

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

STATE CAPITOL BUILDING, ROOM 091  
200 EAST COLFAX AVENUE  
DENVER, COLORADO 80203-1782

TELEPHONE: 303-866-2045 FACSIMILE: 303-866-4157

E-MAIL: OLLS.GA@STATE.CO.US

## AGENDA

### Colorado Commission on Uniform State Laws

**November 18, 2016, 10:00 a.m.**

Committee Room: HCR 0112

1. Public comment regarding anything not on the agenda
2. Proposed 2017 legislative agenda bill drafts:
  - a. LLS 17-0188: Authorize Revisor To Publish Comments Uniform Acts
  - b. LLS 17-0189: Uniform Unsworn Declarations Act Include Domestic
  - c. LLS 17-0190: Authorize Notarial Acts For Individuals Outside US
  - d. LLS 17-0191: Register Athlete Agents Revised Uniform Act 2015
  - e. LLS 17-0192: Uniform Wage Garnishment Act
  - f. LLS 17-0193: Uniform Family Law Arbitration Act
  - g. LLS 17-0194: Revised Uniform Unclaimed Property Act
3. Updates on proposed 2017 legislative agenda items:
  - a. Uniform Employee and Student Online Privacy Protection Act
  - b. Uniform Trust Code
4. Colorado Bar Association updates on:
  - a. Uniform Commercial Real Estate Receivership Act
  - b. Revised Uniform Residential Landlord and Tenant Act
5. Next CCUSL meeting
6. Other business

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.9.16

DRAFT

LLS NO. 17-0188.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC:** "Authorize Revisor To Publish Comments Uniform Acts"

**A BILL FOR AN ACT**

101      **CONCERNING STATUTORY AUTHORITY FOR THE REVISOR OF STATUTES**  
102           **TO PUBLISH COMMENTS RELATING TO BILLS THAT ENACT**  
103           **UNIFORM ACTS APPROVED BY THE NATIONAL CONFERENCE OF**  
104           **COMMISSIONERS ON UNIFORM STATE LAWS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** Uniform acts approved by the National Conference of Commissioners on Uniform State Laws are often accompanied by official comments that explain the

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

context, intent, and meaning of various sections of the acts. Current practice allows for the publication of official comments, and Colorado-specific comments if Colorado adopts nonuniform provisions, only if the bill enacting the law specifically directs the revisor of statutes to publish the comments.

The bill directs the revisor of statutes to publish official comments whenever they are available and to publish Colorado comments if they have been approved by the Colorado commission on uniform state laws.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 2-5-102, **amend**  
3 (1)(b) and (1)(c); and **add** (1)(d) as follows:

4 **2-5-102. Inclusions - nonstatutory.** (1) At the end of each  
5 section of the statutes, the revisor shall include:

6 (a) Reference to the statutory history of the section;

7 (b) Annotations of state and federal court decisions construing,  
8 applying, or relating to the subject matter of the section; ~~and~~

9 (c) Such editorial notes, cross references, and other matter as the  
10 committee considers desirable or advantageous; AND

11 (d) IF THE SECTION WAS ENACTED OR AMENDED ON OR AFTER THE  
12 EFFECTIVE DATE OF THIS SUBSECTION (d):

13 (I) THE FULL TEXT OF THE OFFICIAL COMMENTS, IF AVAILABLE,  
14 ISSUED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM  
15 STATE LAWS FOR THAT SECTION OF THE STATUTES; AND

16 (II) A COLORADO COMMENT, IF ANY, THAT EXPLAINS ANY  
17 NONUNIFORM CHANGES TO A SECTION OF THE STATUTES THAT IS PART OF  
18 A UNIFORM ACT APPROVED BY THE NATIONAL CONFERENCE OF  
19 COMMISSIONERS ON UNIFORM STATE LAWS, BUT ONLY IF THE COLORADO  
20 COMMISSION ON UNIFORM STATE LAWS HAS APPROVED THE COLORADO  
21 COMMENT AND NOTIFIED THE REVISOR OF STATUTES OF ITS APPROVAL IN

1 WRITING.

2           **SECTION 2. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, and safety.

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
9.14.16

DRAFT

LLS NO. 17-0189.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC:** "Uniform Unsworn Declarations Act Include Domestic"  
**DEADLINES:** Finalize by: JAN 30, 2017 File by: FEB 1, 2017

A BILL FOR AN ACT

101 CONCERNING THE "UNIFORM UNSWORN DECLARATIONS ACT".

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** Colorado has adopted the Uniform Unsworn Foreign Declarations Act, which allows the use of foreign unsworn declarations in a wide variety of situations. The bill expands the uniform law to include domestic unsworn declarations as contemplated by the Uniform Unsworn Declarations Act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-55-301 as  
3 follows:

4 **12-55-301. Short title.** THE SHORT TITLE OF this part 3 ~~may be~~  
5 ~~cited as~~ IS the "Uniform Unsworn ~~Foreign~~ Declarations Act".

6 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-55-303 as  
7 follows:

8 **12-55-303. Applicability.** This part 3 applies to an unsworn  
9 declaration by a declarant who at the time of making the declaration is  
10 physically located WITHIN OR outside the boundaries of the United States  
11 whether or not the location is subject to the jurisdiction of the United  
12 States. ~~This part 3 does not apply to a declaration by a declarant who is~~  
13 ~~physically located on property that is within the boundaries of the United~~  
14 ~~States and subject to the jurisdiction of another country or a federally~~  
15 ~~recognized Indian tribe.~~

16 **SECTION 3.** In Colorado Revised Statutes, **amend** 12-55-306 as  
17 follows:

18 **12-55-306. Form of unsworn declaration.** An unsworn  
19 declaration under this part 3 must be in substantially the following form:

20 I declare under penalty of perjury under the law of  
21 Colorado that the foregoing is true and correct. ~~and that I~~  
22 ~~am physically located outside the geographic boundaries of~~  
23 ~~the United States, Puerto Rico, the United States Virgin~~  
24 ~~Islands, and any territory or insular possession subject to~~  
25 ~~the jurisdiction of the United States.~~

26 Executed on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
27 (date) (month) (year)

1 at \_\_\_\_\_  
2 (city or other location, and state) ~~( OR country)~~

3 \_\_\_\_\_  
4 (printed name)

5 \_\_\_\_\_  
6 (signature)

7 **SECTION 4.** In Colorado Revised Statutes, 18-8-501, **amend**  
8 (2)(a)(IV) as follows:

9 **18-8-501. Definitions.** The definitions in sections 18-8-101 and  
10 18-8-301 are applicable to this part 5, and, in addition to those  
11 definitions:

12 (2) (a) "Oath" includes an affirmation and every other mode  
13 authorized by law of attesting to the truth of that which is stated. For the  
14 purposes of this section, written statements shall also be treated as if  
15 made under oath if:

16 (IV) The statement meets the requirements for an unsworn  
17 declaration under the "Uniform Unsworn ~~Foreign~~ Declarations Act", part  
18 3 of article 55 of title 12. ~~C.R.S.~~

19 **SECTION 5. Act subject to petition - effective date -**  
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
21 the expiration of the ninety-day period after final adjournment of the  
22 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
23 2017); except that, if a referendum petition is filed pursuant to section 1  
24 (3) of article V of the state constitution against this act or an item, section,  
25 or part of this act within such period, then the act, item, section, or part  
26 will not take effect unless approved by the people at the general election  
27 to be held in November 2018 and, in such case, will take effect on the

1 date of the official declaration of the vote thereon by the governor.

2 (2) This act applies to conduct occurring on or after the applicable  
3 effective date of this act. <*Do you want a safety clause or a specific*  
4 *effective date?*>



First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.3.16

DRAFT

LLS NO. 17-0190.02 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC:** "Revised Uniform Law On Notarial Acts"  
**DEADLINES:** Finalize by: JAN 30, 2017 File by: FEB 1, 2017

A BILL FOR AN ACT

101 CONCERNING ENACTMENT OF THE "REVISED UNIFORM LAW ON  
102 NOTARIAL ACTS" AS AMENDED.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** The bill enacts the "Revised Uniform Law on Notarial Acts" (the "Act"), as amended by the National Conference of Commissioners on Uniform State Laws in 2016. The Act responds to current transactions and practices (in particular electronic records); seeks to promote uniformity among state laws regarding notarial acts; enhances the integrity of the notarial process; and

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*



1 ELECTRONIC RECORD AND EXECUTED OR ADOPTED BY AN INDIVIDUAL  
2 WITH THE INTENT TO SIGN THE ELECTRONIC RECORD.

3 (5) "IN A REPRESENTATIVE CAPACITY" MEANS ACTING AS:

4 (a) AN AUTHORIZED OFFICER, AGENT, PARTNER, TRUSTEE, OR  
5 OTHER REPRESENTATIVE FOR A PERSON OTHER THAN AN INDIVIDUAL;

6 (b) A PUBLIC OFFICER, PERSONAL REPRESENTATIVE, GUARDIAN, OR  
7 OTHER REPRESENTATIVE, IN THE CAPACITY STATED IN A RECORD;

8 (c) AN AGENT OR ATTORNEY-IN-FACT FOR A PRINCIPAL; OR

9 (d) AN AUTHORIZED REPRESENTATIVE OF ANOTHER IN ANY OTHER  
10 CAPACITY.

11 (6) "NOTARIAL ACT" MEANS AN ACT, WHETHER PERFORMED WITH  
12 RESPECT TO A TANGIBLE OR ELECTRONIC RECORD, THAT A NOTARIAL  
13 OFFICER MAY PERFORM UNDER THE LAW OF THIS STATE. THE TERM  
14 INCLUDES TAKING AN ACKNOWLEDGMENT, ADMINISTERING AN OATH OR  
15 AFFIRMATION, TAKING A DEPOSITION OR OTHER SWORN TESTIMONY,  
16 TAKING A VERIFICATION ON OATH OR AFFIRMATION, WITNESSING OR  
17 ATTESTING A SIGNATURE, CERTIFYING A COPY, AND NOTING A PROTEST OF  
18 A NEGOTIABLE INSTRUMENT.

19 (7) "NOTARIAL OFFICER" MEANS A NOTARY PUBLIC OR OTHER  
20 INDIVIDUAL AUTHORIZED TO PERFORM A NOTARIAL ACT.

21 (8) "NOTARY PUBLIC" MEANS AN INDIVIDUAL COMMISSIONED TO  
22 PERFORM A NOTARIAL ACT BY THE SECRETARY OF STATE.

23 (9) "OFFICIAL STAMP" MEANS A PHYSICAL IMAGE AFFIXED TO A  
24 TANGIBLE RECORD OR AN ELECTRONIC IMAGE ATTACHED TO OR  
25 LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD.

26 (10) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS  
27 TRUST, STATUTORY TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED

1 LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC  
2 CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY,  
3 OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

4 (11) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A  
5 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER  
6 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

7 (12) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR  
8 ADOPT A RECORD:

9 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

10 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD  
11 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

12 (13) "SIGNATURE" MEANS A TANGIBLE SYMBOL OR AN ELECTRONIC  
13 SIGNATURE THAT EVIDENCES THE SIGNING OF A RECORD.

14 (14) "STAMPING DEVICE" MEANS:

15 (a) A PHYSICAL DEVICE CAPABLE OF AFFIXING TO A TANGIBLE  
16 RECORD AN OFFICIAL STAMP; OR

17 (b) AN ELECTRONIC DEVICE OR PROCESS CAPABLE OF ATTACHING  
18 TO OR LOGICALLY ASSOCIATING WITH AN ELECTRONIC RECORD AN  
19 OFFICIAL STAMP.

20 (15) "STATE" MEANS A STATE OF THE UNITED STATES, THE  
21 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN  
22 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE  
23 JURISDICTION OF THE UNITED STATES.

24 (16) "VERIFICATION ON OATH OR AFFIRMATION" MEANS A  
25 DECLARATION, MADE BY AN INDIVIDUAL ON OATH OR AFFIRMATION  
26 BEFORE A NOTARIAL OFFICER, THAT A STATEMENT IN A RECORD IS TRUE.

27 **24-21-503. Applicability.** THIS PART 5 APPLIES TO A NOTARIAL

1 ACT PERFORMED ON OR AFTER THE EFFECTIVE DATE OF THIS PART 5.

2 **24-21-504. Authority to perform notarial act.** (1) A NOTARIAL  
3 OFFICER MAY PERFORM A NOTARIAL ACT AUTHORIZED BY THIS PART 5 OR  
4 BY LAW OF THIS STATE OTHER THAN THIS PART 5.

5 (2) A NOTARIAL OFFICER SHALL NOT PERFORM A NOTARIAL ACT  
6 WITH RESPECT TO A RECORD IN WHICH THE OFFICER HAS A DISQUALIFYING  
7 INTEREST. FOR THE PURPOSES OF THIS SECTION, A NOTARIAL OFFICER HAS  
8 A DISQUALIFYING INTEREST IN A RECORD IF:

9 (a) THE OFFICER OR THE OFFICER'S SPOUSE, PARTNER IN A CIVIL  
10 UNION, ANCESTOR, DESCENDENT, OR SIBLING IS A PARTY TO OR IS NAMED  
11 IN THE RECORD THAT IS TO BE NOTARIZED; OR

12 (b) THE OFFICER OR THE OFFICER'S SPOUSE OR PARTNER IN A CIVIL  
13 UNION MAY RECEIVE DIRECTLY, AND AS A PROXIMATE RESULT OF THE  
14 NOTARIZATION, ANY ADVANTAGE, RIGHT, TITLE, INTEREST, CASH, OR  
15 PROPERTY EXCEEDING IN VALUE THE SUM OF ANY FEE PROPERLY RECEIVED  
16 IN ACCORDANCE WITH THIS PART 5.

17 (3) A NOTARIAL ACT PERFORMED IN VIOLATION OF THIS SECTION  
18 IS VOIDABLE.

19 **24-21-505. Requirements for certain notarial acts.** (1) A  
20 NOTARIAL OFFICER WHO TAKES AN ACKNOWLEDGMENT OF A RECORD  
21 SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY  
22 EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL, THAT THE INDIVIDUAL  
23 APPEARING BEFORE THE OFFICER AND MAKING THE ACKNOWLEDGMENT  
24 HAS THE IDENTITY CLAIMED AND THAT THE SIGNATURE ON THE RECORD IS  
25 THE SIGNATURE OF THE INDIVIDUAL.

26 (2) A NOTARIAL OFFICER WHO TAKES A VERIFICATION OF A  
27 STATEMENT ON OATH OR AFFIRMATION SHALL DETERMINE, FROM

1 PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF  
2 THE INDIVIDUAL, THAT THE INDIVIDUAL APPEARING BEFORE THE OFFICER  
3 AND MAKING THE VERIFICATION HAS THE IDENTITY CLAIMED AND THAT  
4 THE SIGNATURE ON THE STATEMENT VERIFIED IS THE SIGNATURE OF THE  
5 INDIVIDUAL.

6 (3) A NOTARIAL OFFICER WHO WITNESSES OR ATTESTS TO A  
7 SIGNATURE SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR  
8 SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL, THAT THE  
9 INDIVIDUAL APPEARING BEFORE THE OFFICER AND SIGNING THE RECORD  
10 HAS THE IDENTITY CLAIMED.

11 (4) (a) A NOTARIAL OFFICER WHO CERTIFIES A COPY OF A RECORD  
12 OR AN ITEM THAT WAS COPIED SHALL DETERMINE THAT THE COPY IS A  
13 FULL, TRUE, AND ACCURATE TRANSCRIPTION OR REPRODUCTION OF THE  
14 RECORD OR ITEM.

15 (b) A NOTARIAL OFFICER SHALL NOT CERTIFY A COPY OF A RECORD  
16 THAT CAN BE OBTAINED FROM ANY OF THE FOLLOWING OFFICES IN THIS  
17 STATE:

18 (I) A CLERK AND RECORDER OF PUBLIC DOCUMENTS;

19 (II) THE SECRETARY OF STATE;

20 (III) THE STATE ARCHIVES; OR

21 (IV) AN OFFICE OF VITAL RECORDS.

22 (c) A NOTARIAL OFFICER SHALL NOT CERTIFY A COPY OF A RECORD  
23 IF THE RECORD STATES ON ITS FACE THAT IT IS ILLEGAL TO COPY THE  
24 RECORD.

25 (5) (a) A NOTARIAL OFFICER WHO MAKES OR NOTES A PROTEST OF  
26 A NEGOTIABLE INSTRUMENT SHALL DETERMINE THE MATTERS SET FORTH  
27 IN SECTION 4-3-505 (b) OF THE "UNIFORM COMMERCIAL CODE".

1 (b) A NOTARY PUBLIC SHALL NOT MAKE OR NOTE A PROTEST OF A  
2 NEGOTIABLE INSTRUMENT UNLESS THE NOTARY IS AN EMPLOYEE OF A  
3 FINANCIAL INSTITUTION ACTING IN THE COURSE AND SCOPE OF THE  
4 NOTARY'S EMPLOYMENT WITH THE FINANCIAL INSTITUTION.

5 **24-21-506. Personal appearance required.** IF A NOTARIAL ACT  
6 RELATES TO A STATEMENT MADE IN OR A SIGNATURE EXECUTED ON A  
7 RECORD, THE INDIVIDUAL MAKING THE STATEMENT OR EXECUTING THE  
8 SIGNATURE SHALL APPEAR PERSONALLY BEFORE THE NOTARIAL OFFICER.

9 **24-21-507. Identification of individual.** (1) A NOTARIAL  
10 OFFICER HAS PERSONAL KNOWLEDGE OF THE IDENTITY OF AN INDIVIDUAL  
11 APPEARING BEFORE THE OFFICER IF THE INDIVIDUAL IS PERSONALLY  
12 KNOWN TO THE OFFICER THROUGH DEALINGS SUFFICIENT TO PROVIDE  
13 REASONABLE CERTAINTY THAT THE INDIVIDUAL HAS THE IDENTITY  
14 CLAIMED.

15 (2) A NOTARIAL OFFICER HAS SATISFACTORY EVIDENCE OF THE  
16 IDENTITY OF AN INDIVIDUAL APPEARING BEFORE THE OFFICER IF THE  
17 OFFICER CAN IDENTIFY THE INDIVIDUAL:

18 (a) BY MEANS OF:

19 (I) A PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED  
20 NONDRIVER IDENTIFICATION CARD THAT IS CURRENT OR EXPIRED NOT  
21 MORE THAN ONE YEAR BEFORE PERFORMANCE OF THE NOTARIAL ACT; OR

22 (II) ANOTHER FORM OF GOVERNMENT IDENTIFICATION ISSUED TO  
23 THE INDIVIDUAL THAT IS CURRENT OR EXPIRED NOT MORE THAN ONE YEAR  
24 BEFORE PERFORMANCE OF THE NOTARIAL ACT, CONTAINS THE SIGNATURE  
25 OR A PHOTOGRAPH OF THE INDIVIDUAL, AND IS SATISFACTORY TO THE  
26 OFFICER; OR

27 (b) BY A VERIFICATION ON OATH OR AFFIRMATION OF A CREDIBLE

1 WITNESS PERSONALLY APPEARING BEFORE THE OFFICER AND KNOWN TO  
2 THE OFFICER OR WHOM THE OFFICER CAN IDENTIFY ON THE BASIS OF A  
3 PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED NONDRIVER  
4 IDENTIFICATION CARD THAT IS CURRENT OR EXPIRED NOT MORE THAN ONE  
5 YEAR BEFORE PERFORMANCE OF THE NOTARIAL ACT.

6 (3) A NOTARIAL OFFICER MAY REQUIRE AN INDIVIDUAL TO  
7 PROVIDE ADDITIONAL INFORMATION OR IDENTIFICATION CREDENTIALS  
8 NECESSARY TO ASSURE THE OFFICER OF THE IDENTITY OF THE INDIVIDUAL.

9 **24-21-508. Authority to refuse to perform notarial act.** (1) A  
10 NOTARIAL OFFICER MAY REFUSE TO PERFORM A NOTARIAL ACT IF THE  
11 OFFICER IS NOT SATISFIED THAT:

12 (a) THE INDIVIDUAL EXECUTING THE RECORD IS COMPETENT OR  
13 HAS THE CAPACITY TO EXECUTE THE RECORD; OR

14 (b) THE INDIVIDUAL'S SIGNATURE IS KNOWINGLY AND  
15 VOLUNTARILY MADE.

16 (2) A NOTARIAL OFFICER MAY REFUSE TO PERFORM A NOTARIAL  
17 ACT UNLESS REFUSAL IS PROHIBITED BY LAW OTHER THAN THIS PART 5.

18 **24-21-509. Signature if individual unable to sign.** (1) IF AN  
19 INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN A RECORD, THE INDIVIDUAL  
20 MAY, IN THE PRESENCE OF THE NOTARIAL OFFICER, DIRECT AN INDIVIDUAL  
21 OTHER THAN THE NOTARIAL OFFICER TO SIGN THE INDIVIDUAL'S NAME ON  
22 THE RECORD. THE NOTARIAL OFFICER SHALL INSERT "SIGNATURE AFFIXED  
23 BY (NAME OF OTHER INDIVIDUAL) AT THE DIRECTION OF (NAME OF  
24 INDIVIDUAL)" OR WORDS OF SIMILAR IMPORT UNDER OR NEAR THE  
25 SIGNATURE.

26 (2) A NOTARY PUBLIC MAY USE SIGNALS OR ELECTRONIC OR  
27 MECHANICAL MEANS TO TAKE AN ACKNOWLEDGMENT FROM, ADMINISTER



1 AN OATH OR AFFIRMATION TO, OR OTHERWISE COMMUNICATE WITH ANY  
2 INDIVIDUAL IN THE PRESENCE OF THE NOTARY PUBLIC WHEN IT APPEARS  
3 THAT THE INDIVIDUAL IS UNABLE TO COMMUNICATE VERBALLY OR IN  
4 WRITING.

5 **24-21-510. Notarial act in this state.** (1) A NOTARIAL ACT MAY  
6 BE PERFORMED IN THIS STATE BY:

- 7 (a) A NOTARY PUBLIC OF THIS STATE;
- 8 (b) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THIS STATE;

9 OR

10 (c) ANY OTHER INDIVIDUAL AUTHORIZED TO PERFORM THE  
11 SPECIFIC ACT BY THE LAW OF THIS STATE.

12 (2) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A  
13 NOTARIAL ACT IN THIS STATE ARE PRIMA FACIE EVIDENCE THAT THE  
14 SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL HOLDS THE  
15 DESIGNATED TITLE.

16 (3) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER DESCRIBED  
17 IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION CONCLUSIVELY  
18 ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL  
19 ACT.

20 **24-21-511. Notarial act in another state.** (1) A NOTARIAL ACT  
21 PERFORMED IN ANOTHER STATE HAS THE SAME EFFECT UNDER THE LAW OF  
22 THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE IF  
23 THE ACT PERFORMED IN THAT STATE IS PERFORMED BY:

- 24 (a) A NOTARY PUBLIC OF THAT STATE;
- 25 (b) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THAT

26 STATE; OR

27 (c) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAW OF THAT

1 STATE TO PERFORM THE NOTARIAL ACT.

2 (2) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A  
3 NOTARIAL ACT IN ANOTHER STATE ARE PRIMA FACIE EVIDENCE THAT THE  
4 SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL HOLDS THE  
5 DESIGNATED TITLE.

6 (3) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER DESCRIBED  
7 IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION CONCLUSIVELY  
8 ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL  
9 ACT.

10 **24-21-512. Notarial act under authority of federally**  
11 **recognized Indian tribe.** (1) A NOTARIAL ACT PERFORMED UNDER THE  
12 AUTHORITY AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED  
13 INDIAN TRIBE HAS THE SAME EFFECT AS IF PERFORMED BY A NOTARIAL  
14 OFFICER OF THIS STATE IF THE ACT PERFORMED IN THE JURISDICTION OF  
15 THE TRIBE IS PERFORMED BY:

16 (a) A NOTARY PUBLIC OF THE TRIBE;

17 (b) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE TRIBE;

18 OR

19 (c) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAW OF THE  
20 TRIBE TO PERFORM THE NOTARIAL ACT.

21 (2) THE SIGNATURE AND TITLE OF AN INDIVIDUAL PERFORMING A  
22 NOTARIAL ACT UNDER THE AUTHORITY OF AND IN THE JURISDICTION OF A  
23 FEDERALLY RECOGNIZED INDIAN TRIBE ARE PRIMA FACIE EVIDENCE THAT  
24 THE SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL HOLDS THE  
25 DESIGNATED TITLE.

26 (3) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER DESCRIBED  
27 IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION CONCLUSIVELY

1 ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL  
2 ACT.

3 **24-21-513. Notarial act under federal authority.** (1) A  
4 NOTARIAL ACT PERFORMED UNDER FEDERAL LAW HAS THE SAME EFFECT  
5 UNDER THE LAW OF THIS STATE AS IF PERFORMED BY A NOTARIAL OFFICER  
6 OF THIS STATE IF THE ACT PERFORMED UNDER FEDERAL LAW IS PERFORMED  
7 BY:

8 (a) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT;

9 (b) AN INDIVIDUAL IN MILITARY SERVICE OR PERFORMING DUTIES  
10 UNDER THE AUTHORITY OF MILITARY SERVICE WHO IS AUTHORIZED TO  
11 PERFORM NOTARIAL ACTS UNDER FEDERAL LAW;

12 (c) AN INDIVIDUAL DESIGNATED A NOTARIZING OFFICER BY THE  
13 UNITED STATES DEPARTMENT OF STATE FOR PERFORMING NOTARIAL ACTS  
14 OVERSEAS; OR

15 (d) ANY OTHER INDIVIDUAL AUTHORIZED BY FEDERAL LAW TO  
16 PERFORM THE NOTARIAL ACT.

17 (2) THE SIGNATURE AND TITLE OF AN INDIVIDUAL ACTING UNDER  
18 FEDERAL AUTHORITY AND PERFORMING A NOTARIAL ACT ARE PRIMA FACIE  
19 EVIDENCE THAT THE SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL  
20 HOLDS THE DESIGNATED TITLE.

21 (3) THE SIGNATURE AND TITLE OF AN OFFICER DESCRIBED IN  
22 SUBSECTION (1)(a), (1)(b), OR (1)(c) OF THIS SECTION CONCLUSIVELY  
23 ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL  
24 ACT.

25 **24-21-514. Foreign notarial act.** (1) IN THIS SECTION, "FOREIGN  
26 STATE" MEANS A GOVERNMENT OTHER THAN THE UNITED STATES, A  
27 STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

1           (2) IF A NOTARIAL ACT IS PERFORMED UNDER AUTHORITY AND IN  
2 THE JURISDICTION OF A FOREIGN STATE OR CONSTITUENT UNIT OF THE  
3 FOREIGN STATE OR IS PERFORMED UNDER THE AUTHORITY OF A  
4 MULTINATIONAL OR INTERNATIONAL GOVERNMENTAL ORGANIZATION, THE  
5 ACT HAS THE SAME EFFECT UNDER THE LAW OF THIS STATE AS IF  
6 PERFORMED BY A NOTARIAL OFFICER OF THIS STATE.

7           (3) IF THE TITLE OF OFFICE AND INDICATION OF AUTHORITY TO  
8 PERFORM NOTARIAL ACTS IN A FOREIGN STATE APPEARS IN A DIGEST OF  
9 FOREIGN LAW OR IN A LIST CUSTOMARILY USED AS A SOURCE FOR THAT  
10 INFORMATION, THE AUTHORITY OF AN OFFICER WITH THAT TITLE TO  
11 PERFORM NOTARIAL ACTS IS CONCLUSIVELY ESTABLISHED.

12           (4) THE SIGNATURE AND OFFICIAL STAMP OF AN INDIVIDUAL  
13 HOLDING AN OFFICE DESCRIBED IN SUBSECTION (3) OF THIS SECTION ARE  
14 PRIMA FACIE EVIDENCE THAT THE SIGNATURE IS GENUINE AND THE  
15 INDIVIDUAL HOLDS THE DESIGNATED TITLE.

16           (5) AN APOSTILLE IN THE FORM PRESCRIBED BY THE HAGUE  
17 CONVENTION OF OCTOBER 5, 1961, AND ISSUED BY A FOREIGN STATE  
18 PARTY TO THE CONVENTION CONCLUSIVELY ESTABLISHES THAT THE  
19 SIGNATURE OF THE NOTARIAL OFFICER IS GENUINE AND THAT THE OFFICER  
20 HOLDS THE INDICATED OFFICE.

21           (6) A CONSULAR AUTHENTICATION ISSUED BY AN INDIVIDUAL  
22 DESIGNATED BY THE UNITED STATES DEPARTMENT OF STATE AS A  
23 NOTARIZING OFFICER FOR PERFORMING NOTARIAL ACTS OVERSEAS AND  
24 ATTACHED TO THE RECORD WITH RESPECT TO WHICH THE NOTARIAL ACT  
25 IS PERFORMED CONCLUSIVELY ESTABLISHES THAT THE SIGNATURE OF THE  
26 NOTARIAL OFFICER IS GENUINE AND THAT THE OFFICER HOLDS THE  
27 INDICATED OFFICE.

1           **24-21-515. Certificate of notarial act.** (1) A NOTARIAL ACT  
2 MUST BE EVIDENCED BY A CERTIFICATE. THE CERTIFICATE MUST:

3           (a) BE EXECUTED CONTEMPORANEOUSLY WITH THE PERFORMANCE  
4 OF THE NOTARIAL ACT;

5           (b) BE SIGNED AND DATED BY THE NOTARIAL OFFICER AND, IF THE  
6 NOTARIAL OFFICER IS A NOTARY PUBLIC, BE SIGNED IN THE SAME MANNER  
7 AS ON FILE WITH THE SECRETARY OF STATE;

8           (c) IDENTIFY THE COUNTY AND STATE IN WHICH THE NOTARIAL  
9 ACT IS PERFORMED;

10           (d) CONTAIN THE TITLE OF OFFICE OF THE NOTARIAL OFFICER; AND

11           (e) IF THE NOTARIAL OFFICER IS A NOTARY PUBLIC, INDICATE THE  
12 DATE OF EXPIRATION OF THE OFFICER'S COMMISSION.

13           (2) IF A NOTARIAL ACT REGARDING A TANGIBLE RECORD IS  
14 PERFORMED BY A NOTARY PUBLIC, AN OFFICIAL STAMP MUST BE AFFIXED  
15 TO THE CERTIFICATE. IF A NOTARIAL ACT IS PERFORMED REGARDING A  
16 TANGIBLE RECORD BY A NOTARIAL OFFICER OTHER THAN A NOTARY  
17 PUBLIC AND THE CERTIFICATE CONTAINS THE INFORMATION SPECIFIED IN  
18 SUBSECTIONS (1)(b), (1)(c), AND (1)(d) OF THIS SECTION, AN OFFICIAL  
19 STAMP MAY BE AFFIXED TO THE CERTIFICATE. IF A NOTARIAL ACT  
20 REGARDING AN ELECTRONIC RECORD IS PERFORMED BY A NOTARIAL  
21 OFFICER AND THE CERTIFICATE CONTAINS THE INFORMATION SPECIFIED IN  
22 SUBSECTIONS (1)(b), (1)(c), AND (1)(d) OF THIS SECTION, AN OFFICIAL  
23 STAMP MAY BE ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE  
24 CERTIFICATE.

25           (3) A CERTIFICATE OF A NOTARIAL ACT IS SUFFICIENT IF IT MEETS  
26 THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION AND:

27           (a) IS IN A SHORT FORM SET FORTH IN SECTION 24-21-516;

1 (b) IS IN A FORM OTHERWISE PERMITTED BY THE LAW OF THIS  
2 STATE;

3 (c) IS IN A FORM PERMITTED BY THE LAW APPLICABLE IN THE  
4 JURISDICTION IN WHICH THE NOTARIAL ACT WAS PERFORMED; OR

5 (d) SETS FORTH THE ACTIONS OF THE NOTARIAL OFFICER AND THE  
6 ACTIONS ARE SUFFICIENT TO MEET THE REQUIREMENTS OF THE NOTARIAL  
7 ACT AS PROVIDED IN SECTIONS 24-21-505, 24-21-506, AND 24-21-507 OR  
8 LAW OF THIS STATE OTHER THAN THIS PART 5.

9 (4) BY EXECUTING A CERTIFICATE OF A NOTARIAL ACT, A  
10 NOTARIAL OFFICER CERTIFIES THAT THE OFFICER HAS COMPLIED WITH THE  
11 REQUIREMENTS AND MADE THE DETERMINATIONS SPECIFIED IN SECTIONS  
12 24-21-504, 24-21-505, AND 24-21-506.

13 (5) A NOTARIAL OFFICER SHALL NOT AFFIX THE OFFICER'S  
14 SIGNATURE TO, OR LOGICALLY ASSOCIATE IT WITH, A CERTIFICATE UNTIL  
15 THE NOTARIAL ACT HAS BEEN PERFORMED.

16 (6) IF A NOTARIAL ACT IS PERFORMED REGARDING A TANGIBLE  
17 RECORD, A CERTIFICATE MUST BE PART OF, OR SECURELY ATTACHED TO,  
18 THE RECORD. IF A NOTARIAL ACT IS PERFORMED REGARDING AN  
19 ELECTRONIC RECORD, THE CERTIFICATE MUST BE AFFIXED TO, OR  
20 LOGICALLY ASSOCIATED WITH, THE ELECTRONIC RECORD. IF THE  
21 SECRETARY OF STATE HAS ESTABLISHED STANDARDS PURSUANT TO  
22 SECTION 24-21-527 FOR ATTACHING, AFFIXING, OR LOGICALLY  
23 ASSOCIATING THE CERTIFICATE, THE PROCESS MUST CONFORM TO THE  
24 STANDARDS.

25 **24-21-516. Short form certificates.** (1) THE FOLLOWING SHORT  
26 FORM CERTIFICATES OF NOTARIAL ACTS ARE SUFFICIENT FOR THE  
27 PURPOSES INDICATED, IF COMPLETED WITH THE INFORMATION REQUIRED

1 BY SECTION 24-21-515 (1) AND (2):

2 (a) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

3 STATE OF \_\_\_\_\_

4 COUNTY OF \_\_\_\_\_

5 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

6 \_\_\_\_\_ (DATE) BY \_\_\_\_\_ (NAME(S) OF INDIVIDUAL(S))

7 \_\_\_\_\_

8 SIGNATURE OF NOTARIAL OFFICER

9 STAMP

10 (\_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_)

11 MY COMMISSION EXPIRES: \_\_\_\_\_

12 (b) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

13 STATE OF \_\_\_\_\_

14 COUNTY OF \_\_\_\_\_

15 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

16 \_\_\_\_\_ (DATE) BY \_\_\_\_\_ (NAME(S) OF INDIVIDUAL(S))

17 AS (TYPE OF AUTHORITY, SUCH AS OFFICER OR TRUSTEE) OF

18 (NAME OF PARTY ON BEHALF OF WHOM RECORD WAS

19 EXECUTED).

20 \_\_\_\_\_

21 SIGNATURE OF NOTARIAL OFFICER

22 STAMP

23 (\_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_)

24 MY COMMISSION EXPIRES: \_\_\_\_\_

25 (c) FOR A VERIFICATION ON OATH OR AFFIRMATION:

26 STATE OF \_\_\_\_\_

27 COUNTY OF \_\_\_\_\_

1 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON  
2 \_\_\_\_\_ (DATE) BY \_\_\_\_\_ (NAME(S) OF INDIVIDUAL(S))  
3 MAKING STATEMENT

4 \_\_\_\_\_

5 SIGNATURE OF NOTARIAL OFFICER

6 STAMP

7 ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

8 MY COMMISSION EXPIRES: \_\_\_\_\_

9 (d) FOR WITNESSING OR ATTESTING A SIGNATURE:

10 STATE OF \_\_\_\_\_

11 COUNTY OF \_\_\_\_\_

12 SIGNED BEFORE ME ON \_\_\_\_\_ (DATE) BY \_\_\_\_\_ (NAME(S) OF  
13 INDIVIDUAL(S))

14 \_\_\_\_\_

15 SIGNATURE OF NOTARIAL OFFICER

16 STAMP

17 ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

18 MY COMMISSION EXPIRES: \_\_\_\_\_

19 (e) FOR CERTIFYING A COPY OF A RECORD:

20 STATE OF \_\_\_\_\_

21 COUNTY OF \_\_\_\_\_

22 I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A  
23 RECORD IN THE POSSESSION OF \_\_\_\_\_.

24 DATED \_\_\_\_\_

25 \_\_\_\_\_

26 SIGNATURE OF NOTARIAL OFFICER

27 STAMP



1 ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

2 MY COMMISSION EXPIRES: \_\_\_\_\_

3 **24-21-517. Official stamp.** (1) THE OFFICIAL STAMP OF A NOTARY  
4 PUBLIC MUST:

5 (a) BE RECTANGULAR AND CONTAIN ONLY THE OUTLINE OF THE  
6 SEAL AND THE FOLLOWING INFORMATION PRINTED WITHIN THE OUTLINE OF  
7 THE SEAL:

8 (I) THE NOTARY PUBLIC'S NAME, AS IT APPEARS ON THE NOTARY'S  
9 CERTIFICATE OF COMMISSION;

10 (II) THE NOTARY'S IDENTIFICATION NUMBER;

11 (III) THE NOTARY'S COMMISSION EXPIRATION DATE;

12 (IV) THE WORDS "STATE OF COLORADO"; AND

13 (V) THE WORDS "NOTARY PUBLIC"; AND

14 (b) BE CAPABLE OF BEING COPIED TOGETHER WITH THE RECORD TO  
15 WHICH IT IS AFFIXED OR ATTACHED OR WITH WHICH IT IS LOGICALLY  
16 ASSOCIATED.

17 (2) A NOTARY PUBLIC SHALL NOT PROVIDE, KEEP, OR USE A SEAL  
18 EMBOSSER.

19 **24-21-518. Stamping device.** (1) A NOTARY PUBLIC IS  
20 RESPONSIBLE FOR THE SECURITY OF THE NOTARY PUBLIC'S STAMPING  
21 DEVICE AND MAY NOT ALLOW ANOTHER INDIVIDUAL TO USE THE DEVICE  
22 TO PERFORM A NOTARIAL ACT. ON RESIGNATION FROM, OR THE  
23 REVOCATION OR EXPIRATION OF, THE NOTARY PUBLIC'S COMMISSION, OR  
24 ON THE EXPIRATION OF THE DATE SET FORTH IN THE STAMPING DEVICE, IF  
25 ANY, THE NOTARY PUBLIC SHALL DISABLE THE STAMPING DEVICE BY  
26 DESTROYING, DEFACING, DAMAGING, ERASING, OR SECURING IT AGAINST  
27 USE IN A MANNER THAT RENDERS IT UNUSABLE. ON THE DEATH OR

1 ADJUDICATION OF INCOMPETENCY OF A NOTARY PUBLIC, THE NOTARY  
2 PUBLIC'S PERSONAL REPRESENTATIVE OR GUARDIAN OR ANY OTHER  
3 PERSON KNOWINGLY IN POSSESSION OF THE STAMPING DEVICE SHALL  
4 RENDER IT UNUSABLE BY DESTROYING, DEFACING, DAMAGING, ERASING,  
5 OR SECURING IT AGAINST USE IN A MANNER THAT RENDERS IT UNUSABLE.

