

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5531

67th Legislature
2022 Regular Session

Passed by the Senate March 10, 2022
Yeas 49 Nays 0

President of the Senate

Passed by the House March 9, 2022
Yeas 60 Nays 37

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5531** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

1 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

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

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

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

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

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

26 (6) "Domicile" means:

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

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

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

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

1 (7) "Electronic" means relating to technology having electrical,
2 digital, magnetic, wireless, optical, electromagnetic, or similar
3 capabilities.

4 (8) "Email" means a communication by electronic means which is
5 automatically retained and stored and may be readily accessed or
6 retrieved.

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

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

13 (a) Includes:

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

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

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

20 (B) Digital codes; and

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

22 (i) Permits to be redeemed for use outside a game or platform
23 for:

24 (A) Money; or

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

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

27 (11) "Gift certificate" means a record described in RCW
28 19.240.010, and includes both gift cards and gift certificates,
29 including both tangible instruments and electronic records.

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

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

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

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

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

17 (a) For the acquisition and retention of a mineral lease,
18 including a bonus, royalty, compensatory royalty, shut-in royalty,
19 minimum royalty, and delay rental;

20 (b) For the extraction, production, or sale of minerals,
21 including a net revenue interest, royalty, overriding royalty,
22 extraction payment, and production payment; and

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

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

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

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

34 (20) "Nonfreely transferable security" means a security that
35 cannot be delivered to the administrator by the depository trust
36 clearing corporation or similar custodian of securities providing
37 posttrade clearing and settlement services to financial markets or
38 cannot be delivered because there is no agent to effect transfer. The
39 term includes a worthless security.

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

- 5 (a) A depositor, for a deposit;
- 6 (b) A beneficiary, for a trust other than a deposit in trust;
- 7 (c) A creditor, claimant, or payee, for other property; and
- 8 (d) The lawful bearer of a record that may be used to obtain
9 money, a reward, or a thing of value.

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

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

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

- 21 (a) Includes all income from or increments to the property;
- 22 (b) Includes property referred to as or evidenced by:
 - 23 (i) Money, virtual currency, interest, or a dividend, check,
24 draft, deposit, or payroll card;
 - 25 (ii) A credit balance, customer's overpayment, stored value card,
26 security deposit, refund, credit memorandum, unpaid wage, unused
27 ticket for which the issuer has an obligation to provide a refund,
28 mineral proceeds, or unidentified remittance;
 - 29 (iii) A security except for:
 - 30 (A) A worthless security; or
 - 31 (B) A security that is subject to a lien, legal hold, or
32 restriction evidenced on the records of the holder or imposed by
33 operation of law, if the lien, legal hold, or restriction restricts
34 the holder's or owner's ability to receive, transfer, sell, or
35 otherwise negotiate the security;
 - 36 (iv) A bond, debenture, note, or other evidence of indebtedness;
 - 37 (v) Money deposited to redeem a security, make a distribution, or
38 pay a dividend;
 - 39 (vi) An amount due and payable under an annuity contract or
40 insurance policy; and

1 (vii) An amount distributable from a trust or custodial fund
2 established under a plan to provide health, welfare, pension,
3 vacation, severance, retirement, death, stock purchase, profit-
4 sharing, employee savings, supplemental unemployment insurance, or a
5 similar benefit; and

6 (c) Does not include:

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

10 (ii) Game-related digital content;

11 (iii) A loyalty card;

12 (iv) A gift certificate complying with chapter 19.240 RCW;

13 (v) Store credit for returned merchandise; and

14 (vi) A premium paid by an agricultural fair by check. For the
15 purposes of this subsection, the following definitions apply:

16 (A) "Agricultural fair" means a fair or exhibition that is
17 intended to promote agriculture by including a balanced variety of
18 exhibits of livestock and agricultural products, as well as related
19 manufactured products and arts, including products of the farm home
20 and educational contests, displays, and demonstrations designed to
21 train youth and to promote the welfare of farmers and rural living;
22 and

23 (B) "Premium" means an amount paid for exhibits and educational
24 contests, displays, and demonstrations of an educational nature. A
25 "premium" does not include judges' fees and expenses; livestock sale
26 revenues; or prizes or amounts paid for promotion or entertainment
27 activities such as queen contests, parades, dances, rodeos, and
28 races.

29 (25) "Putative holder" means a person believed by the
30 administrator to be a holder, until the person pays or delivers to
31 the administrator property subject to this chapter or the
32 administrator or a court makes a final determination that the person
33 is or is not a holder.

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

37 (27) "Security" means:

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

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

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

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

7 (iii) Specifically indorsed to the person; or

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

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

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

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

15 (29) "State" means a state of the United States, the District of
16 Columbia, the Commonwealth of Puerto Rico, the United States Virgin
17 Islands, or any territory or insular possession subject to the
18 jurisdiction of the United States.

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

23 (a) Includes:

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

28 (ii) A payroll card; and

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

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

34 (a) Transmission of communications or information;

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

37 (c) Provision of sewage or septic services, or trash, garbage, or
38 recycling disposal.

39 (32) "Virtual currency" means a digital representation of value
40 used as a medium of exchange, unit of account, or store of value,

1 which does not have legal tender status recognized by the United
2 States. The term does not include:

3 (a) The software or protocols governing the transfer of the
4 digital representation of value;

5 (b) Game-related digital content; or

6 (c) A loyalty card or gift certificate.

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

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

14 NEW SECTION. **Sec. 104.** RULE MAKING. The administrator may adopt
15 rules under chapter 34.05 RCW to implement and administer this
16 chapter.

17 **PART 2**

18 **PRESUMPTION OF ABANDONMENT**

19 NEW SECTION. **Sec. 201.** WHEN PROPERTY PRESUMED ABANDONED.
20 Subject to section 209 of this act, the following property is
21 presumed abandoned if it is unclaimed by the apparent owner during
22 the period specified below:

23 (1) A traveler's check, 15 years after issuance;

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

25 (3) A state or municipal bond, bearer bond, or original issue
26 discount bond, three years after the earliest of the date the bond
27 matures or is called or the obligation to pay the principal of the
28 bond arises;

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

31 (5) A demand, savings, or time deposit, including a deposit that
32 is automatically renewable, three years after the later of maturity,
33 if applicable, of the deposit or the owner's last indication of
34 interest in the deposit, except a deposit that is automatically
35 renewable is deemed matured on its initial date of maturity unless

1 the apparent owner consented in a record on file with the holder to
2 renewal at or about the time of the renewal;

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

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

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

13 (i) The insurance company has knowledge of the death of the
14 insured; or

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

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

21 (8) Property distributable by a business association in the
22 course of dissolution, one year after the property becomes
23 distributable;

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

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

31 (11) Wages, commissions, bonuses, or reimbursements to which an
32 employee is entitled, or other compensation for personal services,
33 one year after the amount becomes payable;

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

36 (13) Payroll card, one year after the amount becomes payable; and

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

1 NEW SECTION. **Sec. 202.** WHEN TAX DEFERRED RETIREMENT ACCOUNT

2 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property
3 held in a pension account or retirement account that qualifies for
4 tax deferral under the income tax laws of the United States is
5 presumed abandoned if it is unclaimed by the apparent owner three
6 years after the later of:

7 (a) The following dates:

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

12 (ii) If the second communication is sent later than 30 days after
13 the date the first communication is returned undelivered, the date
14 the first communication was returned undelivered by the United States
15 postal service; or

16 (b) The earlier of the following dates:

17 (i) The date the apparent owner becomes 72 years of age, if
18 determinable by the holder; or

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

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

24 (B) Confirms the death of the apparent owner under subsection (2)
25 of this section.

