 property;

29 (b) On the internet; or

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

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

35 (5) The administrator must publish at least one notice of the  
36 sale, at least three weeks but not more than five weeks before the  
37 sale, in a newspaper of general circulation in the county in which  
38 the property is sold.



1        NEW SECTION.    **Sec. 702.**    DISPOSAL OF SECURITIES. (1) Except as  
2 otherwise provided in this subsection, the administrator must sell  
3 all securities delivered to the administrator as required by this  
4 chapter as soon as practicable after taking custody, in the judgment  
5 of the administrator, after receipt by the administrator. However,  
6 this subsection does not apply with respect to any securities that,  
7 in the judgment of the administrator, cannot be sold, are worthless,  
8 or are not cost-effective to sell.

9        (2) Securities listed on an established stock exchange must be  
10 sold at prices prevailing at the time of sale on the exchange. Other  
11 securities may be sold over the counter at prices prevailing at the  
12 time of sale or by any other method the administrator considers  
13 advisable. All securities may be sold over the counter at prices  
14 prevailing at the time of the sale, or by any other method the  
15 administrator deems advisable.

16        NEW SECTION.    **Sec. 703.**    RECOVERY OF SECURITIES OR VALUE BY  
17 OWNER. (1) Except as otherwise provided in this section, a person  
18 making a claim under this chapter with respect to securities is only  
19 entitled to receive the proceeds received from sale, even if the sale  
20 of the securities has not been completed at the time the  
21 administrator receives the claim. However, if the administrator  
22 receives a claim for securities and the administrator has not ordered  
23 those securities to be sold as of the time the claim is received by  
24 the administrator, the claimant is entitled to receive either the  
25 securities delivered to the administrator by the holder, or the  
26 proceeds received from the sale, less any amounts deducted pursuant  
27 to section 803 of this act.

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

33        NEW SECTION.    **Sec. 704.**    PURCHASER OWNS PROPERTY AFTER SALE. A  
34 purchaser of property at a sale conducted by the administrator under  
35 this chapter takes the property free of all claims of the owner, a  
36 previous holder, or a person claiming through the owner or holder.  
37 The administrator shall execute documents necessary to complete the  
38 transfer of ownership to the purchaser.

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

4       (2) The administrator, with the consent of the respective  
5 organization under (a) of this subsection, agency under (b) of this  
6 subsection, or entity under (c) of this subsection, may deliver a  
7 medal or decoration described in subsection (1) of this section to be  
8 held in custody for the owner, to:

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

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

13       (c) A governmental entity.

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

17                                    **PART 8**

18                                    **ADMINISTRATION OF PROPERTY**

19       NEW SECTION.    **Sec. 801.**    DEPOSIT OF FUNDS BY ADMINISTRATOR. (1)  
20 Except as otherwise provided by this section, the administrator shall  
21 promptly deposit in the general fund of this state all funds received  
22 under this chapter, including the proceeds from the sale of property  
23 under sections 701 through 705 of this act. The administrator shall  
24 retain in a separate trust fund, the nonappropriated unclaimed  
25 personal property account, an amount not less than seven hundred  
26 fifty thousand dollars from which prompt payment of claims duly  
27 allowed must be made by the administrator.

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

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

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

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

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

6 (3) For each policy of insurance or annuity contract listed in  
7 the report of an insurance company, record and retain the policy or  
8 account number, the name of the company, and the amount due or paid;  
9 and

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

13 NEW SECTION. **Sec. 803.** EXPENSES AND SERVICE CHARGES OF  
14 ADMINISTRATOR. The administrator may expend from the unclaimed  
15 personal property account for the following purposes:

16 (1) Expenses of disposition of property delivered to the  
17 administrator under this chapter;

18 (2) Costs of mailing and publication in connection with property  
19 delivered to the administrator under this chapter;

20 (3) Reasonable service charges; and

21 (4) Expenses incurred in examining records of or collecting  
22 property from a putative holder or holder.

23 NEW SECTION. **Sec. 804.** ADMINISTRATOR HOLDS PROPERTY AS  
24 CUSTODIAN FOR OWNER. Property received by the administrator under  
25 this chapter is held in custody for the benefit of the owner and is  
26 not owned by the state.