6 (2) IF A NOTARY PUBLIC'S STAMPING DEVICE IS LOST OR STOLEN,  
7 THE NOTARY PUBLIC OR THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE  
8 OR GUARDIAN SHALL NOTIFY THE SECRETARY OF STATE IN WRITING WITHIN  
9 THIRTY DAYS AFTER DISCOVERING THAT THE DEVICE IS LOST OR STOLEN.

10 **24-21-519. Journal.** (1) A NOTARY PUBLIC SHALL MAINTAIN A  
11 JOURNAL IN WHICH THE NOTARY PUBLIC CHRONICLES ALL NOTARIAL ACTS  
12 THAT THE NOTARY PUBLIC PERFORMS. THE NOTARY PUBLIC SHALL RETAIN  
13 THE JOURNAL FOR TEN YEARS AFTER THE PERFORMANCE OF THE LAST  
14 NOTARIAL ACT CHRONICLED IN THE JOURNAL.

15 (2) A JOURNAL MAY BE CREATED ON A TANGIBLE MEDIUM OR IN AN  
16 ELECTRONIC FORMAT. IF A JOURNAL IS MAINTAINED ON A TANGIBLE  
17 MEDIUM, IT MUST BE A PERMANENT, BOUND REGISTER WITH NUMBERED  
18 PAGES. IF A JOURNAL IS MAINTAINED IN AN ELECTRONIC FORMAT, IT MUST  
19 BE IN A PERMANENT, TAMPER-EVIDENT ELECTRONIC FORMAT COMPLYING  
20 WITH THE RULES OF THE SECRETARY OF STATE.

21 (3) AN ENTRY IN A JOURNAL MUST BE MADE  
22 CONTEMPORANEOUSLY WITH PERFORMANCE OF THE NOTARIAL ACT AND  
23 CONTAIN THE FOLLOWING INFORMATION:

24 (a) THE DATE AND TIME OF THE NOTARIAL ACT;

25 (b) A DESCRIPTION OF THE RECORD, IF ANY, AND TYPE OF  
26 NOTARIAL ACT;

27 (c) THE FULL NAME AND ADDRESS OF EACH INDIVIDUAL FOR WHOM

1 THE NOTARIAL ACT IS PERFORMED;

2 (d) THE SIGNATURE OR ELECTRONIC SIGNATURE OF EACH  
3 INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED;

4 (e) IF IDENTITY OF THE INDIVIDUAL IS BASED ON PERSONAL  
5 KNOWLEDGE, A STATEMENT TO THAT EFFECT;

6 (f) IF IDENTITY OF THE INDIVIDUAL IS BASED ON SATISFACTORY  
7 EVIDENCE, A BRIEF DESCRIPTION OF THE METHOD OF IDENTIFICATION AND  
8 THE TYPE OF IDENTIFICATION CREDENTIAL PRESENTED, IF ANY; AND

9 (g) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC.

10 (4) A NOTARY PUBLIC IS RESPONSIBLE FOR THE SECURITY OF THE  
11 NOTARY PUBLIC'S JOURNAL. A NOTARY PUBLIC SHALL KEEP THE JOURNAL  
12 IN A SECURE AREA UNDER THE EXCLUSIVE CONTROL OF THE NOTARY, AND  
13 SHALL NOT ALLOW ANY OTHER NOTARY TO USE THE JOURNAL.

14 (5) UPON WRITTEN REQUEST OF ANY MEMBER OF THE PUBLIC,  
15 WHICH REQUEST MUST INCLUDE THE NAME OF THE PARTIES, THE TYPE OF  
16 DOCUMENT, AND THE MONTH AND YEAR IN WHICH A RECORD WAS  
17 NOTARIZED, A NOTARY PUBLIC MAY SUPPLY A CERTIFIED COPY OF THE LINE  
18 ITEM REPRESENTING THE REQUESTED TRANSACTION. A NOTARY PUBLIC  
19 MAY CHARGE THE FEE ALLOWED IN SECTION 24-21-529 FOR EACH  
20 CERTIFIED COPY OF A LINE ITEM, AND SHALL RECORD THE TRANSACTION  
21 IN THE NOTARY'S JOURNAL.

22 (6) THE SECRETARY OF STATE MAY AUDIT OR INSPECT A NOTARY  
23 PUBLIC'S JOURNAL WITHOUT RESTRICTION. A NOTARY PUBLIC SHALL  
24 SURRENDER THE NOTARY'S JOURNAL TO THE SECRETARY OF STATE UPON  
25 RECEIVING A WRITTEN REQUEST.

26 (7) A CERTIFIED PEACE OFFICER, AS DEFINED IN SECTION  
27 16-2.5-102, ACTING IN THE COURSE OF AN OFFICIAL INVESTIGATION MAY

1 INSPECT A NOTARY PUBLIC'S JOURNAL WITHOUT RESTRICTION.

2 (8) IF A NOTARY PUBLIC'S JOURNAL IS LOST OR STOLEN, THE  
3 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE IN WRITING  
4 WITHIN THIRTY DAYS AFTER DISCOVERING THAT THE JOURNAL IS LOST OR  
5 STOLEN.

6 (9) ON RESIGNATION FROM, OR THE REVOCATION OR EXPIRATION  
7 OF, A NOTARY PUBLIC'S COMMISSION, THE NOTARY PUBLIC SHALL RETAIN  
8 THE NOTARY PUBLIC'S JOURNAL IN ACCORDANCE WITH SUBSECTION (1) OF  
9 THIS SECTION AND INFORM THE SECRETARY OF STATE WHERE THE JOURNAL  
10 IS LOCATED.

11 (10) INSTEAD OF RETAINING A JOURNAL AS PROVIDED IN  
12 SUBSECTIONS (1) AND (9) OF THIS SECTION, A CURRENT OR FORMER  
13 NOTARY PUBLIC MAY TRANSMIT THE JOURNAL TO THE STATE ARCHIVES  
14 ESTABLISHED PURSUANT TO PART 1 OF ARTICLE 80 OF THIS TITLE 24. THE  
15 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE IN WRITING IF  
16 THE NOTARY TRANSMITS THE JOURNAL TO THE STATE ARCHIVES.

17 (7) ON THE DEATH OR ADJUDICATION OF INCOMPETENCY OF A  
18 CURRENT OR FORMER NOTARY PUBLIC, THE NOTARY PUBLIC'S PERSONAL  
19 REPRESENTATIVE OR GUARDIAN OR ANY OTHER PERSON KNOWINGLY IN  
20 POSSESSION OF THE JOURNAL SHALL TRANSMIT IT TO THE STATE ARCHIVES  
21 ESTABLISHED PURSUANT TO PART 1 OF ARTICLE 80 OF THIS TITLE 24. THE  
22 PERSON SHALL NOTIFY THE SECRETARY OF STATE IN WRITING WHEN THE  
23 PERSON TRANSMITS THE JOURNAL TO THE STATE ARCHIVES.

24 **24-21-520. Notification regarding performance of notarial act**  
25 **on electronic record - selection of technology.** (1) A NOTARY PUBLIC  
26 MAY SELECT ONE OR MORE TAMPER-EVIDENT TECHNOLOGIES TO PERFORM  
27 NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS. A PERSON MAY

1 NOT REQUIRE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT WITH  
2 RESPECT TO AN ELECTRONIC RECORD WITH A TECHNOLOGY THAT THE  
3 NOTARY PUBLIC HAS NOT SELECTED.

4 (2) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S  
5 INITIAL NOTARIAL ACT WITH RESPECT TO AN ELECTRONIC RECORD, A  
6 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE THAT THE  
7 NOTARY PUBLIC WILL BE PERFORMING NOTARIAL ACTS WITH RESPECT TO  
8 ELECTRONIC RECORDS AND IDENTIFY THE TECHNOLOGY THE NOTARY  
9 PUBLIC INTENDS TO USE. IF THE SECRETARY OF STATE HAS ESTABLISHED  
10 STANDARDS FOR APPROVAL OF TECHNOLOGY PURSUANT TO SECTION  
11 24-21-527, THE TECHNOLOGY MUST CONFORM TO THE STANDARDS. IF THE  
12 TECHNOLOGY CONFORMS TO THE STANDARDS, THE SECRETARY OF STATE  
13 SHALL APPROVE THE USE OF THE TECHNOLOGY.

14 (3) IN EVERY INSTANCE, THE ELECTRONIC SIGNATURE OF A NOTARY  
15 PUBLIC MUST CONTAIN OR BE ACCOMPANIED BY THE FOLLOWING  
16 ELEMENTS, ALL OF WHICH MUST BE IMMEDIATELY PERCEPTIBLE AND  
17 REPRODUCIBLE IN THE ELECTRONIC RECORD TO WHICH THE NOTARY'S  
18 ELECTRONIC SIGNATURE IS ATTACHED: THE NOTARY'S NAME, AS IT  
19 APPEARS ON THE NOTARY'S CERTIFICATE OF COMMISSION; THE NOTARY'S  
20 IDENTIFICATION NUMBER; THE WORDS "NOTARY PUBLIC" AND "STATE OF  
21 COLORADO"; A DOCUMENT AUTHENTICATION NUMBER ISSUED BY THE  
22 SECRETARY OF STATE; AND THE WORDS "MY COMMISSION EXPIRES"  
23 FOLLOWED BY THE EXPIRATION DATE OF THE NOTARY'S COMMISSION. A  
24 NOTARY'S ELECTRONIC SIGNATURE MUST CONFORM TO ANY STANDARDS  
25 PROMULGATED BY THE SECRETARY OF STATE.

26 **24-21-521. Commission as notary public - qualifications - no**  
27 **immunity or benefit.** (1) AN INDIVIDUAL QUALIFIED UNDER SUBSECTION

1 (3) OF THIS SECTION MAY APPLY TO THE SECRETARY OF STATE FOR A  
2 COMMISSION AS A NOTARY PUBLIC. THE APPLICANT SHALL COMPLY WITH  
3 AND PROVIDE THE INFORMATION REQUIRED BY RULES ESTABLISHED BY  
4 THE SECRETARY OF STATE AND PAY ANY APPLICATION FEE. IN  
5 ACCORDANCE WITH SECTION 24-21-111 (1), THE SECRETARY OF STATE  
6 MAY REQUIRE, AT THE SECRETARY OF STATE'S DISCRETION, THE  
7 APPLICATION REQUIRED BY THIS SECTION, AND ANY RENEWAL OF THE  
8 APPLICATION, TO BE MADE BY ELECTRONIC MEANS DESIGNATED BY THE  
9 SECRETARY OF STATE.

10 (2) IN ACCORDANCE WITH SECTION 42-1-211, THE DEPARTMENT OF  
11 STATE AND THE DEPARTMENT OF REVENUE SHALL ALLOW FOR THE  
12 EXCHANGE OF INFORMATION AND DATA COLLECTED BY THE SYSTEMS USED  
13 BY THE DEPARTMENTS TO COLLECT INFORMATION ON LEGAL NAMES AND  
14 SIGNATURES OF ALL APPLICANTS FOR DRIVER'S LICENSES OR STATE  
15 IDENTIFICATION CARDS.

16 (3) AN APPLICANT FOR A COMMISSION AS A NOTARY PUBLIC MUST:

17 (a) BE AT LEAST EIGHTEEN YEARS OF AGE;

18 (b) BE A CITIZEN OR PERMANENT LEGAL RESIDENT OF THE UNITED  
19 STATES OR OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES;

20 (c) BE A RESIDENT OF OR HAVE A PLACE OF EMPLOYMENT OR  
21 PRACTICE IN THIS STATE;

22 (d) BE ABLE TO READ AND WRITE ENGLISH;

23 (e) NOT BE DISQUALIFIED TO RECEIVE A COMMISSION UNDER  
24 SECTION 24-21-523; AND

25 (f) HAVE PASSED THE EXAMINATION REQUIRED UNDER SECTION  
26 24-21-522 (1).

27 (4) THE SECRETARY OF STATE SHALL VERIFY THE LAWFUL

1 PRESENCE IN THE UNITED STATES OF EACH APPLICANT THROUGH THE  
2 VERIFICATION PROCESS OUTLINED IN SECTION 24-76.5-103 (4).

3 (5) BEFORE ISSUANCE OF A COMMISSION AS A NOTARY PUBLIC, AN  
4 APPLICANT FOR THE COMMISSION SHALL TAKE THE FOLLOWING  
5 AFFIRMATION IN THE PRESENCE OF A PERSON QUALIFIED TO ADMINISTER  
6 AN AFFIRMATION IN THIS STATE:

7 I, (NAME OF APPLICANT), SOLEMNLY AFFIRM, UNDER  
8 THE PENALTY OF PERJURY IN THE SECOND DEGREE, AS  
9 DEFINED IN SECTION 18-8-503, COLORADO REVISED  
10 STATUTES, THAT I HAVE CAREFULLY READ THE NOTARY  
11 LAW OF THIS STATE, AND, IF APPOINTED AND COMMISSIONED  
12 AS A NOTARY PUBLIC, I WILL FAITHFULLY PERFORM, TO THE  
13 BEST OF MY ABILITY, ALL NOTARIAL ACTS IN CONFORMANCE  
14 WITH THE LAW.

15 (SIGNATURE OF APPLICANT)

16 SUBSCRIBED AND AFFIRMED BEFORE ME THIS \_\_\_\_ DAY OF  
17 \_\_\_\_\_, 20\_\_.

18 (OFFICIAL SIGNATURE AND SEAL OF PERSON QUALIFIED TO  
19 ADMINISTER AFFIRMATION)

20 (6) ON COMPLIANCE WITH THIS SECTION, THE SECRETARY OF STATE  
21 SHALL ISSUE A COMMISSION AS A NOTARY PUBLIC TO AN APPLICANT FOR  
22 A TERM OF FOUR YEARS, UNLESS REVOKED IN ACCORDANCE WITH SECTION  
23 24-21-523. AN APPLICANT WHO HAS BEEN DENIED APPOINTMENT AND  
24 COMMISSION MAY APPEAL THE DECISION IN ACCORDANCE WITH ARTICLE  
25 4 OF THIS TITLE 24.

26 (7) A COMMISSION TO ACT AS A NOTARY PUBLIC AUTHORIZES THE  
27 NOTARY PUBLIC TO PERFORM NOTARIAL ACTS. THE COMMISSION DOES NOT

1 PROVIDE THE NOTARY PUBLIC ANY IMMUNITY OR BENEFIT CONFERRED BY  
2 LAW OF THIS STATE ON PUBLIC OFFICIALS OR EMPLOYEES.

3 **24-21-522. Examination of notary public.** (1) AN APPLICANT  
4 FOR A COMMISSION AS A NOTARY PUBLIC WHO DOES NOT HOLD A  
5 COMMISSION IN THIS STATE MUST PASS AN EXAMINATION ADMINISTERED  
6 BY THE SECRETARY OF STATE OR AN ENTITY APPROVED BY THE SECRETARY  
7 OF STATE. THE EXAMINATION MUST BE BASED ON THE COURSE OF STUDY  
8 DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

9 (2) THE SECRETARY OF STATE OR AN ENTITY APPROVED BY THE  
10 SECRETARY OF STATE SHALL OFFER REGULARLY A COURSE OF STUDY TO  
11 APPLICANTS WHO DO NOT HOLD COMMISSIONS AS NOTARIES PUBLIC IN THIS  
12 STATE. THE COURSE MUST COVER THE LAWS, RULES, PROCEDURES, AND  
13 ETHICS RELEVANT TO NOTARIAL ACTS. THE OFFICE OF THE SECRETARY OF  
14 STATE MAY ENTER INTO A CONTRACT WITH A PRIVATE CONTRACTOR OR  
15 CONTRACTORS TO CONDUCT NOTARY TRAINING PROGRAMS. THE  
16 CONTRACTOR OR CONTRACTORS MAY CHARGE A FEE FOR ANY SUCH  
17 TRAINING PROGRAM.

18 **24-21-523. Grounds to deny, refuse to renew, revoke, suspend,**  
19 **or condition commission of notary public.** (1) THE SECRETARY OF  
20 STATE MAY DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR IMPOSE A  
21 CONDITION ON A COMMISSION AS NOTARY PUBLIC FOR:

22 (a) FAILURE TO COMPLY WITH THIS PART 5;

23 (b) A SUBSTANTIAL AND MATERIAL MISSTATEMENT OR OMISSION  
24 OF FACT IN THE APPLICATION FOR A COMMISSION AS A NOTARY PUBLIC  
25 SUBMITTED TO THE SECRETARY OF STATE;

26 (c) NOTWITHSTANDING SECTION 24-5-101, A CONVICTION OF THE  
27 APPLICANT OR NOTARY PUBLIC OF ANY FELONY OR, IN THE PRIOR FIVE



1 YEARS, A MISDEMEANOR INVOLVING DISHONESTY;

2 (d) A FINDING AGAINST, OR ADMISSION OF LIABILITY BY, THE  
3 APPLICANT OR NOTARY PUBLIC IN ANY LEGAL PROCEEDING OR  
4 DISCIPLINARY ACTION BASED ON THE APPLICANT'S OR NOTARY PUBLIC'S  
5 FRAUD, DISHONESTY, OR DECEIT;

6 (e) FAILURE BY THE NOTARY PUBLIC TO DISCHARGE ANY DUTY  
7 REQUIRED OF A NOTARY PUBLIC, WHETHER BY THIS PART 5, RULES OF THE  
8 SECRETARY OF STATE, OR ANY FEDERAL OR STATE LAW;

9 (f) USE OF FALSE OR MISLEADING ADVERTISING OR  
10 REPRESENTATION BY THE NOTARY PUBLIC REPRESENTING THAT THE  
11 NOTARY HAS A DUTY, RIGHT, OR PRIVILEGE THAT THE NOTARY DOES NOT  
12 HAVE;

13 (g) VIOLATION BY THE NOTARY PUBLIC OF A RULE OF THE  
14 SECRETARY OF STATE REGARDING A NOTARY PUBLIC;

15 (h) DENIAL, REFUSAL TO RENEW, REVOCATION, SUSPENSION, OR  
16 CONDITIONING OF A NOTARY PUBLIC COMMISSION IN ANOTHER STATE;

17 (i) A FINDING BY A COURT OF THIS STATE THAT THE APPLICANT OR  
18 NOTARY PUBLIC HAS ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW;

19 (j) FAILURE TO COMPLY WITH ANY TERM OF SUSPENSION OR  
20 CONDITION IMPOSED ON THE COMMISSION OF A NOTARY PUBLIC UNDER  
21 THIS SECTION; OR

22 (k) PERFORMANCE OF ANY NOTARIAL ACT WHILE NOT CURRENTLY  
23 COMMISSIONED BY THE SECRETARY OF STATE.

24 (2) WHENEVER THE SECRETARY OF STATE OR THE SECRETARY OF  
25 STATE'S DESIGNEE BELIEVES THAT A VIOLATION OF THIS PART 5 HAS  
26 OCCURRED, THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S  
27 DESIGNEE MAY INVESTIGATE THE VIOLATION. THE SECRETARY OF STATE

1 OR THE SECRETARY OF STATE'S DESIGNEE MAY ALSO INVESTIGATE  
2 POSSIBLE VIOLATIONS OF THIS PART 5 UPON A SIGNED COMPLAINT FROM  
3 ANY PERSON.

4 (3) IF THE SECRETARY OF STATE DENIES, REFUSES TO RENEW,  
5 REVOKES, SUSPENDS, OR IMPOSES CONDITIONS ON A COMMISSION AS A  
6 NOTARY PUBLIC, THE APPLICANT OR NOTARY PUBLIC IS ENTITLED TO  
7 TIMELY NOTICE AND HEARING IN ACCORDANCE WITH THE "STATE  
8 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE 24.

9 (4) WHEN A COMPLAINT OR INVESTIGATION RESULTS IN A FINDING  
10 OF MISCONDUCT THAT, IN THE SECRETARY OF STATE'S DISCRETION, DOES  
11 NOT WARRANT INITIATION OF A DISCIPLINARY PROCEEDING, THE  
12 SECRETARY OF STATE MAY TAKE NONDISCIPLINARY ACTION. FOR THE  
13 PURPOSES OF THIS SUBSECTION (4), NONDISCIPLINARY ACTION INCLUDES  
14 THE ISSUANCE OF A LETTER OF ADMONITION, WHICH MAY BE PLACED IN  
15 THE NOTARY PUBLIC'S FILE.

16 (5) THE AUTHORITY OF THE SECRETARY OF STATE TO DENY,  
17 REFUSE TO RENEW, SUSPEND, REVOKE, OR IMPOSE CONDITIONS ON A  
18 COMMISSION AS A NOTARY PUBLIC DOES NOT PREVENT A PERSON FROM  
19 SEEKING AND OBTAINING OTHER CRIMINAL OR CIVIL REMEDIES PROVIDED  
20 BY LAW.

21 (6) A PERSON WHOSE NOTARY COMMISSION HAS BEEN REVOKED  
22 PURSUANT TO THIS PART 5 MAY NOT APPLY FOR OR RECEIVE A COMMISSION  
23 AND APPOINTMENT AS A NOTARY.

24 **24-21-524. Database of notaries public.** (1) THE SECRETARY OF  
25 STATE SHALL MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC:

26 (a) THROUGH WHICH A PERSON MAY VERIFY THE AUTHORITY OF A  
27 NOTARY PUBLIC TO PERFORM NOTARIAL ACTS; AND

1 (b) WHICH INDICATES WHETHER A NOTARY PUBLIC HAS NOTIFIED  
2 THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING  
3 NOTARIAL ACTS ON ELECTRONIC RECORDS.

4 **24-21-525. Prohibited acts.** (1) A COMMISSION AS A NOTARY  
5 PUBLIC DOES NOT AUTHORIZE AN INDIVIDUAL TO:

6 (a) ASSIST PERSONS IN DRAFTING LEGAL RECORDS, GIVE LEGAL  
7 ADVICE, OR OTHERWISE PRACTICE LAW;

8 (b) ACT AS AN IMMIGRATION CONSULTANT OR AN EXPERT ON  
9 IMMIGRATION MATTERS;

10 (c) REPRESENT A PERSON IN A JUDICIAL OR ADMINISTRATIVE  
11 PROCEEDING RELATING TO IMMIGRATION TO THE UNITED STATES, UNITED  
12 STATES CITIZENSHIP, OR RELATED MATTERS; OR

13 (d) RECEIVE COMPENSATION FOR PERFORMING ANY OF THE  
14 ACTIVITIES LISTED IN THIS SUBSECTION (1).

15 (2) A NOTARY PUBLIC SHALL NOT ENGAGE IN FALSE OR DECEPTIVE  
16 ADVERTISING.

17 (3) A NOTARY PUBLIC, OTHER THAN AN ATTORNEY LICENSED TO  
18 PRACTICE LAW IN THIS STATE, SHALL NOT USE THE TERM "NOTARIO" OR  
19 "NOTARIO PUBLICO".

20 (4) A NOTARY PUBLIC, OTHER THAN AN ATTORNEY LICENSED TO  
21 PRACTICE LAW IN THIS STATE, SHALL NOT ADVERTISE OR REPRESENT THAT  
22 THE NOTARY PUBLIC MAY ASSIST PERSONS IN DRAFTING LEGAL RECORDS,  
23 GIVE LEGAL ADVICE, OR OTHERWISE PRACTICE LAW. IF A NOTARY PUBLIC  
24 WHO IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE IN  
25 ANY MANNER ADVERTISES OR REPRESENTS THAT THE NOTARY PUBLIC  
26 OFFERS NOTARIAL SERVICES, WHETHER ORALLY OR IN A RECORD,  
27 INCLUDING BROADCAST MEDIA, PRINT MEDIA, AND THE INTERNET, THE

1 NOTARY PUBLIC SHALL INCLUDE THE FOLLOWING STATEMENT, OR AN  
2 ALTERNATE STATEMENT AUTHORIZED OR REQUIRED BY THE SECRETARY OF  
3 STATE, IN THE ADVERTISEMENT OR REPRESENTATION, PROMINENTLY AND  
4 IN EACH LANGUAGE USED IN THE ADVERTISEMENT OR REPRESENTATION:  
5 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF  
6 COLORADO AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR  
7 LEGAL ADVICE. I AM NOT AN IMMIGRATION CONSULTANT, NOR AM I AN  
8 EXPERT ON IMMIGRATION MATTERS. IF YOU SUSPECT FRAUD, YOU MAY  
9 CONTACT THE COLORADO ATTORNEY GENERAL'S OFFICE OR THE  
10 COLORADO SUPREME COURT." IF THE FORM OF ADVERTISEMENT OR  
11 REPRESENTATION IS NOT BROADCAST MEDIA, PRINT MEDIA, OR THE  
12 INTERNET AND DOES NOT PERMIT INCLUSION OF THE STATEMENT REQUIRED  
13 BY THIS SUBSECTION BECAUSE OF SIZE, IT MUST BE DISPLAYED  
14 PROMINENTLY OR PROVIDED AT THE PLACE OF PERFORMANCE OF THE  
15 NOTARIAL ACT BEFORE THE NOTARIAL ACT IS PERFORMED.

16 (5) A NOTARY PUBLIC, OTHER THAN AN ATTORNEY LICENSED TO  
17 PRACTICE LAW IN THIS STATE, SHALL NOT ENGAGE IN CONDUCT THAT  
18 CONSTITUTES A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION  
19 6-1-727.

20 (6) EXCEPT AS OTHERWISE ALLOWED BY LAW, A NOTARY PUBLIC  
21 SHALL NOT WITHHOLD ACCESS TO OR POSSESSION OF AN ORIGINAL RECORD  
22 PROVIDED BY A PERSON THAT SEEKS PERFORMANCE OF A NOTARIAL ACT  
23 BY THE NOTARY PUBLIC.

24 (7) A NOTARY PUBLIC SHALL NOT PERFORM ANY NOTARIAL ACT  
25 WITH RESPECT TO A RECORD THAT IS BLANK OR THAT CONTAINS UNFILLED  
26 BLANKS IN ITS TEXT.

27 **24-21-526. Validity of notarial acts.** EXCEPT AS OTHERWISE

1 PROVIDED IN SECTION 24-21-504(2), THE FAILURE OF A NOTARIAL OFFICER  
2 TO PERFORM A DUTY OR MEET A REQUIREMENT SPECIFIED IN THIS PART 5  
3 DOES NOT INVALIDATE A NOTARIAL ACT PERFORMED BY THE NOTARIAL  
4 OFFICER. THE VALIDITY OF A NOTARIAL ACT UNDER THIS PART 5 DOES NOT  
5 PREVENT AN AGGRIEVED PERSON FROM SEEKING TO INVALIDATE THE  
6 RECORD OR TRANSACTION THAT IS THE SUBJECT OF THE NOTARIAL ACT OR  
7 FROM SEEKING OTHER REMEDIES BASED ON LAW OF THIS STATE OTHER  
8 THAN THIS PART 5 OR LAW OF THE UNITED STATES. THIS SECTION DOES  
9 NOT VALIDATE A PURPORTED NOTARIAL ACT PERFORMED BY AN  
10 INDIVIDUAL WHO DOES NOT HAVE THE AUTHORITY TO PERFORM NOTARIAL  
11 ACTS.

12 **24-21-527. Rules.** (1) THE SECRETARY OF STATE MAY ADOPT  
13 RULES TO IMPLEMENT THIS PART 5 IN ACCORDANCE WITH ARTICLE 4 OF  
14 THIS TITLE 24. RULES ADOPTED REGARDING THE PERFORMANCE OF  
15 NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS MAY NOT  
16 REQUIRE, OR ACCORD GREATER LEGAL STATUS OR EFFECT TO, THE  
17 IMPLEMENTATION OR APPLICATION OF A SPECIFIC TECHNOLOGY OR  
18 TECHNICAL SPECIFICATION. THE RULES MAY:

19 (a) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS  
20 REGARDING TANGIBLE AND ELECTRONIC RECORDS;

21 (b) INCLUDE PROVISIONS TO ENSURE THAT ANY CHANGE TO OR  
22 TAMPERING WITH A RECORD BEARING A CERTIFICATE OF A NOTARIAL ACT  
23 IS SELF-EVIDENT;

24 (c) INCLUDE PROVISIONS TO ENSURE INTEGRITY IN THE CREATION,  
25 TRANSMITTAL, STORAGE, OR AUTHENTICATION OF ELECTRONIC RECORDS  
26 OR SIGNATURES;

27 (d) PRESCRIBE THE PROCESS OF GRANTING, RENEWING,

1     CONDITIONING, DENYING, SUSPENDING, OR REVOKING A NOTARY PUBLIC  
2     COMMISSION AND ASSURING THE TRUSTWORTHINESS OF AN INDIVIDUAL  
3     HOLDING A COMMISSION AS NOTARY PUBLIC, INCLUDING RULES FOR USE OF  
4     THE ELECTRONIC FILING SYSTEM;

5             (e) INCLUDE PROVISIONS TO PREVENT FRAUD OR MISTAKE IN THE  
6     PERFORMANCE OF NOTARIAL ACTS; AND

7             (f) PROVIDE FOR THE ADMINISTRATION OF THE EXAMINATION  
8     UNDER SECTION 24-21-522 (1) AND THE COURSE OF STUDY UNDER SECTION  
9     24-21-522 (2).

10            (2) IN ADOPTING, AMENDING, OR REPEALING RULES ABOUT  
11     NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS, THE SECRETARY  
12     OF STATE SHALL CONSIDER, SO FAR AS IS CONSISTENT WITH THIS PART 5:

13            (a) THE MOST RECENT STANDARDS REGARDING ELECTRONIC  
14     RECORDS PROMULGATED BY NATIONAL BODIES, SUCH AS THE NATIONAL  
15     ASSOCIATION OF SECRETARIES OF STATE;

16            (b) STANDARDS, PRACTICES, AND CUSTOMS OF OTHER  
17     JURISDICTIONS THAT SUBSTANTIALLY ENACT THIS PART 5; AND

18            (c) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND  
19     OTHER INTERESTED PERSONS.

20            **24-21-528. Disposition of fees.** (1) THE SECRETARY OF STATE  
21     SHALL COLLECT ALL FEES PURSUANT TO THIS ARTICLE 21 IN THE MANNER  
22     REQUIRED BY SECTION 24-21-104 (3) AND SHALL TRANSMIT THEM TO THE  
23     STATE TREASURER, WHO SHALL CREDIT THEM TO THE DEPARTMENT OF  
24     STATE CASH FUND CREATED IN SECTION 24-21-104 (3)(b).

25            (2) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL  
26     APPROPRIATIONS FROM THE DEPARTMENT OF STATE CASH FUND FOR  
27     EXPENDITURES OF THE SECRETARY OF STATE INCURRED IN THE

1 PERFORMANCE OF THE SECRETARY OF STATE'S DUTIES UNDER THIS PART  
2 5.

3 **24-21-529. Notary's fees.** (1) EXCEPT AS SPECIFIED IN  
4 SUBSECTION (2) OF THIS SECTION, THE FEES OF A NOTARY PUBLIC MAY BE,  
5 BUT MUST NOT EXCEED, FIVE DOLLARS FOR EACH DOCUMENT ATTESTED BY  
6 A PERSON BEFORE A NOTARY, EXCEPT AS OTHERWISE PROVIDED BY LAW.  
7 THE FEE FOR EACH SUCH DOCUMENT MUST INCLUDE ALL DUTIES AND  
8 FUNCTIONS REQUIRED TO COMPLETE THE NOTARIAL ACT IN ACCORDANCE  
9 WITH THIS PART 5.

10 (2) IN LIEU OF THE FEE AUTHORIZED IN SUBSECTION (1) OF THIS  
11 SECTION, A NOTARY PUBLIC MAY CHARGE A FEE, NOT TO EXCEED TEN  
12 DOLLARS, FOR THE NOTARY'S ELECTRONIC SIGNATURE.

13 **24-21-530. Change of name or address.** (1) A NOTARY PUBLIC  
14 SHALL NOTIFY THE SECRETARY OF STATE WITHIN THIRTY DAYS AFTER HE  
15 OR SHE CHANGES HIS OR HER NAME, BUSINESS ADDRESS, OR RESIDENTIAL  
16 ADDRESS. IN THE CASE OF A NAME CHANGE, THE NOTARY PUBLIC SHALL  
17 INCLUDE A SAMPLE OF THE NOTARY'S HANDWRITTEN OFFICIAL SIGNATURE  
18 ON THE NOTICE. PURSUANT TO SECTION 24-21-104 (3), THE SECRETARY OF  
19 STATE SHALL DETERMINE THE AMOUNT OF, AND COLLECT, THE FEE,  
20 PAYABLE TO THE SECRETARY OF STATE, FOR RECORDING NOTICE OF  
21 CHANGE OF NAME OR ADDRESS.

22 **24-21-531. Official misconduct by a notary public - liability of**  
23 **notary or surety.** (1) A NOTARY PUBLIC WHO KNOWINGLY AND  
24 WILLFULLY VIOLATES THE DUTIES IMPOSED BY THIS PART 5 COMMITS  
25 OFFICIAL MISCONDUCT AND IS GUILTY OF A CLASS 2 MISDEMEANOR.

26 (2) A NOTARY PUBLIC AND THE SURETY OR SURETIES ON HIS OR  
27 HER BOND ARE LIABLE TO THE PERSONS INVOLVED FOR ALL DAMAGES

1 PROXIMATELY CAUSED BY THE NOTARY'S OFFICIAL MISCONDUCT.

2 (3) NOTHING IN THIS PART 5 SHALL BE CONSTRUED TO DENY A  
3 NOTARY PUBLIC THE RIGHT TO OBTAIN A SURETY BOND OR INSURANCE ON  
4 A VOLUNTARY BASIS TO PROVIDE COVERAGE FOR LIABILITY.

5 **24-21-532. Willful impersonation.** A PERSON WHO ACTS AS, OR  
6 OTHERWISE WILLFULLY IMPERSONATES, A NOTARY PUBLIC WHILE NOT  
7 LAWFULLY APPOINTED AND COMMISSIONED TO PERFORM NOTARIAL ACTS  
8 IS GUILTY OF A CLASS 2 MISDEMEANOR.

9 **24-21-533. Wrongful possession of journal or seal.** A PERSON  
10 WHO UNLAWFULLY POSSESSES AND USES A NOTARY'S JOURNAL, AN  
11 OFFICIAL SEAL, A NOTARY'S ELECTRONIC SIGNATURE, OR ANY PAPERS,  
12 COPIES, OR ELECTRONIC RECORDS RELATING TO NOTARIAL ACTS IS GUILTY  
13 OF A CLASS 3 MISDEMEANOR.

14 **24-21-534. Certification restrictions.** (1) THE SECRETARY OF  
15 STATE MAY ISSUE CERTIFICATES OR APOSTILLES ATTESTING TO THE  
16 AUTHENTICITY OF A NOTARIAL ACT PERFORMED BY A COMMISSIONED  
17 NOTARY PUBLIC.

18 (2) THE SECRETARY OF STATE SHALL NOT CERTIFY A SIGNATURE  
19 OF A NOTARY PUBLIC ON:

20 (a) A RECORD THAT IS NOT PROPERLY NOTARIZED IN ACCORDANCE  
21 WITH THE REQUIREMENTS OF THIS PART 5;

22 (b) A RECORD:

23 (I) REGARDING ALLEGIANCE TO A GOVERNMENT OR JURISDICTION;

24 (II) RELATING TO THE RELINQUISHMENT OR RENUNCIATION OF  
25 CITIZENSHIP, SOVEREIGNTY, IN ITINERE STATUS OR WORLD SERVICE  
26 AUTHORITY; OR

27 (III) SETTING FORTH OR IMPLYING FOR THE BEARER A CLAIM OF



1 IMMUNITY FROM THE LAW OF THIS STATE OR FEDERAL LAW.

2 **24-21-535. Notary public commission in effect.** A COMMISSION  
3 AS A NOTARY PUBLIC IN EFFECT ON THE EFFECTIVE DATE OF THIS PART 5  
4 CONTINUES UNTIL ITS DATE OF EXPIRATION. A NOTARY PUBLIC WHO  
5 APPLIES TO RENEW A COMMISSION AS A NOTARY PUBLIC ON OR AFTER THE  
6 EFFECTIVE DATE OF THIS PART 5 IS SUBJECT TO AND SHALL COMPLY WITH  
7 THIS PART 5. A NOTARY PUBLIC, IN PERFORMING NOTARIAL ACTS AFTER  
8 THE EFFECTIVE DATE OF THIS PART 5, SHALL COMPLY WITH THIS PART 5.

9 **24-21-536. Savings clause.** THIS PART 5 DOES NOT AFFECT THE  
10 VALIDITY OR EFFECT OF A NOTARIAL ACT PERFORMED BEFORE THE  
11 EFFECTIVE DATE OF THIS PART 5.

12 **24-21-537. Uniformity of application and construction.** IN  
13 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE  
14 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT  
15 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

16 **24-21-538. Relation to "Electronic Signatures in Global and  
17 National Commerce Act".** THIS PART 5 MODIFIES, LIMITS, AND  
18 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
19 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,  
20 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001  
21 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES  
22 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

23 **24-21-539. Effective date.** THIS PART 5 TAKES EFFECT ON **JULY**  
24 **1, 2018.**

25 **24-21-540. Repeal.** THIS PART 5 IS REPEALED, EFFECTIVE  
26 SEPTEMBER 1, 2018. BEFORE ITS REPEAL, THIS PART 5 IS SCHEDULED FOR  
27 REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

1           **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **amend**  
2 (14)(a)(VII) as follows:

3           **24-34-104. General assembly review of regulatory agencies**  
4 **and functions for repeal, continuation, or reestablishment - legislative**  
5 **declaration - repeal.** (14) (a) The following agencies, functions, or both,  
6 will repeal on July 1, 2018:

7           (VII) The appointment of notaries public through the secretary of  
8 state in accordance with ~~part 1 of article 55 of title 12, C.R.S. PART 5 OF~~  
9 ~~ARTICLE 21 OF THIS TITLE 24;~~

10           **SECTION 4. Act subject to petition - effective date -**  
11 **applicability.** (1) This act takes effect **July 1, 2018**; except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within the ninety-day period after final adjournment of the general  
15 assembly, then the act, item, section, or part will not take effect unless  
16 approved by the people at the general election to be held in November  
17 2018 and, in such case, will take effect on **July 1, 2018**, or on the date of  
18 the official declaration of the vote thereon by the governor, whichever is  
19 later.