26 (2) If a holder in the ordinary course of its business receives
27 notice or an indication of the death of an apparent owner and
28 subsection (1)(b) of this section applies, the holder shall attempt
29 not later than 90 days after receipt of the notice or indication to
30 confirm whether the apparent owner is deceased.

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

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

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

6 (c) The apparent owner does not respond to the email
7 communication not later than 30 days after the communication was
8 sent.

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

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

16 (b) If the second communication is sent later than 30 days after
17 the date the first communication is returned undelivered, the date
18 the first communication was returned undelivered; or

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

20 (5) This section does not apply to property held in a pension
21 account or retirement account established by the state of Washington
22 or any local governmental entity under chapter 41.28 RCW.

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

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

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

37 NEW SECTION. **Sec. 204.** WHEN CUSTODIAL ACCOUNT FOR MINOR
38 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property

1 held in an account established under a state's uniform gifts to
2 minors act or uniform transfers to minors act is presumed abandoned
3 if it is unclaimed by or on behalf of the minor on whose behalf the
4 account was opened three years after the later of:

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

10 (b) If the second communication is sent later than 30 days after
11 the date the first communication is returned undelivered, the date
12 the first communication was returned undelivered; or

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

17 (2) If the holder does not send communications to the custodian
18 of the minor on whose behalf an account described in subsection (1)
19 of this section was opened by first-class United States mail, the
20 holder shall attempt to confirm the custodian's interest in the
21 property by sending the custodian an email communication not later
22 than two years after the custodian's last indication of interest in
23 the property. However, the holder promptly shall attempt to contact
24 the custodian by first-class United States mail if:

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

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

30 (c) The custodian does not respond to the email communication not
31 later than 30 days after the communication was sent.

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

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

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

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

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

- 11 (1) Expiration of the lease or rental period for the box; or
12 (2) Earliest date when the lessor of the box is authorized by law
13 of this state other than this chapter to enter the box and remove or
14 dispose of the contents without consent or authorization of the
15 lessee.

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

- 20 (a) December 31st of the year in which the card is issued or
21 additional funds are deposited into it;
22 (b) The most recent indication of interest in the card by the
23 apparent owner; or
24 (c) A verification or review of the balance by or on behalf of
25 the apparent owner.
26 (2) The amount presumed abandoned in a stored value card is the
27 net card value at the time it is presumed abandoned.

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

- 31 (a) The date a second consecutive communication sent by the
32 holder by first-class United States mail to the apparent owner is
33 returned to the holder undelivered by the United States postal
34 service; or
35 (b) If the second communication is made later than 30 days after
36 the first communication is returned, the date the first communication

1 is returned undelivered to the holder by the United States postal
2 service.

3 (2) If the holder does not send communications to the apparent
4 owner of a security by first-class United States mail, the holder
5 shall attempt to confirm the apparent owner's interest in the
6 security by sending the apparent owner an email communication not
7 later than two years after the apparent owner's last indication of
8 interest in the security. However the holder promptly shall attempt
9 to contact the apparent owner by first-class United States mail if:

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

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

15 (c) The apparent owner does not respond to the email
16 communication not later than 30 days after the communication was
17 sent.

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

22 NEW SECTION. **Sec. 208.** WHEN RELATED PROPERTY PRESUMED
23 ABANDONED. At and after the time property is presumed abandoned under
24 this chapter, any other property right or interest accrued or
25 accruing from the property and not previously presumed abandoned is
26 also presumed abandoned.

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

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

32 (b) The latest indication of interest by the apparent owner in
33 the property.

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

36 (a) A record communicated by the apparent owner to the holder or
37 agent of the holder concerning the property or the account in which
38 the property is held;

1 (b) An oral communication by the apparent owner to the holder or
2 agent of the holder concerning the property or the account in which
3 the property is held, if the holder or its agent contemporaneously
4 makes and preserves a record of the fact of the apparent owner's
5 communication;

6 (c) Presentment of a check or other instrument of payment of a
7 dividend, interest payment, or other distribution, or evidence of
8 receipt of a distribution made by electronic or similar means, with
9 respect to an account, underlying security, or interest in a business
10 association;

11 (d) Activity directed by an apparent owner in the account in
12 which the property is held, including accessing the account or
13 information concerning the account, or a direction by the apparent
14 owner to increase, decrease, or otherwise change the amount or type
15 of property held in the account;

16 (e) A deposit into or withdrawal from an account at a financial
17 organization, including an automatic deposit or withdrawal previously
18 authorized by the apparent owner other than an automatic reinvestment
19 of dividends or interest;

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

22 (g) Any other action by the apparent owner which reasonably
23 demonstrates to the holder that the apparent owner knows that the
24 property exists.

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

28 (4) A communication with an apparent owner by a person other than
29 the holder or the holder's representative is not an indication of
30 interest in the property by the apparent owner unless a record of the
31 communication evidences the apparent owner's knowledge of a right to
32 the property.

33 (5) If the insured dies or the insured or beneficiary of an
34 insurance policy otherwise becomes entitled to the proceeds before
35 depletion of the cash surrender value of the policy by operation of
36 an automatic premium loan provision or other nonforfeiture provision
37 contained in the policy, the operation does not prevent the policy
38 from maturing or terminating.

1 NEW SECTION. **Sec. 210.** KNOWLEDGE OF DEATH OF INSURED OR

2 ANNUITANT. (1) In this section, "death master file" means the United
3 States social security administration death master file or other
4 database or service that is at least as comprehensive as the United
5 States social security administration death master file for
6 determining that an individual reportedly has died.

7 (2) With respect to a life or endowment insurance policy or
8 annuity contract for which an amount is owed on proof of death, but
9 which has not matured by proof of death of the insured or annuitant,
10 the company has knowledge of the death of an insured or annuitant
11 when:

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

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

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

22 (d) (i) The administrator or the administrator's agent conducts a
23 comparison for the purpose of finding matches during an examination
24 conducted under sections 1001 through 1013 of this act between a
25 death master file and the names of some or all of the company's
26 insureds or annuitants, finds a match that provides notice that the
27 insured or annuitant has died, and the company validates the death.

28 (ii) The administrator or the administrator's agent may not
29 exercise the authority provided in (d) (i) of this subsection (2) when
30 the company has conducted a death master file comparison, relevant to
31 the period under examination, in accordance with (c) of this
32 subsection (2) and subsection (3) of this section; or

33 (e) The company:

34 (i) Receives notice of the death of the insured or annuitant from
35 an administrator, beneficiary, policy owner, relative of the insured,
36 or trustee or from a personal representative or other legal
37 representative of the insured's or annuitant's estate; and

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

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

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

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

5 (ii) A rule or policy adopted by the office of the insurance
6 commissioner; or

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

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

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

19 (d) If no provision in Title 48 RCW or rules promulgated
20 thereunder establishes a time for validation of a death of an insured
21 or annuitant, the insurance company shall make a good faith effort
22 using other available records and information to validate the death
23 and document the effort taken not later than 90 days after the
24 insurance company has notice of the death.

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

31 NEW SECTION. **Sec. 211.** DEPOSIT ACCOUNT FOR PROCEEDS OF
32 INSURANCE POLICY OR ANNUITY CONTRACT. If proceeds payable under a
33 life or endowment insurance policy or annuity contract are deposited
34 into an account with check or draft writing privileges for the
35 beneficiary of the policy or contract and, under a supplementary
36 contract not involving annuity benefits other than death benefits,
37 the proceeds are retained by the insurance company or the financial
38 organization where the account is held, the policy or contract
39 includes the assets in the account.