## 27 **PART 9**

### 28 **CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

29 NEW SECTION. **Sec. 901.** CLAIM OF ANOTHER STATE TO RECOVER  
30 PROPERTY. (1) If the administrator knows that property held by the  
31 administrator under this chapter is subject to a superior claim of  
32 another state, the administrator shall:

33 (a) Report and pay or deliver the property to the other state; or

34 (b) Return the property to the holder so that the holder may pay  
35 or deliver the property to the other state.

1 (2) The administrator is not required to enter into an agreement  
2 to transfer property to the other state under subsection (1) of this  
3 section.

4 NEW SECTION. **Sec. 902.** WHEN PROPERTY SUBJECT TO RECOVERY BY  
5 ANOTHER STATE. (1) Property held under this chapter by the  
6 administrator is subject to the right of another state to take  
7 custody of the property if:

8 (a) The property was paid or delivered to the administrator  
9 because the records of the holder did not reflect a last known  
10 address in the other state of the apparent owner and:

11 (i) The other state establishes that the last known address of  
12 the apparent owner or other person entitled to the property was in  
13 the other state; or

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

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

20 (c) The property was subject to the custody of the administrator  
21 of this state under section 305 of this act and, under the law of the  
22 state of domicile of the holder, the property has become subject to a  
23 claim by the state of domicile of the holder of abandonment; or

24 (d) The property:

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

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

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

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

38 (4) The administrator may require another state, before  
39 recovering property under this section, to agree to indemnify this

1 state and its agents, officers, and employees against any liability  
2 on a claim to the property.

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

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

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

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

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

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

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

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

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

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

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

34 (4) If the administrator does not take action on a claim during  
35 the ninety-day period following the filing of a claim under section  
36 903(1) of this act, the claim is deemed denied.

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

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

14        (a) Child support arrearages, including child support collection  
15 costs and child support arrearages that are combined with  
16 maintenance;

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

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

22        (3) Before delivery or payment to an owner under subsection (1)  
23 of this section of property or payment to the owner of net proceeds  
24 of a sale of the property, the administrator first shall apply the  
25 property or net proceeds to a debt under subsection (2) of this  
26 section the administrator determines is owed by the owner. The  
27 administrator shall pay the amount to the appropriate state or local  
28 agency and notify the owner of the payment.

29        (4) The administrator may make periodic inquiries of state and  
30 local agencies in the absence of a claim filed under section 903 of  
31 this act to determine whether an apparent owner included in the  
32 unclaimed property records of this state has enforceable debts  
33 described in subsection (2) of this section. The administrator first  
34 shall apply the property or net proceeds of a sale of property held  
35 by the administrator to a debt under subsection (2) of this section  
36 of an apparent owner which appears in the records of the  
37 administrator and deliver the amount to the appropriate state or  
38 local agency. The administrator shall notify the apparent owner of  
39 the payment.

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

6    **PART 10**

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

8        NEW SECTION.    **Sec. 1001.**    VERIFIED REPORT OF PROPERTY. If a  
9 person does not file a report required by section 401 of this act or  
10 the administrator believes that a person may have filed an  
11 inaccurate, incomplete, or false report, the administrator may  
12 require the person to file a verified report in a form prescribed by  
13 the administrator. The verified report must:

14            (1) State whether the person is holding property reportable under  
15 this chapter;

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

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

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

22        NEW SECTION.    **Sec. 1002.**    EXAMINATION OF RECORDS TO DETERMINE  
23 COMPLIANCE. The administrator, at reasonable times and on reasonable  
24 notice, may:

25            (1) Examine the records of a person, including examination of  
26 appropriate records in the possession of an agent of the person under  
27 examination, if the records are reasonably necessary to determine  
28 whether the person has complied with this chapter;

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

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

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

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

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

9 (a) The examination must include a review of the person's  
10 records.

11 (b) The examination may not be based on an estimate unless the  
12 person expressly consents in a record to the use of an estimate or  
13 the person has failed to make its records available to the  
14 administrator for examination.