20           (2) This act applies to conduct occurring on or after the applicable  
21 effective date of this act.

22 <{*Do you want a safety clause or a specific effective date? The*  
23 *secretary of state will probably need some time to promulgate rules*  
24 *before the new law becomes effective, and so we may need to coordinate*  
25 *the repeal of existing law with the promulgation of implementing rules*  
26 *by a date certain. That rule-making authority would need to take effect*

- 1 *before either the repeal of existing law or the effectiveness of the new*
- 2 *law.*>

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.9.16

DRAFT

LLS NO. 17-0191.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC:** "Register Athlete Agents Revised Uniform Act 2015"

**A BILL FOR AN ACT**

101 CONCERNING THE "REVISED UNIFORM ATHLETE AGENTS ACT  
102 (2015)".

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** Athlete agents first became regulated in Colorado through the enactment of the "Uniform Athlete Agents Act" in 2008, which, among other requirements, required athlete agents to register with the department of regulatory agencies. The general assembly repealed the registration requirement in 2010.

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The bill enacts the "Revised Uniform Athlete Agents Act (2015)", drafted by the National Conference of Commissioners on Uniform State Laws. The revised act establishes new provisions for registration and renewal of registration for athlete agents, to be administered by the secretary of state. The revised act is subject to sunset review in 2026.

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*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **repeal and reenact, with amendments,** part 2 of article 16 of title 23 as follows:

PART 2

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

**23-16-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS THE "REVISED UNIFORM ATHLETE AGENTS ACT (2015)".

**23-16-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY CONTRACT" MEANS AN AGREEMENT IN WHICH A STUDENT ATHLETE AUTHORIZES A PERSON TO NEGOTIATE OR SOLICIT ON BEHALF OF THE STUDENT ATHLETE A PROFESSIONAL-SPORTS-SERVICES CONTRACT OR AN ENDORSEMENT CONTRACT.

(2) "ATHLETE AGENT":

(a) MEANS AN INDIVIDUAL, WHETHER OR NOT REGISTERED UNDER THIS PART 2, WHO:

(I) DIRECTLY OR INDIRECTLY RECRUITS OR SOLICITS A STUDENT ATHLETE TO ENTER INTO AN AGENCY CONTRACT OR, FOR COMPENSATION, PROCURES EMPLOYMENT OR OFFERS, PROMISES, ATTEMPTS, OR NEGOTIATES TO OBTAIN EMPLOYMENT FOR A STUDENT ATHLETE AS A PROFESSIONAL ATHLETE OR MEMBER OF A PROFESSIONAL SPORTS TEAM OR ORGANIZATION;

(II) FOR COMPENSATION OR IN ANTICIPATION OF COMPENSATION

1 RELATED TO A STUDENT ATHLETE'S PARTICIPATION IN ATHLETICS:

2 (A) SERVES THE STUDENT ATHLETE IN AN ADVISORY CAPACITY ON  
3 A MATTER RELATED TO FINANCES, BUSINESS PURSUITS, OR CAREER  
4 MANAGEMENT DECISIONS, UNLESS THE INDIVIDUAL IS AN EMPLOYEE OF AN  
5 EDUCATIONAL INSTITUTION AND IS ACTING EXCLUSIVELY AS AN EMPLOYEE  
6 OF THE INSTITUTION FOR THE BENEFIT OF THE INSTITUTION; OR

7 (B) MANAGES THE BUSINESS AFFAIRS OF THE STUDENT ATHLETE  
8 BY PROVIDING ASSISTANCE WITH BILLS, PAYMENTS, CONTRACTS, OR  
9 TAXES; OR

10 (III) IN ANTICIPATION OF REPRESENTING A STUDENT ATHLETE FOR  
11 A PURPOSE RELATED TO THE STUDENT ATHLETE'S PARTICIPATION IN  
12 ATHLETICS:

13 (A) GIVES CONSIDERATION TO THE STUDENT ATHLETE OR  
14 ANOTHER PERSON;

15 (B) SERVES THE STUDENT ATHLETE IN AN ADVISORY CAPACITY ON  
16 A MATTER RELATED TO FINANCES, BUSINESS PURSUITS, OR CAREER  
17 MANAGEMENT DECISIONS; OR

18 (C) MANAGES THE BUSINESS AFFAIRS OF THE STUDENT ATHLETE  
19 BY PROVIDING ASSISTANCE WITH BILLS, PAYMENTS, CONTRACTS, OR  
20 TAXES; BUT

21 (b) DOES NOT INCLUDE AN INDIVIDUAL WHO:

22 (I) ACTS SOLELY ON BEHALF OF A PROFESSIONAL SPORTS TEAM OR  
23 ORGANIZATION; OR

24 (II) IS A LICENSED, REGISTERED, OR CERTIFIED PROFESSIONAL AND  
25 OFFERS OR PROVIDES SERVICES TO A STUDENT ATHLETE THAT ARE  
26 CUSTOMARILY PROVIDED BY MEMBERS OF THE PROFESSION, UNLESS THE  
27 INDIVIDUAL:

1 (A) ALSO RECRUITS OR SOLICITS THE STUDENT ATHLETE TO ENTER  
2 INTO AN AGENCY CONTRACT;

3 (B) ALSO, FOR COMPENSATION, PROCURES EMPLOYMENT OR  
4 OFFERS, PROMISES, ATTEMPTS, OR NEGOTIATES TO OBTAIN EMPLOYMENT  
5 FOR THE ATHLETE AS A PROFESSIONAL ATHLETE OR MEMBER OF A  
6 PROFESSIONAL SPORTS TEAM OR ORGANIZATION; OR

7 (C) RECEIVES CONSIDERATION FOR PROVIDING THE SERVICES,  
8 WHICH CONSIDERATION IS CALCULATED USING A DIFFERENT METHOD THAN  
9 FOR AN INDIVIDUAL WHO IS NOT A STUDENT ATHLETE.

10 (3) "ATHLETIC DIRECTOR" MEANS THE INDIVIDUAL RESPONSIBLE  
11 FOR ADMINISTERING THE OVERALL ATHLETIC PROGRAM OF AN  
12 EDUCATIONAL INSTITUTION OR, IF AN EDUCATIONAL INSTITUTION HAS  
13 SEPARATELY ADMINISTERED ATHLETIC PROGRAMS FOR MALE STUDENTS  
14 AND FEMALE STUDENTS, THE ATHLETIC PROGRAM FOR MALES OR THE  
15 ATHLETIC PROGRAM FOR FEMALES, AS APPROPRIATE.

16 (4) "EDUCATIONAL INSTITUTION" MEANS A PUBLIC OR PRIVATE  
17 ELEMENTARY SCHOOL, SECONDARY SCHOOL, TECHNICAL OR VOCATIONAL  
18 SCHOOL, COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY.

19 (5) "ENDORSEMENT CONTRACT" MEANS AN AGREEMENT UNDER  
20 WHICH A STUDENT ATHLETE IS EMPLOYED OR RECEIVES CONSIDERATION  
21 TO USE ON BEHALF OF THE OTHER PARTY ANY VALUE THAT THE STUDENT  
22 ATHLETE MAY HAVE BECAUSE OF PUBLICITY, REPUTATION, FOLLOWING, OR  
23 FAME OBTAINED BECAUSE OF ATHLETIC ABILITY OR PERFORMANCE.

24 (6) "ENROLLED" MEANS REGISTERED FOR COURSES AND  
25 ATTENDING ATHLETIC PRACTICE OR CLASS. "ENROLLS" HAS A  
26 CORRESPONDING MEANING.

27 (7) "INTERCOLLEGIATE SPORT" MEANS A SPORT PLAYED AT THE

1 COLLEGIATE LEVEL FOR WHICH ELIGIBILITY REQUIREMENTS FOR  
2 PARTICIPATION BY A STUDENT ATHLETE ARE ESTABLISHED BY A NATIONAL  
3 ASSOCIATION THAT PROMOTES OR REGULATES COLLEGIATE ATHLETICS.

4 (8) "INTERSCHOLASTIC SPORT" MEANS A SPORT PLAYED BETWEEN  
5 EDUCATIONAL INSTITUTIONS THAT ARE NOT COMMUNITY COLLEGES,  
6 COLLEGES, OR UNIVERSITIES.

7 (9) "LICENSED, REGISTERED, OR CERTIFIED PROFESSIONAL" MEANS  
8 AN INDIVIDUAL LICENSED, REGISTERED, OR CERTIFIED AS AN ATTORNEY,  
9 DEALER IN SECURITIES, FINANCIAL PLANNER, INSURANCE AGENT, REAL  
10 ESTATE BROKER OR SALES AGENT, TAX CONSULTANT, ACCOUNTANT, OR  
11 MEMBER OF A PROFESSION, OTHER THAN THAT OF ATHLETE AGENT, WHO  
12 IS LICENSED, REGISTERED, OR CERTIFIED BY THE STATE OR A NATIONALLY  
13 RECOGNIZED ORGANIZATION THAT LICENSES, REGISTERS, OR CERTIFIES  
14 MEMBERS OF THE PROFESSION ON THE BASIS OF EXPERIENCE, EDUCATION,  
15 OR TESTING.

16 (10) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR  
17 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR  
18 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER  
19 LEGAL ENTITY.

20 (11) "PROFESSIONAL-SPORTS-SERVICES CONTRACT" MEANS AN  
21 AGREEMENT UNDER WHICH AN INDIVIDUAL IS EMPLOYED AS A  
22 PROFESSIONAL ATHLETE OR AGREES TO RENDER SERVICES AS A PLAYER ON  
23 A PROFESSIONAL SPORTS TEAM OR WITH A PROFESSIONAL SPORTS  
24 ORGANIZATION.

25 (12) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A  
26 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER  
27 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.



1 (13) "RECRUIT OR SOLICIT" MEANS TO ATTEMPT TO INFLUENCE THE  
2 CHOICE OF AN ATHLETE AGENT BY A STUDENT ATHLETE OR, IF THE  
3 STUDENT ATHLETE IS A MINOR, A PARENT OR GUARDIAN OF THE ATHLETE.  
4 THE TERM DOES NOT INCLUDE GIVING ADVICE ON THE SELECTION OF A  
5 PARTICULAR ATHLETE AGENT IN A FAMILY, COACHING, OR SOCIAL  
6 SITUATION UNLESS THE INDIVIDUAL GIVING THE ADVICE DOES SO BECAUSE  
7 OF THE RECEIPT OR ANTICIPATED RECEIPT OF AN ECONOMIC BENEFIT,  
8 DIRECTLY OR INDIRECTLY, FROM THE ATHLETE AGENT.

9 (14) "REGISTRATION" MEANS REGISTRATION AS AN ATHLETE  
10 AGENT UNDER THIS PART 2.

11 (15) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR  
12 ADOPT A RECORD:

13 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

14 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD  
15 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

16 (16) "STATE" MEANS A STATE OF THE UNITED STATES, THE  
17 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN  
18 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE  
19 JURISDICTION OF THE UNITED STATES.

20 (17) "STUDENT ATHLETE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE  
21 TO ATTEND AN EDUCATIONAL INSTITUTION AND ENGAGES IN, IS ELIGIBLE  
22 TO ENGAGE IN, OR MAY BE ELIGIBLE IN THE FUTURE TO ENGAGE IN, ANY  
23 INTERSCHOLASTIC OR INTERCOLLEGIATE SPORT. "STUDENT ATHLETE"  
24 DOES NOT INCLUDE AN INDIVIDUAL PERMANENTLY INELIGIBLE TO  
25 PARTICIPATE IN A PARTICULAR INTERSCHOLASTIC OR INTERCOLLEGIATE  
26 SPORT FOR PURPOSES OF THAT SPORT.

27 **23-16-203. Authority - procedure - rules.** THE "STATE

1 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, APPLIES TO  
2 THIS PART 2. THE SECRETARY OF STATE MAY ADOPT RULES PURSUANT TO  
3 THE REQUIREMENTS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT"  
4 TO IMPLEMENT THIS PART 2.

5 **23-16-204. Athlete agent - registration required - void**  
6 **contract.** (1) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBSECTION (2) OF  
7 THIS SECTION, EFFECTIVE JANUARY 1, 2018, AN INDIVIDUAL SHALL NOT  
8 ACT AS AN ATHLETE AGENT IN THIS STATE WITHOUT HOLDING A VALID  
9 CERTIFICATE OF REGISTRATION UNDER THIS PART 2.

10 (2) BEFORE BEING ISSUED A CERTIFICATE OF REGISTRATION UNDER  
11 THIS PART 2, AN INDIVIDUAL MAY ACT AS AN ATHLETE AGENT IN THIS  
12 STATE FOR ALL PURPOSES, EXCEPT SIGNING AN AGENCY CONTRACT, IF:

13 (a) A STUDENT ATHLETE OR ANOTHER PERSON ACTING ON BEHALF  
14 OF THE STUDENT ATHLETE INITIATES COMMUNICATION WITH THE  
15 INDIVIDUAL; AND

16 (b) NOT LATER THAN SEVEN DAYS AFTER AN INITIAL ACTION THAT  
17 REQUIRES THE INDIVIDUAL TO REGISTER AS AN ATHLETE AGENT AND THAT  
18 OCCURS ON OR AFTER JANUARY 1, 2018, THE INDIVIDUAL SUBMITS AN  
19 APPLICATION FOR REGISTRATION AS AN ATHLETE AGENT IN THIS STATE.

20 (3) AN AGENCY CONTRACT THAT RESULTS FROM CONDUCT IN  
21 VIOLATION OF THIS SECTION IS VOID, AND THE ATHLETE AGENT OR  
22 INDIVIDUAL SHALL RETURN ANY CONSIDERATION RECEIVED UNDER THE  
23 CONTRACT.

24 **23-16-205. Registration as athlete agent - application -**  
25 **requirements - reciprocal registration.** (1) AN APPLICANT FOR  
26 REGISTRATION AS AN ATHLETE AGENT MUST SUBMIT AN APPLICATION FOR  
27 REGISTRATION TO THE SECRETARY OF STATE IN A FORM PRESCRIBED BY

1 THE SECRETARY OF STATE. THE APPLICANT MUST BE AN INDIVIDUAL, AND  
2 THE APPLICANT SHALL SIGN THE APPLICATION UNDER PENALTY OF  
3 PERJURY. THE APPLICATION MUST CONTAIN AT LEAST THE FOLLOWING  
4 INFORMATION:

5 (a) THE NAME AND DATE AND PLACE OF BIRTH OF THE APPLICANT  
6 AND THE FOLLOWING CONTACT INFORMATION FOR THE APPLICANT:

7 (I) THE ADDRESS OF THE APPLICANT'S PRINCIPAL PLACE OF  
8 BUSINESS;

9 (II) WORK AND MOBILE TELEPHONE NUMBERS; AND

10 (III) ANY MEANS OF COMMUNICATING ELECTRONICALLY,  
11 INCLUDING A FACSIMILE NUMBER, ELECTRONIC-MAIL ADDRESS, AND  
12 PERSONAL AND BUSINESS OR EMPLOYER WEBSITES;

13 (b) THE NAME OF THE APPLICANT'S BUSINESS OR EMPLOYER, IF  
14 APPLICABLE, INCLUDING FOR EACH BUSINESS OR EMPLOYER ITS MAILING  
15 ADDRESS, TELEPHONE NUMBER, ORGANIZATION FORM, AND THE NATURE  
16 OF THE BUSINESS;

17 (c) EACH SOCIAL MEDIA ACCOUNT WITH WHICH THE APPLICANT OR  
18 THE APPLICANT'S BUSINESS OR EMPLOYER IS AFFILIATED;

19 (d) EACH BUSINESS OR OCCUPATION IN WHICH THE APPLICANT  
20 ENGAGED WITHIN FIVE YEARS BEFORE THE DATE OF THE APPLICATION,  
21 INCLUDING SELF-EMPLOYMENT AND EMPLOYMENT BY OTHERS, AND ANY  
22 PROFESSIONAL OR OCCUPATIONAL LICENSE, REGISTRATION, OR  
23 CERTIFICATION HELD BY THE APPLICANT DURING THAT TIME;

24 (e) A DESCRIPTION OF THE APPLICANT'S:

25 (I) FORMAL TRAINING AS AN ATHLETE AGENT;

26 (II) PRACTICAL EXPERIENCE AS AN ATHLETE AGENT; AND

27 (III) EDUCATIONAL BACKGROUND RELATING TO THE APPLICANT'S

1 ACTIVITIES AS AN ATHLETE AGENT;

2 (f) THE NAME OF EACH STUDENT ATHLETE FOR WHOM THE  
3 APPLICANT ACTED AS AN ATHLETE AGENT WITHIN THE FIVE YEARS PRIOR  
4 TO THE DATE OF THE APPLICATION OR, IF THE STUDENT ATHLETE IS A  
5 MINOR, THE NAME OF HIS OR HER PARENT OR GUARDIAN, TOGETHER WITH  
6 THE STUDENT ATHLETE'S SPORT AND LAST-KNOWN TEAM;

7 (g) THE NAME AND ADDRESS OF EACH PERSON WHO:

8 (I) IS A PARTNER, MEMBER, OFFICER, MANAGER, ASSOCIATE, OR  
9 PROFIT SHARER OR DIRECTLY OR INDIRECTLY HOLDS AN EQUITY INTEREST  
10 OF FIVE PERCENT OR GREATER OF THE ATHLETE AGENT'S BUSINESS IF IT IS  
11 NOT A CORPORATION; AND

12 (II) IS AN OFFICER OR DIRECTOR OF A CORPORATION EMPLOYING  
13 THE ATHLETE AGENT OR A SHAREHOLDER HAVING AN INTEREST OF FIVE  
14 PERCENT OR GREATER IN THE CORPORATION;

15 (h) A DESCRIPTION OF THE STATUS OF ANY APPLICATION BY THE  
16 APPLICANT, OR ANY PERSON NAMED PURSUANT TO SUBSECTION (1)(g) OF  
17 THIS SECTION, FOR A STATE OR FEDERAL BUSINESS, PROFESSIONAL, OR  
18 OCCUPATIONAL LICENSE, OTHER THAN AS AN ATHLETE AGENT, FROM A  
19 STATE OR FEDERAL AGENCY, INCLUDING ANY DENIAL, REFUSAL TO RENEW,  
20 SUSPENSION, WITHDRAWAL, OR TERMINATION OF THE LICENSE AND ANY  
21 REPRIMAND OR CENSURE RELATED TO THE LICENSE;

22 (i) WHETHER THE APPLICANT, OR ANY PERSON NAMED PURSUANT  
23 TO SUBSECTION (1)(g) OF THIS SECTION, HAS PLEADED GUILTY OR NO  
24 CONTEST TO, HAS BEEN CONVICTED OF, OR HAS CHARGES PENDING FOR, A  
25 CRIME THAT WOULD INVOLVE MORAL TURPITUDE OR BE A FELONY IF  
26 COMMITTED IN THIS STATE AND, IF SO, IDENTIFICATION OF:

27 (I) THE CRIME;

1 (II) THE LAW ENFORCEMENT AGENCY INVOLVED; AND

2 (III) IF APPLICABLE, THE DATE OF THE CONVICTION AND THE FINE  
3 OR PENALTY IMPOSED;

4 (j) WHETHER, WITHIN FIFTEEN YEARS BEFORE THE DATE OF  
5 APPLICATION, THE APPLICANT, OR ANY PERSON NAMED PURSUANT TO  
6 SUBSECTION (1)(g) OF THIS SECTION, HAS BEEN A DEFENDANT OR  
7 RESPONDENT IN A CIVIL PROCEEDING, INCLUDING A PROCEEDING SEEKING  
8 AN ADJUDICATION AND, IF SO, THE DATE AND A FULL EXPLANATION OF  
9 EACH PROCEEDING;

10 (k) WHETHER THE APPLICANT, OR ANY PERSON NAMED PURSUANT  
11 TO SUBSECTION (1)(g) OF THIS SECTION, HAS AN UNSATISFIED JUDGMENT  
12 OR A JUDGMENT OF CONTINUING EFFECT, INCLUDING SPOUSAL  
13 MAINTENANCE OR A DOMESTIC ORDER IN THE NATURE OF CHILD SUPPORT,  
14 WHICH IS NOT CURRENT AT THE DATE OF THE APPLICATION;

15 (l) WHETHER, WITHIN TEN YEARS BEFORE THE DATE OF  
16 APPLICATION, THE APPLICANT, OR ANY PERSON NAMED PURSUANT TO  
17 SUBSECTION (1)(g) OF THIS SECTION, WAS ADJUDICATED BANKRUPT OR  
18 WAS AN OWNER OF A BUSINESS THAT WAS ADJUDICATED BANKRUPT;

19 (m) WHETHER THERE HAS BEEN ANY ADMINISTRATIVE OR JUDICIAL  
20 DETERMINATION THAT THE APPLICANT, OR ANY PERSON NAMED PURSUANT  
21 TO SUBSECTION (1)(g) OF THIS SECTION, MADE A FALSE, MISLEADING,  
22 DECEPTIVE, OR FRAUDULENT REPRESENTATION;

23 (n) EACH INSTANCE IN WHICH CONDUCT OF THE APPLICANT, OR  
24 ANY PERSON NAMED PURSUANT TO SUBSECTION (1)(g) OF THIS SECTION,  
25 RESULTED IN THE IMPOSITION OF A SANCTION, SUSPENSION, OR  
26 DECLARATION OF INELIGIBILITY TO PARTICIPATE IN AN INTERSCHOLASTIC,  
27 INTERCOLLEGIATE, OR PROFESSIONAL ATHLETIC EVENT ON A STUDENT

1 ATHLETE OR A SANCTION ON AN EDUCATIONAL INSTITUTION;

2 (o) EACH SANCTION, SUSPENSION, OR DISCIPLINARY ACTION TAKEN  
3 AGAINST THE APPLICANT, OR ANY PERSON NAMED PURSUANT TO  
4 SUBSECTION (1)(g) OF THIS SECTION, ARISING OUT OF OCCUPATIONAL OR  
5 PROFESSIONAL CONDUCT;

6 (p) WHETHER THERE HAS BEEN A DENIAL OF AN APPLICATION FOR,  
7 SUSPENSION OR REVOCATION OF, REFUSAL TO RENEW, OR ABANDONMENT  
8 OF, THE REGISTRATION OF THE APPLICANT, OR ANY PERSON NAMED  
9 PURSUANT TO SUBSECTION (1)(g) OF THIS SECTION, AS AN ATHLETE AGENT  
10 IN ANY STATE;

11 (q) EACH STATE IN WHICH THE APPLICANT IS CURRENTLY  
12 REGISTERED AS AN ATHLETE AGENT OR HAS APPLIED TO BE REGISTERED AS  
13 AN ATHLETE AGENT;

14 (r) IF THE APPLICANT IS CERTIFIED OR REGISTERED BY A  
15 PROFESSIONAL LEAGUE OR PLAYERS ASSOCIATION:

16 (I) THE NAME OF THE LEAGUE OR ASSOCIATION;

17 (II) THE DATE OF CERTIFICATION OR REGISTRATION, AND THE DATE  
18 OF EXPIRATION OF THE CERTIFICATION OR REGISTRATION, IF ANY; AND

19 (III) IF APPLICABLE, THE DATE OF ANY DENIAL OF AN APPLICATION  
20 FOR, SUSPENSION OR REVOCATION OF, REFUSAL TO RENEW, WITHDRAWAL  
21 OF, OR TERMINATION OF, THE CERTIFICATION OR REGISTRATION OR ANY  
22 REPRIMAND OR CENSURE RELATED TO THE CERTIFICATION OR  
23 REGISTRATION; AND

24 (s) ANY ADDITIONAL INFORMATION REQUIRED BY THE SECRETARY  
25 OF STATE.

26 (2) INSTEAD OF PROCEEDING AS PROVIDED IN SUBSECTION (1) OF  
27 THIS SECTION, AN INDIVIDUAL REGISTERED AS AN ATHLETE AGENT IN

1 ANOTHER STATE MAY APPLY FOR REGISTRATION AS AN ATHLETE AGENT IN  
2 THIS STATE BY SUBMITTING THE FOLLOWING INFORMATION TO THE  
3 SECRETARY OF STATE:

4 (a) A COPY OF THE APPLICATION FOR REGISTRATION IN THE OTHER  
5 STATE;

6 (b) A STATEMENT THAT IDENTIFIES ANY MATERIAL CHANGE IN THE  
7 INFORMATION ON THE APPLICATION IN THE OTHER STATE OR VERIFIES  
8 THERE IS NO MATERIAL CHANGE IN THE INFORMATION, SIGNED UNDER  
9 PENALTY OF PERJURY; AND

10 (c) A COPY OF THE CERTIFICATE OF REGISTRATION FROM THE  
11 OTHER STATE.

12 (3) THE SECRETARY OF STATE SHALL ISSUE A CERTIFICATE OF  
13 REGISTRATION TO AN INDIVIDUAL WHO APPLIES FOR REGISTRATION  
14 PURSUANT TO SUBSECTION (2) OF THIS SECTION IF THE SECRETARY OF  
15 STATE DETERMINES THAT:

16 (a) THE APPLICATION AND REGISTRATION REQUIREMENTS OF THE  
17 OTHER STATE ARE SUBSTANTIALLY SIMILAR TO OR MORE RESTRICTIVE  
18 THAN THOSE OF THIS PART 2; AND

19 (b) THE REGISTRATION HAS NOT BEEN REVOKED OR SUSPENDED  
20 AND NO ACTION INVOLVING THE INDIVIDUAL'S CONDUCT AS AN ATHLETE  
21 AGENT IS PENDING AGAINST THE INDIVIDUAL OR THE INDIVIDUAL'S  
22 REGISTRATION IN ANY STATE.

23 (4) FOR PURPOSES OF IMPLEMENTING SUBSECTION (3) OF THIS  
24 SECTION, THE SECRETARY OF STATE SHALL:

25 (a) COOPERATE WITH NATIONAL ORGANIZATIONS CONCERNED  
26 WITH ATHLETE AGENT ISSUES AND AGENCIES IN OTHER STATES WHICH  
27 REGISTER ATHLETE AGENTS TO DEVELOP A COMMON REGISTRATION FORM

1 AND DETERMINE WHICH STATES HAVE LAWS THAT ARE SUBSTANTIALLY  
2 SIMILAR TO OR MORE RESTRICTIVE THAN THOSE OF THIS PART 2; AND

3 (b) EXCHANGE INFORMATION, INCLUDING INFORMATION RELATED  
4 TO ACTIONS TAKEN AGAINST REGISTERED ATHLETE AGENTS OR THEIR  
5 REGISTRATIONS, WITH THOSE ORGANIZATIONS AND AGENCIES.

6 **23-16-206. Certificate of registration - issuance or denial -**  
7 **renewal.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS  
8 SECTION, THE SECRETARY OF STATE SHALL ISSUE A CERTIFICATE OF  
9 REGISTRATION TO AN APPLICANT FOR REGISTRATION WHO COMPLIES WITH  
10 THE PROVISIONS OF SECTION 23-16-205 (1).

11 (2) THE SECRETARY OF STATE MAY REFUSE TO ISSUE A  
12 CERTIFICATE OF REGISTRATION TO AN APPLICANT FOR REGISTRATION  
13 UNDER SECTION 23-16-205 (1) IF THE SECRETARY OF STATE DETERMINES  
14 THAT THE APPLICANT HAS ENGAGED IN CONDUCT THAT SIGNIFICANTLY  
15 ADVERSELY REFLECTS ON THE APPLICANT'S FITNESS TO ACT AS AN  
16 ATHLETE AGENT. IN MAKING THE DETERMINATION, THE SECRETARY OF  
17 STATE MAY CONSIDER WHETHER THE APPLICANT HAS:

18 (a) PLEADED GUILTY OR NO CONTEST TO, HAS BEEN CONVICTED OF,  
19 OR HAS CHARGES PENDING FOR, A CRIME THAT WOULD INVOLVE MORAL  
20 TURPITUDE OR BE A FELONY IF COMMITTED IN THIS STATE;

21 (b) MADE A MATERIALLY FALSE, MISLEADING, DECEPTIVE, OR  
22 FRAUDULENT REPRESENTATION IN THE APPLICATION OR AS AN ATHLETE  
23 AGENT;

24 (c) ENGAGED IN CONDUCT THAT WOULD DISQUALIFY THE  
25 APPLICANT FROM SERVING IN A FIDUCIARY CAPACITY;

26 (d) ENGAGED IN CONDUCT PROHIBITED BY SECTION 23-16-214;

27 (e) HAD A REGISTRATION AS AN ATHLETE AGENT SUSPENDED,



1 REVOKED, OR DENIED IN ANY STATE;

2 (f) BEEN REFUSED RENEWAL OF REGISTRATION AS AN ATHLETE  
3 AGENT IN ANY STATE;

4 (g) ENGAGED IN CONDUCT RESULTING IN IMPOSITION OF A  
5 SANCTION, SUSPENSION, OR DECLARATION OF INELIGIBILITY TO  
6 PARTICIPATE IN AN INTERSCHOLASTIC, INTERCOLLEGIATE, OR  
7 PROFESSIONAL ATHLETIC EVENT ON A STUDENT ATHLETE OR A SANCTION  
8 ON AN EDUCATIONAL INSTITUTION; OR

9 (h) ENGAGED IN CONDUCT THAT ADVERSELY REFLECTS ON THE  
10 APPLICANT'S CREDIBILITY, HONESTY, OR INTEGRITY.

11 (3) IN MAKING A DETERMINATION PURSUANT TO SUBSECTION (2)  
12 OF THIS SECTION, THE SECRETARY OF STATE SHALL CONSIDER:

13 (a) HOW RECENTLY THE CONDUCT OCCURRED;

14 (b) THE NATURE OF THE CONDUCT AND THE CONTEXT IN WHICH IT  
15 OCCURRED; AND

16 (c) OTHER RELEVANT CONDUCT OF THE APPLICANT.

17 (4) AN ATHLETE AGENT REGISTERED UNDER SUBSECTION (1) OF  
18 THIS SECTION MAY APPLY TO RENEW THE REGISTRATION BY SUBMITTING  
19 AN APPLICATION FOR RENEWAL IN A FORM PRESCRIBED BY THE SECRETARY  
20 OF STATE. THE APPLICANT SHALL SIGN THE APPLICATION FOR RENEWAL  
21 UNDER PENALTY OF PERJURY AND INCLUDE CURRENT INFORMATION ON  
22 ALL MATTERS REQUIRED IN AN ORIGINAL APPLICATION FOR REGISTRATION.

23 (5) AN ATHLETE AGENT REGISTERED PURSUANT TO SECTION  
24 23-16-205 (3) MAY RENEW THE REGISTRATION BY PROCEEDING PURSUANT  
25 TO SUBSECTION (4) OF THIS SECTION OR, IF THE REGISTRATION IN THE  
26 OTHER STATE HAS BEEN RENEWED, BY SUBMITTING TO THE SECRETARY OF  
27 STATE COPIES OF THE APPLICATION FOR RENEWAL IN THE OTHER STATE

1 AND THE RENEWED REGISTRATION FROM THE OTHER STATE. THE  
2 SECRETARY OF STATE SHALL RENEW THE REGISTRATION IF THE SECRETARY  
3 OF STATE DETERMINES THAT:

4 (a) THE REGISTRATION REQUIREMENTS OF THE OTHER STATE ARE  
5 SUBSTANTIALLY SIMILAR TO OR MORE RESTRICTIVE THAN THOSE OF THIS  
6 PART 2; AND

7 (b) THE RENEWED REGISTRATION HAS NOT BEEN SUSPENDED OR  
8 REVOKED AND NO ACTION INVOLVING THE INDIVIDUAL'S CONDUCT AS AN  
9 ATHLETE AGENT IS PENDING AGAINST THE INDIVIDUAL OR THE  
10 INDIVIDUAL'S REGISTRATION IN ANY STATE.

11 (6) A CERTIFICATE OF REGISTRATION OR RENEWAL OF  
12 REGISTRATION UNDER THIS PART 2 IS VALID FOR TWO YEARS.

13 **23-16-207. Suspension, revocation, or refusal to renew**  
14 **registration.** (1) THE SECRETARY OF STATE MAY LIMIT, SUSPEND,  
15 REVOKE, OR REFUSE TO RENEW A REGISTRATION OF AN INDIVIDUAL  
16 REGISTERED UNDER SECTION 23-16-206 (1) FOR CONDUCT THAT WOULD  
17 HAVE JUSTIFIED REFUSAL TO ISSUE A CERTIFICATE OF REGISTRATION  
18 UNDER SECTION 23-16-206 (2).

19 (2) THE SECRETARY OF STATE MAY SUSPEND OR REVOKE THE  
20 REGISTRATION OF AN INDIVIDUAL REGISTERED UNDER SECTION 23-16-205  
21 (3) OR RENEWED UNDER SECTION 23-16-206 (5) FOR ANY REASON FOR  
22 WHICH THE SECRETARY OF STATE COULD HAVE REFUSED TO GRANT OR  
23 RENEW REGISTRATION OR FOR CONDUCT THAT WOULD JUSTIFY REFUSAL TO  
24 ISSUE A CERTIFICATE OF REGISTRATION UNDER SECTION 23-16-206 (2).

25 **23-16-208. Temporary registration.** THE SECRETARY OF STATE  
26 MAY ISSUE A TEMPORARY CERTIFICATE OF REGISTRATION AS AN ATHLETE  
27 AGENT WHILE AN APPLICATION FOR REGISTRATION OR RENEWAL OF

1 REGISTRATION IS PENDING.

2 **23-16-209. Registration and renewal fees.** AN APPLICATION FOR  
3 REGISTRATION OR RENEWAL OF REGISTRATION AS AN ATHLETE AGENT  
4 MUST BE ACCOMPANIED BY A FEE IN THE AMOUNT DETERMINED BY RULE  
5 OF THE SECRETARY OF STATE.

6 **23-16-210. Required form of agency contract.** (1) AN AGENCY  
7 CONTRACT MUST BE IN A RECORD SIGNED BY THE PARTIES.

8 (2) AN AGENCY CONTRACT MUST CONTAIN:

9 (a) A STATEMENT THAT THE ATHLETE AGENT IS REGISTERED AS AN  
10 ATHLETE AGENT IN THIS STATE AND A LIST OF ANY OTHER STATES IN  
11 WHICH HE OR SHE IS REGISTERED AS AN ATHLETE AGENT;

12 (b) THE AMOUNT AND METHOD OF CALCULATING THE  
13 CONSIDERATION TO BE PAID BY THE STUDENT ATHLETE FOR SERVICES TO  
14 BE PROVIDED BY THE ATHLETE AGENT UNDER THE CONTRACT AND ANY  
15 OTHER CONSIDERATION THE ATHLETE AGENT HAS RECEIVED OR WILL  
16 RECEIVE FROM ANY OTHER SOURCE FOR ENTERING INTO THE CONTRACT OR  
17 FOR PROVIDING THE SERVICES;

18 (c) THE NAME OF ANY PERSON NOT LISTED IN THE ATHLETE  
19 AGENT'S APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION  
20 WHO WILL BE COMPENSATED BECAUSE THE STUDENT ATHLETE SIGNED THE  
21 CONTRACT;

22 (d) A DESCRIPTION OF ANY EXPENSES THE STUDENT ATHLETE  
23 AGREES TO REIMBURSE;

24 (e) A DESCRIPTION OF THE SERVICES TO BE PROVIDED TO THE  
25 STUDENT ATHLETE BY THE ATHLETE AGENT;

26 (f) THE DURATION OF THE CONTRACT; AND

27 (g) THE DATE OF EXECUTION.

1           (3) SUBJECT TO SUBSECTION (7) OF THIS SECTION, AN AGENCY  
2 CONTRACT MUST CONTAIN A CONSPICUOUS NOTICE IN BOLD-FACED TYPE  
3 AND IN SUBSTANTIALLY THE FOLLOWING FORM:

4                           **WARNING TO STUDENT ATHLETE**

5                           **IF YOU SIGN THIS CONTRACT:**

6                           **(1) YOU MAY LOSE YOUR ELIGIBILITY TO**  
7 **COMPETE AS A STUDENT ATHLETE IN YOUR**  
8 **SPORT;**

9                           **(2) IF YOU HAVE AN ATHLETIC DIRECTOR,**  
10 **WITHIN 72 HOURS AFTER SIGNING THIS**  
11 **CONTRACT OR BEFORE THE NEXT SCHEDULED**  
12 **ATHLETIC EVENT IN WHICH YOU PARTICIPATE,**  
13 **WHICHEVER OCCURS FIRST, BOTH YOU AND**  
14 **YOUR ATHLETE AGENT MUST NOTIFY YOUR**  
15 **ATHLETIC DIRECTOR THAT YOU HAVE**  
16 **ENTERED INTO THIS CONTRACT AND PROVIDE**  
17 **THE NAME AND CONTACT INFORMATION OF**  
18 **THE ATHLETE AGENT; AND**

19                           **(3) YOU MAY CANCEL THIS CONTRACT**  
20 **WITHIN 14 DAYS AFTER SIGNING IT.**  
21 **CANCELLATION OF THIS CONTRACT MAY NOT**  
22 **REINSTATE YOUR ELIGIBILITY AS A STUDENT**  
23 **ATHLETE IN YOUR SPORT.**

24           (4) AN AGENCY CONTRACT MUST BE ACCOMPANIED BY A  
25 SEPARATE RECORD SIGNED BY THE STUDENT ATHLETE OR, IF THE STUDENT  
26 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, ACKNOWLEDGING  
27 THAT SIGNING THE CONTRACT MAY RESULT IN THE LOSS OF THE STUDENT

1 ATHLETE'S ELIGIBILITY TO PARTICIPATE IN THE STUDENT ATHLETE'S SPORT.

2 (5) A STUDENT ATHLETE OR, IF THE STUDENT ATHLETE IS A MINOR,  
3 HIS OR HER PARENT OR GUARDIAN, MAY VOID AN AGENCY CONTRACT THAT  
4 DOES NOT CONFORM TO THIS SECTION. IF THE CONTRACT IS VOIDED, THE  
5 STUDENT ATHLETE IS NOT REQUIRED TO RETURN ANY CONSIDERATION  
6 RECEIVED FROM THE ATHLETE AGENT UNDER THE CONTRACT TO INDUCE  
7 ENTERING INTO THE CONTRACT.