1 **PART 3**

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

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

6 (1) The last known address of an apparent owner is any
7 description, code, or other indication of the location of the
8 apparent owner which identifies the state, even if the description,
9 code, or indication of location is not sufficient to direct the
10 delivery of first-class United States mail to the apparent owner.

11 (2) If the United States postal zip code associated with the
12 apparent owner is for a post office located in this state, this state
13 is deemed to be the state of the last known address of the apparent
14 owner unless other records associated with the apparent owner
15 specifically identify the physical address of the apparent owner to
16 be in another state.

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

20 (4) The address of the apparent owner of a life or endowment
21 insurance policy or annuity contract or its proceeds is presumed to
22 be the address of the insured or annuitant if a person other than the
23 insured or annuitant is entitled to the amount owed under the policy
24 or contract and the address of the other person is not known by the
25 insurance company and cannot be determined under section 302 of this
26 act.

27 NEW SECTION. **Sec. 302.** ADDRESS OF APPARENT OWNER IN THIS STATE.
28 The administrator may take custody of property that is presumed
29 abandoned, whether located in this state, another state, or a foreign
30 country if:

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

33 (2) The records of the holder do not reflect the identity or last
34 known address of the apparent owner, but the administrator has
35 determined that the last known address of the apparent owner is in
36 this state.

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

7 (2) If it appears from records of the holder that the most
8 recently recorded address of the apparent owner under subsection (1)
9 of this section is a temporary address and this state is the state of
10 the next most recently recorded address that is not a temporary
11 address, this state may take custody of the property presumed
12 abandoned.

13 NEW SECTION. **Sec. 304.** HOLDER DOMICILED IN THIS STATE. (1)
14 Except as in subsection (2) of this section or section 302 or 303 of
15 this act, the administrator may take custody of property presumed
16 abandoned, whether located in this state, another state, or a foreign
17 country, if the holder is domiciled in this state or is this state or
18 a governmental subdivision, agency, or instrumentality of this state,
19 and:

20 (a) Another state or foreign country is not entitled to the
21 property because there is no last known address of the apparent owner
22 or other person entitled to the property in the records of the
23 holder; or

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

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

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

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

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

3 (2) The holder is domiciled in a state that does not provide for
4 the custodial taking of the property, except that if the property is
5 specifically exempt from custodial taking under the law of the state
6 of the holder's domicile, the property is not subject to the custody
7 of the administrator; and

8 (3) The last known address of the apparent owner or other person
9 entitled to the property is unknown or in a state that does not
10 provide for the custodial taking of the property, except that if the
11 property is specifically exempt from custodial taking under the law
12 of the state of the last known address, the property is not subject
13 to the custody of the administrator.

14 NEW SECTION. **Sec. 306.** TRAVELER'S CHECK, MONEY ORDER, OR
15 SIMILAR INSTRUMENT. The administrator may take custody of sums
16 payable on a traveler's check, money order, or similar instrument
17 presumed abandoned to the extent permissible under 12 U.S.C. Secs.
18 2501 through 2503, as it existed on the effective date of this
19 section.

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

- 24 (1) The existence and amount of the property;
25 (2) The property is presumed abandoned; and
26 (3) The property is subject to the custody of the administrator.

27 **PART 4**
28 **REPORT BY HOLDER**

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

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

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

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

3 (b) For paying or delivering to the administrator property
4 described in the report.

5 (4) (a) Reports due under this section must be filed
6 electronically in a form or manner provided or authorized by the
7 administrator. However, the administrator, upon request or its own
8 initiative, may relieve any holder or class of holders from the
9 electronic filing requirement under this subsection for good cause as
10 determined by the administrator.

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

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

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

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

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

22 (b) If filed electronically, be in a secure format approved by
23 the administrator which protects confidential information of the
24 apparent owner in the same manner as required of the administrator
25 and the administrator's agent under sections 1401 through 1408 of
26 this act;

27 (c) Describe the property;

28 (d) Except for a traveler's check, money order, or similar
29 instrument, contain the name, if known, last known address, if known,
30 and social security number or taxpayer identification number, if
31 known or readily ascertainable, of the apparent owner of property
32 with a value of \$50 or more;

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

37 (f) For property held in or removed from a safe deposit box,
38 indicate the location of the property, where it may be inspected by

1 the administrator, and any amounts owed to the holder under section
2 606 of this act;

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

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

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

9 (j) Contain other information the administrator prescribes by
10 rules.

11 (2) A report under section 401 of this act may include in the
12 aggregate items valued under \$50 each. If the report includes items
13 in the aggregate valued under \$50 each, the administrator may not
14 require the holder to provide the name and address of an apparent
15 owner of an item unless the information is necessary to verify or
16 process a claim in progress by the apparent owner.

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

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

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

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

36 (3) Before the date for filing the report under section 401 of
37 this act, the holder of property presumed abandoned may request the
38 administrator to extend the time for filing. The administrator may
39 grant an extension. If the extension is granted, the holder may pay

1 or make a partial payment of the amount the holder estimates
2 ultimately will be due. The payment or partial payment terminates
3 accrual of interest on the amount paid.

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

- 11 (1) The information required to be included in the report;
- 12 (2) The date, place, and nature of the circumstances that gave
13 rise to the property right;
- 14 (3) The amount or value of the property;
- 15 (4) The last address of the apparent owner, if known to the
16 holder; and
- 17 (5) If the holder sells, issues, or provides to others for sale
18 or issue in this state traveler's checks, money orders, or similar
19 instruments, other than third-party bank checks, on which the holder
20 is directly liable, a record of the instruments while they remain
21 outstanding indicating the state and date of issue.

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

27 NEW SECTION. **Sec. 406.** ABANDONED INTANGIBLE PROPERTY HELD BY A
28 LOCAL GOVERNMENT. (1) A local government holding abandoned intangible
29 property that is not forwarded to the department of revenue in
30 subsection (2) of this section is not required to maintain current
31 records of this property for longer than five years after the
32 property is presumed abandoned, and at that time may archive records
33 of this intangible property and transfer the intangible property to
34 its general fund. However, the local government remains liable to pay
35 the intangible property to a person or entity subsequently
36 establishing its ownership of this intangible property.

1 (2) Counties, cities, towns, and other municipal and quasi-
2 municipal corporations that hold funds representing warrants canceled
3 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and
4 property tax overpayments or refunds may retain the funds until the
5 owner notifies them and establishes ownership as provided in this
6 chapter. Counties, cities, towns, or other municipal and quasi-
7 municipal corporations must provide to the administrator a report of
8 property it is holding pursuant to this section. The report must
9 identify the property and owner in the manner provided in this part 4
10 and the administrator must publish the information as provided in
11 section 503 of this act.

12 **PART 5**

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

14 NEW SECTION. **Sec. 501.** NOTICE TO APPARENT OWNER BY HOLDER. (1)
15 Subject to subsection (2) of this section, the holder of property
16 presumed abandoned shall send to the apparent owner notice by first-
17 class United States mail that complies with section 502 of this act
18 in a format acceptable to the administrator not more than 180 days
19 nor less than 60 days before filing the report under section 401 of
20 this act if:

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

25 (b) The value of the property is \$75 or more.

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

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

35 "Notice

1 The state of Washington requires us to notify you that your
2 property may be transferred to the custody of the department of
3 revenue if you do not contact us before (insert date that is 30 days
4 after the date of this notice)."