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

18 NEW SECTION. **Sec. 1004.** RECORDS OBTAINED IN EXAMINATION.

19 Records obtained and records, including work papers, compiled by the  
20 administrator in the course of conducting an examination under  
21 section 1002 of this act:

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

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

26 (3) May be used in a joint examination conducted with another  
27 state, the United States, a foreign country or subordinate unit of a  
28 foreign country, or any other governmental entity if the governmental  
29 entity conducting the examination is legally bound to maintain the  
30 confidentiality and security of information obtained from a person  
31 subject to examination in a manner substantially equivalent to  
32 sections 1401 through 1408 of this act;

33 (4) Must be disclosed, on request, to the person that administers  
34 the unclaimed property law of another state for that state's use in  
35 circumstances equivalent to circumstances described in this section  
36 and sections 1001 through 1003 and 1005 through 1013 of this act, if  
37 the other state is required to maintain the confidentiality and  
38 security of information obtained in a manner substantially equivalent  
39 to sections 1401 through 1408 of this act;



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

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

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

10 (2) A putative holder may establish by a preponderance of the  
11 evidence that there is no unpaid debt or undischarged obligation for  
12 a debt or obligation described in subsection (1) of this section or  
13 that the debt or obligation was not, or no longer is, a fixed and  
14 certain obligation of the putative holder.

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

18 (a) Issued as an unaccepted offer in settlement of an  
19 unliquidated amount;

20 (b) Issued but later was replaced with another instrument because  
21 the earlier instrument was lost or contained an error that was  
22 corrected;

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

24 (d) Paid, satisfied, or discharged;

25 (e) Issued in error;

26 (f) Issued without consideration;

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

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

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

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

35 NEW SECTION. **Sec. 1006.** FAILURE OF PERSON EXAMINED TO RETAIN  
36 RECORDS. If a person subject to examination under section 1002 of  
37 this act does not retain the records required by section 404 of this  
38 act, the administrator may determine the value of property due using

1 a reasonable method of estimation based on all information available  
2 to the administrator, including extrapolation and use of statistical  
3 sampling when appropriate and necessary, consistent with examination  
4 procedures and standards adopted under section 1003(1) of this act  
5 and in accordance with section 1003(2) of this act.

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

- 11 (1) The work performed;
- 12 (2) The property types reviewed;
- 13 (3) The methodology of any estimation technique, extrapolation,  
14 or statistical sampling used in conducting the examination;
- 15 (4) Each calculation showing the value of property determined to  
16 be due; and
- 17 (5) The findings of the person conducting the examination.

18 NEW SECTION. **Sec. 1008.** COMPLAINT TO ADMINISTRATOR ABOUT  
19 CONDUCT OF PERSON CONDUCTING EXAMINATION. (1) If a person subject to  
20 examination under section 1002 of this act believes the person  
21 conducting the examination has made an unreasonable or unauthorized  
22 request or is not proceeding expeditiously to complete the  
23 examination, the person in a record may ask the administrator to  
24 intervene and take appropriate remedial action, including  
25 countermanding the request of the person conducting the examination,  
26 imposing a time limit for completion of the examination, or  
27 reassigning the examination to another person.

28 (2) If a person in a record requests a conference with the  
29 administrator to present matters that are the basis of a request  
30 under subsection (1) of this section, the administrator shall hold  
31 the conference not later than thirty days after receiving the  
32 request. The administrator may hold the conference in person, by  
33 telephone, or by electronic means.

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

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

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

6        (b) The administrator's child, stepchild, grandchild, parent,  
7 stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece,  
8 or nephew;

9        (c) A spouse, partner in a civil union, domestic partner, or  
10 reciprocal beneficiary of an individual under (b) of this subsection;  
11 or

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

13        (2) The administrator may contract with a person to conduct an  
14 examination under this section and sections 1001 through 1008 and  
15 1010 through 1013 of this act. The contract may be awarded only under  
16 chapter 39.26 RCW.

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

19        (a) An individual, the individual may not be related to the  
20 administrator; or

21        (b) A business entity, the entity may not be owned in whole or in  
22 part by the administrator or an individual related to the  
23 administrator.

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

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

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

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

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

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

1        NEW SECTION.        **Sec. 1010.**        LIMIT ON FUTURE EMPLOYMENT. The  
2 administrator or an individual employed by the administrator who  
3 participates in, recommends, or approves the award of a contract  
4 under section 1009(2) of this act on or after the effective date of  
5 this section may not be employed by, contracted with, or compensated  
6 in any capacity by the contractor or an affiliate of the contractor  
7 for two years after the latest of participation in, recommendation  
8 of, or approval of the award or conclusion of the contract.