8 (6) AT THE TIME AN AGENCY CONTRACT IS EXECUTED, THE  
9 ATHLETE AGENT SHALL GIVE THE STUDENT ATHLETE OR, IF THE STUDENT  
10 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, A COPY IN A  
11 RECORD OF THE CONTRACT AND THE SEPARATE ACKNOWLEDGMENT  
12 REQUIRED BY SUBSECTION (4) OF THIS SECTION.

13 (7) IF A STUDENT ATHLETE IS A MINOR, AN AGENCY CONTRACT  
14 MUST BE SIGNED BY THE STUDENT ATHLETE'S PARENT OR GUARDIAN AND  
15 THE NOTICE REQUIRED BY SUBSECTION (3) OF THIS SECTION MUST BE  
16 REVISED ACCORDINGLY.

17 **23-16-211. Notice to educational institution.** (1) AS USED IN  
18 THIS SECTION, "COMMUNICATING OR ATTEMPTING TO COMMUNICATE"  
19 MEANS CONTACTING OR ATTEMPTING TO CONTACT BY AN IN-PERSON  
20 MEETING, A RECORD, OR ANY OTHER METHOD THAT CONVEYS OR  
21 ATTEMPTS TO CONVEY A MESSAGE.

22 (2) WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO AN  
23 AGENCY CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN  
24 WHICH THE STUDENT ATHLETE MAY PARTICIPATE, WHICHEVER OCCURS  
25 FIRST, THE ATHLETE AGENT SHALL GIVE NOTICE IN A RECORD OF THE  
26 EXISTENCE OF THE CONTRACT TO THE ATHLETIC DIRECTOR OF THE  
27 EDUCATIONAL INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED

1 OR AT WHICH THE ATHLETE AGENT HAS REASONABLE GROUNDS TO  
2 BELIEVE THE ATHLETE INTENDS TO ENROLL.

3 (3) WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO AN  
4 AGENCY CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN  
5 WHICH THE STUDENT ATHLETE MAY PARTICIPATE, WHICHEVER OCCURS  
6 FIRST, THE STUDENT ATHLETE SHALL INFORM THE ATHLETIC DIRECTOR OF  
7 THE EDUCATIONAL INSTITUTION AT WHICH THE ATHLETE IS ENROLLED  
8 THAT HE OR SHE HAS ENTERED INTO AN AGENCY CONTRACT AND THE  
9 NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT.

10 (4) IF AN ATHLETE AGENT ENTERS INTO AN AGENCY CONTRACT  
11 WITH A STUDENT ATHLETE AND THE STUDENT ATHLETE SUBSEQUENTLY  
12 ENROLLS AT AN EDUCATIONAL INSTITUTION, THE ATHLETE AGENT SHALL  
13 NOTIFY THE ATHLETIC DIRECTOR OF THE EDUCATIONAL INSTITUTION OF  
14 THE CONTRACT'S EXISTENCE WITHIN SEVENTY-TWO HOURS AFTER THE  
15 ATHLETE AGENT KNEW OR SHOULD HAVE KNOWN OF THE STUDENT  
16 ATHLETE'S ENROLLMENT.

17 (5) IF AN ATHLETE AGENT HAS A RELATIONSHIP WITH A STUDENT  
18 ATHLETE BEFORE THE STUDENT ATHLETE ENROLLS IN AN EDUCATIONAL  
19 INSTITUTION AND RECEIVES AN ATHLETIC SCHOLARSHIP FROM THE  
20 EDUCATIONAL INSTITUTION, THE ATHLETE AGENT SHALL NOTIFY THE  
21 EDUCATIONAL INSTITUTION OF THE RELATIONSHIP WITHIN TEN DAYS AFTER  
22 THE STUDENT ATHLETE'S ENROLLMENT IF THE ATHLETE AGENT KNOWS OR  
23 SHOULD HAVE KNOWN OF THE ENROLLMENT AND:

24 (a) THE RELATIONSHIP WAS MOTIVATED IN WHOLE OR IN PART BY  
25 THE INTENTION OF THE ATHLETE AGENT TO RECRUIT OR SOLICIT THE  
26 STUDENT ATHLETE TO ENTER INTO AN AGENCY CONTRACT IN THE FUTURE;  
27 OR

1 (b) THE ATHLETE AGENT DIRECTLY OR INDIRECTLY RECRUITED OR  
2 SOLICITED THE STUDENT ATHLETE TO ENTER INTO AN AGENCY CONTRACT  
3 BEFORE THE ENROLLMENT.

4 (6) AN ATHLETE AGENT SHALL GIVE NOTICE IN A RECORD TO THE  
5 ATHLETIC DIRECTOR OF ANY EDUCATIONAL INSTITUTION AT WHICH A  
6 STUDENT ATHLETE IS ENROLLED BEFORE THE ATHLETE AGENT  
7 COMMUNICATES OR ATTEMPTS TO COMMUNICATE WITH:

8 (a) THE STUDENT ATHLETE OR, IF THE STUDENT ATHLETE IS A  
9 MINOR, HIS OR HER PARENT OR GUARDIAN, TO INFLUENCE THE STUDENT  
10 ATHLETE OR HIS OR HER PARENT OR GUARDIAN TO ENTER INTO AN AGENCY  
11 CONTRACT; OR

12 (b) ANOTHER INDIVIDUAL WITH THE INTENT OF HAVING THAT  
13 INDIVIDUAL INFLUENCE THE STUDENT ATHLETE OR, IF THE STUDENT  
14 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, TO ENTER INTO  
15 AN AGENCY CONTRACT.

16 (7) IF A COMMUNICATION OR AN ATTEMPT TO COMMUNICATE WITH  
17 AN ATHLETE AGENT IS INITIATED BY A STUDENT ATHLETE OR ANOTHER  
18 INDIVIDUAL ON BEHALF OF THE STUDENT ATHLETE, THE ATHLETE AGENT  
19 SHALL NOTIFY IN A RECORD THE ATHLETIC DIRECTOR OF ANY  
20 EDUCATIONAL INSTITUTION AT WHICH THE STUDENT ATHLETE IS  
21 ENROLLED. THE NOTIFICATION MUST BE MADE WITHIN TEN DAYS AFTER  
22 THE COMMUNICATION OR ATTEMPT TO COMMUNICATE.

23 (8) AN EDUCATIONAL INSTITUTION THAT BECOMES AWARE OF A  
24 VIOLATION OF THIS PART 2 BY AN ATHLETE AGENT SHALL PROVIDE NOTICE  
25 OF THE VIOLATION TO THE SECRETARY OF STATE AND ANY PROFESSIONAL  
26 LEAGUE OR PLAYERS ASSOCIATION WITH WHICH THE EDUCATIONAL  
27 INSTITUTION IS AWARE THE ATHLETE AGENT IS LICENSED OR REGISTERED.

1           **23-16-212. Student athlete's right to cancel.** (1) A STUDENT  
2 ATHLETE OR, IF THE STUDENT ATHLETE IS A MINOR, HIS OR HER PARENT OR  
3 GUARDIAN, MAY:

4           (a) CANCEL AN AGENCY CONTRACT BY GIVING NOTICE IN A  
5 RECORD OF CANCELLATION TO THE ATHLETE AGENT WITHIN FOURTEEN  
6 DAYS AFTER THE CONTRACT IS SIGNED; AND

7           (b) NOT WAIVE THE RIGHT TO CANCEL AN AGENCY CONTRACT.

8           (2) IF A STUDENT ATHLETE, PARENT, OR GUARDIAN CANCELS AN  
9 AGENCY CONTRACT, THE STUDENT ATHLETE, PARENT, OR GUARDIAN IS  
10 NOT REQUIRED TO PAY ANY CONSIDERATION UNDER THE CONTRACT OR  
11 RETURN ANY CONSIDERATION RECEIVED FROM THE ATHLETE AGENT TO  
12 INFLUENCE THE STUDENT ATHLETE TO ENTER INTO THE AGENCY  
13 CONTRACT.

14           **23-16-213. Required records.** (1) AN ATHLETE AGENT SHALL  
15 CREATE AND RETAIN THE FOLLOWING RECORDS FOR A PERIOD OF FIVE  
16 YEARS:

17           (a) THE NAME AND ADDRESS OF EACH INDIVIDUAL REPRESENTED  
18 BY THE ATHLETE AGENT;

19           (b) EACH AGENCY CONTRACT ENTERED INTO BY THE ATHLETE  
20 AGENT; AND

21           (c) THE DIRECT COSTS INCURRED BY THE ATHLETE AGENT IN THE  
22 RECRUITMENT OR SOLICITATION OF EACH STUDENT ATHLETE TO ENTER  
23 INTO AN AGENCY CONTRACT.

24           (2) THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION  
25 ARE OPEN TO INSPECTION BY THE SECRETARY OF STATE DURING NORMAL  
26 BUSINESS HOURS.

27           **23-16-214. Prohibited conduct.** (1) AN ATHLETE AGENT, WITH



1 THE INTENT TO INFLUENCE A STUDENT ATHLETE OR, IF THE STUDENT  
2 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, TO ENTER INTO  
3 AN AGENCY CONTRACT, MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS  
4 OR ENCOURAGE ANY OTHER INDIVIDUAL TO TAKE OR ASSIST ANY OTHER  
5 INDIVIDUAL IN TAKING ANY OF THE FOLLOWING ACTIONS ON BEHALF OF  
6 THE ATHLETE AGENT:

7 (a) GIVE MATERIALLY FALSE OR MISLEADING INFORMATION OR  
8 MAKE A MATERIALLY FALSE PROMISE OR REPRESENTATION;

9 (b) FURNISH ANYTHING OF VALUE TO A STUDENT ATHLETE BEFORE  
10 THE STUDENT ATHLETE ENTERS INTO THE AGENCY CONTRACT; OR

11 (c) FURNISH ANYTHING OF VALUE TO ANY INDIVIDUAL OTHER  
12 THAN THE STUDENT ATHLETE OR ANOTHER REGISTERED ATHLETE AGENT.

13 (2) AN ATHLETE AGENT MAY NOT INTENTIONALLY DO ANY OF THE  
14 FOLLOWING ACTIONS OR ENCOURAGE ANY OTHER INDIVIDUAL TO DO ANY  
15 OF THE FOLLOWING ACTIONS ON BEHALF OF THE ATHLETE AGENT:

16 (a) INITIATE CONTACT, DIRECTLY OR INDIRECTLY, WITH A STUDENT  
17 ATHLETE OR, IF THE STUDENT ATHLETE IS A MINOR, HIS OR HER PARENT OR  
18 GUARDIAN, TO RECRUIT OR SOLICIT THE STUDENT ATHLETE OR HIS OR HER  
19 PARENT OR GUARDIAN TO ENTER INTO AN AGENCY CONTRACT UNLESS THE  
20 ATHLETE AGENT IS PROPERLY REGISTERED PURSUANT TO THIS PART 2;

21 (b) FAIL TO CREATE, RETAIN, OR PERMIT INSPECTION OF THE  
22 RECORDS REQUIRED TO BE RETAINED BY SECTION 23-16-213;

23 (c) FAIL TO REGISTER WHEN REQUIRED BY SECTION 23-16-204;

24 (d) PROVIDE MATERIALLY FALSE OR MISLEADING INFORMATION IN  
25 AN APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION;

26 (e) PREDATE OR POSTDATE AN AGENCY CONTRACT; OR

27 (f) FAIL TO NOTIFY A STUDENT ATHLETE OR, IF THE STUDENT

1 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, BEFORE THE  
2 STUDENT ATHLETE OR HIS OR HER PARENT OR GUARDIAN SIGNS AN  
3 AGENCY CONTRACT FOR A PARTICULAR SPORT THAT THE SIGNING MAY  
4 MAKE THE STUDENT ATHLETE INELIGIBLE TO PARTICIPATE AS A STUDENT  
5 ATHLETE IN THAT SPORT.

6 **23-16-215. Criminal penalties.** AN ATHLETE AGENT WHO  
7 VIOLATES SECTION 23-16-214 COMMITS A CLASS 2 MISDEMEANOR, AND  
8 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, FOR A FIRST  
9 OFFENSE AND COMMITS A CLASS 6 FELONY, AND SHALL BE PUNISHED AS  
10 PROVIDED IN SECTION 18-1.3-401, FOR A SECOND OR SUBSEQUENT  
11 OFFENSE.

12 **23-16-216. Civil remedy.** (1) AN EDUCATIONAL INSTITUTION OR  
13 STUDENT ATHLETE MAY BRING AN ACTION FOR DAMAGES AGAINST AN  
14 ATHLETE AGENT IF THE EDUCATIONAL INSTITUTION OR STUDENT ATHLETE  
15 IS ADVERSELY AFFECTED BY AN ACT OR OMISSION OF THE ATHLETE AGENT  
16 IN VIOLATION OF THIS PART 2. AN EDUCATIONAL INSTITUTION OR STUDENT  
17 ATHLETE IS ADVERSELY AFFECTED BY AN ACT OR OMISSION OF AN  
18 ATHLETE AGENT ONLY IF, BECAUSE OF THE ACT OR OMISSION, THE  
19 EDUCATIONAL INSTITUTION OR AN INDIVIDUAL WHO WAS A STUDENT  
20 ATHLETE AT THE TIME OF THE ACT OR OMISSION AND WHO WAS ALSO  
21 ENROLLED IN THE EDUCATIONAL INSTITUTION:

22 (a) IS SUSPENDED OR DISQUALIFIED FROM PARTICIPATION IN AN  
23 INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT BY OR UNDER THE  
24 RULES OF A STATE OR NATIONAL FEDERATION OR ASSOCIATION THAT  
25 PROMOTES OR REGULATES INTERSCHOLASTIC OR INTERCOLLEGIATE  
26 SPORTS; OR

27 (b) SUFFERS FINANCIAL DAMAGE.

1           (2) A PLAINTIFF THAT PREVAILS IN AN ACTION UNDER THIS SECTION  
2 MAY RECOVER COSTS AND REASONABLE ATTORNEY FEES. AN ATHLETE  
3 AGENT FOUND LIABLE UNDER THIS SECTION FORFEITS ANY RIGHT OF  
4 PAYMENT FOR ANYTHING OF BENEFIT OR VALUE PROVIDED TO THE  
5 STUDENT ATHLETE AND SHALL REFUND ANY CONSIDERATION PAID TO THE  
6 ATHLETE AGENT BY OR ON BEHALF OF THE STUDENT ATHLETE.

7           (3) A VIOLATION OF THIS PART 2 IS AN UNFAIR TRADE OR  
8 DECEPTIVE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(kkk).

9           **23-16-217. Civil penalty.** ON MOTION OF THE ATTORNEY  
10 GENERAL OR THE DISTRICT ATTORNEY, THE COURT MAY IMPOSE A CIVIL  
11 PENALTY OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS BUT NOT  
12 MORE THAN FIFTY THOUSAND DOLLARS FOR A VIOLATION OF THIS PART 2.  
13 MONEY COLLECTED UNDER THIS SECTION SHALL BE TRANSMITTED TO THE  
14 STATE TREASURER AND CREDITED TO THE GENERAL FUND.

15           **23-16-218. Uniformity of application and construction.** IN  
16 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE  
17 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT  
18 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

19           **23-16-219. Relation to electronic signatures in global and**  
20 **national commerce act.** THIS PART 2 MODIFIES, LIMITS, OR SUPERSEDES  
21 THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE  
22 ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR  
23 SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR  
24 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN  
25 SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

26           **23-16-220. Athlete agents registration fund - gifts, grants,**  
27 **donations - software.** (1)(a) THE ATHLETE AGENTS REGISTRATION FUND,

1 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE  
2 STATE TREASURY. THE SECRETARY OF STATE SHALL TRANSFER ALL FEES  
3 COLLECTED PURSUANT TO THIS PART 2 TO THE STATE TREASURER, WHO  
4 SHALL CREDIT THEM TO THE FUND. THE FUND CONSISTS OF ALL FEES  
5 CREDITED TO THE FUND PURSUANT TO THIS SECTION AND ANY OTHER  
6 MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER  
7 TO THE FUND.

8 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
9 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
10 FUND TO THE FUND.

11 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
12 ASSEMBLY, THE SECRETARY OF STATE MAY EXPEND MONEY FROM THE  
13 FUND TO ADMINISTER THIS PART 2.

14 (2) THE SECRETARY OF STATE MAY SEEK, ACCEPT, AND EXPEND  
15 GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR  
16 THE PURPOSES OF THIS PART 2. THE SECRETARY OF STATE SHALL  
17 TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS  
18 TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

19 (3) TO REDUCE THE FISCAL IMPACTS OF ADMINISTERING THIS PART  
20 2 AND IN FURTHERANCE OF THE DUTIES SPECIFIED IN SECTION 23-16-205  
21 (4), THE SECRETARY OF STATE IS AUTHORIZED AND ENCOURAGED TO  
22 COORDINATE WITH THE ADMINISTRATORS OF ATHLETE AGENT  
23 REGISTRATION PROGRAMS IN OTHER STATES REGARDING COST-EFFECTIVE  
24 MEANS TO REGISTER ATHLETE AGENTS, INCLUDING THE SHARING OF  
25 NECESSARY SOFTWARE.

26 **23-16-221. Repeal of part.** THIS PART 2 IS REPEALED, EFFECTIVE  
27 SEPTEMBER 1, 2027. BEFORE ITS REPEAL, THIS PART 2 IS SCHEDULED FOR

1 REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

2 **SECTION 2.** In Colorado Revised Statutes, 23-16-104, **amend**  
3 (1) introductory portion and (1)(d) as follows:

4 **23-16-104. Agent contracts - contents - notice - termination.**

5 (1) In addition to the requirements specified in section ~~23-16-209~~  
6 23-16-210 for contracts with athlete agents, any agent contract entered  
7 into between an athlete agent and a student athlete ~~shall~~ MUST also  
8 include:

9 (d) In addition to the warning required to be given to the student  
10 athlete as specified in section ~~23-16-209 (c)~~ 23-16-210 (3), the following  
11 statement in at least ten-point type that is bold-faced, capitalized,  
12 underlined, or otherwise conspicuously set out from surrounding written  
13 material:

14 **WARNING TO STUDENT ATHLETE:**

15 **DO NOT SIGN THIS CONTRACT UNTIL YOU**  
16 **HAVE READ IT OR IF IT CONTAINS BLANK**  
17 **SPACES. DO NOT SIGN THIS CONTRACT IF IT**  
18 **DOES NOT SPECIFY ALL OF THE GUARANTEES**  
19 **MADE TO YOU BY THE ATHLETE AGENT. IF**  
20 **YOU DECIDE THAT YOU DO NOT WISH TO**  
21 **PURCHASE THE SERVICES OF THE ATHLETE**  
22 **AGENT, YOU MAY CANCEL THIS CONTRACT BY**  
23 **NOTIFYING THE ATHLETE AGENT IN WRITING**  
24 **OF YOUR DESIRE TO CANCEL THE CONTRACT**  
25 **WITHIN FOURTEEN DAYS AFTER THE DATE ON**  
26 **WHICH YOU SIGN THIS CONTRACT.**

27 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add** (28)

1 as follows:

2 **24-34-104. General assembly review of regulatory agencies**  
3 **and functions for repeal, continuation, or reestablishment - legislative**  
4 **declaration - repeal.** (28) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR  
5 BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2027:

6 (I) THE REGISTRATION OF STUDENT ATHLETE AGENTS PURSUANT  
7 TO THE "REVISED UNIFORM ATHLETE AGENTS ACT (2015)", PART 2 OF  
8 ARTICLE 16 OF TITLE 23.

9 (b) THIS SUBSECTION (28) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
10 2029.

11 **SECTION 4.** In Colorado Revised Statutes, 6-1-105, **add**  
12 (1)(kkk) as follows:

13 **6-1-105. Deceptive trade practices.** (1) A person engages in a  
14 deceptive trade practice when, in the course of the person's business,  
15 vocation, or occupation, the person:

16 (kkk) VIOLATES PART 2 OF ARTICLE 16 OF TITLE 23.

17 **SECTION 5. Act subject to petition - effective date -**  
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
19 the expiration of the ninety-day period after final adjournment of the  
20 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
21 2017); except that, if a referendum petition is filed pursuant to section 1  
22 (3) of article V of the state constitution against this act or an item, section,  
23 or part of this act within such period, then the act, item, section, or part  
24 will not take effect unless approved by the people at the general election  
25 to be held in November 2018 and, in such case, will take effect on the  
26 date of the official declaration of the vote thereon by the governor.

- 1 (2) This act applies to conduct occurring on or after the applicable
- 2 effective date of this act.
- 3 <{*Do you want a safety clause or a specific effective date?*}>

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.3.16

DRAFT

LLS NO. 17-0192.01 Jerry Barry x4341

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC: "Uniform Wage Garnishment Act"**

**A BILL FOR AN ACT**

101 **CONCERNING THE "UNIFORM WAGE GARNISHMENT ACT".**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** The bill adopts the "Uniform Wage Garnishment Act" (uniform act) and amends existing statutory provisions relating to wage garnishments covered by the uniform act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*



1           **SECTION 1.** In Colorado Revised Statutes, **add** article 54.7 to  
2 title 13 as follows:

3   **ARTICLE 54.7**

4   **Uniform Wage Garnishment Act**

5   PART 1

6   SHORT TITLE AND DEFINITIONS

7           **13-54.7-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 54.7  
8 IS THE "UNIFORM WAGE GARNISHMENT ACT".

9           **13-54.7-102. Definitions.** IN THIS ARTICLE 54.7:

10                   (1) "CREDITOR" MEANS A PERSON THAT HAS AN ENFORCEABLE  
11 MONEY JUDGMENT AGAINST A DEBTOR, INCLUDING A SUCCESSOR IN  
12 INTEREST.

13                   (2) "DEBTOR" MEANS AN INDIVIDUAL AGAINST WHOM A CREDITOR  
14 HAS AN ENFORCEABLE MONEY JUDGMENT.

15                   (3) "DISPOSABLE EARNINGS" MEANS EARNINGS REMAINING AFTER  
16 DEDUCTIONS FOR ANY AMOUNTS REQUIRED BY LAW TO BE WITHHELD.

17                   (4) "EARNINGS" MEANS COMPENSATION OWED BY AN EMPLOYER  
18 TO AN EMPLOYEE FOR PERSONAL SERVICES. THE TERM INCLUDES A WAGE,  
19 SALARY, COMMISSION, BONUS, PROFIT-SHARING DISTRIBUTION,  
20 SEVERANCE PAYMENT, FEE, AND PERIODIC PENSION AND DISABILITY  
21 PAYMENT.

22                   (5) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING  
23 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,  
24 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

25                   (6) "EMPLOYEE" INCLUDES A FORMER EMPLOYEE WHO IS OWED  
26 EARNINGS AND MEANS AN INDIVIDUAL WHO:

27                   (a) IS TREATED BY AN EMPLOYER AS AN EMPLOYEE FOR FEDERAL

1 INCOME TAX PURPOSES; OR

2 (b) RECEIVES EARNINGS FROM AN EMPLOYER THROUGH PERIODIC  
3 PAYMENTS AND IS NOT TREATED BY THE EMPLOYER AS AN EMPLOYEE FOR  
4 FEDERAL INCOME TAX PURPOSES.

5 (7) "EMPLOYER" MEANS A PERSON THAT OWES OR WILL OWE  
6 EARNINGS TO AN EMPLOYEE.

7 (8) "GARNISHEE" MEANS:

8 (a) A PERSON SERVED WITH A WRIT OF CONTINUING GARNISHMENT  
9 UNDER SECTION 13-54.7-203 (2)(b); OR

10 (b) A PERSON THAT HAS A REGISTERED AGENT THAT IS SERVED  
11 WITH A WRIT OF CONTINUING GARNISHMENT UNDER SECTION 13-54.7-203  
12 (2)(a).

13 (9) "GARNISHMENT" MEANS AN ORDERED DEDUCTION FOR  
14 PAYMENT TO A CREDITOR UNDER A GARNISHMENT ACTION.

15 (10) "GARNISHMENT ACTION" MEANS A COURT PROCEEDING IN  
16 WHICH A GARNISHMENT IS SOUGHT.

17 (11) "ORDERED DEDUCTION" MEANS A DEDUCTION BY AN  
18 EMPLOYER FROM THE EARNINGS OF AN EMPLOYEE FOR PAYMENT TO  
19 ANOTHER PERSON UNDER A GARNISHMENT ACTION, SUPPORT ORDER,  
20 ORDER TO RECOVER FEDERAL, STATE, CITY, OR LOCAL TAXES, OR  
21 ADMINISTRATIVE ORDER ISSUED BY A FEDERAL OR STATE AGENCY. THE  
22 TERM DOES NOT INCLUDE A DEDUCTION FROM EARNINGS WITH THE  
23 CONSENT OF THE EMPLOYEE OR FOR CURRENT TAX OBLIGATIONS.

24 (12) "PAYDAY" MEANS A REGULARLY SCHEDULED DAY ON WHICH  
25 AN EMPLOYER PAYS EARNINGS TO AN EMPLOYEE FOR A PAY PERIOD OR, IF  
26 THE DAY OF PAYMENT IS UNCERTAIN OR LESS OFTEN THAN ONCE A MONTH,  
27 THE DAY ON WHICH THE EMPLOYER PAYS EARNINGS TO THE EMPLOYEE.

1           (13) "PAY RECORD" MEANS A RECORD PROVIDED TO AN EMPLOYEE  
2 WHICH INCLUDES A STATEMENT OF THE EMPLOYEE'S TOTAL EARNINGS ON  
3 A PAYDAY AND A LISTING OF THE AMOUNT AND PURPOSE OF EACH  
4 DEDUCTION, IF ANY.

5           (14) "PERIODIC PAYMENTS" MEANS RECURRING PAYMENTS ON SET  
6 INTERVALS.

7           (15) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR  
8 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR  
9 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER  
10 LEGAL ENTITY.

11           (16) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A  
12 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER  
13 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

14           (17) "SEND" MEANS TO:

15           (a) DEPOSIT A RECORD IN THE UNITED STATES MAIL TO THE  
16 LAST-KNOWN ADDRESS OF THE INTENDED RECIPIENT WITH FIRST-CLASS  
17 POSTAGE PROVIDED;

18           (b) DELIVER A RECORD BY ANY OTHER USUAL MEANS OF  
19 COMMUNICATION TO THE LAST-KNOWN ADDRESS OF THE INTENDED  
20 RECIPIENT WITH THE COST OF TRANSMISSION, IF ANY, PROVIDED; OR

21           (c) CAUSE A RECORD TO BE RECEIVED IN ANY OTHER WAY WITHIN  
22 THE TIME IT WOULD HAVE ARRIVED IF SENT PURSUANT TO SUBSECTION  
23 (17)(a) OF THIS SECTION.

24           (18) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR  
25 ADOPT A RECORD, TO:

26           (a) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

27           (b) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN

1 ELECTRONIC SYMBOL, SOUND, OR PROCESS.

2 (19) "STATE" MEANS A STATE OF THE UNITED STATES, THE  
3 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN  
4 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE  
5 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY  
6 RECOGNIZED INDIAN TRIBE.

7 (20) "SUPPORT ORDER" MEANS A JUDGMENT, DECREE, ORDER,  
8 DECISION, OR DIRECTIVE, WHETHER TEMPORARY, FINAL, OR SUBJECT TO  
9 MODIFICATION, ISSUED IN A STATE OR FOREIGN COUNTRY FOR THE BENEFIT  
10 OF A CHILD, SPOUSE, OR FORMER SPOUSE, WHICH PROVIDES FOR MONETARY  
11 SUPPORT, HEALTH CARE, ARREARAGES, RETROACTIVE SUPPORT, OR  
12 REIMBURSEMENT FOR FINANCIAL ASSISTANCE PROVIDED TO AN  
13 INDIVIDUAL OBLIGEE IN PLACE OF CHILD SUPPORT. THE TERM INCLUDES  
14 RELATED COSTS AND FEES, INTEREST, INCOME WITHHOLDING, AUTOMATIC  
15 ADJUSTMENT, REASONABLE ATTORNEY'S FEES, AND OTHER RELIEF.

16 PART 2

17 GARNISHMENT OF EARNINGS

18 **13-54.7-201. Scope.** (1) THIS ARTICLE 54.7 APPLIES ONLY TO A  
19 GARNISHMENT ACTION.

20 (2) THIS ARTICLE 54.7 DOES NOT APPLY TO ANY OTHER REMEDY  
21 AVAILABLE TO A CREDITOR UNDER LAW OF THIS STATE OTHER THAN THIS  
22 ARTICLE 54.7.

23 (3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-54.7-212,  
24 THIS ARTICLE 54.7 DOES NOT APPLY TO AN ORDERED DEDUCTION THAT IS  
25 NOT A GARNISHMENT, INCLUDING AN ORDERED DEDUCTION UNDER:

26 (a) AN ORDER OF A BANKRUPTCY COURT;

27 (b) A DEBT DUE FOR A FEDERAL, STATE, CITY, OR LOCAL TAX; [OR]

- 1 (c) A SUPPORT ORDER [; OR]  
2 (d) [OTHER SPECIFIED ORDERED DEDUCTIONS]. <{Are there any  
3 other special exceptions for Colorado?}>

4 **13-54.7-202. Choice of law.** (1) EXCEPT AS PROVIDED IN  
5 SUBSECTION (2) OF THIS SECTION, THE COURT SHALL DISMISS OR STAY A  
6 GARNISHMENT ACTION IF THE DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT  
7 IN THIS STATE WHEN THE ACTION IS COMMENCED.

8 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY IF THE  
9 EMPLOYER IS SUBJECT TO PERSONAL JURISDICTION IN THIS STATE BUT NOT  
10 IN THE STATE OF THE DEBTOR'S PRINCIPAL PLACE OF WORK.

11 (3) IN A GARNISHMENT ACTION UNDER SUBSECTION (2) OF THIS  
12 SECTION, THIS ARTICLE 54.7 APPLIES; EXCEPT THAT THE DEBTOR IS  
13 ENTITLED TO THE EXEMPTIONS FROM AND LIMITS ON GARNISHMENT  
14 PROVIDED BY THE LAW OF THE JURISDICTION OF THE DEBTOR'S PRINCIPAL  
15 PLACE OF WORK.

16 **13-54.7-203. Commencement of garnishment action.** (1) A  
17 CREDITOR MAY COMMENCE A GARNISHMENT ACTION BY FILING A WRIT OF  
18 GARNISHMENT WITH THE COURT.

19 (2) THE WRIT OF GARNISHMENT UNDER SUBSECTION (1) OF THIS  
20 SECTION MUST BE SERVED:

21 (a) ON THE REGISTERED AGENT IF THE PERSON AGAINST WHOM THE  
22 GARNISHMENT IS SOUGHT HAS A REGISTERED AGENT THAT CAN BE SERVED  
23 WITH REASONABLE DILIGENCE UNDER RULE 4 OF THE COLORADO RULES OF  
24 CIVIL PROCEDURE; OR

25 (b) IF SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY, ON  
26 THE PERSON AGAINST WHOM THE GARNISHMENT IS SOUGHT.

27 (3) THE WRIT OF GARNISHMENT UNDER SUBSECTION (1) OF THIS

1 SECTION MUST INCLUDE:

2 (a) THE NAME OF THE DEBTOR;

3 (b) THE LAST-KNOWN PHYSICAL AND MAILING ADDRESSES OF THE  
4 DEBTOR, OR A STATEMENT THAT THE INFORMATION IS NOT KNOWN;

5 (c) THE AMOUNT THE CREDITOR CLAIMS IS OWED BY THE DEBTOR  
6 AND INFORMATION SUFFICIENT TO IDENTIFY THE JUDGMENT ON WHICH THE  
7 GARNISHMENT ACTION IS BASED;

8 (d) A COMPLETED NOTICE THAT SATISFIES SECTION 13-54.7-208;

9 (e) A NOTICE OF COLORADO RULES ABOUT GARNISHMENT THAT  
10 SATISFIES SECTION 13-54.7-209;

11 (f) THE NAME OF AND CONTACT INFORMATION FOR THE CREDITOR'S  
12 AGENT TO WHOM THE GARNISHEE IS REQUIRED BY SECTIONS 13-54.7-204  
13 (1)(a) AND (1)(b)(I) AND 13-54.7-207 (3) TO SEND INFORMATION; AND

14 (g) THE MAILING ADDRESS TO WHICH THE GARNISHEE MUST SEND  
15 AMOUNTS WITHHELD AND, AT THE CREDITOR'S OPTION, A STATEMENT OF  
16 OTHER REASONABLE MEANS OF SENDING THE AMOUNTS TO THE CREDITOR.

17 (4) THE WRIT OF GARNISHMENT SERVED UNDER SUBSECTION (2) OF  
18 THIS SECTION MUST BE ACCOMPANIED BY:

19 (a) A SEPARATE DOCUMENT PROVIDED ONLY TO THE GARNISHEE  
20 AND NOT FILED WITH THE COURT, WHICH:

21 (I) PROVIDES THE DEBTOR'S DATE OF BIRTH AND FULL SOCIAL  
22 SECURITY NUMBER OR STATES THAT THE DATE OR NUMBER IS NOT KNOWN;  
23 AND

24 (II) IF THE DEBTOR'S FULL SOCIAL SECURITY NUMBER IS NOT  
25 KNOWN, PROVIDES OTHER IDENTIFYING INFORMATION KNOWN TO THE  
26 CREDITOR OR STATES THAT NO OTHER IDENTIFYING INFORMATION IS  
27 KNOWN; AND

1 (b) AN ADMINISTRATIVE FEE OF \$[ ] PAYABLE TO THE  
2 GARNISHEE. <{*How much do you want the administrative fee to be?*}>

3 **13-54.7-204. Garnishee initial response to garnishment action.**

4 (1) NOT LATER THAN TWENTY-ONE DAYS AFTER BEING SERVED WITH A  
5 WRIT OF GARNISHMENT IN A GARNISHMENT ACTION:

6 (a) IF ONE OF THE FOLLOWING GROUNDS APPLIES, THE GARNISHEE  
7 SHALL SEND TO THE AGENT NAMED UNDER SECTION 13-54.7-203 (3)(f) A  
8 NOTICE STATING THE APPLICABLE GROUND:

9 (I) THE DEBTOR IS NOT AN EMPLOYEE OF THE GARNISHEE;

10 (II) THE DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT IN THIS STATE  
11 AND THE EMPLOYER IS SUBJECT TO JURISDICTION IN THE STATE OF THE  
12 DEBTOR'S PRINCIPAL PLACE OF WORK;

13 (III) THE GARNISHMENT DOES NOT CONTAIN ALL THE  
14 INFORMATION REQUIRED BY SECTION 13-54.7-203 (3);

15 (IV) THE WRIT OF GARNISHMENT IS NOT ACCOMPANIED BY THE  
16 SEPARATE DOCUMENT REQUIRED BY SECTION 13-54.7-203 (4)(a) OR THE  
17 DOCUMENT DOES NOT CONTAIN ALL THE REQUIRED INFORMATION; OR

18 (V) THE WRIT OF GARNISHMENT IS NOT ACCOMPANIED BY THE FEE  
19 REQUIRED BY SECTION 13-54.7-203 (4)(b); OR

20 (b) IF SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY, THE  
21 GARNISHEE SHALL:

22 (I) SEND THE AGENT NAMED UNDER SECTION 13-54.7-203 (3)(f) A  
23 NOTICE THAT INCLUDES:

24 (A) A STATEMENT THAT THE NAMED DEBTOR IS AN EMPLOYEE OF  
25 THE GARNISHEE;

26 (B) THE PAY FREQUENCY OF THE EMPLOYEE AND THE DATE OF THE  
27 NEXT PAYDAY;

1 (C) THE NAME OF AND CONTACT INFORMATION FOR THE  
2 GARNISHEE'S AGENT TO WHOM THE CREDITOR MUST SEND INFORMATION  
3 IF REQUIRED BY SECTION 13-54.7-206 (4) AND (6) OR SECTION 13-54.7-213  
4 (2)(b); AND

5 (D) IF THE EMPLOYEE'S EARNINGS ARE SUBJECT TO OTHER  
6 ORDERED DEDUCTIONS, THE NUMBER OF OTHER DEDUCTIONS AND THE  
7 PRIORITY OF EACH DEDUCTION, INCLUDING THE PRIORITY OF THE  
8 GARNISHMENT SOUGHT BY THE WRIT OF GARNISHMENT; AND

9 (II) SEND THE EMPLOYEE A COPY OF THE NOTICES PROVIDED TO  
10 THE GARNISHEE UNDER SECTION 13-54.7-203 (3)(d) AND (3)(e).

11 **13-54.7-205. Beginning of garnishment.** IF SECTION 13-54.7-204  
12 (1)(b)(I) APPLIES, THE EMPLOYER SHALL BEGIN GARNISHMENT ON THE  
13 FIRST PAYDAY THAT OCCURS AT LEAST THIRTY DAYS AFTER THE  
14 EMPLOYER SENDS THE EMPLOYEE THE NOTICES UNDER SECTION  
15 13-54.7-204 (1)(b)(II).

16 **13-54.7-206. Action during pendency of garnishment.** (1) NOT  
17 LATER THAN FIVE BUSINESS DAYS AFTER WITHHOLDING AN AMOUNT FROM  
18 THE EARNINGS OF AN EMPLOYEE PURSUANT TO A GARNISHMENT ACTION,  
19 THE EMPLOYER SHALL SEND THE AMOUNT TO THE CREDITOR AT THE  
20 MAILING ADDRESS SPECIFIED UNDER SECTION 13-54.7-203 (3)(g) OR, AT  
21 THE EMPLOYER'S OPTION, BY ANOTHER MEANS SPECIFIED BY THE CREDITOR  
22 UNDER SECTION 13-54.7-203 (3)(g).

23 (2) IF AN EMPLOYER WITHHOLDS EARNINGS FROM MORE THAN ONE  
24 EMPLOYEE FOR THE SAME CREDITOR AND SPECIFIES THE AMOUNT  
25 ATTRIBUTABLE TO EACH EMPLOYEE, THE EMPLOYER MAY COMBINE THE  
26 AMOUNTS IN ONE PAYMENT TO THE CREDITOR.

27 (3) AN EMPLOYER SHALL NOTIFY AN EMPLOYEE OF ANY AMOUNT



1 WITHHELD AS A GARNISHMENT IN THE SAME MANNER THAT THE EMPLOYER  
2 NOTIFIES THE EMPLOYEE OF OTHER WITHHOLDINGS FROM EARNINGS.