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

6 (a) Identify the nature and, except for property that does not
7 have a fixed value, the value of the property that is the subject of
8 the notice;

9 (b) State that the property will be turned over to the
10 administrator;

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

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

16 (e) Provide instructions that the apparent owner must follow to
17 prevent the holder from reporting and paying or delivering the
18 property to the administrator.

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

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

25 (a) Except as otherwise provided in (b) of this subsection, send
26 written notice by first-class United States mail to each apparent
27 owner of property valued at \$75 or more held by the administrator,
28 unless the administrator determines that a mailing by first-class
29 United States mail would not be received by the apparent owner, and,
30 in the case of a security held in an account for which the apparent
31 owner had consented to receiving email from the holder, send notice
32 by email if the email address of the apparent owner is known to the
33 administrator instead of by first-class United States mail; or

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

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

3 (a) Publish every 12 months in the printed or online version of a
4 newspaper of general circulation within this state, which the
5 administrator determines is most likely to give notice to the
6 apparent owner of the property, notice of property held by the
7 administrator which must include:

8 (i) The total value of property received by the administrator
9 during the preceding 12-month period, taken from the reports under
10 section 401 of this act;

11 (ii) The total value of claims paid by the administrator during
12 the preceding 12-month period;

13 (iii) The internet web address of the unclaimed property website
14 maintained by the administrator;

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

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

20 (b) Maintain a website or database accessible by the public and
21 electronically searchable which contains the names reported to the
22 administrator of all apparent owners for whom property is being held
23 by the administrator.

24 (4) The website or database maintained under subsection (3)(b) of
25 this section must include instructions for filing with the
26 administrator a claim to property and a printable claim form with
27 instructions for its use.

28 (5) In addition to giving notice under subsection (2) of this
29 section, publishing the information under subsection (3)(a) of this
30 section and maintaining the website or database under subsection
31 (3)(b) of this section, the administrator may use other printed
32 publication, telecommunications, the internet, or other media to
33 inform the public of the existence of unclaimed property held by the
34 administrator.

35 NEW SECTION. **Sec. 504.** COOPERATION AMONG STATE OFFICERS AND
36 AGENCIES TO LOCATE APPARENT OWNER. Unless prohibited by law of this
37 state other than this chapter, on request of the administrator, each
38 officer, agency, board, commission, division, and department of this
39 state, any body politic and corporate created by this state for a

1 public purpose, and each political subdivision of this state shall
2 make its books and records available to the administrator and
3 cooperate with the administrator to determine the current address of
4 an apparent owner of property held by the administrator under this
5 chapter.

6 **PART 6**

7 **TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

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

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

14 (2) Made payment or delivery:

15 (a) In response to a demand by the administrator or
16 administrator's agent; or

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

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

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

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

28 (2) The amount of the deduction under subsection (1) of this
29 section is limited to an amount that is not unconscionable
30 considering all relevant factors, including the marginal
31 transactional costs incurred by the holder in maintaining the
32 apparent owner's property and any services received by the apparent
33 owner.

34 NEW SECTION. **Sec. 603.** PAYMENT OR DELIVERY OF PROPERTY TO
35 ADMINISTRATOR. (1)(a) Except as otherwise provided in this section,
36 on filing a report under section 401 of this act, the holder shall

1 pay or deliver to the administrator the property described in the
2 report. Holders who are required to file a report electronically
3 under this chapter must remit payments under this section by
4 electronic funds transfer or other form of electronic payment
5 acceptable to the administrator. However, the administrator, upon
6 request or its own initiative, may relieve any holder or class of
7 holders from the electronic payment requirement under this subsection
8 for good cause as determined by the administrator.

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

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

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

16 (2) If property in a report under section 401 of this act is an
17 automatically renewable deposit and a penalty or forfeiture in the
18 payment of interest would result from paying the deposit to the
19 administrator at the time of the report, the date for payment of the
20 property to the administrator is extended until a penalty or
21 forfeiture no longer would result from payment, if the holder informs
22 the administrator of the extended date.

23 (3) Tangible property in a safe deposit box may not be delivered
24 to the administrator until 180 days after filing the report under
25 section 401 of this act.

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

28 (a) Make an endorsement, instruction, or entitlement order on
29 behalf of the apparent owner to invoke the duty of the issuer, its
30 transfer agent, or the securities intermediary to transfer the
31 security; or

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

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

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

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

6 (8) A holder is not required to deliver to the administrator a
7 security identified by the holder as a nonfreely transferable
8 security. If the administrator or holder determines that a security
9 is no longer a nonfreely transferable security, the holder shall
10 deliver the security on the next regular date prescribed for delivery
11 of securities under this chapter. The holder shall make a
12 determination annually whether a security identified in a report
13 filed under section 401 of this act as a nonfreely transferable
14 security is no longer a nonfreely transferable security.

15 NEW SECTION. **Sec. 604.** EFFECT OF PAYMENT OR DELIVERY OF
16 PROPERTY TO ADMINISTRATOR. (1) On payment or delivery of property to
17 the administrator under this chapter, the administrator as agent for
18 the state assumes custody and responsibility for safekeeping the
19 property. A holder that pays or delivers property to the
20 administrator in good faith and substantially complies with sections
21 501 and 502 of this act is relieved of liability arising thereafter
22 with respect to payment or delivery of the property to the
23 administrator.

24 (2) This state shall defend and indemnify a holder against
25 liability on a claim against the holder resulting from the payment or
26 delivery of property to the administrator made in good faith and
27 after the holder substantially complied with sections 501 and 502 of
28 this act.

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

33 (a) Paid the money in error; or

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

36 (2) If a claim for reimbursement under subsection (1) of this
37 section is made for a payment made on a negotiable instrument,
38 including a traveler's check, money order, or similar instrument, the

1 holder must submit proof that the instrument was presented and
2 payment was made to a person the holder reasonably believed was
3 entitled to payment. The holder may claim reimbursement even if the
4 payment was made to a person whose claim was made after expiration of
5 a period of limitation on the owner's right to receive or recover
6 property, whether specified by contract, statute, or court order.

7 (3) If a holder is reimbursed by the administrator under
8 subsection (1)(b) of this section, the holder may also recover from
9 the administrator income or gain under section 607 of this act that
10 would have been paid to the owner if the money had been claimed from
11 the administrator by the owner to the extent the income or gain was
12 paid by the holder to the owner.

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

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

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

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

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

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

28 (8) Not later than 90 days after a claim is filed under
29 subsection (1) or (4) of this section, the administrator shall allow
30 or deny the claim and give the claimant notice of the decision in a
31 record. If the administrator does not take action on a claim during
32 the 90-day period, the claim is deemed denied.

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

35 NEW SECTION. **Sec. 606.** PROPERTY REMOVED FROM SAFE DEPOSIT BOX.
36 Property removed from a safe deposit box and delivered to the
37 administrator under this chapter is subject to the holder's right to
38 reimbursement for the cost of opening the box and a lien or contract
39 providing reimbursement to the holder for unpaid rent charges for the

1 box. The administrator shall reimburse the holder from the proceeds
2 remaining after deducting the expense incurred by the administrator
3 in selling the property.

4 NEW SECTION. **Sec. 607.** CREDITING INCOME OR GAIN TO OWNER'S
5 ACCOUNT. If property other than money is delivered to the
6 administrator, the owner is entitled to receive from the
7 administrator income or gain realized or accrued on the property
8 before the property is sold. If the property was an interest-bearing
9 demand, savings, or time deposit, the administrator shall pay
10 interest at the rate the property earned while in possession of the
11 holder. Interest begins to accrue when the property is delivered to
12 the administrator and ends on the earlier of the expiration of 10
13 years after its delivery or the date on which payment is made to the
14 owner.