9        NEW SECTION.        **Sec. 1011.**        REPORT BY ADMINISTRATOR TO STATE  
10 OFFICIAL. (1) Not later than three months after the end of the state  
11 fiscal year, the administrator shall compile and submit a report to  
12 the governor and legislature. The report must contain the following  
13 information about property presumed abandoned for the preceding  
14 fiscal year for the state:

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

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

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

21        (A) A state employee; and

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

23        (b) The name of and amount paid to each contractor under section  
24 1009 of this act and the percentage the total compensation paid to  
25 all contractors under section 1009 of this act bears to the total  
26 amount paid or delivered to the administrator as a result of all  
27 examinations performed under section 1009 of this act;

28        (c) The total amount and value of all property paid or delivered  
29 by the administrator to persons that made claims for property held by  
30 the administrator under this chapter and the percentage the total  
31 payments made and value of property delivered to claimants bears to  
32 the total amounts paid and value delivered to the administrator; and

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

35        (i) Were denied;

36        (ii) Were allowed; and

37        (iii) Are pending.

1 (2) The report under subsection (1) of this section is a public  
2 record subject to public disclosure without redaction under chapter  
3 42.56 RCW.

4 NEW SECTION. **Sec. 1012.** DETERMINATION OF LIABILITY FOR  
5 UNREPORTED REPORTABLE PROPERTY. If the administrator determines from  
6 an examination conducted under section 1002 of this act that a  
7 putative holder failed or refused to pay or deliver to the  
8 administrator property which is reportable under this chapter, the  
9 administrator shall issue a determination of the putative holder's  
10 liability to pay or deliver and give notice in a record to the  
11 putative holder of the determination.

12 NEW SECTION. **Sec. 1013.** INTEREST AND PENALTIES. (1) A person  
13 who fails to pay or deliver property when due is required to pay to  
14 the administrator interest at the rate as computed under RCW  
15 82.32.050(1)(c) and set under RCW 82.32.050(2). However, the  
16 administrator must waive or cancel interest imposed under this  
17 subsection if:

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

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

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

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

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

36 (4) If a person fails to pay or deliver to the administrator by  
37 the due date any amounts or property due under an assessment issued  
38 by the administrator to the person, there is assessed an additional

1 penalty of five percent of the amount unpaid and the value of any  
2 property not delivered.

3 (5) If a holder makes a fraudulent report under this chapter, the  
4 administrator may require the holder to pay the administrator, in  
5 addition to interest under this section, a civil penalty of one  
6 thousand dollars for each day from the date the report was made until  
7 corrected, up to a cumulative maximum amount of twenty-five thousand  
8 dollars, plus twenty-five percent of the amount or value of any  
9 property that should have been reported or was underreported.

10 (6) Penalties under subsections (2) through (4) of this section  
11 may be waived or canceled only if the administrator finds that the  
12 failure to pay or deliver within the time prescribed by this chapter  
13 was the result of circumstances beyond the person's control  
14 sufficient for waiver or cancellation of penalties under RCW  
15 82.32.105.

16 (7) If a person willfully fails to file a report or to provide  
17 written notice to apparent owners as required under this chapter, the  
18 administrator may assess a civil penalty of one hundred dollars for  
19 each day the report is withheld or the notice is not sent, but not  
20 more than five thousand dollars.

21 (8) If a holder, having filed a report, failed to file the report  
22 electronically as required by RCW 63.29.170, or failed to pay  
23 electronically any amounts due under the report as required by RCW  
24 63.29.190, the administrator must assess a penalty equal to five  
25 percent of the amount payable or deliverable under the report, unless  
26 the administrator grants the taxpayer relief from the electronic  
27 filing and payment requirements. Total penalties assessed under this  
28 subsection may not exceed five percent of the amount payable and  
29 value of property deliverable under the report.

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

1 (10) The penalties imposed in this section are cumulative.

2 NEW SECTION. **Sec. 1014.** The administrator may waive, in whole  
3 and in part, interest under section 1013 of this act and penalties  
4 under section 1013 (5) and (9) of this act.

5 **PART 11**

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

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

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

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

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

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

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

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

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

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

33 (3) A conference under subsection (2) of this section is not an  
34 administrative remedy and is not a contested case subject to chapter  
35 34.05 RCW. An oath is not required and rules of evidence do not apply  
36 in the conference.