3 (4) AT ANY TIME BEFORE TERMINATION OF A GARNISHMENT  
4 ACTION UNDER SECTION 13-54.7-207 (2), A CREDITOR MAY SEND TO AN  
5 EMPLOYER A NOTICE REQUIRING THE EMPLOYER TO CHANGE ITS RECORDS  
6 TO INDICATE AN INCREASE OR DECREASE IN THE AMOUNT OWED. THE  
7 CREDITOR SHALL SEND THE NOTICE TO THE AGENT NAMED UNDER SECTION  
8 13-54.7-204 (1)(b)(I)(C).

9 (5) AN EMPLOYER THAT RECEIVES A NOTICE UNDER SUBSECTION  
10 (4) OF THIS SECTION SHALL SEND THE EMPLOYEE A COPY OF THE NOTICE OR  
11 A COMPLETED CALCULATION WORKSHEET UNDER SECTION 13-54.7-210.

12 (6) FOR EACH PAYDAY ON WHICH A GARNISHMENT OCCURS, THE  
13 EMPLOYER SHALL MAINTAIN A RECORD SUFFICIENT TO PREPARE FOR EACH  
14 CREDITOR A CALCULATION WORKSHEET UNDER SECTION 13-54.7-210. AT  
15 ANY TIME, AN EMPLOYEE OR CREDITOR MAY REQUEST IN A RECORD A  
16 COMPLETED CALCULATION WORKSHEET. THE CREDITOR SHALL SEND THE  
17 REQUEST TO THE AGENT NAMED UNDER SECTION 13-54.7-204 (1)(b)(I)(C).  
18 NOT LATER THAN FIVE BUSINESS DAYS AFTER RECEIPT OF A REQUEST, THE  
19 EMPLOYER SHALL SEND WITHOUT CHARGE A CALCULATION WORKSHEET  
20 FOR THE MOST RECENT PAYDAY. THE EMPLOYER IS NOT REQUIRED TO  
21 PROVIDE:

22 (a) THE EMPLOYEE MORE THAN ONE CALCULATION WORKSHEET  
23 FOR EACH CREDITOR FOR ANY PAYDAY; OR

24 (b) THE CREDITOR MORE THAN FOUR CALCULATION WORKSHEETS  
25 FOR EACH EMPLOYEE DURING A CALENDAR YEAR.

26 **13-54.7-207. Termination of garnishment action.** (1) NOT  
27 LATER THAN TWENTY-ONE DAYS AFTER RECEIVING NOTICE UNDER SECTION

1 13-54.7-204 (1)(a), A CREDITOR SHALL SEEK DISMISSAL OF THE  
2 GARNISHMENT ACTION OR A PROMPT HEARING UNDER SECTION  
3 13-54.7-302 TO DETERMINE WHETHER THE GARNISHEE IS REQUIRED TO  
4 PROCEED UNDER SECTION 13-54.7-204 (1)(b).

5 (2) A GARNISHMENT BEGUN UNDER SECTION 13-54.7-205  
6 TERMINATES WHEN:

7 (a) THE GARNISHEE'S RECORDS INDICATE THAT THE AMOUNT OWED  
8 BY THE EMPLOYEE HAS BEEN PAID IN FULL; OR

9 (b) THE DEBTOR IS NO LONGER AN EMPLOYEE OF THE GARNISHEE.

10 (3) NOT LATER THAN TWENTY-ONE DAYS AFTER THE FIRST DAY ON  
11 WHICH A DEBTOR IS NO LONGER AN EMPLOYEE OF THE GARNISHEE, THE  
12 GARNISHEE SHALL SEND THE AGENT NAMED UNDER SECTION 13-54.7-203  
13 (3)(f) NOTICE OF THE CESSATION OF EMPLOYMENT.

14 (4) A CREDITOR SHALL SEEK DISMISSAL OF A GARNISHMENT  
15 ACTION NOT LATER THAN TWENTY-ONE DAYS AFTER THE EARLIER OF THE  
16 TIME:

17 (a) THE AMOUNT OWED BY THE DEBTOR IS PAID IN FULL; OR

18 (b) THE CREDITOR RECEIVES THE NOTICE REQUIRED BY  
19 SUBSECTION (3) OF THIS SECTION.

20 **13-54.7-208. Notice to employee of garnishment - form -**  
21 **definition.** (1) IN THIS SECTION, "ORIGINAL CREDITOR" MEANS A PERSON  
22 TO WHICH A DEBTOR ORIGINALLY OWED THE OBLIGATION FOR WHICH A  
23 GARNISHMENT IS SOUGHT.

24 (2) THE NOTICE REQUIRED BY SECTION 13-54.7-203 (3)(d) MUST  
25 BE IN SUBSTANTIALLY THE FOLLOWING FORM:

26 **Notice of Garnishment**  
27 **Money Will Be Taken from Your Pay If You Fail to Act**

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**1. Why Am I  
Getting This  
Notice?**

You are getting this notice because [name of creditor] says you owe them money

- [Name or shortened name of creditor] has started a legal process called "garnishment." The process requires that money be taken from your pay and given to them to pay what you owe. The person who pays you does not keep the money.
- [Name or shortened name of creditor] filled out this form. The law requires the person who pays you to give you this form.
- If the line below is checked, [name or shortened name of creditor] is not the creditor you originally owed money to. If that is the case, knowing the name of the original creditor might help you understand why your pay is being garnished.

\_\_\_ The amount you owe originally comes from a debt you owed to [insert name of original creditor].

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**2. How Much  
Do I Owe?**

[Name or shortened name of creditor] says you currently owe \$[state amount]. The amount could go up if there are more court costs or additional interest. The amount also could go down if you make payments to [name or shortened name of

1 creditor].

2

---

3 The person who pays you will soon be required to  
4 start taking money from your pay. Money will  
5 continue to be taken from your pay until the total  
6 amount you owe on this debt is paid.

7 **3. How Will**

8 **The Amount I** The rules about how much of your pay can be  
9 **Owe Be Paid?** taken are explained in the Notice of Colorado  
10 Rules About Garnishment that you received with  
11 this notice.

12

13 At any time, you can get a report that shows how  
14 the amount taken from your pay was calculated.  
15 To receive this report, you must write or email the  
16 person who pays you.

17 You have three options:

18 *Talk with a lawyer.* A lawyer can explain the  
19 situation to you and help you decide what to do.

20 This office can help you find a lawyer:

21 [insert name and contact information for  
22 legal aid or lawyer referral service]

23 *Contact [insert name or shortened name of*  
24 *creditor].* If you can work something out with  
25 them, money might not have to be taken from your  
26 pay. This is the creditor's contact information:

1 [Insert creditor's contact information]

2 *Request a court hearing.* A hearing could be

3 **4. What** helpful if there are any disagreements about the

4 **Options Do I** garnishment, for example, if you don't think you

5 **Have?** owe money. For help in requesting a hearing,

6 contact:

7 [insert name and address of appropriate

8 entity]

9

---

10 **5. What If I** If you don't do anything, the law requires that

11 **Don't Do** money be taken out of your pay every payday and

12 **Anything?** given to [insert name or shortened name of

13 creditor]. This process continues until you have

14 paid off your debt.

15

---

16 **13-54.7-209. Notice of Colorado rules about garnishment.**

17 (1) THE NOTICE REQUIRED BY SECTION 13-54.7-203 (3)(e) MUST:

18 (a) HAVE A HEADING STATING THAT IT IS THE NOTICE OF  
19 COLORADO RULES ABOUT GARNISHMENT; AND

20 (b) REASONABLY INFORM AN EMPLOYEE OF:

21 (I) THE LIMITS ON WAGE GARNISHMENT UNDER SECTION  
22 13-54.7-211;

23 (II) EXEMPTIONS FROM AND LIMITS ON GARNISHMENT UNDER LAW  
24 OF THIS STATE OTHER THAN THIS ARTICLE 54.7; AND

25 (III) THE PROCESS FOR CLAIMING EXEMPTIONS FROM AND LIMITS  
26 ON GARNISHMENT, IF ANY.

27 **13-54.7-210. Calculation worksheet.** A CALCULATION

1 WORKSHEET REQUIRED UNDER SECTION 13-54.7-206 (5) OR (6) MUST BE  
2 IN SUBSTANTIALLY THE FOLLOWING FORM:

3 **Notice of Garnishment**

4 Debtor:

5 Creditor:

6 For Earnings Paid on:

7 **Calculation of Amount Garnished for this Payday**

8 Disposable Earnings:

9 1. Gross Earnings Paid to Debtor \$ \_\_\_\_\_

10 2. Amounts Withheld:

11 a. Federal social security tax: \$ \_\_\_\_\_

12 b. Federal Medicare tax: \$ \_\_\_\_\_

13 c. Federal income tax: \$ \_\_\_\_\_

14 d. State income tax: \$ \_\_\_\_\_

15 e. City or local tax: \$ \_\_\_\_\_

16 f. Railroad retirement tax: \$ \_\_\_\_\_

17 g. Other: \$ \_\_\_\_\_

18 3. Total Amounts Withheld

19 (Sum of items in line 2) \$ \_\_\_\_\_

20 4. Disposable Earnings

21 (Line 1 minus line 3) \$ \_\_\_\_\_

22 Garnishment Calculation:

23 5. [ \_\_\_ ]% of Disposable Earnings (line 4) \$ \_\_\_\_\_

24 6. Exemption Amount \$ \_\_\_\_\_

25 7. Line 4 minus line 6 (if less than \$0, enter \$0) \$ \_\_\_\_\_

26 8. Enter smaller of line 5 or line 7 \$ \_\_\_\_\_

27 9. Amounts of Other Current Garnishments with Higher



1 AT THE TIME THAT THE EARNINGS ARE PAYABLE.

2 (2) FOR A PAY PERIOD GREATER THAN ONE WEEK, THE AMOUNT IN  
3 SUBSECTION (1)(b) OF THIS SECTION MUST BE ADJUSTED TO BE THE  
4 APPROPRIATE MULTIPLE OF THIRTY TIMES THE STATE OR FEDERAL  
5 MINIMUM WAGE. IN CALCULATING THE MULTIPLE, A PAY PERIOD OF ONE  
6 CALENDAR MONTH IS DEEMED TO BE FOUR AND ONE-THIRD WEEKS.

7 **13-54.7-212. Multiple ordered deductions.** (1) IF MORE THAN  
8 ONE ORDERED DEDUCTION IS IN EFFECT AGAINST AN EMPLOYEE OF AN  
9 EMPLOYER, THE FOLLOWING RULES APPLY:

10 (a) FOR ORDERED DEDUCTIONS WITH HIGHER PRIORITY THAN A  
11 GARNISHMENT, THE GARNISHEE SHALL SEND WITHHELD EARNINGS TO  
12 PERSONS ENTITLED TO THE DEDUCTIONS BEFORE SENDING ANY WITHHELD  
13 EARNINGS UNDER SUBSECTION (1)(b) OR (1)(c) OF THIS SECTION. THE  
14 GARNISHEE SHALL SEND ANY AMOUNTS REMAINING AFTER PAYMENT  
15 UNDER THIS SUBSECTION (1)(a) IN ACCORDANCE WITH SUBSECTIONS (1)(b)  
16 AND (1)(c) OF THIS SECTION.

17 (b) FOR ORDERED DEDUCTIONS WITH THE SAME PRIORITY AS A  
18 GARNISHMENT, THE GARNISHEE SHALL SEND AN EQUAL AMOUNT OF THE  
19 WITHHELD EARNINGS TO EACH PERSON ENTITLED TO THE DEDUCTIONS  
20 WITHOUT REGARD TO THE TIME THE DEDUCTION BECAME EFFECTIVE, THE  
21 AMOUNT OF THE DEBT, OR ANY OTHER FACTOR.

22 (c) FOR ORDERED DEDUCTIONS WITH A LOWER PRIORITY THAN A  
23 GARNISHMENT, THE GARNISHEE SHALL SEND ALL AMOUNTS DUE UNDER  
24 SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION BEFORE ANY PAYMENT  
25 IS MADE ON THE DEDUCTIONS.

26 (2) PRIORITY OF ORDERED DEDUCTIONS IS DETERMINED UNDER  
27 LAW OF THIS STATE OTHER THAN THIS ARTICLE 54.7.



1           **13-54.7-213. Compliance process.** (1) A GARNISHEE IS NOT  
2           LIABLE FOR A SANCTION UNDER SECTION 13-54.7-214 UNLESS:

3           (a) THE DEBTOR OR CREDITOR FILES A MOTION WITH THE COURT  
4           WHICH STATES WITH SPECIFICITY THE NATURE OF THE GARNISHEE'S  
5           FAILURE TO COMPLY WITH THIS ARTICLE 54.7;

6           (b) IF A CREDITOR FILES THE MOTION UNDER SUBSECTION (1)(a) OF  
7           THIS SECTION AND AN AGENT HAS BEEN NAMED UNDER SECTION  
8           13-54.7-204 (1)(b)(I)(C), THE CREDITOR SENDS A COPY OF THE MOTION TO  
9           THE AGENT; AND

10          (c) THE GARNISHEE FAILS:

11           (I) TO SEND THE INFORMATION REQUIRED BY SECTION 13-54.7-204  
12           (1)(a) OR (1)(b)(I), OR (1)(b)(II), AS APPLICABLE, NOT LATER THAN TEN  
13           BUSINESS DAYS AFTER RECEIVING THE MOTION UNDER SUBSECTION (1)(a)  
14           OF THIS SECTION OR A COPY OF THE MOTION UNDER SUBSECTION (1)(b) OF  
15           THIS SECTION, WHICHEVER IS EARLIER;

16           (II) TO BEGIN GARNISHMENT UNDER SECTION 13-54.7-205 NOT  
17           LATER THAN TWENTY-ONE DAYS AFTER RECEIVING THE MOTION OR, IF NO  
18           PAYDAY OCCURS BETWEEN SIX AND TWENTY-ONE DAYS AFTER RECEIVING  
19           THE MOTION, ON THE NEXT PAYDAY LATER THAN TWENTY-ONE DAYS  
20           AFTER RECEIVING THE MOTION UNDER SUBSECTION (1)(a) OF THIS SECTION  
21           OR A COPY OF THE MOTION UNDER SUBSECTION (1)(b) OF THIS SECTION,  
22           WHICHEVER IS EARLIER; OR

23           (III) TO REMIT TO THE CREDITOR, NOT LATER THAN FIVE BUSINESS  
24           DAYS AFTER RECEIVING THE MOTION, THE AMOUNT THAT HAS BEEN  
25           WITHHELD FROM THE EARNINGS OF THE DEBTOR SINCE GARNISHMENT  
26           BEGAN UNDER SECTION 13-54.7-205 BUT NOT PROPERLY REMITTED TO THE  
27           CREDITOR UNDER SECTION 13-54.7-206 (1).

1 (2) FOR GOOD CAUSE, THE COURT MAY WAIVE ALL OR ANY PART  
2 OF THE AMOUNTS OTHERWISE DUE UNDER SECTION 13-54.7-214.

3 **13-54.7-214. Garnishee sanctions for noncompliance.**

4 (1) SUBJECT TO SECTION 13-54.7-213, THE FOLLOWING RULES APPLY:

5 (a) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION  
6 13-54.7-204 IS LIABLE TO THE CREDITOR FOR TWENTY DOLLARS FOR EACH  
7 DAY BEGINNING TWENTY-TWO DAYS AFTER SERVICE OF THE WRIT OF  
8 GARNISHMENT:

9 (I) UNTIL THE GARNISHEE SENDS THE INFORMATION REQUIRED BY  
10 SECTION 13-54.7-204 (1)(a); OR

11 (II) UNTIL THE EARLIER OF THE DAY THE GARNISHEE SENDS THE  
12 INFORMATION REQUIRED BY SUBSECTION 13-54.7-204 (1)(b) OR  
13 GARNISHMENT IS REQUIRED TO BEGIN UNDER SECTION 13-54.7-205.

14 (b) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION  
15 13-54.7-205 IS LIABLE TO THE CREDITOR FOR THE AMOUNT THAT SHOULD  
16 HAVE BEEN WITHHELD PURSUANT TO THAT SECTION AND SENT TO THE  
17 CREDITOR.

18 (c) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION  
19 13-54.7-206 (1) IS LIABLE TO THE CREDITOR FOR:

20 (I) ANY AMOUNT WITHHELD FROM THE EARNINGS OF THE  
21 EMPLOYEE WHICH THE CREDITOR DID NOT RECEIVE BECAUSE OF THE  
22 GARNISHEE'S FAILURE TO SEND THE AMOUNT PROPERLY; AND

23 (II) TWENTY DOLLARS FOR EACH DAY BEGINNING SIX BUSINESS  
24 DAYS AFTER A PAYDAY ON WHICH THE AMOUNT WAS OR SHOULD HAVE  
25 BEEN WITHHELD FROM THE EARNINGS OF THE EMPLOYEE AND ENDING THE  
26 DAY BEFORE THE AMOUNT IS SENT TO THE CREDITOR.

27 (d) A GARNISHEE THAT FAILS UNDER SECTION 13-54.7-206 (5) TO

1 SEND A CALCULATION WORKSHEET OR A COPY OF THE NOTICE RECEIVED  
2 FROM THE CREDITOR IS LIABLE TO THE EMPLOYEE FOR FIVE DOLLARS FOR  
3 EACH DAY BEGINNING ON THE PAYDAY WHEN THE WORKSHEET OR NOTICE  
4 SHOULD HAVE BEEN SENT AND ENDING THE DAY BEFORE THE GARNISHEE  
5 SENDS THE WORKSHEET OR NOTICE.

6 (e) A GARNISHEE THAT FAILS TO COMPLY WITH A REQUEST BY AN  
7 EMPLOYEE OR CREDITOR FOR A CALCULATION WORKSHEET UNDER SECTION  
8 13-54.7-206 (6) IS LIABLE TO THE REQUESTING EMPLOYEE OR CREDITOR  
9 FOR FIVE DOLLARS FOR EACH DAY BEGINNING SIX BUSINESS DAYS AFTER  
10 THE REQUEST AND ENDING THE DAY BEFORE THE GARNISHEE SENDS THE  
11 WORKSHEET.

12 (f) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION  
13 13-54.7-207 (3) IS LIABLE TO THE CREDITOR FOR FIVE DOLLARS FOR EACH  
14 DAY BEGINNING TWENTY-TWO DAYS AFTER THE FIRST DAY ON WHICH THE  
15 DEBTOR IS NO LONGER AN EMPLOYEE OF THE GARNISHEE AND ENDING THE  
16 DAY THE NOTICE IS SENT.

17 (g) A CREDITOR SHALL APPLY ANY AMOUNT PAID BY A GARNISHEE  
18 TO THE CREDITOR UNDER THIS SECTION TOWARD REDUCTION OF THE  
19 AMOUNT OWED BY THE DEBTOR TO THE CREDITOR. THE MAXIMUM  
20 AMOUNT PAID BY A GARNISHEE UNDER THIS SECTION MAY NOT EXCEED  
21 THE TOTAL AMOUNT OWED BY THE DEBTOR IN THE GARNISHMENT ACTION.

22 (h) A REDUCTION OF THE AMOUNT OWED BY THE DEBTOR TO THE  
23 CREDITOR UNDER SUBSECTION (1)(g) OF THIS SECTION DOES NOT ENTITLE  
24 THE GARNISHEE TO ANY RIGHT OF REIMBURSEMENT, INDEMNITY, OR  
25 SUBROGATION AGAINST THE DEBTOR. THIS SUBSECTION (1)(h) MAY NOT  
26 BE VARIED BY AGREEMENT.

27

### PART 3

GENERAL PROVISIONS

1  
2           **13-54.7-301. Creditor sanctions.** (1) IF A COURT DETERMINES  
3 THAT A CREDITOR ACTED IN BAD FAITH IN SEEKING A GARNISHMENT  
4 UNDER THIS ARTICLE 54.7, THE CREDITOR IS LIABLE FOR:

5           (a) AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS;

6           (b) ANY AMOUNTS DUE UNDER SUBSECTION (3) OF THIS SECTION;

7 AND

8           (c) REASONABLE ATTORNEY'S FEES, AS DETERMINED BY THE  
9 COURT, OF THE GARNISHEE AND THE INDIVIDUAL WHOSE EARNINGS THE  
10 CREDITOR SOUGHT TO GARNISH.

11           (2) (a) A CREDITOR ACTS IN BAD FAITH IF IT RECEIVES FROM A  
12 GARNISHEE OR AN INDIVIDUAL WHOSE EARNINGS THE CREDITOR SOUGHT  
13 TO GARNISH A NOTICE IN A RECORD STATING THE REASON THAT THE  
14 GARNISHMENT IS WRONGFUL AND FAILS WITHIN SEVEN BUSINESS DAYS  
15 AFTER RECEIVING THE NOTICE TO EITHER:

16           (I) TAKE APPROPRIATE ACTION TO STOP THE GARNISHMENT AND  
17 RETURN ANY EARNINGS GARNISHED DURING THE SIXTY DAYS PRECEDING  
18 RECEIPT OF THE NOTICE AND SEND TO THE GARNISHEE OR INDIVIDUAL A  
19 RECORD INDICATING THAT IT HAS DONE SO; OR

20           (II) FILE A MOTION WITH THE COURT REQUESTING AN EXPEDITED  
21 HEARING TO DETERMINE WHETHER THE GARNISHMENT WAS WRONGFUL.

22           (b) IF THE CREDITOR IS REPRESENTED BY AN ATTORNEY, THE  
23 GARNISHEE OR INDIVIDUAL MUST SEND THE NOTICE TO THE ATTORNEY.

24           (3) A CREDITOR THAT FAILS TO COMPLY WITH SUBSECTION (2) OF  
25 THIS SECTION IS LIABLE FOR FIFTY DOLLARS PER DAY BEGINNING ON THE  
26 EIGHTH BUSINESS DAY AFTER RECEIVING THE NOTICE PROVIDED FOR IN  
27 THAT SUBSECTION AND ENDING THE DAY BEFORE THE CREDITOR COMPLIES

1 WITH SUBSECTION (2)(a) OF THIS SECTION.

2 (4) A COURT MAY ALLOCATE AMOUNTS AWARDED UNDER  
3 SUBSECTION (1) OF THIS SECTION OTHER THAN ATTORNEY'S FEES BETWEEN  
4 THE GARNISHEE AND THE INDIVIDUAL WHOSE EARNINGS THE CREDITOR  
5 SOUGHT TO GARNISH, TAKING INTO CONSIDERATION WHICH PERSON FILED  
6 THE CLAIM ALLEGING BAD FAITH OR SENT THE NOTICE ALLEGING  
7 WRONGFUL GARNISHMENT, THE EXTENT OF EACH PERSON'S PARTICIPATION  
8 IN THE PROCEEDINGS, AND THE HARM SUFFERED BY EACH PERSON.

9 (5) FOR GOOD CAUSE, A COURT MAY WAIVE ALL OR PART OF THE  
10 AMOUNTS OTHERWISE DUE UNDER SUBSECTION (1) OF THIS SECTION.

11 (6) THIS SECTION DOES NOT LIMIT ANY OTHER REMEDY AVAILABLE  
12 TO A GARNISHEE OR AN INDIVIDUAL WHOSE EARNINGS A CREDITOR  
13 SOUGHT TO GARNISH UNDER LAW OF THIS STATE OTHER THAN THIS  
14 ARTICLE 54.7.

15 **13-54.7-302. Hearing.** (1) A GARNISHEE, CREDITOR, OR DEBTOR  
16 AT ANY TIME MAY REQUEST THE COURT TO HOLD A HEARING TO  
17 DETERMINE ANY ISSUE ARISING UNDER THIS ARTICLE 54.7.

18 (2) A DEBTOR AT ANY TIME MAY REQUEST THE COURT TO HOLD A  
19 HEARING TO CLAIM AN EXEMPTION FROM OR LIMIT ON GARNISHMENT  
20 UNDER LAW OF THIS STATE OTHER THAN THIS ARTICLE 54.7.

21 (3) A HEARING REQUESTED UNDER THIS SECTION MUST BE HELD  
22 PROMPTLY. THE COURT MAY ENJOIN A GARNISHMENT UNTIL THE HEARING  
23 CAN BE HELD.

24 **13-54.7-303. Protection of employee subject to garnishment.**

25 (1) AN EMPLOYER MAY NOT DISCHARGE OR TAKE OTHER ADVERSE ACTION  
26 AGAINST AN EMPLOYEE BECAUSE OF A GARNISHMENT OR ATTEMPTED  
27 GARNISHMENT.



1 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE  
2 PROVISIONS OF THIS ARTICLE 54.7 ARE SEVERABLE.

3 **SECTION 2.** In Colorado Revised Statutes, 13-54-104, **amend**  
4 (1)(b)(I)(A) as follows:

5 **13-54-104. Restrictions on garnishment and levy under**  
6 **execution or attachment - definitions.** (1) As used in this section,  
7 unless the context otherwise requires:

8 (b) (I) "Earnings" means:

9 (A) Compensation paid or payable to an ~~individual employee or~~  
10 independent contractor for personal labor or services;

11 **SECTION 3.** In Colorado Revised Statutes, 13-54.5-101, **amend**  
12 the introductory portion and (2)(a)(I) as follows:

13 **13-54.5-101. Definitions.** As used in this ~~article~~ ARTICLE 54.5,  
14 unless the context otherwise requires:

15 (2) (a) "Earnings" means:

16 (I) Compensation paid or payable to an ~~individual employee or~~  
17 independent contractor for personal labor or services;

18 **SECTION 4.** In Colorado Revised Statutes, **amend** 13-55-101 as  
19 follows:

20 **13-55-101. Defendant to file written claim.** Except in cases of  
21 garnishment pursuant to article 54.5 OR 54.7 of this ~~title~~ TITLE 13, in cases  
22 where a sheriff or other officer by virtue of a writ of execution, writ of  
23 attachment, or other order of court issued by a court of record or clerk  
24 thereof levies upon, seizes, or takes into his possession any property of  
25 the defendant debtor, which said property, or part thereof, the defendant  
26 claims as exempt under the provisions of the statutes of the state, said  
27 defendant debtor, within fourteen days after being served with notice of

1 such levy or seizure, shall make and file with the clerk of the court of  
2 record out of which such writ of execution, writ of attachment, or other  
3 order was issued a written claim of such exemption setting forth with  
4 reasonable detail the description of the property so claimed to be exempt  
5 together with the grounds of such claim of exemption.

6 <{*Does the commission want a safety clause?*}>



First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.9.16

DRAFT

LLS NO. 17-0193.01 Brita Darling x2241

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC:** "Uniform Family Law Arbitration Act"

**A BILL FOR AN ACT**

101 **CONCERNING THE "UNIFORM FAMILY LAW ARBITRATION ACT".**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado Commission on Uniform State Laws.** The bill creates the "Uniform Family Law Arbitration Act" (uniform act). The uniform act allows parties to a legal separation, dissolution, or declaration of invalidity of a marriage or civil union to enter into an agreement to arbitrate family law issues that would otherwise be decided by the district court, including the division of property and debt, spousal maintenance, child support, and the allocation of parental rights and responsibilities in the best interests of the child. However, the uniform act does not

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

authorize the arbitrator to enter an award changing the legal status of the parties, such as granting a dissolution of marriage or terminating parental rights. The entire arbitration hearing may be recorded, but the uniform act requires recording of any portion of the hearing that concerns a child-related dispute. The arbitrator's award must be confirmed by the district court.

The uniform act includes provisions relating to:

- Requirements for a valid arbitration agreement;
- Qualifications and selection of the arbitrator;
- Protection of a party or child;
- Temporary orders;
- The powers and duties of the arbitrator;
- Entering an arbitration award and court confirmation of the award; and
- Correcting, modifying, vacating, or appealing the arbitration award.

The uniform act grants the arbitrator immunity from civil liability to the same extent as a district court judge acting in a judicial capacity. The arbitrator cannot be compelled to testify regarding the arbitration. The arbitrator must be trained in identifying domestic violence and child abuse.

The uniform act applies the provisions of Colorado's uniform arbitration act to supplement any provisions not specifically set forth in the uniform act.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **add** article 12.5 to  
3 title 14 as follows:

4   **ARTICLE 12.5**

5   **Uniform Family Law Arbitration Act**

6           **14-12.5-101. Short title.** THIS ARTICLE 12.5 MAY BE CITED AS THE  
7 "UNIFORM FAMILY LAW ARBITRATION ACT".

8           **14-12.5-102. Definitions.** IN THIS ARTICLE 12.5:

9           (1) "ARBITRATION AGREEMENT" MEANS AN AGREEMENT THAT  
10 SUBJECTS A FAMILY LAW DISPUTE TO ARBITRATION.

11           (2) "ARBITRATION ORGANIZATION" MEANS AN ASSOCIATION,

1 AGENCY, BOARD, COMMISSION, OR OTHER ENTITY THAT IS NEUTRAL AND  
2 INITIATES, SPONSORS, OR ADMINISTERS AN ARBITRATION OR IS INVOLVED  
3 IN THE SELECTION OF AN ARBITRATOR.

4 (3) "ARBITRATOR" MEANS AN INDIVIDUAL SELECTED, ALONE OR  
5 WITH OTHERS, TO MAKE AN AWARD IN A FAMILY LAW DISPUTE THAT IS  
6 SUBJECT TO AN ARBITRATION AGREEMENT.

7 (4) "CHILD-RELATED DISPUTE" MEANS A FAMILY LAW DISPUTE  
8 REGARDING THE ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES  
9 OR FINANCIAL SUPPORT REGARDING A CHILD.

10 (5) "COURT" MEANS THE DISTRICT COURT.

11 (6) "FAMILY LAW DISPUTE" MEANS A CONTESTED ISSUE ARISING  
12 UNDER ARTICLE 10 OF THIS TITLE 14 OR UNDER ARTICLE 15 OF THIS TITLE  
13 14 AS SPECIFIED IN SECTION 14-15-115.

14 (7) "PARTY" MEANS AN INDIVIDUAL WHO SIGNS AN ARBITRATION  
15 AGREEMENT AND WHOSE RIGHTS WILL BE DETERMINED BY AN AWARD.

16 (8) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR  
17 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR  
18 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY  
19 OTHER LEGAL ENTITY.

20 (9) "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS  
21 INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC  
22 OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

23 (10) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR  
24 ADOPT A RECORD:

25 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

26 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD  
27 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

1 (11) "STATE" MEANS A STATE OF THE UNITED STATES, THE  
2 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN  
3 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE  
4 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY  
5 RECOGNIZED INDIAN TRIBE.

6 **14-12.5-103. Scope.** (1) THIS ARTICLE 12.5 GOVERNS  
7 ARBITRATION OF A FAMILY LAW DISPUTE.

8 (2) THIS ARTICLE 12.5 DOES NOT AUTHORIZE AN ARBITRATOR TO  
9 MAKE AN AWARD THAT:

10 (a) GRANTS A LEGAL SEPARATION, DISSOLUTION, OR DECLARATION  
11 OF INVALIDITY OF A MARRIAGE OR GRANTS A LEGAL SEPARATION,  
12 DISSOLUTION, OR DECLARATION OF INVALIDITY OF A CIVIL UNION;

13 (b) TERMINATES PARENTAL RIGHTS;

14 (c) GRANTS AN ADOPTION OR A GUARDIANSHIP OF A CHILD OR  
15 INCAPACITATED INDIVIDUAL; OR

16 (d) DETERMINES THE STATUS OF A CHILD AS DEPENDENT OR  
17 NEGLECTED.

18 **14-12.5-104. Applicable law.** (1) EXCEPT AS OTHERWISE  
19 PROVIDED IN THIS ARTICLE 12.5, THE LAW APPLICABLE TO ARBITRATION IS  
20 THE UNIFORM ARBITRATION ACT, PART 2 OF ARTICLE 22 OF TITLE 13.

21 (2) IN DETERMINING THE MERITS OF A FAMILY LAW DISPUTE, AN  
22 ARBITRATOR SHALL APPLY THE LAW OF THIS STATE, INCLUDING ITS CHOICE  
23 OF LAW RULES.

24 **14-12.5-105. Arbitration agreement.** (1) AN ARBITRATION  
25 AGREEMENT MUST:

26 (a) BE IN A RECORD SIGNED BY THE PARTIES;

27 (b) IDENTIFY THE ARBITRATOR, AN ARBITRATION ORGANIZATION,

1 OR A METHOD OF SELECTING AN ARBITRATOR; AND

2 (c) IDENTIFY THE FAMILY LAW DISPUTE THE PARTIES INTEND TO  
3 ARBITRATE.

4 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
5 SECTION, AN AGREEMENT IN A RECORD TO ARBITRATE A FAMILY LAW  
6 DISPUTE THAT ARISES BETWEEN THE PARTIES BEFORE, AT THE TIME, OR  
7 AFTER THE AGREEMENT IS MADE IS VALID AND ENFORCEABLE AS ANY  
8 OTHER CONTRACT AND IRREVOCABLE EXCEPT ON A GROUND THAT EXISTS  
9 AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

10 (3) AN AGREEMENT TO ARBITRATE A CHILD-RELATED DISPUTE  
11 THAT ARISES BETWEEN THE PARTIES AFTER THE AGREEMENT IS MADE IS  
12 UNENFORCEABLE UNLESS:

13 (a) THE PARTIES AFFIRM THE AGREEMENT IN A RECORD AFTER THE  
14 DISPUTE ARISES; OR

15 (b) THE AGREEMENT WAS ENTERED DURING A FAMILY LAW  
16 PROCEEDING AND THE COURT APPROVED OR INCORPORATED THE  
17 AGREEMENT IN AN ORDER ISSUED IN THE PROCEEDING.

18 (4) IF A PARTY OBJECTS TO ARBITRATION ON THE GROUND THE  
19 ARBITRATION AGREEMENT IS UNENFORCEABLE OR THE AGREEMENT DOES  
20 NOT INCLUDE A FAMILY LAW DISPUTE, THE COURT SHALL DECIDE WHETHER  
21 THE AGREEMENT IS ENFORCEABLE OR INCLUDES THE FAMILY LAW DISPUTE.

22 **14-12.5-106. Notice of arbitration.** A PARTY MAY INITIATE  
23 ARBITRATION BY GIVING NOTICE TO ARBITRATE TO THE OTHER PARTY IN  
24 THE MANNER SPECIFIED IN THE ARBITRATION AGREEMENT OR, IN THE  
25 ABSENCE OF A SPECIFIED MANNER, UNDER THE LAW AND PROCEDURAL  
26 RULES OF THIS STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING  
27 CONTRACTUAL ARBITRATION.

1           **14-12.5-107. Motion for judicial relief.** (1) A MOTION FOR  
2 JUDICIAL RELIEF UNDER THIS ARTICLE 12.5 MUST BE MADE TO THE COURT  
3 IN WHICH A PROCEEDING IS PENDING INVOLVING A FAMILY LAW DISPUTE  
4 SUBJECT TO ARBITRATION OR, IF NO PROCEEDING IS PENDING, A COURT  
5 WITH JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER.

6           (2) ON MOTION OF A PARTY, THE COURT MAY COMPEL  
7 ARBITRATION IF THE PARTIES HAVE ENTERED INTO AN ARBITRATION  
8 AGREEMENT THAT COMPLIES WITH SECTION 14-12.5-105 UNLESS THE  
9 COURT DETERMINES UNDER SECTION 14-12.5-112 THAT THE ARBITRATION  
10 SHOULD NOT PROCEED.

11           (3) ON MOTION OF A PARTY, THE COURT SHALL TERMINATE  
12 ARBITRATION IF IT DETERMINES THAT:

13           (a) THE AGREEMENT TO ARBITRATE IS UNENFORCEABLE;

14           (b) THE FAMILY LAW DISPUTE IS NOT SUBJECT TO ARBITRATION; OR

15           (c) UNDER SECTION 14-12.5-112, THE ARBITRATION SHOULD NOT  
16 PROCEED.

17           (4) UNLESS PROHIBITED BY AN ARBITRATION AGREEMENT, ON  
18 MOTION OF A PARTY, THE COURT MAY ORDER CONSOLIDATION OF  
19 SEPARATE ARBITRATIONS INVOLVING THE SAME PARTIES AND A COMMON  
20 ISSUE OF LAW OR FACT IF NECESSARY FOR THE FAIR AND EXPEDITIOUS  
21 RESOLUTION OF THE FAMILY LAW DISPUTE.

22           **14-12.5-108. Qualification and selection of arbitrator.**

23           (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION,  
24 UNLESS WAIVED IN A RECORD BY THE PARTIES, AN ARBITRATOR MUST BE:

25           (a) AN ATTORNEY IN GOOD STANDING ADMITTED TO PRACTICE OR  
26 ON INACTIVE STATUS OR A JUDGE ON RETIRED STATUS IN A STATE; AND

27           (b) TRAINED IN IDENTIFYING DOMESTIC VIOLENCE AND CHILD

1 ABUSE.

2 (2) THE IDENTIFICATION IN THE ARBITRATION AGREEMENT OF AN  
3 ARBITRATOR, ARBITRATION ORGANIZATION, OR METHOD OF SELECTION OF  
4 THE ARBITRATOR CONTROLS.

5 (3) IF AN ARBITRATOR IS UNABLE OR UNWILLING TO ACT OR IF THE  
6 AGREED-ON METHOD OF SELECTING AN ARBITRATOR FAILS, ON MOTION OF  
7 A PARTY, THE COURT SHALL SELECT AN ARBITRATOR.

8 **14-12.5-109. Disclosure by arbitrator - disqualification.**

9 (1) BEFORE AGREEING TO SERVE AS AN ARBITRATOR, AN INDIVIDUAL,  
10 AFTER MAKING REASONABLE INQUIRY, SHALL DISCLOSE TO ALL PARTIES  
11 ANY KNOWN FACT A REASONABLE PERSON WOULD BELIEVE IS LIKELY TO  
12 AFFECT:

13 (a) THE IMPARTIALITY OF THE ARBITRATOR IN THE ARBITRATION,  
14 INCLUDING BIAS, A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF  
15 THE ARBITRATION, OR AN EXISTING OR PAST RELATIONSHIP WITH A PARTY,  
16 ATTORNEY REPRESENTING A PARTY, OR WITNESS; OR

17 (b) THE ARBITRATOR'S ABILITY TO MAKE A TIMELY AWARD.

18 (2) AN ARBITRATOR, THE PARTIES, AND THE ATTORNEYS  
19 REPRESENTING THE PARTIES HAVE A CONTINUING OBLIGATION TO  
20 DISCLOSE TO ALL PARTIES ANY KNOWN FACT A REASONABLE PERSON  
21 WOULD BELIEVE IS LIKELY TO AFFECT THE IMPARTIALITY OF THE  
22 ARBITRATOR OR THE ARBITRATOR'S ABILITY TO MAKE A TIMELY AWARD.