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

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

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

22 (2) A holder may pay or deliver property to the administrator
23 before the property is presumed abandoned under this chapter if the
24 holder:

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

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

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

32 (3) A holder's request for the administrator's consent under
33 subsection (2)(c) of this section must be in a record. If the
34 administrator fails to respond to the request not later than 30 days
35 after receipt of the request, the administrator is deemed to consent
36 to the payment or delivery of the property and the payment or
37 delivery is considered to have been made in good faith.

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

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

10 (2) An action or proceeding may not be commenced against the
11 state, an agency of the state, the administrator, another officer,
12 employee, or agent of the state, or a holder for or because of an act
13 of the administrator under this section, except for intentional
14 misconduct or malfeasance.

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

22 (2) The administrator may not commence an action or proceeding to
23 enforce this chapter with respect to the reporting, payment, or
24 delivery of property more than six years after the holder filed a
25 nonfraudulent report under section 401 of this act with the
26 administrator. The parties may agree in a record to extend the
27 limitation in this subsection.

28 (3) The administrator may not commence an action, proceeding, or
29 examination with respect to a duty of a holder under this chapter
30 more than 10 years after the duty arose.

31 **PART 7**

32 **SALE OF PROPERTY BY ADMINISTRATOR**

33 NEW SECTION. **Sec. 701.** PUBLIC SALE OF PROPERTY. (1) Except as
34 otherwise provided in section 702 of this act, the administrator may
35 sell the property (a) not earlier than two years after receipt of
36 property stored in a safe deposit box and presumed abandoned; and (b)

1 not earlier than three years after receipt of all other property
2 presumed abandoned.

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

5 (a) The date of the sale; and

6 (b) A reasonable description of the property.

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

9 (a) At public sale at a location in this state which the
10 administrator determines to be the most favorable market for the
11 property;

12 (b) On the internet; or

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

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

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

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

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

37 NEW SECTION. **Sec. 703.** RECOVERY OF SECURITIES OR VALUE BY
38 OWNER. (1) Except as otherwise provided in this section, a person

1 making a claim under this chapter with respect to securities is only
2 entitled to receive the proceeds received from sale, even if the sale
3 of the securities has not been completed at the time the
4 administrator receives the claim. However, if the administrator
5 receives a claim for securities and the administrator has not ordered
6 those securities to be sold as of the time the claim is received by
7 the administrator, the claimant is entitled to receive either the
8 securities delivered to the administrator by the holder, or the
9 proceeds received from the sale, less any amounts deducted pursuant
10 to section 803 of this act.

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

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

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

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

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

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

34 (c) A governmental entity.

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

1 **PART 8**

2 **ADMINISTRATION OF PROPERTY**

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

4 Except as otherwise provided by this section, the administrator shall
5 promptly deposit in the general fund of this state all funds received
6 under this chapter, including the proceeds from the sale of property
7 under sections 701 through 705 of this act. The administrator shall
8 retain in a separate trust fund, the nonappropriated unclaimed
9 personal property account, an amount not less than \$750,000 from
10 which prompt payment of claims duly allowed must be made by the
11 administrator.

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

16 (3) The department may periodically transfer from the general
17 fund of this state to the unclaimed personal property account amounts
18 necessary to accommodate the requirements of this section.

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

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

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

26 (3) For each policy of insurance or annuity contract listed in
27 the report of an insurance company, record and retain the policy or
28 account number, the name of the company, and the amount due or paid;
29 and

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

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

36 (1) Expenses of disposition of property delivered to the
37 administrator under this chapter;

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

3 (3) Reasonable service charges; and

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

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

10 **PART 9**

11 **CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

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

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

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

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

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

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

29 (i) The other state establishes that the last known address of
30 the apparent owner or other person entitled to the property was in
31 the other state; or

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

34 (b) The records of the holder did not accurately identify the
35 owner of the property, the last known address of the owner was in

1 another state, and, under the law of the other state, the property
2 has become subject to a claim by the other state of abandonment;

3 (c) The property was subject to the custody of the administrator
4 of this state under section 305 of this act and, under the law of the
5 state of domicile of the holder, the property has become subject to a
6 claim by the state of domicile of the holder of abandonment; or

7 (d) The property:

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

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

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

16 (3) The administrator shall decide a claim under this section not
17 later than 90 days after it is presented. If the administrator
18 determines that the other state is entitled under subsection (1) of
19 this section to custody of the property, the administrator shall
20 allow the claim and pay or deliver the property to the other state.

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

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

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

33 (a) The person receiving the property or payment is shown to be
34 the apparent owner included on a report filed under section 401 of
35 this act; and

36 (b) The administrator reasonably believes the person is entitled
37 to receive the property or payment.

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

6 (2) Not later than 90 days after a claim is filed under section
7 903(1) of this act, the administrator shall allow or deny the claim
8 and give the claimant notice in a record of the decision.

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

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

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

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

17 (4) If the administrator does not take action on a claim during
18 the 90-day period following the filing of a claim under section
19 903(1) of this act, the claim is deemed denied.

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

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

33 (a) Child support arrearages, including child support collection
34 costs and child support arrearages that are combined with
35 maintenance;

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

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

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

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

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

26 **PART 10**

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

28 NEW SECTION. **Sec. 1001.** VERIFIED REPORT OF PROPERTY. If a
29 person does not file a report required by section 401 of this act or
30 the administrator believes that a person may have filed an
31 inaccurate, incomplete, or false report, the administrator may
32 require the person to file a verified report in a form prescribed by
33 the administrator. The verified report must:

34 (1) State whether the person is holding property reportable under
35 this chapter;

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

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

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

5 NEW SECTION. **Sec. 1002.** EXAMINATION OF RECORDS TO DETERMINE
6 COMPLIANCE. The administrator, at reasonable times and on reasonable
7 notice, may:

8 (1) Examine the records of a person, including examination of
9 appropriate records in the possession of an agent of the person under
10 examination, if the records are reasonably necessary to determine
11 whether the person has complied with this chapter;

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

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

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

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

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

28 (a) The examination must include a review of the person's
29 records.

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

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

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 1005.** EVIDENCE OF UNPAID DEBT OR UNDISCHARGED

29 OBLIGATION. (1) A record of a putative holder showing an unpaid debt
30 or undischarged obligation is prima facie evidence of the debt or
31 obligation.

32 (2) A putative holder may establish by a preponderance of the
33 evidence that there is no unpaid debt or undischarged obligation for
34 a debt or obligation described in subsection (1) of this section or
35 that the debt or obligation was not, or no longer is, a fixed and
36 certain obligation of the putative holder.

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

1 (a) Issued as an unaccepted offer in settlement of an
2 unliquidated amount;

3 (b) Issued but later was replaced with another instrument because
4 the earlier instrument was lost or contained an error that was
5 corrected;

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

7 (d) Paid, satisfied, or discharged;

8 (e) Issued in error;

9 (f) Issued without consideration;

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

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

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

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

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

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

32 (1) The work performed;

33 (2) The property types reviewed;

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

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

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

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

11 (2) If a person in a record requests a conference with the
12 administrator to present matters that are the basis of a request
13 under subsection (1) of this section, the administrator shall hold
14 the conference not later than 30 days after receiving the request.
15 The administrator may hold the conference in person, by telephone, or
16 by electronic means.