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

5 (a) Discuss the determination made under section 1012 of this  
6 act; and

7 (b) Present any issue concerning the validity of the  
8 determination.

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

15 (a) The date under section 1103 of this act the putative holder  
16 initiates administrative review or files an action under section 1104  
17 of this act; or

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

22 (6) The administrator may hold an informal conference with a  
23 putative holder about a determination under section 1012 of this act  
24 without a request at any time before the putative holder initiates  
25 administrative review under section 1103 of this act or files an  
26 action under section 1104 of this act.

27 (7) Interest and penalties under section 1013 of this act  
28 continue to accrue on property not reported, paid, or delivered as  
29 required by this chapter after the initiation, and during the  
30 pendency, of an informal conference under this section.

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

34 (1) Administrative review under section 1103 of this act; or

35 (2) Judicial review under section 1104 of this act.

36 NEW SECTION. **Sec. 1103.** ADMINISTRATIVE REVIEW. Any person  
37 having been issued an assessment by the administrator, or a denial of  
38 an application for a refund or return of property, under the



1 provisions of this chapter is entitled to a review by the  
2 administrator conducted in accordance with the provisions of RCW  
3 34.05.410 through 34.05.494, subject to judicial review under RCW  
4 34.05.510 through 34.05.598. A petition for review under this section  
5 is timely if received in writing by the administrator before the due  
6 date of the assessment, including any extension of the due date  
7 granted by the administrator, or in the case of a refund or return  
8 application, thirty days after the administrator rejects the  
9 application in writing, regardless of any subsequent action by the  
10 administrator to reconsider its initial decision. The period for  
11 filing a petition for review under this section may be extended as  
12 provided in a rule adopted by the administrator under chapter 34.05  
13 RCW or upon a written agreement signed by the holder and the  
14 administrator.

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

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

26 (3) (a) In an appeal filed under this section, the plaintiff must  
27 set forth the amount or property, if any, payable or deliverable on  
28 the report or assessment that the plaintiff is contesting, which the  
29 holder concedes to be the correct amount payable or deliverable, and  
30 the reason why the amount payable or deliverable should be reduced or  
31 abated.

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

36 (4) (a) The trial in the superior court on appeal must be de novo  
37 and without the necessity of any pleadings other than the notice of  
38 appeal. At trial, the burden is on the plaintiff to (i) prove that  
39 the amount paid by that person is incorrect, either in whole or in

1 part, or the property in question was delivered in error to the  
2 administrator, and (ii) establish the correct amount payable or the  
3 property required to be delivered to the administrator, if any.

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

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

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

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

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

17 (6) No court action or proceeding of any kind may be maintained  
18 by the plaintiff to recover any amount paid, delivered, or reported  
19 to the administrator under this chapter, except as provided in this  
20 section or as may be available to the plaintiff under RCW 34.05.510  
21 through 34.05.598.

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

## 25 PART 12

### 26 ENFORCEMENT BY ADMINISTRATOR

27 NEW SECTION. **Sec. 1201.** JUDICIAL ACTION TO ENFORCE LIABILITY.

28 (1) If a determination under section 1012 of this act becomes final  
29 and is not subject to administrative or judicial review, the  
30 administrator may commence an action in superior court or in an  
31 appropriate court of another state to enforce the determination and  
32 secure payment or delivery of past due, unpaid, or undelivered  
33 property. The action must be brought not later than one year after  
34 the determination becomes final.

35 (2) In an action under subsection (1) of this section, if no  
36 court in this state has jurisdiction over the defendant, the  
37 administrator may commence an action in any court having jurisdiction  
38 over the defendant.

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

4        (a) Exchange information with another state or foreign country  
5 relating to property presumed abandoned or relating to the possible  
6 existence of property presumed abandoned; and

7        (b) Authorize in a record another state or foreign country or a  
8 person acting on behalf of the other state or country to examine its  
9 records of a putative holder as provided in sections 1001 through  
10 1013 of this act.

11        (2) An exchange or examination under subsection (1) of this  
12 section may be done only if the state or foreign country has  
13 confidentiality and security requirements substantially equivalent to  
14 those in sections 1401 through 1408 of this act or agrees in a record  
15 to be bound by this state's confidentiality and security  
16 requirements.