23 (3) AN OBJECTION TO THE SELECTION OR CONTINUED SERVICE OF  
24 AN ARBITRATOR AND A MOTION FOR A STAY OF ARBITRATION AND  
25 DISQUALIFICATION OF THE ARBITRATOR MUST BE MADE UNDER THE LAW  
26 AND PROCEDURAL RULES OF THIS STATE OTHER THAN THIS ARTICLE 12.5  
27 GOVERNING ARBITRATOR DISQUALIFICATION.

1 (4) IF A DISCLOSURE REQUIRED BY SUBSECTION (1)(a) OR (2) OF  
2 THIS SECTION IS NOT MADE, THE COURT MAY:

3 (a) ON MOTION OF A PARTY NOT LATER THAN THIRTY-FIVE DAYS  
4 AFTER THE FAILURE TO DISCLOSE IS KNOWN OR BY THE EXERCISE OF  
5 REASONABLE CARE SHOULD HAVE BEEN KNOWN TO THE PARTY, SUSPEND  
6 THE ARBITRATION;

7 (b) ON TIMELY MOTION OF A PARTY, VACATE AN AWARD UNDER  
8 SECTION 14-12.5-119 (1)(b); OR

9 (c) IF AN AWARD HAS BEEN CONFIRMED, GRANT OTHER  
10 APPROPRIATE RELIEF UNDER LAW OF THIS STATE OTHER THAN THIS  
11 ARTICLE 12.5.

12 (5) IF THE PARTIES AGREE TO DISCHARGE AN ARBITRATOR OR THE  
13 ARBITRATOR IS DISQUALIFIED, THE PARTIES BY AGREEMENT MAY SELECT  
14 A NEW ARBITRATOR OR REQUEST THE COURT TO SELECT ANOTHER  
15 ARBITRATOR AS PROVIDED IN SECTION 14-12.5-108.

16 **14-12.5-110. Party participation.** (1) A PARTY MAY:

17 (a) BE REPRESENTED IN AN ARBITRATION BY AN ATTORNEY;

18 (b) BE ACCOMPANIED BY AN INDIVIDUAL WHO WILL NOT BE  
19 CALLED AS A WITNESS OR ACT AS AN ADVOCATE; AND

20 (c) PARTICIPATE IN THE ARBITRATION TO THE FULL EXTENT  
21 PERMITTED UNDER THE LAW AND PROCEDURAL RULES OF THIS STATE  
22 OTHER THAN THIS ARTICLE 12.5 GOVERNING A PARTY'S PARTICIPATION IN  
23 CONTRACTUAL ARBITRATION.

24 (2) A PARTY OR REPRESENTATIVE OF A PARTY MAY NOT  
25 COMMUNICATE EX PARTE WITH THE ARBITRATOR EXCEPT TO THE EXTENT  
26 ALLOWED IN A FAMILY LAW PROCEEDING FOR COMMUNICATION WITH A  
27 JUDGE.



1           **14-12.5-111. Temporary order or award.** (1) BEFORE AN  
2 ARBITRATOR IS SELECTED AND ABLE TO ACT, ON MOTION OF A PARTY, THE  
3 COURT MAY ENTER A TEMPORARY ORDER UNDER SECTION 14-10-108.

4           (2) AFTER AN ARBITRATOR IS SELECTED:

5           (a) THE ARBITRATOR MAY MAKE A TEMPORARY AWARD UNDER  
6 SECTION 14-10-108; AND

7           (b) IF THE MATTER IS URGENT AND THE ARBITRATOR IS NOT ABLE  
8 TO ACT IN A TIMELY MANNER OR PROVIDE AN ADEQUATE REMEDY, ON  
9 MOTION OF A PARTY, THE COURT MAY ENTER A TEMPORARY ORDER.

10           (3) ON MOTION OF A PARTY, BEFORE THE COURT CONFIRMS A FINAL  
11 AWARD, THE COURT UNDER SECTION 14-12.5-116, 14-12.5-118, OR  
12 14-12.5-119 MAY CONFIRM, CORRECT, VACATE, OR AMEND A TEMPORARY  
13 AWARD MADE UNDER SUBSECTION (2)(a) OF THIS SECTION.

14           (4) ON MOTION OF A PARTY, THE COURT MAY ENFORCE A  
15 SUBPOENA OR INTERIM AWARD ISSUED BY AN ARBITRATOR FOR THE FAIR  
16 AND EXPEDITIOUS DISPOSITION OF THE ARBITRATION.

17           **14-12.5-112. Protection of party or child - definition.** (1) IN  
18 THIS SECTION, "PROTECTION ORDER" MEANS AN INJUNCTION OR OTHER  
19 ORDER, ISSUED UNDER THE DOMESTIC-VIOLENCE, FAMILY-VIOLENCE, OR  
20 STALKING LAWS OF THE ISSUING JURISDICTION, TO PREVENT AN  
21 INDIVIDUAL FROM ENGAGING IN A VIOLENT OR THREATENING ACT  
22 AGAINST, HARASSMENT OF, CONTACT OR COMMUNICATION WITH, OR BEING  
23 IN PHYSICAL PROXIMITY TO ANOTHER INDIVIDUAL WHO IS A PARTY OR A  
24 CHILD UNDER THE CUSTODIAL RESPONSIBILITY OF A PARTY.

25           (2) IF A PARTY IS SUBJECT TO A PROTECTION ORDER OR AN  
26 ARBITRATOR DETERMINES THERE IS A REASONABLE BASIS TO BELIEVE A  
27 PARTY'S SAFETY OR ABILITY TO PARTICIPATE EFFECTIVELY IN

1 ARBITRATION IS AT RISK, THE ARBITRATOR SHALL STAY THE ARBITRATION  
2 AND REFER THE PARTIES TO COURT. THE ARBITRATION MAY NOT PROCEED  
3 UNLESS THE PARTY AT RISK AFFIRMS THE ARBITRATION AGREEMENT IN A  
4 RECORD AND THE COURT DETERMINES:

5 (a) THE AFFIRMATION IS INFORMED AND VOLUNTARY;

6 (b) ARBITRATION IS NOT INCONSISTENT WITH THE PROTECTION  
7 ORDER; AND

8 (c) REASONABLE PROCEDURES ARE IN PLACE TO PROTECT THE  
9 PARTY FROM RISK OF HARM, HARASSMENT, OR INTIMIDATION.

10 (3) IF AN ARBITRATOR DETERMINES THAT THERE IS A REASONABLE  
11 BASIS TO BELIEVE A CHILD WHO IS THE SUBJECT OF A CHILD-RELATED  
12 DISPUTE IS ABUSED OR NEGLECTED, THE ARBITRATOR SHALL TERMINATE  
13 THE ARBITRATION OF THE CHILD-RELATED DISPUTE AND REPORT THE  
14 ABUSE OR NEGLECT TO THE COUNTY DEPARTMENT AS DEFINED IN SECTION  
15 19-1-103, TO THE LOCAL LAW ENFORCEMENT AGENCY, OR THROUGH THE  
16 CHILD ABUSE REPORTING HOTLINE SYSTEM AS SET FORTH IN SECTION  
17 26-5-111.

18 (4) AN ARBITRATOR MAY MAKE A TEMPORARY AWARD TO PROTECT  
19 A PARTY OR CHILD FROM HARM, HARASSMENT, OR INTIMIDATION.

20 (5) ON MOTION OF A PARTY, THE COURT MAY STAY ARBITRATION  
21 AND REVIEW A DETERMINATION OR TEMPORARY AWARD UNDER THIS  
22 SECTION.

23 (6) THIS SECTION SUPPLEMENTS REMEDIES AVAILABLE UNDER LAW  
24 OF THIS STATE OTHER THAN THIS ARTICLE 12.5 FOR THE PROTECTION OF  
25 VICTIMS OF DOMESTIC VIOLENCE, FAMILY VIOLENCE, STALKING,  
26 HARASSMENT, OR SIMILAR ABUSE.

27 **14-12.5-113. Powers and duties of arbitrator.** (1) AN

1 ARBITRATOR SHALL CONDUCT AN ARBITRATION IN A MANNER THE  
2 ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS  
3 DISPOSITION OF THE DISPUTE.

4 (2) AN ARBITRATOR SHALL PROVIDE EACH PARTY A RIGHT TO BE  
5 HEARD, TO PRESENT EVIDENCE MATERIAL TO THE FAMILY LAW DISPUTE,  
6 AND TO CROSS-EXAMINE WITNESSES.

7 (3) UNLESS THE PARTIES OTHERWISE AGREE IN A RECORD, AN  
8 ARBITRATOR'S POWERS INCLUDE THE POWER TO:

9 (a) SELECT THE RULES FOR CONDUCTING THE ARBITRATION;

10 (b) HOLD CONFERENCES WITH THE PARTIES BEFORE A HEARING;

11 (c) DETERMINE THE DATE, TIME, AND PLACE OF A HEARING;

12 (d) REQUIRE A PARTY TO PROVIDE:

13 (I) A COPY OF A RELEVANT COURT ORDER;

14 (II) INFORMATION REQUIRED TO BE DISCLOSED IN A FAMILY LAW  
15 PROCEEDING UNDER LAW OF THIS STATE OTHER THAN THIS ARTICLE 12.5;

16 AND

17 (III) A PROPOSED AWARD THAT ADDRESSES EACH ISSUE IN  
18 ARBITRATION;

19 (e) MEET WITH OR INTERVIEW A CHILD WHO IS THE SUBJECT OF A  
20 CHILD-RELATED DISPUTE;

21 (f) APPOINT A PRIVATE EXPERT AT THE EXPENSE OF THE PARTIES;

22 (g) ADMINISTER AN OATH OR AFFIRMATION AND ISSUE A SUBPOENA  
23 FOR THE ATTENDANCE OF A WITNESS OR THE PRODUCTION OF DOCUMENTS  
24 AND OTHER EVIDENCE AT A HEARING;

25 (h) COMPEL DISCOVERY CONCERNING THE FAMILY LAW DISPUTE  
26 AND DETERMINE THE DATE, TIME, AND PLACE OF DISCOVERY;

27 (i) DETERMINE THE ADMISSIBILITY AND WEIGHT OF EVIDENCE;

1 (j) PERMIT DEPOSITION OF A WITNESS FOR USE AS EVIDENCE AT A  
2 HEARING;

3 (k) FOR GOOD CAUSE, PROHIBIT A PARTY FROM DISCLOSING  
4 INFORMATION;

5 (l) APPOINT AN ATTORNEY, GUARDIAN AD LITEM, OR OTHER  
6 REPRESENTATIVE FOR A CHILD AT THE EXPENSE OF THE PARTIES;

7 (m) IMPOSE A PROCEDURE TO PROTECT A PARTY OR CHILD FROM  
8 RISK OF HARM, HARASSMENT, OR INTIMIDATION;

9 (n) ALLOCATE ARBITRATION FEES, ATTORNEY'S FEES,  
10 EXPERT-WITNESS FEES, AND OTHER COSTS TO THE PARTIES; AND

11 (o) IMPOSE A SANCTION ON A PARTY FOR BAD FAITH OR  
12 MISCONDUCT DURING THE ARBITRATION ACCORDING TO STANDARDS  
13 GOVERNING IMPOSITION OF A SANCTION FOR LITIGANT MISCONDUCT IN A  
14 FAMILY LAW PROCEEDING.

15 (4) AN ARBITRATOR MAY NOT ALLOW EX PARTE COMMUNICATION  
16 EXCEPT TO THE EXTENT ALLOWED IN A FAMILY LAW PROCEEDING FOR  
17 COMMUNICATION WITH A JUDGE.

18 **14-12.5-114. Recording of hearing.** (1) EXCEPT AS OTHERWISE  
19 PROVIDED IN SUBSECTION (2) OF THIS SECTION OR REQUIRED BY LAW OF  
20 THIS STATE OTHER THAN THIS ARTICLE 12.5, AN ARBITRATION HEARING  
21 NEED NOT BE RECORDED UNLESS REQUIRED BY THE ARBITRATOR,  
22 PROVIDED BY THE ARBITRATION AGREEMENT, OR REQUESTED BY A PARTY.

23 (2) AN ARBITRATOR SHALL REQUEST A VERBATIM RECORDING BE  
24 MADE OF ANY PART OF AN ARBITRATION HEARING CONCERNING A  
25 CHILD-RELATED DISPUTE.

26 **14-12.5-115. Award.** (1) AN ARBITRATOR SHALL MAKE AN  
27 AWARD IN A RECORD, DATED AND SIGNED BY THE ARBITRATOR. THE

1 ARBITRATOR SHALL GIVE NOTICE OF THE AWARD TO EACH PARTY BY A  
2 METHOD AGREED ON BY THE PARTIES OR, IF THE PARTIES HAVE NOT  
3 AGREED ON A METHOD, UNDER THE LAW AND PROCEDURAL RULES OF THIS  
4 STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING NOTICE IN  
5 CONTRACTUAL ARBITRATION.

6 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
7 SECTION, THE AWARD UNDER THIS ARTICLE 12.5 MUST STATE THE REASONS  
8 ON WHICH IT IS BASED UNLESS OTHERWISE AGREED BY THE PARTIES.

9 (3) AN AWARD DETERMINING A CHILD-RELATED DISPUTE MUST  
10 STATE THE REASONS ON WHICH IT IS BASED AS REQUIRED BY LAW OF THIS  
11 STATE OTHER THAN THIS ARTICLE 12.5 FOR A COURT ORDER IN A FAMILY  
12 LAW PROCEEDING.

13 (4) AN AWARD UNDER THIS ARTICLE 12.5 IS NOT ENFORCEABLE AS  
14 A JUDGMENT UNTIL CONFIRMED UNDER SECTION 14-12.5-116.

15 **14-12.5-116. Confirmation of award.** (1) AFTER AN  
16 ARBITRATOR GIVES NOTICE UNDER SECTION 14-12.5-115 (1) OF AN  
17 AWARD, INCLUDING AN AWARD CORRECTED UNDER SECTION 14-12.5-117,  
18 A PARTY MAY MOVE THE COURT FOR AN ORDER CONFIRMING THE AWARD.

19 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
20 SECTION, THE COURT SHALL CONFIRM AN AWARD UNDER THIS ARTICLE  
21 12.5 IF:

22 (a) THE PARTIES AGREE IN A RECORD TO CONFIRMATION; OR

23 (b) THE TIME HAS EXPIRED FOR MAKING A MOTION, AND NO  
24 MOTION IS PENDING, UNDER SECTION 14-12.5-118 OR 14-12.5-119.

25 (3) IF AN AWARD DETERMINES A CHILD-RELATED DISPUTE, THE  
26 COURT SHALL CONFIRM THE AWARD UNDER SUBSECTION (2) OF THIS  
27 SECTION IF THE COURT FINDS, AFTER A REVIEW OF THE RECORD IF

1 NECESSARY, THAT THE AWARD ON ITS FACE:

2 (a) COMPLIES WITH SECTION 14-12.5-115 AND LAW OF THIS STATE  
3 OTHER THAN THIS ARTICLE 12.5 GOVERNING A CHILD-RELATED DISPUTE;  
4 AND

5 (b) IS IN THE BEST INTERESTS OF THE CHILD.

6 (4) ON CONFIRMATION, AN AWARD UNDER THIS ARTICLE 12.5 IS  
7 ENFORCEABLE AS A JUDGMENT.

8 **14-12.5-117. Correction by arbitrator of unconfirmed award.**

9 ON MOTION OF A PARTY MADE NOT LATER THAN THIRTY-FIVE DAYS AFTER  
10 AN ARBITRATOR GIVES NOTICE UNDER SECTION 14-12.5-115 (1) OF AN  
11 AWARD, THE ARBITRATOR MAY CORRECT THE AWARD:

12 (1) IF THE AWARD HAS AN EVIDENT MATHEMATICAL  
13 MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A  
14 PERSON, THING, OR PROPERTY;

15 (2) IF THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT  
16 AFFECTING THE MERITS ON THE ISSUES SUBMITTED; OR

17 (3) TO CLARIFY THE AWARD.

18 **14-12.5-118. Correction by court of unconfirmed award.**

19 (1) ON MOTION OF A PARTY MADE NOT LATER THAN NINETY-ONE DAYS  
20 AFTER AN ARBITRATOR GIVES NOTICE UNDER SECTION 14-12.5-115 (1) OF  
21 AN AWARD, INCLUDING AN AWARD CORRECTED UNDER SECTION  
22 14-12.5-117, THE COURT SHALL CORRECT THE AWARD IF:

23 (a) THE AWARD HAS AN EVIDENT MATHEMATICAL  
24 MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A  
25 PERSON, THING, OR PROPERTY;

26 (b) THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT  
27 AFFECTING THE MERITS OF THE ISSUES SUBMITTED; OR

1 (c) THE ARBITRATOR MADE AN AWARD ON A DISPUTE NOT  
2 SUBMITTED TO THE ARBITRATOR AND THE AWARD MAY BE CORRECTED  
3 WITHOUT AFFECTING THE MERITS OF THE ISSUES SUBMITTED.

4 (2) A MOTION UNDER THIS SECTION TO CORRECT AN AWARD MAY  
5 BE JOINED WITH A MOTION TO VACATE OR AMEND THE AWARD UNDER  
6 SECTION 14-12.5-119.

7 (3) UNLESS A MOTION UNDER SECTION 14-12.5-119 IS PENDING,  
8 THE COURT MAY CONFIRM A CORRECTED AWARD UNDER SECTION  
9 14-12.5-116.

10 **14-12.5-119. Vacation or amendment by court of unconfirmed**  
11 **award.** (1) ON MOTION OF A PARTY, THE COURT SHALL VACATE AN  
12 UNCONFIRMED AWARD IF THE MOVING PARTY ESTABLISHES THAT:

13 (a) THE AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR  
14 OTHER UNDUE MEANS;

15 (b) THERE WAS:

16 (I) EVIDENT PARTIALITY BY THE ARBITRATOR;

17 (II) CORRUPTION BY THE ARBITRATOR; OR

18 (III) MISCONDUCT BY THE ARBITRATOR SUBSTANTIALLY  
19 PREJUDICING THE RIGHTS OF A PARTY;

20 (c) THE ARBITRATOR REFUSED TO POSTPONE A HEARING ON  
21 SHOWING OF SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO  
22 CONSIDER EVIDENCE MATERIAL TO THE CONTROVERSY, OR OTHERWISE  
23 CONDUCTED THE HEARING CONTRARY TO SECTION 14-12.5-113, SO AS TO  
24 PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY;

25 (d) THE ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS;

26 (e) NO ARBITRATION AGREEMENT EXISTS, UNLESS THE MOVING  
27 PARTY PARTICIPATED IN THE ARBITRATION WITHOUT MAKING A MOTION

1 UNDER SECTION 14-12.5-107 NOT LATER THAN THE BEGINNING OF THE  
2 FIRST ARBITRATION HEARING; OR

3 (f) THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE  
4 UNDER SECTION 14-12.5-106 OF THE INITIATION OF ARBITRATION, SO AS TO  
5 PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY.

6 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
7 SECTION, ON MOTION OF A PARTY, THE COURT SHALL VACATE AN  
8 UNCONFIRMED AWARD THAT DETERMINES A CHILD-RELATED DISPUTE IF  
9 THE MOVING PARTY ESTABLISHES THAT:

10 (a) THE AWARD DOES NOT COMPLY WITH SECTION 14-12.5-115 OR  
11 LAW OF THIS STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING A  
12 CHILD-RELATED DISPUTE OR IS CONTRARY TO THE BEST INTERESTS OF THE  
13 CHILD;

14 (b) THE RECORD OF THE HEARING OR THE STATEMENT OF REASONS  
15 IN THE AWARD IS INADEQUATE FOR THE COURT TO REVIEW THE AWARD; OR

16 (c) A GROUND FOR VACATING THE AWARD UNDER SUBSECTION (1)  
17 OF THIS SECTION EXISTS.

18 (3) IF AN AWARD IS SUBJECT TO VACATION UNDER SUBSECTION  
19 (2)(a) OF THIS SECTION, ON MOTION OF A PARTY, THE COURT MAY AMEND  
20 THE AWARD IF AMENDING RATHER THAN VACATING IS IN THE BEST  
21 INTERESTS OF THE CHILD.

22 (4) THE COURT MAY DETERMINE A MOTION UNDER SUBSECTION (2)  
23 OR (3) OF THIS SECTION BASED ON THE RECORD OF THE ARBITRATION  
24 HEARING AND FACTS OCCURRING AFTER THE HEARING OR MAY EXERCISE  
25 DE NOVO REVIEW.

26 (5) A MOTION UNDER THIS SECTION TO VACATE OR AMEND AN  
27 AWARD MUST BE FILED NOT LATER THAN NINETY-ONE DAYS:



1 (a) AFTER AN ARBITRATOR GIVES THE PARTY FILING THE MOTION  
2 NOTICE OF THE AWARD OR A CORRECTED AWARD; OR

3 (b) FOR A MOTION UNDER SUBSECTION (1)(a) OF THIS SECTION,  
4 AFTER THE GROUND OF CORRUPTION, FRAUD, OR OTHER UNDUE MEANS IS  
5 KNOWN OR BY THE EXERCISE OF REASONABLE CARE SHOULD HAVE BEEN  
6 KNOWN TO THE PARTY FILING THE MOTION.

7 (6) IF THE COURT UNDER THIS SECTION VACATES AN AWARD FOR  
8 A REASON OTHER THAN THE ABSENCE OF AN ENFORCEABLE ARBITRATION  
9 AGREEMENT, THE COURT MAY ORDER A REHEARING BEFORE AN  
10 ARBITRATOR. IF THE REASON FOR VACATING THE AWARD IS THAT THE  
11 AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR OTHER UNDUE MEANS  
12 OR THERE WAS EVIDENT PARTIALITY, CORRUPTION, OR MISCONDUCT BY  
13 THE ARBITRATOR, THE REHEARING MUST BE BEFORE ANOTHER  
14 ARBITRATOR.

15 (7) IF THE COURT UNDER THIS SECTION DENIES A MOTION TO  
16 VACATE OR AMEND AN AWARD, THE COURT MAY CONFIRM THE AWARD  
17 UNDER SECTION 14-12.5-116 UNLESS A MOTION IS PENDING UNDER  
18 SECTION 14-12.5-118.

19 **14-12.5-120. Clarification of confirmed award.** IF THE MEANING  
20 OR EFFECT OF AN AWARD CONFIRMED UNDER SECTION 14-12.5-116 IS IN  
21 DISPUTE, THE PARTIES MAY:

22 (1) AGREE TO ARBITRATE THE DISPUTE BEFORE THE ORIGINAL  
23 ARBITRATOR OR ANOTHER ARBITRATOR; OR

24 (2) PROCEED IN COURT UNDER LAW OF THIS STATE OTHER THAN  
25 THIS ARTICLE 12.5 GOVERNING CLARIFICATION OF A JUDGMENT IN A  
26 FAMILY LAW PROCEEDING.

27 **14-12.5-121. Judgment on award.** (1) ON GRANTING AN ORDER

1 CONFIRMING, VACATING WITHOUT DIRECTING A REHEARING, OR AMENDING  
2 AN AWARD UNDER THIS ARTICLE 12.5, THE COURT SHALL ENTER JUDGMENT  
3 IN CONFORMITY WITH THE ORDER.

4 (2) ON MOTION OF A PARTY, THE COURT MAY ORDER THAT A  
5 DOCUMENT OR PART OF THE ARBITRATION RECORD BE SEALED OR  
6 REDACTED TO PREVENT PUBLIC DISCLOSURE OF ALL OR PART OF THE  
7 RECORD OR AWARD TO THE EXTENT PERMITTED UNDER LAW OF THIS STATE  
8 OTHER THAN THIS ARTICLE 12.5.

9 **14-12.5-122. Modification of confirmed award or judgment.**

10 IF A PARTY REQUESTS UNDER LAW OF THIS STATE OTHER THAN THIS  
11 ARTICLE 12.5 A MODIFICATION OF AN AWARD CONFIRMED UNDER SECTION  
12 14-12.5-116 OR JUDGMENT ON THE AWARD BASED ON A FACT OCCURRING  
13 AFTER CONFIRMATION:

14 (1) THE PARTIES SHALL PROCEED UNDER THE DISPUTE-RESOLUTION  
15 METHOD SPECIFIED IN THE AWARD OR JUDGMENT; OR

16 (2) IF THE AWARD OR JUDGMENT DOES NOT SPECIFY A  
17 DISPUTE-RESOLUTION METHOD, THE PARTIES MAY:

18 (a) AGREE TO ARBITRATE THE MODIFICATION BEFORE THE  
19 ORIGINAL ARBITRATOR OR ANOTHER ARBITRATOR; OR

20 (b) ABSENT AGREEMENT PROCEED UNDER LAW OF THIS STATE  
21 OTHER THAN THIS ARTICLE 12.5 GOVERNING MODIFICATION OF A  
22 JUDGMENT IN A FAMILY LAW PROCEEDING.

23 **14-12.5-123. Enforcement of confirmed award.** (1) THE COURT  
24 SHALL ENFORCE AN AWARD CONFIRMED UNDER SECTION 14-12.5-116,  
25 INCLUDING A TEMPORARY AWARD, IN THE MANNER AND TO THE SAME  
26 EXTENT AS ANY OTHER ORDER OR JUDGMENT OF A COURT.

27 (2) THE COURT SHALL ENFORCE AN ARBITRATION AWARD IN A

1 FAMILY LAW DISPUTE CONFIRMED BY A COURT IN ANOTHER STATE IN THE  
2 MANNER AND TO THE SAME EXTENT AS ANY OTHER ORDER OR JUDGMENT  
3 FROM ANOTHER STATE.

4 **14-12.5-124. Appeal.** (1) AN APPEAL MAY BE TAKEN UNDER THIS  
5 ARTICLE 12.5 FROM:

- 6 (a) AN ORDER DENYING A MOTION TO COMPEL ARBITRATION;
- 7 (b) AN ORDER GRANTING A MOTION TO STAY ARBITRATION;
- 8 (c) AN ORDER CONFIRMING OR DENYING CONFIRMATION OF AN  
9 AWARD;
- 10 (d) AN ORDER CORRECTING AN AWARD;
- 11 (e) AN ORDER VACATING AN AWARD WITHOUT DIRECTING A  
12 REHEARING; OR
- 13 (f) A FINAL JUDGMENT.

14 (2) AN APPEAL UNDER THIS SECTION MAY BE TAKEN AS FROM AN  
15 ORDER OR A JUDGMENT IN A CIVIL ACTION.

16 **14-12.5-125. Immunity of arbitrator.** (1) AN ARBITRATOR OR  
17 ARBITRATION ORGANIZATION ACTING IN THAT CAPACITY IN A FAMILY LAW  
18 DISPUTE IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A  
19 JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

20 (2) THE IMMUNITY PROVIDED BY THIS SECTION SUPPLEMENTS ANY  
21 IMMUNITY UNDER LAW OF THIS STATE OTHER THAN THIS ARTICLE 12.5.

22 (3) AN ARBITRATOR'S FAILURE TO MAKE A DISCLOSURE REQUIRED  
23 BY SECTION 14-12.5-109 DOES NOT CAUSE THE ARBITRATOR TO LOSE  
24 IMMUNITY UNDER THIS SECTION.

25 (4) AN ARBITRATOR IS NOT COMPETENT TO TESTIFY, AND MAY NOT  
26 BE REQUIRED TO PRODUCE RECORDS, IN A JUDICIAL, ADMINISTRATIVE, OR  
27 SIMILAR PROCEEDING ABOUT A STATEMENT, CONDUCT, DECISION, OR

1 RULING OCCURRING DURING AN ARBITRATION, TO THE SAME EXTENT AS A  
2 JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY. THIS  
3 SUBSECTION (4) DOES NOT APPLY:

4 (a) TO THE EXTENT DISCLOSURE IS NECESSARY TO DETERMINE A  
5 CLAIM BY THE ARBITRATOR OR ARBITRATION ORGANIZATION AGAINST A  
6 PARTY TO THE ARBITRATION; OR

7 (b) TO A HEARING ON A MOTION UNDER SECTION 14-12.5-119  
8 (1)(a) OR (1)(b) TO VACATE AN AWARD, IF THERE IS PRIMA FACIE  
9 EVIDENCE THAT A GROUND FOR VACATING THE AWARD EXISTS.

10 (5) IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN  
11 ARBITRATOR ARISING FROM THE SERVICES OF THE ARBITRATOR OR SEEKS  
12 TO COMPEL THE ARBITRATOR TO TESTIFY OR PRODUCE RECORDS IN  
13 VIOLATION OF SUBSECTION (4) OF THIS SECTION AND THE COURT  
14 DETERMINES THAT THE ARBITRATOR IS IMMUNE FROM CIVIL LIABILITY OR  
15 IS NOT COMPETENT TO TESTIFY OR REQUIRED TO PRODUCE THE RECORDS,  
16 THE COURT SHALL AWARD THE ARBITRATOR REASONABLE ATTORNEY'S  
17 FEES, COSTS, AND REASONABLE EXPENSES OF LITIGATION.

18 **14-12.5-126. Uniformity of application and construction.** IN  
19 APPLYING AND CONSTRUING THIS ARTICLE 12.5, CONSIDERATION MUST BE  
20 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT  
21 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

22 **14-12.5-127. Relation to electronic signatures in global and**  
23 **national commerce act.** THIS ARTICLE 12.5 MODIFIES, LIMITS, OR  
24 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
25 COMMERCE ACT", 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT  
26 MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C.  
27 SECTION 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE

1 NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SECTION  
2 7003 (b).

3 **14-12.5-128. Transitional provision.** THIS ARTICLE 12.5 APPLIES  
4 TO ARBITRATION OF A FAMILY LAW DISPUTE UNDER AN ARBITRATION  
5 AGREEMENT MADE ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE  
6 12.5. IF AN ARBITRATION AGREEMENT WAS MADE BEFORE THE EFFECTIVE  
7 DATE OF THIS ARTICLE 12.5, THE PARTIES MAY AGREE IN A RECORD THAT  
8 THIS ARTICLE 12.5 APPLIES TO THE ARBITRATION.

9 **14-12.5-129. Effective date.** THIS ARTICLE 12.5 TAKES EFFECT  
10 JANUARY 1, 2018.

11 **SECTION 2. Act subject to petition - effective date.** This act  
12 takes effect January 1, 2018; except that, if a referendum petition is filed  
13 pursuant to section 1 (3) of article V of the state constitution against this  
14 act or an item, section, or part of this act within the ninety-day period  
15 after final adjournment of the general assembly, then the act, item,  
16 section, or part will not take effect unless approved by the people at the  
17 general election to be held in November 2018 and, in such case, will take  
18 effect on the date of the official declaration of the vote thereon by the  
19 governor.

20 <{*Need to review conforming amendments to section 14-10-128.5 and*  
21 *14-10-128.3*>

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

DRAFT  
11.9.16

DRAFT

LLS NO. 17-0194.01 Duane Gall x4335

COMMITTEE BILL

Colorado Commission on Uniform State Laws

**BILL TOPIC: "Revised Uniform Unclaimed Property Act"**

**A BILL FOR AN ACT**

101 CONCERNING ADOPTION OF THE "REVISED UNIFORM UNCLAIMED  
102 PROPERTY ACT".

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)*

**Colorado Commission on Uniform State Laws.** The bill enacts the "Revised Uniform Unclaimed Property Act" (the "Act"), as adopted by the National Conference of Commissioners on Uniform State Laws in 2016. The Act responds to current transactions and practices (in particular electronic records); and seeks to promote uniformity among state laws regarding the disposition of unclaimed property.

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**  
3 **with amendments,** article 13 of title 38 as follows:

4                                   **ARTICLE 13**

5                                   **Revised Uniform Unclaimed Property Act**

6                                   PART 1

7                                   IN GENERAL

8           **38-13-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 13 IS  
9 THE "REVISED UNIFORM UNCLAIMED PROPERTY ACT".

10           **38-13-102. Definitions.** AS USED IN THIS ARTICLE 13, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

12           (1) "ADMINISTRATOR" MEANS THE STATE TREASURER.

13           (2) "ADMINISTRATOR'S AGENT" MEANS A PERSON WITH WHOM THE  
14 ADMINISTRATOR CONTRACTS TO CONDUCT AN EXAMINATION UNDER PART  
15 10 OF THIS ARTICLE 13 ON BEHALF OF THE ADMINISTRATOR AND AN  
16 INDEPENDENT CONTRACTOR OF THE PERSON. THE TERM INCLUDES EACH  
17 INDIVIDUAL PARTICIPATING IN THE EXAMINATION ON BEHALF OF THE  
18 PERSON OR CONTRACTOR.

19           (3) "APPARENT OWNER" MEANS A PERSON WHOSE NAME APPEARS  
20 ON THE RECORDS OF A HOLDER AS THE OWNER OF PROPERTY HELD, ISSUED,  
21 OR OWING BY THE HOLDER.

22           (4) "BUSINESS ASSOCIATION" MEANS A FOR-PROFIT OR NONPROFIT  
23 CORPORATION; JOINT STOCK COMPANY; INVESTMENT COMPANY OTHER  
24 THAN AN INVESTMENT COMPANY REGISTERED UNDER THE FEDERAL  
25 "INVESTMENT COMPANY ACT OF 1940", AS AMENDED, 15 U.S.C. SECS.  
26 80a-1 TO 80a-64; PARTNERSHIP; UNINCORPORATED ASSOCIATION; JOINT

1 VENTURE; LIMITED LIABILITY COMPANY; BUSINESS TRUST; TRUST  
2 COMPANY; LAND BANK; SAFE DEPOSIT COMPANY; SAFEKEEPING  
3 DEPOSITORY; FINANCIAL ORGANIZATION; INSURANCE COMPANY;  
4 FEDERALLY CHARTERED ENTITY; UTILITY; SOLE PROPRIETORSHIP; OR  
5 OTHER BUSINESS ENTITY.

6 (5) "CONFIDENTIAL INFORMATION" MEANS CONFIDENTIAL  
7 INFORMATION AS DEFINED IN SECTION 38-13-1402.

8 (6) "DOMICILE" MEANS:

9 (a) FOR A CORPORATION, THE STATE OF ITS INCORPORATION;

10 (b) FOR A BUSINESS ASSOCIATION, OTHER THAN A CORPORATION,  
11 WHOSE FORMATION REQUIRES A FILING WITH A STATE, THE STATE OF ITS  
12 FILING;

13 (c) FOR A FEDERALLY CHARTERED ENTITY OR AN INVESTMENT  
14 COMPANY REGISTERED UNDER THE FEDERAL "INVESTMENT COMPANY ACT  
15 OF 1940", AS AMENDED, 15 U.S.C. SECS. 80a-1 TO 80a-64, THE STATE OF  
16 ITS HOME OFFICE; AND

17 (d) FOR ANY OTHER HOLDER, THE STATE OF ITS PRINCIPAL PLACE  
18 OF BUSINESS.

19 (7) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING  
20 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,  
21 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

22 (8) "ELECTRONIC MAIL" MEANS ANY COMMUNICATION OF  
23 INFORMATION BY ELECTRONIC MEANS THAT IS AUTOMATICALLY RETAINED  
24 AND STORED AND MAY BE READILY ACCESSED OR RETRIEVED.

25 (9) "FINANCIAL ORGANIZATION" MEANS A SAVINGS AND LOAN  
26 ASSOCIATION, BUILDING AND LOAN ASSOCIATION, SAVINGS BANK,  
27 INDUSTRIAL BANK, BANK, BANKING ORGANIZATION, OR CREDIT UNION.



1 (10) "GAME-RELATED DIGITAL CONTENT" MEANS DIGITAL  
2 CONTENT THAT EXISTS ONLY IN AN ELECTRONIC GAME OR  
3 ELECTRONIC-GAME PLATFORM. THE TERM:

4 (a) INCLUDES:

5 (I) GAME-PLAY CURRENCY SUCH AS A VIRTUAL WALLET, EVEN IF  
6 DENOMINATED IN UNITED STATES CURRENCY; AND

7 (II) THE FOLLOWING IF FOR USE OR REDEMPTION ONLY WITHIN  
8 THAT GAME OR PLATFORM OR ANOTHER ELECTRONIC GAME OR  
9 ELECTRONIC-GAME PLATFORM:

10 (A) POINTS SOMETIMES REFERRED TO AS GEMS, TOKENS, GOLD,  
11 AND SIMILAR NAMES; AND

12 (B) DIGITAL CODES; AND

13 (b) DOES NOT INCLUDE AN ITEM THAT THE ISSUER:

14 (I) PERMITS TO BE REDEEMED FOR USE OUTSIDE OF A GAME OR  
15 PLATFORM FOR:

16 (A) MONEY; OR

17 (B) GOODS OR SERVICES THAT HAVE MORE THAN MINIMAL VALUE;

18 OR

19 (II) OTHERWISE MONETIZES FOR USE OUTSIDE OF A GAME OR  
20 PLATFORM.

21 (11) "GIFT CARD" MEANS:

22 (a) A STORED-VALUE CARD:

23 (I) THE VALUE OF WHICH DOES NOT EXPIRE;

24 (II) THAT MAY BE DECREASED IN VALUE ONLY BY REDEMPTION  
25 FOR MERCHANDISE, GOODS, OR SERVICES; AND

26 (III) THAT, UNLESS REQUIRED BY LAW, MAY NOT BE REDEEMED  
27 FOR OR CONVERTED INTO MONEY OR OTHERWISE MONETIZED BY THE

1 ISSUER; AND

2 (b) INCLUDES A PREPAID COMMERCIAL MOBILE RADIO SERVICE, AS  
3 DEFINED IN 47 CFR 20.3, AS AMENDED.

4 (12) "HOLDER" MEANS A PERSON OBLIGATED TO HOLD FOR THE  
5 ACCOUNT OF, OR TO DELIVER OR PAY TO, THE OWNER PROPERTY THAT IS  
6 SUBJECT TO THIS ARTICLE 13.

7 (13) "INSURANCE COMPANY" MEANS AN ASSOCIATION,  
8 CORPORATION, OR FRATERNAL OR MUTUAL-BENEFIT ORGANIZATION,  
9 WHETHER OR NOT FOR PROFIT, ENGAGED IN THE BUSINESS OF PROVIDING  
10 LIFE ENDOWMENTS, ANNUITIES, OR INSURANCE, INCLUDING ACCIDENT,  
11 BURIAL, CASUALTY, CREDIT-LIFE, CONTRACT-PERFORMANCE, DENTAL,  
12 DISABILITY, FIDELITY, FIRE, HEALTH, HOSPITALIZATION, ILLNESS, LIFE,  
13 MALPRACTICE, MARINE, MORTGAGE, SURETY, WAGE-PROTECTION, AND  
14 WORKERS' COMPENSATION INSURANCE.