17 (3) If a conference is held under subsection (2) of this section,
18 not later than 30 days after the conference ends, the administrator
19 shall provide a report in a record of the conference to the person
20 that requested the conference.

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

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

26 (b) The administrator's child, stepchild, grandchild, parent,
27 stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece,
28 or nephew;

29 (c) A spouse, partner in a civil union, domestic partner, or
30 reciprocal beneficiary of an individual under (b) of this subsection;
31 or

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

33 (2) The administrator may contract with a person to conduct an
34 examination under this section and sections 1001 through 1008 and
35 1010 through 1013 of this act. The contract may be awarded only under
36 chapter 39.26 RCW.

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

1 (a) An individual, the individual may not be related to the
2 administrator; or

3 (b) A business entity, the entity may not be owned in whole or in
4 part by the administrator or an individual related to the
5 administrator.

6 (4) At least 60 days before assigning a person under contract
7 with the administrator under subsection (2) of this section to
8 conduct an examination, the administrator shall demand in a record
9 that the person to be examined submit a report and deliver property
10 that is previously unreported.

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

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

15 (b) A contingent fee arrangement may not provide for a payment
16 that exceeds 10 percent of the amount or value of property paid or
17 delivered as a result of the examination; and

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

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

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

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

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

1 (i) The part voluntarily paid or delivered; and
2 (ii) The part paid or delivered as a result of an examination
3 under section 1002 of this act, separated into the part recovered as
4 a result of an examination conducted by:
5 (A) A state employee; and
6 (B) A contractor under section 1009 of this act;
7 (b) The name of and amount paid to each contractor under section
8 1009 of this act and the percentage the total compensation paid to
9 all contractors under section 1009 of this act bears to the total
10 amount paid or delivered to the administrator as a result of all
11 examinations performed under section 1009 of this act;
12 (c) The total amount and value of all property paid or delivered
13 by the administrator to persons that made claims for property held by
14 the administrator under this chapter and the percentage the total
15 payments made and value of property delivered to claimants bears to
16 the total amounts paid and value delivered to the administrator; and
17 (d) The total amount of claims made by persons claiming to be
18 owners which:
19 (i) Were denied;
20 (ii) Were allowed; and
21 (iii) Are pending.
22 (2) The report under subsection (1) of this section is a public
23 record subject to public disclosure without redaction under chapter
24 42.56 RCW.

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

33 NEW SECTION. **Sec. 1013.** INTEREST AND PENALTIES. (1) A person
34 who fails to pay or deliver property when due is required to pay to
35 the administrator interest at the rate as computed under RCW
36 82.32.050(1)(c) and set under RCW 82.32.050(2). However, the
37 administrator must waive or cancel interest imposed under this
38 subsection if:

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

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

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

11 (2) If a person fails to file any report or to pay or deliver any
12 amounts or property when due under a report required under this
13 chapter, there is assessed a penalty equal to 10 percent of the
14 amount unpaid and the value of any property not delivered.

15 (3) If an examination results in an assessment for amounts unpaid
16 or property not delivered, there is assessed a penalty equal to 10
17 percent of the amount unpaid and the value of any property not
18 delivered.

19 (4) If a person fails to pay or deliver to the administrator by
20 the due date any amounts or property due under an assessment issued
21 by the administrator to the person, there is assessed an additional
22 penalty of five percent of the amount unpaid and the value of any
23 property not delivered.

24 (5) If a holder makes a fraudulent report under this chapter, the
25 administrator may require the holder to pay the administrator, in
26 addition to interest under this section, a civil penalty of \$1,000
27 for each day from the date the report was made until corrected, up to
28 a cumulative maximum amount of \$25,000, plus 25 percent of the amount
29 or value of any property that should have been reported or was
30 underreported.

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

37 (7) If a person willfully fails to file a report or to provide
38 written notice to apparent owners as required under this chapter, the
39 administrator may assess a civil penalty of \$100 for each day the

1 report is withheld or the notice is not sent, but not more than
2 \$5,000.

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

12 (9) If a holder enters into a contract or other arrangement for
13 the purpose of evading an obligation under this chapter or otherwise
14 willfully fails to perform a duty imposed on the holder under this
15 chapter, the administrator may require the holder to pay the
16 administrator, in addition to interest as provided in this section, a
17 civil penalty of \$1,000 for each day the obligation is evaded or the
18 duty not performed, up to a cumulative maximum amount of \$25,000,
19 plus 25 percent of the amount or value of property that should have
20 been but was not reported, paid, or delivered as a result of the
21 evasion or failure to perform.

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

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

26 **PART 11**
27 **DETERMINATION OF LIABILITY—PUTATIVE HOLDER REMEDIES**

28 NEW SECTION. **Sec. 1101.** INFORMAL CONFERENCE. (1) Not later than
29 30 days after receipt of a notice under section 1012 of this act, the
30 putative holder may request an informal conference with the
31 administrator to review the determination. Except as otherwise
32 provided in this section, the administrator may designate an employee
33 to act on behalf of the administrator.

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

36 (a) Not later than 20 days after the date of the request, the
37 administrator shall set the time and place of the conference;

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

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

5 (d) The request tolls the 90-day period under sections 1103 and
6 1104 of this act until notice of a decision under (g) of this
7 subsection has been given to the putative holder or the putative
8 holder withdraws the request for the conference;

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

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

14 (g) The administrator shall issue a decision in a record and
15 provide a copy of the record to the putative holder and examiner not
16 later than 20 days after the conference ends.

17 (3) A conference under subsection (2) of this section is not an
18 administrative remedy and is not a contested case subject to chapter
19 34.05 RCW. An oath is not required and rules of evidence do not apply
20 in the conference.

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

25 (a) Discuss the determination made under section 1012 of this
26 act; and

27 (b) Present any issue concerning the validity of the
28 determination.

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

35 (a) The date under section 1103 of this act the putative holder
36 initiates administrative review or files an action under section 1104
37 of this act; or

38 (b) Ninety days after the putative holder received notice of the
39 administrator's determination under section 1012 of this act if no

1 review was initiated under section 1103 of this act and no action was
2 filed under section 1104 of this act.

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

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

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

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

17 NEW SECTION. **Sec. 1103.** ADMINISTRATIVE REVIEW. Any person
18 having been issued a determination by the administrator, or a denial
19 of an application for a refund or return of property, under the
20 provisions of this chapter is entitled to a review by the
21 administrator conducted in accordance with the provisions of RCW
22 34.05.410 through 34.05.494, subject to judicial review under RCW
23 34.05.510 through 34.05.598. A petition for review under this section
24 is timely if received in writing by the administrator on or before 90
25 days after the holder receives the determination from the
26 administrator pursuant to section 1012 of this act or from any
27 extension of the due date granted by the administrator, or in the
28 case of a refund or return application, 30 days after the
29 administrator rejects the application in writing, regardless of any
30 subsequent action by the administrator to reconsider its initial
31 decision. The period for filing a petition for review under this
32 section may be extended as provided in a rule adopted by the
33 administrator under chapter 34.05 RCW or upon a written agreement
34 signed by the holder and the administrator.

35 NEW SECTION. **Sec. 1104.** JUDICIAL REMEDY. (1) Any person who has
36 paid or delivered property to the administrator under the provisions
37 of this chapter, except one who has failed to keep and preserve

1 records as required in this chapter, feeling aggrieved by such
2 payment or delivery, may appeal to the Thurston county superior
3 court. The person filing a notice of appeal under this section is
4 deemed the plaintiff, and the administrator, the defendant.