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

21        (2) On request of another state or foreign country, the attorney  
22 general may commence an action on behalf of the other state or  
23 country to enforce, in this state, the law of the other state or  
24 country against a putative holder subject to a claim by the other  
25 state or country, if the other state or country agrees to pay costs  
26 incurred by the attorney general in the action.

27        (3) The administrator may request the official authorized to  
28 enforce the unclaimed property law of another state or foreign  
29 country to commence an action to recover property in the other state  
30 or country on behalf of the administrator. This state shall pay the  
31 costs, including reasonable attorneys' fees and expenses, incurred by  
32 the other state or foreign country in an action under this  
33 subsection.

34        (4) The administrator may pursue an action on behalf of this  
35 state to recover property subject to this chapter but delivered to  
36 the custody of another state if the administrator believes the  
37 property is subject to the custody of the administrator.

38        (5) The administrator may retain an attorney in this state,  
39 another state, or a foreign country to commence an action to recover

1 property on behalf of the administrator and may agree to pay  
2 attorneys' fees based in whole or in part on a fixed fee, hourly fee,  
3 or a percentage of the amount or value of property recovered in the  
4 action.

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

10 **PART 13**

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

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

17 (1) Is in a record that clearly states the nature of the property  
18 and the services to be provided;

19 (2) Is signed by or on behalf of the apparent owner; and

20 (3) States the amount or value of the property reasonably  
21 expected to be recovered, computed before and after a fee or other  
22 compensation to be paid to the person has been deducted.

23 NEW SECTION. **Sec. 1302.** WHEN AGREEMENT TO LOCATE PROPERTY VOID.

24 (1) Subject to subsection (2) of this section, an agreement under  
25 section 1301 of this act is void if it is entered into during the  
26 period beginning on the date the property was paid or delivered by a  
27 holder to the administrator and ending twenty-four months after the  
28 payment or delivery.

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

35 (3) An agreement under subsection (1) of this section which  
36 provides for compensation in an amount that is unconscionable is  
37 unenforceable except by the apparent owner. An apparent owner that

1 believes the compensation the apparent owner has agreed to pay is  
2 unconscionable or the administrator, acting on behalf of an apparent  
3 owner, or both, may file an action in superior court to reduce the  
4 compensation to the maximum amount that is not unconscionable.

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

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

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

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

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

## 26 **PART 14**

### 27 **CONFIDENTIALITY AND SECURITY OF INFORMATION**

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

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

34 (i) Social security number or other government-issued number or  
35 identifier;

36 (ii) Date of birth;

37 (iii) Home or physical address;

1 (iv) Email address or other online contact information or  
2 internet provider address;

3 (v) Financial account number or credit or debit card number;

4 (vi) Biometric data, health or medical data, or insurance  
5 information; or

6 (vii) Passwords or other credentials that permit access to an  
7 online or other account;

8 (b) Personally identifiable financial or insurance information,  
9 including nonpublic personal information defined by applicable  
10 federal law; and

11 (c) Any combination of data that, if accessed, disclosed,  
12 modified, or destroyed without authorization of the owner of the data  
13 or if lost or misused, would require notice or reporting under  
14 chapter 19.255 RCW and federal privacy and data security law, whether  
15 or not the administrator or the administrator's agent is subject to  
16 the law.

17 (2) A provision of this section or sections 1402 through 1408 of  
18 this act that applies to the administrator or the administrator's  
19 records applies to an administrator's agent.

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

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

25 (b) Personal information and other information derived or  
26 otherwise obtained by or communicated to the administrator or the  
27 administrator's agent from an examination under this chapter of the  
28 records of a person.

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

33 NEW SECTION. **Sec. 1403.** WHEN CONFIDENTIAL INFORMATION MAY BE  
34 DISCLOSED. (1) When reasonably necessary to enforce or implement this  
35 chapter, the administrator may disclose confidential information  
36 concerning property held by the administrator or the administrator's  
37 agent only to:

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

5 (b) The personal representative, other legal representative,  
6 relative of a deceased apparent owner, agent designated under section  
7 1303 of this act by the deceased apparent owner, or a person entitled  
8 to inherit from the deceased apparent owner;

9 (c) Another department or agency of this state or the United  
10 States;

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

17 (e) A person subject to an examination as required by section  
18 1004(6) of this act.