15 (14) "LOYALTY CARD" MEANS A RECORD GIVEN WITHOUT DIRECT  
16 MONETARY CONSIDERATION, UNDER AN AWARD, REWARD, BENEFIT,  
17 LOYALTY, INCENTIVE, REBATE, OR PROMOTIONAL PROGRAM, THAT MAY BE  
18 USED OR REDEEMED ONLY TO OBTAIN GOODS OR SERVICES OR A DISCOUNT  
19 ON GOODS OR SERVICES. THE TERM DOES NOT INCLUDE A RECORD THAT  
20 MAY BE REDEEMED FOR MONEY OR OTHERWISE MONETIZED BY THE ISSUER.

21 (15) "MINERAL" MEANS GAS, OIL, COAL, OIL SHALE, OTHER  
22 GASEOUS LIQUID OR SOLID HYDROCARBON, CEMENT MATERIAL, SAND AND  
23 GRAVEL, ROAD MATERIAL, BUILDING STONE, CHEMICAL RAW MATERIAL,  
24 GEMSTONE, FISSIONABLE AND NONFISSIONABLE ORES, COLLOIDAL AND  
25 OTHER CLAY, STEAM AND OTHER GEOTHERMAL RESOURCES, AND ANY  
26 OTHER SUBSTANCE DEFINED AS A MINERAL UNDER COLORADO LAW.

27 (16) "MINERAL PROCEEDS" MEANS AN AMOUNT PAYABLE FOR

1     EXTRACTION, PRODUCTION, OR SALE OF MINERALS OR, ON THE  
2     ABANDONMENT OF THE AMOUNT, THE AMOUNT THAT BECOMES PAYABLE  
3     AFTER ABANDONMENT. THE TERM INCLUDES AN AMOUNT PAYABLE:

4             (a) FOR THE ACQUISITION AND RETENTION OF A MINERAL LEASE,  
5     INCLUDING A BONUS, ROYALTY, COMPENSATORY ROYALTY, SHUT-IN  
6     ROYALTY, MINIMUM ROYALTY, AND DELAY RENTAL;

7             (b) FOR THE EXTRACTION, PRODUCTION, OR SALE OF MINERALS,  
8     INCLUDING A NET REVENUE INTEREST, ROYALTY, OVERRIDING ROYALTY,  
9     EXTRACTION PAYMENT, AND PRODUCTION PAYMENT; AND

10            (c) UNDER AN AGREEMENT OR OPTION, INCLUDING A JOINT  
11     OPERATING AGREEMENT, UNIT AGREEMENT, POOLING AGREEMENT, AND  
12     FARM-OUT AGREEMENT.

13            (17) "MONEY ORDER" MEANS A PAYMENT ORDER FOR A SPECIFIED  
14     AMOUNT OF MONEY AND INCLUDES AN EXPRESS MONEY ORDER AND A  
15     PERSONAL MONEY ORDER ON WHICH THE REMITTER IS THE PURCHASER.

16            (18) "MUNICIPAL BOND" MEANS A BOND OR EVIDENCE OF  
17     INDEBTEDNESS ISSUED BY A MUNICIPALITY OR OTHER POLITICAL  
18     SUBDIVISION OF A STATE.

19            (19) "NET CARD VALUE" MEANS THE ORIGINAL PURCHASE PRICE OR  
20     ORIGINAL ISSUED VALUE OF A STORED-VALUE CARD, PLUS AMOUNTS  
21     ADDED TO ITS ORIGINAL VALUE AND MINUS AMOUNTS USED AND ANY  
22     SERVICE CHARGE, FEE, OR DORMANCY CHARGE PERMITTED BY LAW.

23            (20) "NON-FREELY TRANSFERABLE SECURITY" MEANS A SECURITY  
24     THAT CANNOT BE DELIVERED TO THE ADMINISTRATOR BY THE DEPOSITORY  
25     TRUST CLEARING CORPORATION OR A SIMILAR CUSTODIAN OF SECURITIES  
26     PROVIDING POST-TRADE CLEARING AND SETTLEMENT SERVICES TO  
27     FINANCIAL MARKETS OR CANNOT BE DELIVERED BECAUSE THERE IS NO

1 AGENT TO EFFECT TRANSFER. THE TERM INCLUDES A WORTHLESS  
2 SECURITY.

3 (21) "OWNER" MEANS A PERSON THAT HAS A LEGAL, BENEFICIAL,  
4 OR EQUITABLE INTEREST IN PROPERTY SUBJECT TO THIS ARTICLE 13 OR THE  
5 PERSON'S LEGAL REPRESENTATIVE WHEN ACTING ON BEHALF OF THE  
6 OWNER. THE TERM INCLUDES:

7 (a) A DEPOSITOR, FOR A DEPOSIT;

8 (b) A BENEFICIARY, FOR A TRUST OTHER THAN A DEPOSIT IN TRUST;

9 (c) A CREDITOR, CLAIMANT, OR PAYEE, FOR OTHER PROPERTY; AND

10 (d) THE LAWFUL BEARER OF A RECORD THAT MAY BE USED TO  
11 OBTAIN MONEY, A REWARD, OR A THING OF VALUE.

12 (22) "PAYROLL CARD" MEANS A RECORD THAT EVIDENCES A  
13 PAYROLL-CARD ACCOUNT AS DEFINED IN REGULATION E, 12 CFR PART  
14 1005, AS AMENDED.

15 (23) "PERSON" MEANS AN INDIVIDUAL; ESTATE; BUSINESS  
16 ASSOCIATION; PUBLIC CORPORATION; GOVERNMENT OR GOVERNMENTAL  
17 SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER LEGAL ENTITY.

18 (24) "PROPERTY" MEANS TANGIBLE PROPERTY DESCRIBED IN  
19 SECTION 38-13-205 OR A FIXED AND CERTAIN INTEREST IN INTANGIBLE  
20 PROPERTY HELD, ISSUED, OR OWED IN THE COURSE OF A HOLDER'S  
21 BUSINESS OR BY A GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY,  
22 OR INSTRUMENTALITY. THE TERM:

23 (a) INCLUDES ALL INCOME FROM OR INCREMENTS TO THE  
24 PROPERTY;

25 (b) INCLUDES PROPERTY REFERRED TO AS OR EVIDENCED BY:

26 (I) MONEY, VIRTUAL CURRENCY, INTEREST, DIVIDEND, A CHECK,  
27 DRAFT, DEPOSIT, OR PAYROLL CARD;

1 (II) A CREDIT BALANCE, CUSTOMER'S OVERPAYMENT,  
2 STORED-VALUE CARD, SECURITY DEPOSIT, REFUND, CREDIT  
3 MEMORANDUM, UNPAID WAGE, UNUSED TICKET FOR WHICH THE ISSUER  
4 HAS AN OBLIGATION TO PROVIDE A REFUND, MINERAL PROCEEDS, OR  
5 UNIDENTIFIED REMITTANCE;

6 (III) A SECURITY EXCEPT FOR:

7 (A) A WORTHLESS SECURITY; OR

8 (B) A SECURITY THAT IS SUBJECT TO A LIEN, LEGAL HOLD, OR  
9 RESTRICTION EVIDENCED ON THE RECORDS OF THE HOLDER OR IMPOSED BY  
10 OPERATION OF LAW, THAT RESTRICTS THE HOLDER'S OR OWNER'S ABILITY  
11 LAWFULLY TO RECEIVE, TRANSFER, SELL, OR OTHERWISE NEGOTIATE THE  
12 SECURITY;

13 (IV) A BOND, DEBENTURE, NOTE, OR OTHER EVIDENCE OF  
14 INDEBTEDNESS;

15 (V) MONEY DEPOSITED TO REDEEM A SECURITY, MAKE A  
16 DISTRIBUTION, OR PAY A DIVIDEND;

17 (VI) AN AMOUNT DUE AND PAYABLE UNDER THE TERMS OF AN  
18 ANNUITY CONTRACT OR INSURANCE POLICY; AND

19 (VII) AN AMOUNT DISTRIBUTABLE FROM A TRUST OR CUSTODIAL  
20 FUND ESTABLISHED UNDER A PLAN TO PROVIDE HEALTH, WELFARE,  
21 PENSION, VACATION, SEVERANCE, RETIREMENT, DEATH, STOCK PURCHASE,  
22 PROFIT-SHARING, EMPLOYEE-SAVINGS, SUPPLEMENTAL-UNEMPLOYMENT  
23 INSURANCE, OR SIMILAR BENEFITS; AND

24 (c) DOES NOT INCLUDE:

25 (I) GAME-RELATED DIGITAL CONTENT; [OR]

26 (II) A LOYALTY CARD.[:] [OR]

27 [(III) AN IN-STORE CREDIT FOR RETURNED MERCHANDISE][:;] [OR]

1 [(IV) A GIFT CARD].

2 (25) "PUTATIVE HOLDER" MEANS A PERSON BELIEVED BY THE  
3 ADMINISTRATOR TO BE A HOLDER, UNTIL THE PERSON PAYS OR DELIVERS  
4 TO THE ADMINISTRATOR PROPERTY SUBJECT TO THIS ARTICLE 13 OR A  
5 FINAL DETERMINATION IS MADE THAT THE PERSON IS A HOLDER.

6 (26) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A  
7 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER  
8 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

9 (27) "SECURITY" MEANS:

10 (a) A SECURITY AS DEFINED IN SECTION 4-8-102 (15); OR

11 (b) A SECURITY ENTITLEMENT AS DEFINED IN SECTION 4-8-102  
12 (17), INCLUDING A CUSTOMER SECURITY ACCOUNT HELD BY A REGISTERED  
13 BROKER-DEALER TO THE EXTENT THAT THE FINANCIAL ASSETS HELD IN  
14 THE SECURITY ACCOUNT ARE NEITHER REGISTERED ON THE BOOKS OF THE  
15 ISSUER IN THE NAME OF, NOR ARE PAYABLE TO THE ORDER OF NOR  
16 SPECIFICALLY INDORSED TO, THE PERSON FOR WHICH THE BROKER-DEALER  
17 HOLDS THE ASSETS.

18 (28) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR  
19 ADOPT A RECORD:

20 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

21 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD  
22 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

23 (29) "STATE" MEANS A STATE OF THE UNITED STATES, THE  
24 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE  
25 UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR  
26 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

27 (30) "STORED-VALUE CARD":

1 (a) MEANS A RECORD EVIDENCING A PROMISE MADE FOR  
2 CONSIDERATION BY THE SELLER OR ISSUER OF THE RECORD THAT GOODS,  
3 SERVICES, OR MONEY WILL BE PROVIDED TO THE OWNER OF THE RECORD  
4 TO THE VALUE OR AMOUNT SHOWN IN THE RECORD;

5 (b) INCLUDES:

6 (I) A RECORD THAT CONTAINS OR CONSISTS OF A MICROPROCESSOR  
7 CHIP, MAGNETIC STRIP, OR OTHER MEANS FOR THE STORAGE OF  
8 INFORMATION, THAT IS PREFUNDED AND WHOSE VALUE OR AMOUNT IS  
9 DECREASED ON EACH USE AND INCREASED BY PAYMENT OF ADDITIONAL  
10 CONSIDERATION; AND

11 (II) [A GIFT CARD AND] A PAYROLL CARD; AND

12 (c) DOES NOT INCLUDE A LOYALTY CARD[, GIFT CARD,] OR  
13 GAME-RELATED DIGITAL CONTENT.

14 (31) "UTILITY" MEANS A PERSON THAT OWNS OR OPERATES FOR  
15 PUBLIC USE A PLANT, EQUIPMENT, REAL PROPERTY, FRANCHISE, OR  
16 LICENSE FOR THE FOLLOWING PUBLIC SERVICES:

17 (a) TRANSMISSION OF COMMUNICATIONS OR INFORMATION;

18 (b) PRODUCTION, STORAGE, TRANSMISSION, SALE, DELIVERY, OR  
19 FURNISHING OF ELECTRICITY, WATER, STEAM, OR GAS; OR

20 (c) PROVISION OF SEWAGE AND SEPTIC SERVICES OR TRASH,  
21 GARBAGE, OR RECYCLING DISPOSAL.

22 (32) "VIRTUAL CURRENCY" MEANS A DIGITAL REPRESENTATION OF  
23 VALUE USED AS A MEDIUM OF EXCHANGE, UNIT OF ACCOUNT, OR A STORE  
24 OF VALUE, BUT DOES NOT HAVE LEGAL TENDER STATUS AS RECOGNIZED BY  
25 THE UNITED STATES. THE TERM DOES NOT INCLUDE:

26 (a) THE SOFTWARE OR PROTOCOLS GOVERNING THE TRANSFER OF  
27 THE DIGITAL REPRESENTATION OF VALUE;

1 (b) GAME-RELATED DIGITAL CONTENT; OR

2 (c) A LOYALTY CARD[ OR GIFT CARD].

3 (33) "WORTHLESS SECURITY" MEANS A SECURITY WHOSE COST OF  
4 LIQUIDATION AND DELIVERY WOULD EXCEED THE VALUE OF THE SECURITY  
5 ON THE DATE A REPORT IS DUE UNDER THIS ARTICLE 13.

6 **38-13-103. Inapplicability to wholly foreign transaction.** THIS  
7 ARTICLE 13 DOES NOT APPLY TO PROPERTY HELD, DUE, AND OWING IN A  
8 FOREIGN COUNTRY IF THE TRANSACTION INVOLVING THE PROPERTY WAS  
9 A WHOLLY FOREIGN TRANSACTION.

10 **38-13-104. Rule-making.** THE ADMINISTRATOR MAY ADOPT  
11 UNDER THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF  
12 TITLE 24, RULES TO IMPLEMENT AND ADMINISTER THIS ARTICLE 13.

13 PART 2

14 PRESUMPTION OF ABANDONMENT

15 **38-13-201. When property presumed abandoned.** (1) SUBJECT  
16 TO SECTION 38-13-210, PROPERTY IS PRESUMED ABANDONED IF IT IS  
17 UNCLAIMED BY THE APPARENT OWNER AT THE TIME SPECIFIED FOR THE  
18 FOLLOWING PROPERTY:

19 (a) A TRAVELER'S CHECK, FIFTEEN YEARS AFTER ISSUANCE;

20 (b) A MONEY ORDER, SEVEN YEARS AFTER ISSUANCE;

21 (c) A STATE OR MUNICIPAL BOND, A BEARER BOND, OR AN  
22 ORIGINAL-ISSUE-DISCOUNT BOND, THREE YEARS AFTER THE EARLIEST OF  
23 THE DATE THE BOND MATURES OR IS CALLED OR THE OBLIGATION TO PAY  
24 THE PRINCIPAL OF THE BOND ARISES;

25 (d) A DEBT OF A BUSINESS ASSOCIATION, THREE YEARS AFTER THE  
26 OBLIGATION TO PAY ARISES;

27 (e) A PAYROLL CARD OR DEMAND, SAVINGS, OR TIME DEPOSIT,



1 INCLUDING A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE, THREE  
2 YEARS AFTER THE EARLIER OF MATURITY OR THE DATE OF THE LAST  
3 INDICATION OF INTEREST IN THE PROPERTY BY THE APPARENT OWNER;  
4 EXCEPT THAT A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE IS DEEMED  
5 MATURED ON ITS INITIAL DATE OF MATURITY UNLESS THE APPARENT  
6 OWNER CONSENTED IN A RECORD ON FILE WITH THE HOLDER TO A  
7 RENEWAL AT OR ABOUT THE TIME OF THE RENEWAL;

8 (f) MONEY OR CREDITS OWED TO A CUSTOMER AS A RESULT OF A  
9 RETAIL BUSINESS TRANSACTION, [OTHER THAN IN-STORE CREDIT FOR  
10 RETURNED MERCHANDISE,] THREE YEARS AFTER THE OBLIGATION AROSE;

11 (g) AN AMOUNT OWED BY AN INSURANCE COMPANY ON A LIFE OR  
12 ENDOWMENT INSURANCE POLICY OR AN ANNUITY CONTRACT THAT HAS  
13 MATURED OR TERMINATED, THREE YEARS AFTER THE OBLIGATION TO PAY  
14 AROSE UNDER THE TERMS OF THE POLICY OR CONTRACT OR, IF A POLICY OR  
15 CONTRACT FOR WHICH AN AMOUNT IS OWED ON PROOF OF DEATH HAS NOT  
16 MATURED BY PROOF OF THE DEATH OF THE INSURED OR ANNUITANT, THREE  
17 YEARS AFTER THE EARLIER OF THE DATE:

18 (I) THE INSURANCE COMPANY HAS KNOWLEDGE OF THE DEATH OF  
19 THE INSURED OR ANNUITANT; OR

20 (II) THE INSURED HAS ATTAINED, OR WOULD HAVE ATTAINED IF  
21 LIVING, THE LIMITING AGE UNDER THE MORTALITY TABLE ON WHICH THE  
22 RESERVE FOR THE POLICY OR CONTRACT IS BASED;

23 (h) PROPERTY DISTRIBUTABLE BY A BUSINESS ASSOCIATION IN THE  
24 COURSE OF DISSOLUTION, ONE YEAR AFTER THE PROPERTY BECOMES  
25 DISTRIBUTABLE;

26 (i) PROPERTY HELD BY A COURT, INCLUDING PROPERTY RECEIVED  
27 AS PROCEEDS OF A CLASS ACTION, ONE YEAR AFTER THE PROPERTY

1 BECOMES DISTRIBUTABLE;

2 (j) PROPERTY HELD BY A GOVERNMENT OR GOVERNMENTAL  
3 SUBDIVISION, AGENCY, OR INSTRUMENTALITY, INCLUDING MUNICIPAL  
4 BOND INTEREST AND UNREDEEMED PRINCIPAL UNDER THE  
5 ADMINISTRATION OF A PAYING AGENT OR INDENTURE TRUSTEE, ONE YEAR  
6 AFTER THE PROPERTY BECOMES DISTRIBUTABLE;

7 (k) WAGES, COMMISSIONS, BONUSES, OR REIMBURSEMENTS TO  
8 WHICH AN EMPLOYEE IS ENTITLED, OR OTHER COMPENSATION FOR  
9 PERSONAL SERVICES, OTHER THAN AMOUNTS HELD IN A PAYROLL CARD,  
10 ONE YEAR AFTER THE AMOUNT BECOMES PAYABLE;

11 (l) A DEPOSIT OR REFUND OWED TO A SUBSCRIBER BY A UTILITY,  
12 ONE YEAR AFTER THE DEPOSIT OR REFUND BECOMES PAYABLE; AND

13 (m) ALL OTHER PROPERTY NOT SPECIFIED IN THIS SECTION OR  
14 SECTIONS 38-13-202 TO 38-13-208 [\*207?], THE EARLIER OF THREE  
15 YEARS AFTER THE OWNER FIRST HAS A RIGHT TO DEMAND THE PROPERTY  
16 OR THE OBLIGATION TO PAY OR DISTRIBUTE THE PROPERTY ARISES.

17 **38-13-202. When tax-deferred retirement or health-savings**  
18 **account presumed abandoned.** (1) SUBJECT TO SECTION 38-13-210,  
19 PROPERTY HELD IN A PENSION ACCOUNT, RETIREMENT ACCOUNT, OR  
20 HEALTH-SAVINGS ACCOUNT, THAT QUALIFIES FOR TAX DEFERRAL UNDER  
21 THE INCOME TAX LAWS OF THE UNITED STATES IS PRESUMED ABANDONED  
22 IF IT IS UNCLAIMED BY THE APPARENT OWNER THREE YEARS AFTER THE  
23 LATER OF:

24 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY  
25 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE APPARENT  
26 OWNER IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED  
27 STATES POSTAL SERVICE, BUT IF THE SECOND COMMUNICATION IS SENT

1 LATER THAN THIRTY DAYS AFTER THE DATE THE FIRST COMMUNICATION  
2 IS RETURNED UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS  
3 RETURNED UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

4 (b) THE EARLIER OF:

5 (I) THE DATE THE APPARENT OWNER BECOMES SEVENTY AND  
6 ONE-HALF YEARS OF AGE, IF DETERMINABLE BY THE HOLDER; OR

7 (II) IF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS  
8 AMENDED, 26 U.S.C. SEC. 1 ET SEQ., REQUIRES DISTRIBUTION, TWO YEARS  
9 AFTER THE DATE THE HOLDER IN THE ORDINARY COURSE OF ITS BUSINESS  
10 RECEIVES CONFIRMATION OF THE DEATH OF THE APPARENT OWNER.

11 (2) IF A HOLDER IN THE ORDINARY COURSE OF ITS BUSINESS  
12 RECEIVES NOTICE OR AN INDICATION OF THE DEATH OF AN APPARENT  
13 OWNER AND SUBSECTION (1)(b) OF THIS SECTION APPLIES, THE HOLDER  
14 SHALL ATTEMPT NOT LATER THAN NINETY DAYS AFTER RECEIPT OF THE  
15 NOTICE OR INDICATION TO CONFIRM WHETHER THE APPARENT OWNER IS  
16 DECEASED.

17 (3) IF THE APPARENT OWNER OF AN ACCOUNT DESCRIBED IN  
18 SUBSECTION (1) OF THIS SECTION DOES NOT RECEIVE COMMUNICATIONS  
19 FROM THE HOLDER BY FIRST-CLASS UNITED STATES MAIL, THE HOLDER  
20 SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S INTEREST IN THE  
21 PROPERTY BY SENDING THE APPARENT OWNER AN ELECTRONIC-MAIL  
22 COMMUNICATION NOT LATER THAN TWO YEARS AFTER THE APPARENT  
23 OWNER'S LAST INDICATION OF INTEREST IN THE PROPERTY. IF THE HOLDER  
24 RECEIVES NOTIFICATION THAT THE ELECTRONIC-MAIL COMMUNICATION  
25 WAS NOT RECEIVED OR IF THE APPARENT OWNER DOES NOT RESPOND TO  
26 THE ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN THIRTY DAYS  
27 AFTER THE COMMUNICATION WAS SENT, THE HOLDER PROMPTLY SHALL

1 ATTEMPT TO CONTACT THE APPARENT OWNER BY FIRST-CLASS UNITED  
2 STATES MAIL. IF THE MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY  
3 THE UNITED STATES POSTAL SERVICE, THE PROPERTY IS PRESUMED  
4 ABANDONED THREE YEARS AFTER THE LATER OF:

5 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION TO  
6 CONTACT THE APPARENT OWNER SENT BY FIRST-CLASS UNITED STATES  
7 MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES  
8 POSTAL SERVICE, BUT IF THE SECOND COMMUNICATION IS SENT LATER  
9 THAN THIRTY DAYS AFTER THE DATE THE FIRST COMMUNICATION IS  
10 RETURNED UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS  
11 RETURNED UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

12 (b) THE DATE ESTABLISHED BY SUBSECTION (1)(b) OF THIS  
13 SECTION.

14 **38-13-203. When other tax-deferred account presumed**  
15 **abandoned.** (1) SUBJECT TO SECTION 38-13-210 AND EXCEPT FOR  
16 PROPERTY DESCRIBED IN SECTION 38-13-202 AND PROPERTY HELD IN A  
17 PLAN DESCRIBED IN SECTION 529A OF THE FEDERAL "INTERNAL REVENUE  
18 CODE OF 1986", AS AMENDED, 26 U.S.C. SEC. 529A, PROPERTY HELD IN AN  
19 ACCOUNT OR PLAN THAT QUALIFIES FOR TAX DEFERRAL UNDER THE  
20 INCOME TAX LAWS OF THE UNITED STATES IS PRESUMED ABANDONED IF  
21 IT IS UNCLAIMED BY THE OWNER THREE YEARS AFTER THE EARLIER OF:

22 (a) THE DATE, IF DETERMINABLE BY THE HOLDER, SPECIFIED IN THE  
23 INCOME TAX LAWS AND REGULATIONS OF THE UNITED STATES BY WHICH  
24 DISTRIBUTION OF THE PROPERTY MUST BEGIN TO AVOID A TAX PENALTY,  
25 WITH NO DISTRIBUTION HAVING BEEN MADE; OR

26 (b) THIRTY YEARS AFTER THE DATE THE ACCOUNT WAS OPENED.

27 **38-13-204. When custodial account for minor presumed**

1 **abandoned.** (1) SUBJECT TO SECTION 38-13-210, PROPERTY HELD IN AN  
2 ACCOUNT ESTABLISHED UNDER THE "COLORADO UNIFORM TRANSFERS TO  
3 MINORS ACT", ARTICLE 50 OF TITLE 11, IS PRESUMED ABANDONED IF IT IS  
4 UNCLAIMED BY OR ON BEHALF OF THE MINOR ON WHOSE BEHALF THE  
5 ACCOUNT WAS OPENED THREE YEARS AFTER THE LATER OF:

6 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY  
7 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE CUSTODIAN OF  
8 THE MINOR ON WHOSE BEHALF THE ACCOUNT WAS OPENED IS RETURNED  
9 UNDELIVERED TO THE HOLDER BY THE UNITED STATES POSTAL SERVICE,  
10 BUT IF THE SECOND COMMUNICATION IS SENT LATER THAN THIRTY DAYS  
11 AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED UNDELIVERED,  
12 THE DATE THE FIRST COMMUNICATION WAS RETURNED UNDELIVERED BY  
13 THE UNITED STATES POSTAL SERVICE; OR

14 (b) THE DATE ON WHICH THE MINOR ON WHOSE BEHALF THE  
15 ACCOUNT WAS OPENED REACHES THE STATUTORY AGE OF MAJORITY IN  
16 ACCORDANCE WITH THE "COLORADO UNIFORM TRANSFERS TO MINORS  
17 ACT", ARTICLE 50 OF TITLE 11.

18 (2) IF THE CUSTODIAN OF THE MINOR ON WHOSE BEHALF AN  
19 ACCOUNT DESCRIBED IN SUBSECTION (1) OF THIS SECTION WAS OPENED  
20 DOES NOT RECEIVE COMMUNICATIONS FROM THE HOLDER BY FIRST-CLASS  
21 UNITED STATES MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE  
22 CUSTODIAN'S INTEREST IN THE PROPERTY BY SENDING THE CUSTODIAN AN  
23 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN TWO YEARS AFTER  
24 THE CUSTODIAN'S LAST INDICATION OF INTEREST IN THE PROPERTY. IF THE  
25 HOLDER RECEIVES NOTIFICATION THAT THE ELECTRONIC-MAIL  
26 COMMUNICATION WAS NOT RECEIVED OR IF THE CUSTODIAN DOES NOT  
27 RESPOND TO THE ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN

1 THIRTY DAYS AFTER THE COMMUNICATION WAS SENT, THE HOLDER  
2 PROMPTLY SHALL ATTEMPT TO CONTACT THE CUSTODIAN BY FIRST-CLASS  
3 UNITED STATES MAIL. IF THE MAIL IS RETURNED UNDELIVERED TO THE  
4 HOLDER BY THE UNITED STATES POSTAL SERVICE, THE PROPERTY IS  
5 PRESUMED ABANDONED THREE YEARS AFTER THE LATER OF:

6 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION TO  
7 CONTACT THE CUSTODIAN BY FIRST-CLASS UNITED STATES MAIL IS  
8 RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL  
9 SERVICE; OR

10 (b) THE DATE ESTABLISHED BY SUBSECTION (1)(b) OF THIS  
11 SECTION.

12 (3) WHEN THE MINOR ON WHOSE BEHALF AN ACCOUNT DESCRIBED  
13 IN SUBSECTION (1) OF THIS SECTION REACHES THE AGE REQUIRED FOR  
14 TRANSFER TO A MINOR OF CUSTODIAL PROPERTY UNDER APPLICABLE LAW,  
15 THE PROPERTY IN THE ACCOUNT IS NO LONGER SUBJECT TO THIS SECTION.

16 **38-13-205. When contents of safe-deposit box presumed**  
17 **abandoned.** (1) TANGIBLE PROPERTY HELD IN A SAFE-DEPOSIT BOX AND  
18 PROCEEDS FROM A SALE OF THE PROPERTY BY THE HOLDER PERMITTED BY  
19 LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 ARE PRESUMED  
20 ABANDONED IF THE PROPERTY REMAINS UNCLAIMED BY THE APPARENT  
21 OWNER FIVE YEARS AFTER THE EARLIER OF THE:

22 (a) EXPIRATION OF THE LEASE OR RENTAL PERIOD FOR THE BOX; OR

23 (b) EARLIEST DATE WHEN THE LESSOR OF THE BOX IS AUTHORIZED  
24 BY LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 TO ENTER THE BOX  
25 AND REMOVE OR DISPOSE OF THE CONTENTS WITHOUT CONSENT OR  
26 AUTHORIZATION OF THE LESSEE.

27 **38-13-206. When stored-value card presumed abandoned.**

1 (1) SUBJECT TO SECTION 38-13-210, A STORED-VALUE CARD OTHER THAN  
2 A PAYROLL CARD [OR A GIFT CARD] IS PRESUMED ABANDONED ON THE  
3 LATEST OF THREE YEARS AFTER:

4 (a) DECEMBER 31 OF THE YEAR IN WHICH THE CARD IS ISSUED OR  
5 ADDITIONAL FUNDS ARE DEPOSITED INTO IT;

6 (b) THE MOST RECENT INDICATION OF INTEREST IN THE CARD BY  
7 THE APPARENT OWNER; OR

8 (c) A VERIFICATION OR REVIEW OF THE BALANCE BY OR ON BEHALF  
9 OF THE APPARENT OWNER.

10 (2) THE AMOUNT ABANDONED BY THE OWNER IN A STORED-VALUE  
11 CARD IS THE NET CARD VALUE AT THE TIME IT IS PRESUMED ABANDONED.

12 **[38-13-207. When gift card presumed abandoned.** SUBJECT TO  
13 SECTION 38-13-210, A GIFT CARD IS PRESUMED ABANDONED IF IT IS  
14 UNCLAIMED BY THE APPARENT OWNER FIVE YEARS AFTER THE LATER OF  
15 THE DATE OF PURCHASE OR ITS MOST RECENT USE.]

16 **38-13-208. When security presumed abandoned.** (1) SUBJECT  
17 TO SECTION 38-13-210, A SECURITY IS PRESUMED ABANDONED THREE  
18 YEARS AFTER:

19 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY  
20 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE APPARENT  
21 OWNER IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED  
22 STATES POSTAL SERVICE; OR

23 (b) IF THE SECOND COMMUNICATION IS MADE LATER THAN THIRTY  
24 DAYS AFTER THE FIRST COMMUNICATION IS RETURNED, THE DATE THE  
25 FIRST COMMUNICATION IS RETURNED UNDELIVERED TO THE HOLDER BY  
26 THE UNITED STATES POSTAL SERVICE.

27 (2) IF THE APPARENT OWNER OF A SECURITY DOES NOT RECEIVE

1 COMMUNICATIONS FROM THE HOLDER BY FIRST-CLASS UNITED STATES  
2 MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S  
3 INTEREST IN THE SECURITY BY SENDING THE APPARENT OWNER AN  
4 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN TWO YEARS AFTER  
5 THE APPARENT OWNER'S LAST INDICATION OF INTEREST IN THE SECURITY.  
6 IF THE HOLDER RECEIVES NOTIFICATION THAT THE ELECTRONIC-MAIL  
7 COMMUNICATION WAS NOT RECEIVED OR IF THE APPARENT OWNER DOES  
8 NOT RESPOND TO THE ELECTRONIC-MAIL COMMUNICATION NOT LATER  
9 THAN THIRTY DAYS AFTER THE COMMUNICATION WAS SENT, THE HOLDER  
10 PROMPTLY SHALL ATTEMPT TO CONTACT THE APPARENT OWNER BY  
11 FIRST-CLASS UNITED STATES MAIL. IF THE MAIL IS RETURNED TO THE  
12 HOLDER UNDELIVERED BY THE UNITED STATES POSTAL SERVICE, THE  
13 SECURITY IS PRESUMED ABANDONED THREE YEARS AFTER THE DATE THE  
14 MAIL IS RETURNED.

15 **38-13-209. When related property interest presumed**  
16 **abandoned.** AT THE TIME AN INTEREST IS PRESUMED ABANDONED UNDER  
17 THIS ARTICLE 13, ANY OTHER PROPERTY RIGHT ACCRUED OR ACCRUING TO  
18 THE APPARENT OWNER AS A RESULT OF THE INTEREST, AND NOT  
19 PREVIOUSLY PRESUMED ABANDONED, IS ALSO PRESUMED ABANDONED.

20 **38-13-210. Indication of apparent owner interest in property.**

21 (1) PROPERTY IS NOT PRESUMED ABANDONED IF THE APPARENT OWNER  
22 INDICATES AN INTEREST IN THE PROPERTY DURING THE APPLICABLE  
23 PERIODS IN THIS PART 2.

24 (2) UNDER THIS ARTICLE 13, AN INDICATION OF AN APPARENT  
25 OWNER'S INTEREST IN PROPERTY INCLUDES:

26 (a) A RECORD COMMUNICATED BY THE APPARENT OWNER TO THE  
27 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE



1 ACCOUNT IN WHICH THE PROPERTY IS HELD;

2 (b) AN ORAL COMMUNICATION BY THE APPARENT OWNER TO THE  
3 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE  
4 ACCOUNT IN WHICH THE PROPERTY IS HELD, IF THE HOLDER OR ITS AGENT  
5 CONTEMPORANEOUSLY MAKES AND PRESERVES A RECORD OF THE FACT OF  
6 THE APPARENT OWNER'S COMMUNICATION;

7 (c) PRESENTMENT OF A CHECK OR OTHER INSTRUMENT OF  
8 PAYMENT OF A DIVIDEND, INTEREST PAYMENT, OR OTHER DISTRIBUTION,  
9 OR EVIDENCE OF RECEIPT OF A DISTRIBUTION MADE BY ELECTRONIC OR  
10 SIMILAR MEANS, WITH RESPECT TO AN:

11 (I) ACCOUNT;

12 (II) UNDERLYING SECURITY; OR

13 (III) INTEREST IN A BUSINESS ASSOCIATION;

14 (d) ACTIVITY DIRECTED BY AN APPARENT OWNER IN THE ACCOUNT  
15 IN WHICH THE PROPERTY IS HELD, INCLUDING ACCESSING THE ACCOUNT OR  
16 INFORMATION CONCERNING THE ACCOUNT, OR A DIRECTION BY THE  
17 APPARENT OWNER TO INCREASE, DECREASE, OR OTHERWISE CHANGE THE  
18 AMOUNT OR TYPE OF PROPERTY HELD IN THE ACCOUNT;

19 (e) MAKING A DEPOSIT INTO OR WITHDRAWAL FROM AN ACCOUNT  
20 AT A FINANCIAL ORGANIZATION, INCLUDING AN AUTOMATIC DEPOSIT OR  
21 WITHDRAWAL PREVIOUSLY AUTHORIZED BY THE APPARENT OWNER OTHER  
22 THAN AN AUTOMATIC REINVESTMENT OF DIVIDENDS OR INTEREST;

23 (f) SUBJECT TO SUBSECTION (5) OF THIS SECTION, PAYMENT OF A  
24 PREMIUM ON AN INSURANCE POLICY; AND

25 (g) ANY OTHER ACTION BY THE APPARENT OWNER THAT  
26 REASONABLY DEMONSTRATES TO THE HOLDER THAT THE APPARENT  
27 OWNER IS AWARE THAT THE PROPERTY EXISTS.

1           (3) AN ACTION BY AN AGENT OR OTHER REPRESENTATIVE OF AN  
2 APPARENT OWNER, OTHER THAN THE HOLDER ACTING AS THE APPARENT  
3 OWNER'S AGENT, IS PRESUMED TO BE AN ACTION ON BEHALF OF THE  
4 APPARENT OWNER.

5           (4) A COMMUNICATION WITH AN APPARENT OWNER BY A PERSON  
6 OTHER THAN THE HOLDER OR THE HOLDER'S REPRESENTATIVE IS NOT AN  
7 INDICATION OF INTEREST IN THE PROPERTY BY THE APPARENT OWNER  
8 UNLESS A RECORD OF THE COMMUNICATION EVIDENCES THE APPARENT  
9 OWNER'S KNOWLEDGE OF A RIGHT TO THE PROPERTY.

10           (5) APPLICATION OF AN AUTOMATIC-PREMIUM-LOAN PROVISION OR  
11 OTHER NONFORFEITURE PROVISION CONTAINED IN AN INSURANCE POLICY  
12 IS NOT AN INDICATION OF INTEREST IN THE POLICY AND DOES NOT PREVENT  
13 THE POLICY FROM MATURING OR TERMINATING IF THE INSURED HAS DIED  
14 OR THE INSURED OR THE BENEFICIARY OF THE POLICY OTHERWISE HAS  
15 BECOME ENTITLED TO THE PROCEEDS BEFORE DEPLETION OF THE CASH  
16 SURRENDER VALUE OF THE POLICY BY APPLICATION OF THE PROVISION.

17           **38-13-211. Knowledge of death of insured or annuitant.** (1) IN  
18 THIS SECTION, "DEATH MASTER FILE" MEANS THE UNITED STATES SOCIAL  
19 SECURITY ADMINISTRATION'S DEATH MASTER FILE OR OTHER DATABASE  
20 OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE AS THE UNITED STATES  
21 SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE FOR  
22 DETERMINING THAT A PERSON REPORTEDLY HAS DIED.

23           (2) WITH RESPECT TO A LIFE OR ENDOWMENT INSURANCE POLICY  
24 OR ANNUITY CONTRACT FOR WHICH AN AMOUNT IS OWED ON PROOF OF  
25 DEATH, BUT THAT HAS NOT MATURED BY PROOF OF DEATH OF THE INSURED  
26 OR ANNUITANT, THE COMPANY HAS KNOWLEDGE OF THE DEATH OF AN  
27 INSURED OR ANNUITANT WHEN:

1           (a) THE COMPANY RECEIVES A DEATH CERTIFICATE OR A COURT  
2 ORDER DETERMINING THAT THE INSURED OR ANNUITANT HAS DIED;

3           (b) DUE DILIGENCE PERFORMED AS REQUIRED UNDER COLORADO  
4 LAW TO MAINTAIN CONTACT WITH THE INSURED OR ANNUITANT OR  
5 DETERMINE WHETHER THE INSURED OR ANNUITANT HAS DIED, RESULTS IN  
6 VALIDATION OF THE DEATH OF THE INSURED OR ANNUITANT;

7           (c) A COMPARISON IS CONDUCTED BY THE COMPANY FOR ANY  
8 PURPOSE BETWEEN A DEATH MASTER FILE AND THE NAMES OF SOME OR  
9 ALL OF THE COMPANY'S INSUREDS OR ANNUITANTS, A MATCH IS FOUND  
10 PROVIDING NOTICE THAT THE INSURED OR ANNUITANT HAS DIED AND THE  
11 COMPANY VALIDATES THE DEATH;

12           (d) A COMPARISON IS CONDUCTED BY THE ADMINISTRATOR OR THE  
13 ADMINISTRATOR'S AGENT FOR THE PURPOSE OF FINDING MATCHES DURING  
14 AN EXAMINATION CONDUCTED UNDER PART 10 OF THIS ARTICLE 13  
15 BETWEEN A DEATH MASTER FILE AND THE NAMES OF SOME OR ALL OF THE  
16 COMPANY'S INSUREDS OR ANNUITANTS, A MATCH IS FOUND PROVIDING  
17 NOTICE THAT THE INSURED OR ANNUITANT HAS DIED AND THE COMPANY  
18 VALIDATES THE DEATH; OR

19           (e) THE COMPANY:

20           (I) RECEIVES NOTICE OF THE DEATH OF THE INSURED OR  
21 ANNUITANT FROM AN ADMINISTRATOR, BENEFICIARY, POLICY OWNER,  
22 RELATIVE OF THE INSURED, OR TRUSTEE OR FROM A [PERSONAL  
23 REPRESENTATIVE], [EXECUTOR], OR OTHER LEGAL REPRESENTATIVE OF  
24 THE INSURED'S OR ANNUITANT'S ESTATE; AND

25           (II) VALIDATES THE DEATH OF THE INSURED OR ANNUITANT.