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

9 (3) (a) In an appeal filed under this section, the plaintiff must
10 set forth the amount or property, if any, payable or deliverable on
11 the report or assessment that the plaintiff is contesting, which the
12 holder concedes to be the correct amount payable or deliverable, and
13 the reason why the amount payable or deliverable should be reduced or
14 abated.

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

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

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

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

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

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

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

39 (6) No court action or proceeding of any kind may be maintained
40 by the plaintiff to recover any amount paid, delivered, or reported

1 to the administrator under this chapter, except as provided in this
2 section or as may be available to the plaintiff under RCW 34.05.510
3 through 34.05.598.

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

7 **PART 12**

8 **ENFORCEMENT BY ADMINISTRATOR**

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

10 (1) If a determination under section 1012 of this act becomes final
11 and is not subject to administrative or judicial review, the
12 administrator may commence an action in superior court or in an
13 appropriate court of another state to enforce the determination and
14 secure payment or delivery of past due, unpaid, or undelivered
15 property. The action must be brought not later than one year after
16 the determination becomes final.

17 (2) In an action under subsection (1) of this section, if no
18 court in this state has jurisdiction over the defendant, the
19 administrator may commence an action in any court having jurisdiction
20 over the defendant.

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

24 (a) Exchange information with another state or foreign country
25 relating to property presumed abandoned or relating to the possible
26 existence of property presumed abandoned; and

27 (b) Authorize in a record another state or foreign country or a
28 person acting on behalf of the other state or country to examine its
29 records of a putative holder as provided in sections 1001 through
30 1013 of this act.

31 (2) An exchange or examination under subsection (1) of this
32 section may be done only if the state or foreign country has
33 confidentiality and security requirements substantially equivalent to
34 those in sections 1401 through 1408 of this act or agrees in a record
35 to be bound by this state's confidentiality and security
36 requirements.

1 assist in the location, delivery, or recovery of property held by the
2 administrator, is enforceable only if the agreement:

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

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

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

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

10 (1) Subject to subsection (2) of this section, an agreement under
11 section 1301 of this act is void if it is entered into during the
12 period beginning on the date the property was paid or delivered by a
13 holder to the administrator and ending 24 months after the payment or
14 delivery.

15 (2) If a provision in an agreement described in subsection (1) of
16 this section applies to mineral proceeds for which compensation is to
17 be paid to the other person based in whole or in part on a part of
18 the underlying minerals or mineral proceeds not then presumed
19 abandoned, the provision is void regardless of when the agreement was
20 entered into.

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

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

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

35 NEW SECTION. **Sec. 1303.** RIGHT OF AGENT OF APPARENT OWNER TO
36 RECOVER PROPERTY HELD BY ADMINISTRATOR. (1) An apparent owner that
37 contracts with another person to locate, deliver, recover, or assist
38 in the location, delivery, or recovery of property of the apparent

1 owner which is held by the administrator may designate the person as
2 the agent of the apparent owner. The designation must be in a record
3 signed by the apparent owner.

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

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

11 PART 14

12 CONFIDENTIALITY AND SECURITY OF INFORMATION

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

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

19 (i) Social security number or other government-issued number or
20 identifier;

21 (ii) Date of birth;

22 (iii) Home or physical address;

23 (iv) Email address or other online contact information or
24 internet provider address;

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

26 (vi) Biometric data, health or medical data, or insurance
27 information; or

28 (vii) Passwords or other credentials that permit access to an
29 online or other account;

30 (b) Personally identifiable financial or insurance information,
31 including nonpublic personal information defined by applicable
32 federal law; and

33 (c) Any combination of data that, if accessed, disclosed,
34 modified, or destroyed without authorization of the owner of the data
35 or if lost or misused, would require notice or reporting under
36 chapter 19.255 RCW and federal privacy and data security law, whether
37 or not the administrator or the administrator's agent is subject to
38 the law.

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

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

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

9 (b) Personal information and other information derived or
10 otherwise obtained by or communicated to the administrator or the
11 administrator's agent from an examination under this chapter of the
12 records of a person.

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

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

22 (a) An apparent owner or the apparent owner's personal
23 representative, attorney, other legal representative, relative, or
24 agent designated under section 1303 of this act to have the
25 information;

26 (b) The personal representative, other legal representative,
27 relative of a deceased apparent owner, agent designated under section
28 1303 of this act by the deceased apparent owner, or a person entitled
29 to inherit from the deceased apparent owner;

30 (c) Another department or agency of this state or the United
31 States;

32 (d) The person that administers the unclaimed property law of
33 another state, if the other state accords substantially reciprocal
34 privileges to the administrator of this state if the other state is
35 required to maintain the confidentiality and security of information
36 obtained in a manner substantially equivalent to this section and
37 sections 1401, 1402, and 1404 through 1408 of this act; or

1 (e) A person subject to an examination as required by section
2 1004(6) of this act.

3 (2) Except as otherwise provided in section 1402(1) of this act,
4 the administrator shall include on the website or in the database
5 required by section 503(3)(b) of this act the name of each apparent
6 owner of property held by the administrator. The administrator may
7 include in published notices, printed publications,
8 telecommunications, the internet, or other media and on the website
9 or in the database additional information concerning the apparent
10 owner's property if the administrator believes the information will
11 assist in identifying and returning property to the owner and does
12 not disclose personal information except the home or physical address
13 of an apparent owner.

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

18 NEW SECTION. **Sec. 1404.** CONFIDENTIALITY AGREEMENT. A person to
19 be examined under section 1002 of this act may require, as a
20 condition of disclosure of the records of the person to be examined,
21 that each person having access to the records disclosed in the
22 examination execute and deliver to the person to be examined a
23 confidentiality agreement that:

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

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

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

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

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

4 (a) Implement administrative, technical, and physical safeguards
5 to protect the security, confidentiality, and integrity of the
6 information required by chapter 19.255 RCW and federal privacy and
7 data security law whether or not the administrator or the
8 administrator's agent is subject to the law;

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

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

15 (3) The administrator:

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

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

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

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

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

33 (a) A suspected loss, misuse, or unauthorized access, disclosure,
34 modification, or destruction of confidential information obtained
35 from the holder in the possession of the administrator or an
36 administrator's agent; and

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

1 (i) Compromises the security, confidentiality, or integrity of
2 the information; or

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

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

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

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

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

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

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

18 NEW SECTION. **Sec. 1408.** INDEMNIFICATION FOR BREACH. (1) If a
19 claim is made or action commenced arising out of an event described
20 in section 1407(1) of this act relating to confidential information
21 possessed by the administrator, this state shall indemnify, defend,
22 and hold harmless a holder and the holder's affiliates, officers,
23 directors, employees, and agents as to:

24 (a) Any claim or action; and

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

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

34 (a) Any claim or action; and

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

38 (3) The administrator shall require an administrator's agent that
39 will receive confidential information required under this chapter to

1 maintain adequate insurance for indemnification obligations of the
2 administrator's agent under subsection (2) of this section. The agent
3 required to maintain the insurance shall provide evidence of the
4 insurance to:

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

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

9 **PART 15**

10 **MISCELLANEOUS PROVISIONS**

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

16 NEW SECTION. **Sec. 1502.** RELATION TO ELECTRONIC SIGNATURES IN
17 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or
18 supersedes the electronic signatures in global and national commerce
19 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
20 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
21 authorize electronic delivery of any of the notices described in
22 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

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

30 (2) This chapter does not relieve a holder of a duty that arose
31 before the effective date of this section to report, pay, or deliver
32 property. Subject to section 610 (2) and (3) of this act, a holder
33 that did not comply with the law governing unclaimed property before
34 the effective date of this section is subject to applicable
35 provisions for enforcement and penalties in effect before the
36 effective date of this section.