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

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

34 NEW SECTION. **Sec. 1404.** CONFIDENTIALITY AGREEMENT. A person to  
35 be examined under section 1002 of this act may require, as a  
36 condition of disclosure of the records of the person to be examined,  
37 that each person having access to the records disclosed in the  
38 examination execute and deliver to the person to be examined a  
39 confidentiality agreement that:

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

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

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

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

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

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

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

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

29 (3) The administrator:

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

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



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

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

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

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

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

17 (i) Compromises the security, confidentiality, or integrity of  
18 the information; or

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 1408.** INDEMNIFICATION FOR BREACH. (1) If a  
35 claim is made or action commenced arising out of an event described  
36 in section 1407(1) of this act relating to confidential information  
37 possessed by the administrator, this state shall indemnify, defend,

1 and hold harmless a holder and the holder's affiliates, officers,  
2 directors, employees, and agents as to:

3 (a) Any claim or action; and

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

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

13 (a) Any claim or action; and

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

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

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

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

## 27 **PART 15**

### 28 **MISCELLANEOUS PROVISIONS**

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

34 NEW SECTION. **Sec. 1502.** RELATION TO ELECTRONIC SIGNATURES IN  
35 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or  
36 supersedes the electronic signatures in global and national commerce  
37 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or

1 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or  
2 authorize electronic delivery of any of the notices described in  
3 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

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

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

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

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

24 (1) RCW 63.29.010 (Definitions and use of terms) and 2012 c 117 s  
25 177, 2005 c 285 s 1, 2004 c 168 s 13, & 1983 c 179 s 1;

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

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

31 (4) RCW 63.29.040 (Travelers checks and money orders) and 1983 c  
32 179 s 4;

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

36 (6) RCW 63.29.060 (Bank deposits and funds in financial  
37 organizations) and 2003 1st sp.s. c 13 s 3 & 1983 c 179 s 6;

1 (7) RCW 63.29.070 (Funds owing under life insurance policies) and  
2 2012 c 117 s 178, 2003 1st sp.s. c 13 s 4, & 1983 c 179 s 7;  
3 (8) RCW 63.29.080 (Deposits held by utilities) and 1983 c 179 s  
4 8;  
5 (9) RCW 63.29.090 (Refunds held by business associations) and  
6 1983 c 179 s 9;  
7 (10) RCW 63.29.100 (Stock and other intangible interests in  
8 business associations) and 2003 1st sp.s. c 13 s 5, 1996 c 45 s 1, &  
9 1983 c 179 s 10;  
10 (11) RCW 63.29.110 (Property of business associations held in  
11 course of dissolution) and 1983 c 179 s 11;  
12 (12) RCW 63.29.120 (Property held by agents and fiduciaries) and  
13 2012 c 117 s 179, 2003 1st sp.s. c 13 s 6, & 1983 c 179 s 12;  
14 (13) RCW 63.29.130 (Property held by courts and public agencies—  
15 When abandoned—Overpayments) and 2007 c 183 s 1, 1993 c 498 s 2, &  
16 1983 c 179 s 13;  
17 (14) RCW 63.29.133 (Property held by landlord) and 1992 c 38 s 9;  
18 (15) RCW 63.29.135 (Abandoned intangible property held by local  
19 government) and 1990 2nd ex.s. c 1 s 301;  
20 (16) RCW 63.29.140 (Gift certificates and credit memos) and 2015  
21 3rd sp.s. c 6 s 2102, 2004 c 168 s 15, 2003 1st sp.s. c 13 s 7, &  
22 1983 c 179 s 14;  
23 (17) RCW 63.29.150 (Wages) and 1983 c 179 s 15;  
24 (18) RCW 63.29.160 (Contents of safe deposit box or other  
25 safekeeping repository) and 1983 c 179 s 16;  
26 (19) RCW 63.29.165 (Property in self-storage facility) and 1993 c  
27 498 s 4 & 1988 c 240 s 21;  
28 (20) RCW 63.29.170 (Report of abandoned property) and 2015 3rd  
29 sp.s. c 6 s 2103, 2004 c 168 s 16, 2003 c 237 s 1, 1996 c 45 s 2,  
30 1993 c 498 s 7, & 1983 c 179 s 17;  
31 (21) RCW 63.29.180 (Notice and publication of information about  
32 unclaimed property) and 2015 3rd sp.s. c 6 s 2104, 2005 c 367 s 2,  
33 2003 c 237 s 2, 1993 c 498 s 9, 1986 c 84 s 1, & 1983 c 179 s 18;  
34 (22) RCW 63.29.190 (Payment or delivery of abandoned property)  
35 and 2015 3rd sp.s. c 6 s 2105;  
36 (23) RCW 63.29.192 (Penalty and interest paid in excess—Refunds—  
37 Returns) and 2015 3rd sp.s. c 6 s 2110;  
38 (24) RCW 63.29.193 (Petition for review—Denied application for  
39 refund or return) and 2015 3rd sp.s. c 6 s 2111;

1 (25) RCW 63.29.194 (Appeal of payment or delivered property) and  
2 2015 3rd sp.s. c 6 s 2112;

3 (26) RCW 63.29.195 (Agreement—Established between a holder and  
4 the department) and 2015 3rd sp.s. c 6 s 2113;

5 (27) RCW 63.29.200 (Custody by state—Holder relieved from  
6 liability—Reimbursement of holder paying claim—Reclaiming for owner  
7 —Defense of holder—Payment of safe deposit box or repository  
8 charges) and 2012 c 117 s 180 & 1983 c 179 s 20;

9 (28) RCW 63.29.210 (Crediting of dividends, interest, or  
10 increments to owner's account) and 1983 c 179 s 21;

11 (29) RCW 63.29.220 (Public sale of abandoned property) and 2011  
12 2nd sp.s. c 8 s 1, 2005 c 367 s 4, 1996 c 45 s 3, 1993 c 498 s 10, &  
13 1983 c 179 s 22;

14 (30) RCW 63.29.230 (Deposit of funds) and 1983 c 179 s 23;

15 (31) RCW 63.29.240 (Filing of claim with department) and 2011 2nd  
16 sp.s. c 8 s 2 & 1983 c 179 s 24;

17 (32) RCW 63.29.250 (Claim of another state to recover property—  
18 Procedure) and 1983 c 179 s 25;

19 (33) RCW 63.29.260 (Action to establish claim) and 1983 c 179 s  
20 26;

21 (34) RCW 63.29.270 (Election to take payment or delivery) and  
22 1983 c 179 s 27;

23 (35) RCW 63.29.280 (Destruction or disposition of property having  
24 insubstantial commercial value—Immunity from liability) and 2005 c  
25 367 s 5 & 1983 c 179 s 28;

26 (36) RCW 63.29.290 (Periods of limitation) and 2015 3rd sp.s. c 6  
27 s 2106 & 1983 c 179 s 29;

28 (37) RCW 63.29.300 (Requests for reports and examination of  
29 records) and 2015 3rd sp.s. c 6 s 2107 & 1983 c 179 s 30;

30 (38) RCW 63.29.310 (Retention of records) and 1983 c 179 s 31;

31 (39) RCW 63.29.320 (Enforcement) and 1983 c 179 s 32;

32 (40) RCW 63.29.330 (Interstate agreements and cooperation—Joint  
33 and reciprocal actions with other states) and 1983 c 179 s 33;

34 (41) RCW 63.29.340 (Interest and penalties) and 2015 3rd sp.s. c  
35 6 s 2108 & 2011 c 96 s 45;

36 (42) RCW 63.29.350 (Penalty for excessive fee for locating  
37 abandoned property—Consumer protection act application) and 2012 c  
38 117 s 181, 2010 c 29 s 2, & 1983 c 179 s 35;

39 (43) RCW 63.29.360 (Foreign transactions) and 1983 c 179 s 36;

1 (44) RCW 63.29.370 (Rules) and 1983 c 179 s 38;  
2 (45) RCW 63.29.380 (Information and records confidential) and  
3 1983 c 179 s 39;  
4 (46) RCW 63.29.900 (Effect of new provisions—Clarification of  
5 application) and 1983 c 179 s 37;  
6 (47) RCW 63.29.902 (Uniformity of application and construction)  
7 and 1983 c 179 s 41;  
8 (48) RCW 63.29.903 (Short title) and 1983 c 179 s 42;  
9 (49) RCW 63.29.905 (Effective date—1983 c 179) and 1983 c 179 s  
10 47; and  
11 (50) RCW 63.29.906 (Effective date—1996 c 45) and 1996 c 45 s 5.

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

14 NEW SECTION. **Sec. 1507.** EFFECTIVE DATE. This act takes effect  
15 January 1, 2021.

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