1 NEW SECTION. **Sec. 1504.** SEVERABILITY. If any provision of this
2 act or its application to any person or circumstance is held invalid,
3 the remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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

7 (1) RCW 63.29.010 (Definitions and use of terms) and 2012 c 117 s
8 177, 2005 c 285 s 1, 2004 c 168 s 13, & 1983 c 179 s 1;

9 (2) RCW 63.29.020 (Property presumed abandoned—General rule—
10 Exceptions) and 2015 3rd sp.s. c 6 s 2101, 2011 c 116 s 1, & 2010 c
11 29 s 1;

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

14 (4) RCW 63.29.040 (Travelers checks and money orders) and 1983 c
15 179 s 4;

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

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

21 (7) RCW 63.29.070 (Funds owing under life insurance policies) and
22 2012 c 117 s 178, 2003 1st sp.s. c 13 s 4, & 1983 c 179 s 7;

23 (8) RCW 63.29.080 (Deposits held by utilities) and 1983 c 179 s
24 8;

25 (9) RCW 63.29.090 (Refunds held by business associations) and
26 1983 c 179 s 9;

27 (10) RCW 63.29.100 (Stock and other intangible interests in
28 business associations) and 2003 1st sp.s. c 13 s 5, 1996 c 45 s 1, &
29 1983 c 179 s 10;

30 (11) RCW 63.29.110 (Property of business associations held in
31 course of dissolution) and 1983 c 179 s 11;

32 (12) RCW 63.29.120 (Property held by agents and fiduciaries) and
33 2012 c 117 s 179, 2003 1st sp.s. c 13 s 6, & 1983 c 179 s 12;

34 (13) RCW 63.29.130 (Property held by courts and public agencies—
35 When abandoned—Overpayments) and 2007 c 183 s 1, 1993 c 498 s 2, &
36 1983 c 179 s 13;

37 (14) RCW 63.29.133 (Property held by landlord) and 1992 c 38 s 9;

1 (15) RCW 63.29.135 (Abandoned intangible property held by local
2 government) and 1990 2nd ex.s. c 1 s 301;

3 (16) RCW 63.29.140 (Gift certificates and credit memos) and 2015
4 3rd sp.s. c 6 s 2102, 2004 c 168 s 15, 2003 1st sp.s. c 13 s 7, &
5 1983 c 179 s 14;

6 (17) RCW 63.29.150 (Wages) and 1983 c 179 s 15;

7 (18) RCW 63.29.160 (Contents of safe deposit box or other
8 safekeeping repository) and 1983 c 179 s 16;

9 (19) RCW 63.29.165 (Property in self-storage facility) and 1993 c
10 498 s 4 & 1988 c 240 s 21;

11 (20) RCW 63.29.170 (Report of abandoned property) and 2015 3rd
12 sp.s. c 6 s 2103, 2004 c 168 s 16, 2003 c 237 s 1, 1996 c 45 s 2,
13 1993 c 498 s 7, & 1983 c 179 s 17;

14 (21) RCW 63.29.180 (Notice and publication of information about
15 unclaimed property) and 2015 3rd sp.s. c 6 s 2104, 2005 c 367 s 2,
16 2003 c 237 s 2, 1993 c 498 s 9, 1986 c 84 s 1, & 1983 c 179 s 18;

17 (22) RCW 63.29.190 (Payment or delivery of abandoned property)
18 and 2015 3rd sp.s. c 6 s 2105;

19 (23) RCW 63.29.192 (Penalty and interest paid in excess—Refunds—
20 Returns) and 2015 3rd sp.s. c 6 s 2110;

21 (24) RCW 63.29.193 (Petition for review—Denied application for
22 refund or return) and 2015 3rd sp.s. c 6 s 2111;

23 (25) RCW 63.29.194 (Appeal of payment or delivered property) and
24 2015 3rd sp.s. c 6 s 2112;

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

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

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

33 (29) RCW 63.29.220 (Public sale of abandoned property) and 2011
34 2nd sp.s. c 8 s 1, 2005 c 367 s 4, 1996 c 45 s 3, 1993 c 498 s 10, &
35 1983 c 179 s 22;

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

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

- 1 (32) RCW 63.29.250 (Claim of another state to recover property—
2 Procedure) and 1983 c 179 s 25;
- 3 (33) RCW 63.29.260 (Action to establish claim) and 1983 c 179 s
4 26;
- 5 (34) RCW 63.29.270 (Election to take payment or delivery) and
6 1983 c 179 s 27;
- 7 (35) RCW 63.29.280 (Destruction or disposition of property having
8 insubstantial commercial value—Immunity from liability) and 2005 c
9 367 s 5 & 1983 c 179 s 28;
- 10 (36) RCW 63.29.290 (Periods of limitation) and 2015 3rd sp.s. c 6
11 s 2106 & 1983 c 179 s 29;
- 12 (37) RCW 63.29.300 (Requests for reports and examination of
13 records) and 2015 3rd sp.s. c 6 s 2107 & 1983 c 179 s 30;
- 14 (38) RCW 63.29.310 (Retention of records) and 1983 c 179 s 31;
- 15 (39) RCW 63.29.320 (Enforcement) and 1983 c 179 s 32;
- 16 (40) RCW 63.29.330 (Interstate agreements and cooperation—Joint
17 and reciprocal actions with other states) and 1983 c 179 s 33;
- 18 (41) RCW 63.29.340 (Interest and penalties) and 2015 3rd sp.s. c
19 6 s 2108 & 2011 c 96 s 45;
- 20 (42) RCW 63.29.350 (Penalty for excessive fee for locating
21 abandoned property—Consumer protection act application) and 2012 c
22 117 s 181, 2010 c 29 s 2, & 1983 c 179 s 35;
- 23 (43) RCW 63.29.360 (Foreign transactions) and 1983 c 179 s 36;
- 24 (44) RCW 63.29.370 (Rules) and 1983 c 179 s 38;
- 25 (45) RCW 63.29.380 (Information and records confidential) and
26 1983 c 179 s 39;
- 27 (46) RCW 63.29.900 (Effect of new provisions—Clarification of
28 application) and 1983 c 179 s 37;
- 29 (47) RCW 63.29.902 (Uniformity of application and construction)
30 and 1983 c 179 s 41;
- 31 (48) RCW 63.29.903 (Short title) and 1983 c 179 s 42;
- 32 (49) RCW 63.29.905 (Effective date—1983 c 179) and 1983 c 179 s
33 47; and
- 34 (50) RCW 63.29.906 (Effective date—1996 c 45) and 1996 c 45 s 5.

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

1 NEW SECTION. **Sec. 1507.** EFFECTIVE DATE. This act takes effect
2 January 1, 2023.

3 NEW SECTION. **Sec. 1508.** SEVERABILITY. If any part of this act
4 is found to be in conflict with federal requirements that are a
5 prescribed condition to the allocation of federal funds to the state,
6 the conflicting part of this act is inoperative solely to the extent
7 of the conflict and with respect to the agencies directly affected,
8 and this finding does not affect the operation of the remainder of
9 this act in its application to the agencies concerned. Rules adopted
10 under this act must meet federal requirements that are a necessary
11 condition to the receipt of federal funds by the state.

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