26           (3) THE FOLLOWING RULES APPLY TO A DEATH-MASTER-FILE  
27 COMPARISON UNDER SUBSECTIONS (2)(c) AND (2)(d) OF THIS SECTION:

1 (a) A DEATH-MASTER-FILE MATCH OCCURS IF THE CRITERIA FOR AN  
2 EXACT OR PARTIAL MATCH ARE SATISFIED AS PROVIDED BY:

3 (I) A LAW OF THIS STATE OTHER THAN THIS ARTICLE 13;

4 (II) A RULE OR POLICY ADOPTED BY THE COMMISSIONER OF  
5 INSURANCE; OR

6 (III) ABSENT A LAW, RULE, OR POLICY, UNDER SUBSECTION (1) OR  
7 (2) OF THIS SECTION, STANDARDS IN THE [NATIONAL CONFERENCE OF  
8 INSURANCE LEGISLATORS' "MODEL UNCLAIMED LIFE INSURANCE  
9 BENEFITS ACT" AS PUBLISHED IN 2014];

10 (b) A DEATH-MASTER-FILE MATCH DOES NOT CONSTITUTE PROOF  
11 OF DEATH FOR PURPOSES OF SUBMISSION OF A CLAIM BY A BENEFICIARY,  
12 ANNUITANT, OR OWNER OF THE POLICY OR CONTRACT TO AN INSURANCE  
13 COMPANY FOR AMOUNTS DUE UNDER AN INSURANCE POLICY OR ANNUITY  
14 CONTRACT;

15 (c) A DEATH-MASTER-FILE MATCH UNDER EITHER SUBSECTION  
16 (2)(c) OR (2)(d) OF THIS SECTION OR VALIDATION OF THE INSURED'S OR  
17 ANNUITANT'S DEATH DOES NOT ALTER THE REQUIREMENTS FOR A  
18 BENEFICIARY, ANNUITANT, OR OWNER OF THE POLICY OR CONTRACT TO  
19 MAKE A CLAIM TO RECEIVE PROCEEDS UNDER THE TERMS OF THE POLICY  
20 OR CONTRACT; AND

21 (d) ABSENT A PROVISION IN TITLE 10 OR RULES OF THE  
22 COMMISSIONER OF INSURANCE THAT ESTABLISH A TIME FOR THE  
23 VALIDATION OF A DEATH OF AN INSURED OR ANNUITANT, THE INSURANCE  
24 COMPANY SHALL MAKE A GOOD-FAITH EFFORT USING OTHER AVAILABLE  
25 RECORDS AND INFORMATION TO VALIDATE THE DEATH AND DOCUMENT  
26 THE EFFORT TAKEN NOT LATER THAN NINETY DAYS AFTER THE INSURANCE  
27 COMPANY HAS NOTICE OF THE DEATH.

1           (4) THIS ARTICLE 13 DOES NOT AFFECT THE DETERMINATION OF  
2           THE EXTENT TO WHICH AN INSURANCE COMPANY, BEFORE THE EFFECTIVE  
3           DATE OF THIS ARTICLE 13, AS AMENDED, HAD KNOWLEDGE OF THE DEATH  
4           OF AN INSURED OR ANNUITANT OR WAS REQUIRED TO CONDUCT A  
5           DEATH-MASTER-FILE COMPARISON TO DETERMINE WHETHER AMOUNTS  
6           OWED BY THE COMPANY ON A LIFE OR ENDOWMENT INSURANCE POLICY OR  
7           ANNUITY CONTRACT WERE PRESUMED ABANDONED OR UNCLAIMED.

8           **38-13-212. Retained asset account for insurance policy or**  
9           **annuity contract.** IF PROCEEDS PAYABLE UNDER A LIFE OR ENDOWMENT  
10          INSURANCE POLICY OR ANNUITY CONTRACT ARE DEPOSITED INTO AN  
11          ACCOUNT WITH CHECK- OR DRAFT-WRITING PRIVILEGES FOR THE  
12          BENEFICIARY OF THE POLICY OR CONTRACT AND THE PROCEEDS ARE  
13          RETAINED BY THE INSURANCE COMPANY OR ITS AGENT UNDER A  
14          SUPPLEMENTARY CONTRACT NOT INVOLVING ANNUITY BENEFITS OTHER  
15          THAN DEATH BENEFITS, THE POLICY OR CONTRACT INCLUDES THE ASSETS  
16          IN THE ACCOUNT.

17                                    PART 3

18                            RULES FOR TAKING CUSTODY OF  
19                            ABANDONED PROPERTY

20          **38-13-301. Address of apparent owner to establish priority.**

21          (1) IN THIS PART 3:

22                 (a) THE LAST-KNOWN ADDRESS OF AN APPARENT OWNER IS ANY  
23                 DESCRIPTION, CODE, OR OTHER INDICATION OF THE LOCATION OF THE  
24                 APPARENT OWNER THAT IDENTIFIES THE STATE, REGARDLESS OF WHETHER  
25                 THE DESCRIPTION, CODE, OR INDICATION OF LOCATION IS SUFFICIENT TO  
26                 DIRECT THE DELIVERY OF FIRST-CLASS UNITED STATES MAIL TO THE  
27                 APPARENT OWNER;

1 (b) IF THE UNITED STATES POSTAL ZIP CODE ASSOCIATED WITH THE  
2 APPARENT OWNER IS FOR A POST OFFICE LOCATED IN THIS STATE, THIS  
3 STATE IS DEEMED TO BE THE STATE OF THE LAST-KNOWN ADDRESS OF THE  
4 APPARENT OWNER UNLESS OTHER RECORDS ASSOCIATED WITH THE  
5 APPARENT OWNER SPECIFICALLY IDENTIFY THE PHYSICAL ADDRESS OF THE  
6 APPARENT OWNER TO BE IN A DIFFERENT STATE;

7 (c) IF THE ADDRESS UNDER SUBSECTION (1)(b) OF THIS SECTION IS  
8 IN A DIFFERENT STATE, THE DIFFERENT STATE IS DEEMED TO BE THE STATE  
9 OF THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER; AND

10 (d) THE ADDRESS OF THE APPARENT OWNER OF A LIFE OR  
11 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT OR ITS PROCEEDS  
12 IS PRESUMED TO BE THE ADDRESS OF THE INSURED OR ANNUITANT IF A  
13 PERSON OTHER THAN THE INSURED OR ANNUITANT IS ENTITLED TO THE  
14 AMOUNT OWED UNDER THE POLICY OR CONTRACT AND THE ADDRESS OF  
15 THE OTHER PERSON IS NOT KNOWN BY THE INSURANCE COMPANY AND  
16 CANNOT BE DETERMINED UNDER SECTION 38-13-302.

17 **38-13-302. Address of apparent owner in this state.** (1) THE  
18 ADMINISTRATOR MAY TAKE CUSTODY OF PROPERTY THAT IS PRESUMED  
19 ABANDONED, WHETHER LOCATED IN THIS STATE OR ANOTHER STATE, OR  
20 IN A FOREIGN COUNTRY IF:

21 (a) THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER, AS  
22 SHOWN ON THE RECORDS OF THE HOLDER, IS IN THIS STATE; OR

23 (b) THE RECORDS OF THE HOLDER DO NOT REFLECT THE IDENTITY  
24 OR LAST-KNOWN ADDRESS OF THE APPARENT OWNER, BUT THE  
25 ADMINISTRATOR HAS DETERMINED THAT THE LAST-KNOWN ADDRESS OF  
26 THE APPARENT OWNER IS IN THIS STATE.

27 **38-13-303. When records show multiple addresses of apparent**

1 **owner.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS  
2 SECTION, IF RECORDS OF A HOLDER REFLECT MULTIPLE ADDRESSES FOR AN  
3 APPARENT OWNER AND IF THIS STATE IS THE STATE OF THE MOST  
4 RECENTLY RECORDED ADDRESS, THIS STATE MAY TAKE CUSTODY OF  
5 PROPERTY PRESUMED ABANDONED, WHETHER LOCATED IN THIS STATE OR  
6 ANOTHER STATE.

7 (2) IF IT APPEARS FROM RECORDS OF THE HOLDER THAT THE MOST  
8 RECENTLY RECORDED ADDRESS OF THE APPARENT OWNER UNDER  
9 SUBSECTION (1) OF THIS SECTION IS A TEMPORARY ADDRESS AND IF THIS  
10 STATE IS THE STATE OF THE NEXT MOST RECENTLY RECORDED ADDRESS  
11 THAT IS NOT A TEMPORARY ADDRESS, THIS STATE MAY TAKE CUSTODY OF  
12 THE PROPERTY PRESUMED ABANDONED.

13 **38-13-304. Holder domiciled in this state.** (1) EXCEPT AS  
14 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION OR IN SECTION  
15 38-13-302 OR 38-13-303, THE ADMINISTRATOR MAY TAKE CUSTODY OF  
16 PROPERTY PRESUMED ABANDONED, WHETHER LOCATED IN THIS STATE,  
17 ANOTHER STATE, OR A FOREIGN COUNTRY, IF THE HOLDER IS DOMICILED IN  
18 THIS STATE OR IS THE STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,  
19 OR INSTRUMENTALITY OF THIS STATE, AND:

20 (a) ANOTHER STATE OR FOREIGN COUNTRY IS NOT ENTITLED TO  
21 THE PROPERTY BECAUSE THERE IS NO LAST-KNOWN ADDRESS IN THE  
22 RECORDS OF THE HOLDER OF THE APPARENT OWNER OR OTHER PERSON  
23 ENTITLED TO THE PROPERTY; OR

24 (b) THE STATE OR FOREIGN COUNTRY OF THE LAST-KNOWN  
25 ADDRESS OF THE APPARENT OWNER OR OTHER PERSON ENTITLED TO THE  
26 PROPERTY DOES NOT PROVIDE FOR CUSTODIAL TAKING OF THE PROPERTY.

27 (2) THE PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE

1 ADMINISTRATOR UNDER SUBSECTION (1) OF THIS SECTION IF:

2 (a) THE PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL  
3 TAKING UNDER THE LAW OF THE STATE OR FOREIGN COUNTRY OF THE  
4 LAST-KNOWN ADDRESS OF THE APPARENT OWNER; OR

5 (b) THE PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL  
6 TAKING UNDER THE LAW OF THIS STATE.

7 (3) IF THE HOLDER'S STATE OF DOMICILE HAS CHANGED SINCE THE  
8 TIME THE PROPERTY WAS PRESUMED ABANDONED, THE HOLDER'S STATE OF  
9 DOMICILE IN THIS SECTION IS DEEMED TO BE THE STATE WHERE THE  
10 HOLDER WAS DOMICILED AT THE TIME THE PROPERTY WAS PRESUMED  
11 ABANDONED.

12 **38-13-305. Custody if transaction occurred in this state.**

13 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 38-13-302, 38-13-303,  
14 AND 38-13-304, THE ADMINISTRATOR MAY TAKE CUSTODY OF PROPERTY  
15 PRESUMED ABANDONED WHETHER LOCATED IN THIS OR ANOTHER STATE  
16 IF:

17 (a) THE TRANSACTION INVOLVING THE PROPERTY OCCURRED IN  
18 THIS STATE;

19 (b) THE HOLDER IS DOMICILED IN A STATE THAT DOES NOT PROVIDE  
20 FOR THE CUSTODIAL TAKING OF THE PROPERTY; EXCEPT THAT, IF THE  
21 PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL TAKING UNDER THE  
22 LAW OF THE STATE OF THE HOLDER'S DOMICILE, THE PROPERTY IS NOT  
23 SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR; AND

24 (c) THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER OR  
25 OTHER PERSON ENTITLED TO THE PROPERTY IS UNKNOWN OR IN A STATE  
26 THAT DOES NOT PROVIDE FOR THE CUSTODIAL TAKING OF THE PROPERTY;  
27 EXCEPT THAT, IF THE PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL



1 TAKING UNDER THE LAW OF THE STATE OF THE LAST-KNOWN ADDRESS,  
2 THE PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR.

3 **38-13-306. Traveler's check, money order, or similar**  
4 **instrument.** THE ADMINISTRATOR MAY TAKE CUSTODY OF SUMS PAYABLE  
5 ON A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR INSTRUMENT  
6 PRESUMED ABANDONED TO THE EXTENT PERMISSIBLE UNDER [12 U.S.C.  
7 SECS. 2501 TO 2503, AS AMENDED] [FEDERAL LAW].

8 **38-13-307. Burden of proof to establish administrator's right**  
9 **to custody.** (1) WHEN AN ADMINISTRATOR ASSERTS A RIGHT TO CUSTODY  
10 OF UNCLAIMED PROPERTY, THE ADMINISTRATOR HAS THE BURDEN TO  
11 PROVE:

- 12 (a) THE EXISTENCE AND AMOUNT OF THE PROPERTY;  
13 (b) THAT THE PROPERTY IS PRESUMED ABANDONED; AND  
14 (c) THAT THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE  
15 ADMINISTRATOR.

16 PART 4

17 REPORT BY HOLDER

18 **38-13-401. Report required by holder.** (1) A HOLDER OF  
19 PROPERTY PRESUMED ABANDONED AND SUBJECT TO THE CUSTODY OF THE  
20 ADMINISTRATOR SHALL REPORT IN A RECORD TO THE ADMINISTRATOR  
21 CONCERNING THE PROPERTY. THE ADMINISTRATOR SHALL NOT REQUIRE A  
22 HOLDER TO FILE A PAPER REPORT.

23 (2) A HOLDER MAY CONTRACT WITH A THIRD PARTY TO MAKE THE  
24 REPORT REQUIRED UNDER SUBSECTION (1) OF THIS SECTION.

25 (3) WHETHER OR NOT A HOLDER CONTRACTS WITH A THIRD PARTY  
26 UNDER SUBSECTION (2) OF THIS SECTION, THE HOLDER IS:

27 (a) RESPONSIBLE TO THE ADMINISTRATOR FOR THE COMPLETE,

1 ACCURATE, AND TIMELY REPORTING OF PROPERTY PRESUMED  
2 ABANDONED; AND

3 (b) RESPONSIBLE FOR PAYING OR DELIVERING TO THE  
4 ADMINISTRATOR PROPERTY DESCRIBED IN THE REPORT FILED UNDER THIS  
5 SECTION.

6 **38-13-402. Content of report.** (1) THE REPORT REQUIRED UNDER  
7 SECTION 38-13-401 MUST:

8 (a) BE SIGNED BY OR ON BEHALF OF THE HOLDER AND VERIFIED AS  
9 TO ITS COMPLETENESS AND ACCURACY;

10 (b) IF FILED ELECTRONICALLY, BE IN A SECURE FORMAT APPROVED  
11 BY THE ADMINISTRATOR THAT PROTECTS CONFIDENTIAL INFORMATION OF  
12 THE APPARENT OWNER IN THE SAME MANNER AS REQUIRED OF THE  
13 ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT UNDER PART 14 OF  
14 THIS ARTICLE 13;

15 (c) DESCRIBE THE PROPERTY;

16 (d) EXCEPT FOR A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR  
17 INSTRUMENT, CONTAIN THE NAME, IF KNOWN; LAST-KNOWN ADDRESS, IF  
18 KNOWN; AND SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION  
19 NUMBER, IF KNOWN OR READILY ASCERTAINABLE, OF THE APPARENT  
20 OWNER OF PROPERTY WITH A VALUE OF [FIFTY DOLLARS] OR MORE;

21 (e) IN THE CASE OF AN AMOUNT HELD OR OWING UNDER A LIFE OR  
22 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT, CONTAIN THE  
23 FULL NAME AND LAST-KNOWN ADDRESS OF THE INSURED, ANNUITANT, OR  
24 OTHER APPARENT OWNER OF THE POLICY OR CONTRACT AND OF THE  
25 BENEFICIARY;

26 (f) IN THE CASE OF PROPERTY HELD IN OR REMOVED FROM A  
27 SAFE-DEPOSIT BOX, INDICATE THE LOCATION OF THE PROPERTY, WHERE IT

1 MAY BE INSPECTED BY THE ADMINISTRATOR, AND ANY AMOUNTS OWED TO  
2 THE HOLDER UNDER SECTION 38-13-606;

3 (g) CONTAIN THE COMMENCEMENT DATE FOR DETERMINING  
4 ABANDONMENT UNDER PART 2 OF THIS ARTICLE 13;

5 (h) STATE THAT THE HOLDER HAS COMPLIED WITH THE NOTICE  
6 REQUIREMENTS OF SECTION 38-13-501;

7 (i) IDENTIFY PROPERTY THAT IS A NON-FREELY TRANSFERABLE  
8 SECURITY, AND EXPLAIN WHY IT IS A NON-FREELY TRANSFERABLE  
9 SECURITY; AND

10 (j) CONTAIN OTHER INFORMATION THE ADMINISTRATOR  
11 PRESCRIBES BY RULES NECESSARY FOR THE ADMINISTRATOR.

12 (2) A REPORT UNDER SECTION 38-13-401 MAY INCLUDE IN THE  
13 AGGREGATE ITEMS VALUED UNDER [FIFTY DOLLARS] EACH. IF THE REPORT  
14 INCLUDES ITEMS IN THE AGGREGATE VALUED UNDER [FIFTY DOLLARS]  
15 EACH, THE ADMINISTRATOR SHALL NOT REQUIRE THE HOLDER TO PROVIDE  
16 THE NAME AND ADDRESS OF AN APPARENT OWNER OF AN ITEM UNLESS THE  
17 INFORMATION IS NECESSARY TO VERIFY OR PROCESS A CLAIM IN PROGRESS  
18 BY THE APPARENT OWNER.

19 (3) A REPORT UNDER SECTION 38-13-401 MAY INCLUDE PERSONAL  
20 INFORMATION AS DEFINED IN SECTION 38-13-1402 (1)(c) ABOUT THE  
21 APPARENT OWNER OR THE APPARENT OWNER'S PROPERTY TO THE EXTENT  
22 NOT OTHERWISE PROHIBITED BY FEDERAL LAW.

23 (4) IF A HOLDER HAS CHANGED ITS NAME WHILE HOLDING  
24 PROPERTY PRESUMED ABANDONED OR IS A SUCCESSOR TO ANOTHER  
25 PERSON THAT PREVIOUSLY HELD THE PROPERTY FOR THE APPARENT  
26 OWNER, THE HOLDER SHALL INCLUDE IN THE REPORT UNDER SECTION  
27 38-13-401 ITS FORMER NAME OR THE NAME OF THE PREVIOUS HOLDER, IF

1 ANY, AND THE KNOWN NAME AND ADDRESS OF EACH PREVIOUS HOLDER OF  
2 THE PROPERTY.

3 **38-13-403. When report to be filed.** (1) EXCEPT AS OTHERWISE  
4 PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SUBJECT TO  
5 SUBSECTION (3) OF THIS SECTION, THE REPORT UNDER SECTION 38-13-401  
6 MUST BE FILED BEFORE NOVEMBER 1 OF EACH YEAR AND COVER THE  
7 TWELVE MONTHS PRECEDING JULY 1 OF THAT YEAR.

8 (2) SUBJECT TO SUBSECTION (3) OF THIS SECTION, THE REPORT  
9 REQUIRED TO BE FILED BY AN INSURANCE COMPANY UNDER SECTION  
10 38-13-401 MUST BE FILED BEFORE MAY 1 OF EACH YEAR FOR THE  
11 IMMEDIATELY PRECEDING CALENDAR YEAR.

12 (3) BEFORE THE DATE FOR FILING THE REPORT UNDER SECTION  
13 38-13-401, THE HOLDER OF PROPERTY PRESUMED ABANDONED MAY  
14 REQUEST THE ADMINISTRATOR TO EXTEND THE TIME FOR FILING. THE  
15 ADMINISTRATOR MAY GRANT AN EXTENSION FOR GOOD CAUSE. IF THE  
16 EXTENSION IS GRANTED, THE HOLDER MAY PAY OR MAKE A PARTIAL  
17 PAYMENT OF THE AMOUNT THE HOLDER ESTIMATES ULTIMATELY WILL BE  
18 DUE. THE PAYMENT OR PARTIAL PAYMENT TERMINATES ACCRUAL OF  
19 INTEREST ON THE AMOUNT PAID.

20 **38-13-404. Retention of records by holder.** (1) A HOLDER  
21 REQUIRED TO FILE A REPORT UNDER SECTION 38-13-401 SHALL RETAIN  
22 RECORDS FOR TEN YEARS AFTER THE LATER OF THE DATE THE REPORT WAS  
23 FILED OR THE LAST DATE A TIMELY REPORT WAS DUE TO BE FILED, UNLESS  
24 A SHORTER PERIOD IS PROVIDED BY RULE OF THE ADMINISTRATOR. A  
25 HOLDER MAY SATISFY THE REQUIREMENT TO RETAIN RECORDS UNDER THIS  
26 SECTION THROUGH AN AGENT. THE RECORDS MUST CONTAIN:

27 (a) THE INFORMATION REQUIRED TO BE INCLUDED IN THE REPORT;

1 (b) THE DATE, PLACE, AND NATURE OF THE CIRCUMSTANCES THAT  
2 GAVE RISE TO THE PROPERTY RIGHT;

3 (c) THE AMOUNT OR VALUE OF THE PROPERTY;

4 (d) THE LAST ADDRESS OF THE APPARENT OWNER, IF KNOWN TO  
5 THE HOLDER; AND

6 (e) IF THE HOLDER SELLS, ISSUES, OR PROVIDES TO OTHERS FOR  
7 SALE OR ISSUE IN THIS STATE TRAVELER'S CHECKS, MONEY ORDERS, OR  
8 SIMILAR INSTRUMENTS, OTHER THAN THIRD-PARTY BANK CHECKS, ON  
9 WHICH THE HOLDER IS DIRECTLY LIABLE, A RECORD OF THE INSTRUMENTS  
10 WHILE THEY REMAIN OUTSTANDING INDICATING THE STATE AND DATE OF  
11 ISSUE.

12 **38-13-405. When property reportable and payable or**  
13 **deliverable.** PROPERTY IS REPORTABLE AND PAYABLE OR DELIVERABLE  
14 UNDER THIS ARTICLE 13 EVEN IF THE OWNER FAILS TO MAKE DEMAND OR  
15 PRESENT AN INSTRUMENT OR DOCUMENT OTHERWISE REQUIRED TO OBTAIN  
16 PAYMENT.

17 PART 5

18 NOTICE TO APPARENT OWNER OF  
19 PROPERTY PRESUMED ABANDONED

20 **38-13-501. Notice to apparent owner by holder.** (1) SUBJECT  
21 TO SUBSECTION (2) OF THIS SECTION, THE HOLDER OF PROPERTY PRESUMED  
22 ABANDONED SHALL SEND TO THE APPARENT OWNER NOTICE THAT  
23 COMPLIES WITH SECTION 38-13-502 IN A FORMAT ACCEPTABLE TO THE  
24 ADMINISTRATOR, BY FIRST-CLASS UNITED STATES MAIL, NOT MORE THAN  
25 ONE HUNDRED EIGHTY DAYS NOR LESS THAN SIXTY DAYS BEFORE FILING  
26 THE REPORT UNDER SECTION 38-13-401 IF THE:

27 (a) HOLDER HAS IN ITS RECORDS AN ADDRESS FOR THE APPARENT

1 OWNER SUFFICIENT TO DIRECT THE DELIVERY OF FIRST-CLASS UNITED  
2 STATES MAIL TO THE APPARENT OWNER THAT THE HOLDER'S RECORDS DO  
3 NOT DISCLOSE TO BE INVALID; AND

4 (b) VALUE OF THE PROPERTY IS [FIFTY DOLLARS] OR MORE.

5 (2) IF AN APPARENT OWNER HAS CONSENTED TO RECEIVE  
6 ELECTRONIC-MAIL DELIVERY FROM THE HOLDER, THE HOLDER SHALL SEND  
7 THE NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION BOTH BY  
8 FIRST-CLASS UNITED STATES MAIL TO THE APPARENT OWNER'S  
9 LAST-KNOWN MAILING ADDRESS AND BY ELECTRONIC MAIL, UNLESS THE  
10 HOLDER HAS REASON TO BELIEVE THAT THE APPARENT OWNER'S  
11 ELECTRONIC-MAIL ADDRESS IS NOT VALID.

12 **38-13-502. Contents of notice by holder.** (1) THE NOTICE UNDER  
13 SECTION 38-13-501 MUST CONTAIN A HEADING THAT READS  
14 SUBSTANTIALLY AS FOLLOWS: "NOTICE. THE STATE OF COLORADO  
15 REQUIRES US TO NOTIFY YOU THAT YOUR PROPERTY MAY BE TRANSFERRED  
16 TO THE CUSTODY OF THE STATE TREASURER IF YOU DO NOT CONTACT US  
17 BEFORE [INSERT DATE THAT IS THIRTY DAYS AFTER THE DATE OF THIS  
18 NOTICE].".

19 (2) THE NOTICE UNDER SECTION 38-13-501 MUST:

20 (a) STATE THAT THE PROPERTY WILL BE TURNED OVER TO THE  
21 ADMINISTRATOR;

22 (b) STATE THAT AFTER THE PROPERTY IS TURNED OVER TO THE  
23 ADMINISTRATOR AN APPARENT OWNER THAT SEEKS RETURN OF THE  
24 PROPERTY MUST FILE A CLAIM WITH THE ADMINISTRATOR;

25 (c) IDENTIFY THE NATURE AND, EXCEPT FOR PROPERTY THAT DOES  
26 NOT HAVE A FIXED VALUE, THE VALUE OF THE PROPERTY THAT IS THE  
27 SUBJECT OF THE NOTICE;

1 (d) STATE THAT PROPERTY THAT IS NOT LEGAL TENDER OF THE  
2 UNITED STATES MAY BE SOLD BY THE ADMINISTRATOR; AND

3 (e) PROVIDE INSTRUCTIONS THAT THE APPARENT OWNER MUST  
4 FOLLOW TO PREVENT THE HOLDER FROM REPORTING AND PAYING OR  
5 DELIVERING THE PROPERTY TO THE ADMINISTRATOR.

6 **38-13-503. Notice to apparent owner by administrator.**

7 (1) THE ADMINISTRATOR SHALL GIVE NOTICE TO AN APPARENT OWNER  
8 THAT PROPERTY THAT IS PRESUMED ABANDONED AND APPEARS TO BE  
9 OWNED BY THE APPARENT OWNER IS HELD BY THE ADMINISTRATOR UNDER  
10 THIS ARTICLE 13.

11 (2) IN PROVIDING NOTICE UNDER SUBSECTION (1) OF THIS SECTION,  
12 THE ADMINISTRATOR SHALL:

13 (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF  
14 THIS SECTION, SEND WRITTEN NOTICE BY FIRST-CLASS UNITED STATES  
15 MAIL TO EACH APPARENT OWNER OF PROPERTY VALUED AT [FIFTY  
16 DOLLARS] OR MORE HELD BY THE ADMINISTRATOR, UNLESS THE  
17 ADMINISTRATOR DETERMINES THAT A MAILING BY FIRST-CLASS UNITED  
18 STATES MAIL WOULD NOT BE RECEIVED BY THE APPARENT OWNER, AND,  
19 IN THE CASE OF A SECURITY HELD IN AN ACCOUNT FOR WHICH THE  
20 APPARENT OWNER HAD CONSENTED TO RECEIVING ELECTRONIC MAIL FROM  
21 THE HOLDER, SEND NOTICE BY ELECTRONIC MAIL IF THE ELECTRONIC-MAIL  
22 ADDRESS OF THE APPARENT OWNER IS KNOWN TO THE ADMINISTRATOR  
23 INSTEAD OF BY FIRST-CLASS UNITED STATES MAIL;

24 (b) SEND THE NOTICE TO THE APPARENT OWNER'S  
25 ELECTRONIC-MAIL ADDRESS IF THE ADMINISTRATOR DOES NOT HAVE A  
26 VALID UNITED STATES MAIL ADDRESS FOR AN APPARENT OWNER, BUT HAS  
27 AN ELECTRONIC-MAIL ADDRESS THAT THE ADMINISTRATOR DOES NOT

1 KNOW TO BE INVALID;

2 (c) PUBLISH EVERY [SIX] MONTHS IN AT LEAST ONE NEWSPAPER OF  
3 GENERAL CIRCULATION IN THIS STATE NOTICE OF PROPERTY HELD BY THE  
4 ADMINISTRATOR, WHICH NOTICE MUST INCLUDE:

5 (I) THE TOTAL VALUE OF PROPERTY RECEIVED BY THE  
6 ADMINISTRATOR DURING THE PRECEDING [SIX]-MONTH PERIOD, TAKEN  
7 FROM THE REPORTS UNDER SECTION 38-13-401;

8 (II) THE TOTAL VALUE OF CLAIMS PAID BY THE ADMINISTRATOR  
9 DURING THE PRECEDING [SIX]-MONTH PERIOD;

10 (III) THE INTERNET WEB ADDRESS OF THE UNCLAIMED PROPERTY  
11 WEBSITE MAINTAINED BY THE ADMINISTRATOR;

12 (IV) A TELEPHONE NUMBER AND ELECTRONIC-MAIL ADDRESS TO  
13 CONTACT THE ADMINISTRATOR TO INQUIRE ABOUT OR CLAIM PROPERTY;  
14 AND

15 (V) A STATEMENT THAT A PERSON MAY ACCESS THE INTERNET BY  
16 A COMPUTER TO SEARCH FOR UNCLAIMED PROPERTY AND A COMPUTER  
17 MAY BE AVAILABLE AS A SERVICE TO THE PUBLIC AT A LOCAL PUBLIC  
18 LIBRARY; AND

19 (d) MAINTAIN A WEBSITE OR DATABASE ACCESSIBLE BY THE  
20 PUBLIC AND ELECTRONICALLY SEARCHABLE THAT CONTAINS THE NAMES  
21 REPORTED TO THE ADMINISTRATOR OF ALL APPARENT OWNERS FOR WHOM  
22 PROPERTY IS BEING HELD BY THE ADMINISTRATOR.

23 (3) THE WEBSITE OR DATABASE MAINTAINED UNDER SUBSECTION  
24 (2)(d) OF THIS SECTION MUST INCLUDE INSTRUCTIONS FOR FILING WITH THE  
25 ADMINISTRATOR A CLAIM TO PROPERTY AND A PRINTABLE CLAIM FORM  
26 WITH INSTRUCTIONS FOR ITS USE.

27 (4) IN ADDITION TO GIVING NOTICE UNDER SUBSECTION (2) OF THIS



1 SECTION, THE ADMINISTRATOR MAY USE PRINTED PUBLICATION,  
2 TELECOMMUNICATION, THE INTERNET, OR OTHER MEDIA TO INFORM THE  
3 PUBLIC OF THE EXISTENCE OF UNCLAIMED PROPERTY HELD BY THE  
4 ADMINISTRATOR.

5 **38-13-504. Cooperation among agencies to locate apparent**  
6 **owner.** UNLESS PROHIBITED BY LAW OF THIS STATE OTHER THAN THIS  
7 ARTICLE 13, ON REQUEST OF THE ADMINISTRATOR, EACH OFFICER,  
8 AGENCY, BOARD, COMMISSION, DIVISION, AND DEPARTMENT OF THIS  
9 STATE, ANY BODY POLITIC AND CORPORATE CREATED BY THIS STATE FOR  
10 A PUBLIC PURPOSE, AND EACH POLITICAL SUBDIVISION OF THIS STATE  
11 SHALL MAKE ITS BOOKS AND RECORDS AVAILABLE TO THE ADMINISTRATOR  
12 AND COOPERATE WITH THE ADMINISTRATOR TO DETERMINE THE CURRENT  
13 ADDRESS OF AN APPARENT OWNER OF PROPERTY HELD BY THE  
14 ADMINISTRATOR UNDER THIS ARTICLE 13.

15 PART 6

16 TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

17 **38-13-601. Definition of good faith.** (1) IN THIS PART 6,  
18 PAYMENT OR DELIVERY OF PROPERTY IS MADE IN GOOD FAITH IF A HOLDER:

19 (a) HAD A REASONABLE BASIS FOR BELIEVING, BASED ON THE  
20 FACTS THEN KNOWN, THAT THE PROPERTY WAS REQUIRED OR PERMITTED  
21 TO BE PAID OR DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE  
22 13; OR

23 (b) MADE PAYMENT OR DELIVERY:

24 (I) IN RESPONSE TO A DEMAND BY THE ADMINISTRATOR OR  
25 ADMINISTRATOR'S AGENT; OR

26 (II) PURSUANT TO A GUIDANCE OR RULING ISSUED BY THE  
27 ADMINISTRATOR THAT THE HOLDER REASONABLY BELIEVED REQUIRED OR

1 PERMITTED THE PROPERTY TO BE PAID OR DELIVERED.

2 **38-13-602. Dormancy charge.** (1) A HOLDER MAY DEDUCT A  
3 DORMANCY CHARGE FROM PROPERTY REQUIRED TO BE PAID OR DELIVERED  
4 TO THE ADMINISTRATOR IF:

5 (a) A VALID AND ENFORCEABLE CONTRACT BETWEEN THE HOLDER  
6 AND THE APPARENT OWNER AUTHORIZES IMPOSITION OF THE CHARGE FOR  
7 THE APPARENT OWNER'S FAILURE TO CLAIM THE PROPERTY WITHIN A  
8 SPECIFIED TIME; AND

9 (b) THE HOLDER REGULARLY IMPOSES THE CHARGE AND DOES NOT  
10 REGULARLY REVERSE OR OTHERWISE CANCEL THE CHARGE.

11 (2) THE AMOUNT OF THE DEDUCTION UNDER SUBSECTION (1) OF  
12 THIS SECTION IS LIMITED TO AN AMOUNT THAT IS NOT UNCONSCIONABLE  
13 CONSIDERING ALL RELEVANT FACTORS, INCLUDING THE MARGINAL  
14 TRANSACTIONAL COSTS INCURRED BY THE HOLDER IN MAINTAINING THE  
15 APPARENT OWNER'S PROPERTY AND ANY SERVICES RECEIVED BY THE  
16 APPARENT OWNER.

17 **38-13-603. Payment or delivery of property to administrator.**

18 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ON FILING A  
19 REPORT UNDER SECTION 38-13-401, THE HOLDER SHALL PAY OR DELIVER  
20 TO THE ADMINISTRATOR THE PROPERTY DESCRIBED IN THE REPORT.

21 (2) IF PROPERTY IN A REPORT UNDER SECTION 38-13-401 IS AN  
22 AUTOMATICALLY RENEWABLE DEPOSIT AND A PENALTY OR FORFEITURE IN  
23 THE PAYMENT OF INTEREST WOULD RESULT FROM PAYING THE DEPOSIT TO  
24 THE ADMINISTRATOR AT THE TIME OF THE REPORT, THE DATE FOR  
25 PAYMENT OF THE PROPERTY TO THE ADMINISTRATOR IS EXTENDED UNTIL  
26 A PENALTY OR FORFEITURE NO LONGER WOULD RESULT FROM PAYMENT,  
27 IF THE HOLDER INFORMS THE ADMINISTRATOR OF THE EXTENDED DATE.

1 (3) TANGIBLE PROPERTY HELD IN A SAFE-DEPOSIT BOX SHALL NOT  
2 BE DELIVERED TO THE ADMINISTRATOR UNTIL [ONE HUNDRED TWENTY]  
3 DAYS AFTER FILING THE REPORT UNDER SECTION 38-13-401.

4 (4) IF PROPERTY REPORTED TO THE ADMINISTRATOR UNDER  
5 SECTION 38-13-401 IS A SECURITY, THE ADMINISTRATOR MAY:

6 (a) MAKE AN ENDORSEMENT, INSTRUCTION, OR ENTITLEMENT  
7 ORDER ON BEHALF OF THE APPARENT OWNER TO INVOKE THE DUTY OF THE  
8 ISSUER, ITS TRANSFER AGENT, OR THE SECURITIES INTERMEDIARY TO  
9 TRANSFER THE SECURITY; OR

10 (b) DISPOSE OF THE SECURITY UNDER SECTION 38-13-702.

11 (5) IF THE HOLDER OF PROPERTY REPORTED TO THE  
12 ADMINISTRATOR UNDER SECTION 38-13-401 IS THE ISSUER OF A  
13 CERTIFICATED SECURITY, THE ADMINISTRATOR MAY OBTAIN A  
14 REPLACEMENT CERTIFICATE IN PHYSICAL OR BOOK-ENTRY FORM UNDER  
15 SECTION 4-8-405. AN INDEMNITY BOND IS NOT REQUIRED.

16 (6) THE ADMINISTRATOR SHALL ESTABLISH PROCEDURES FOR THE  
17 REGISTRATION, ISSUANCE, METHOD OF DELIVERY, TRANSFER, AND  
18 MAINTENANCE OF SECURITIES DELIVERED TO THE ADMINISTRATOR BY A  
19 HOLDER.

20 (7) AN ISSUER, HOLDER, AND TRANSFER AGENT OR OTHER PERSON  
21 ACTING UNDER INSTRUCTIONS OF AND ON BEHALF OF THE ISSUER OR  
22 HOLDER UNDER THIS SECTION IS NOT LIABLE TO THE APPARENT OWNER  
23 FOR, AND SHALL BE INDEMNIFIED BY THE STATE AGAINST, ANY CLAIM  
24 ARISING WITH RESPECT TO THE PROPERTY AFTER THE PROPERTY HAS BEEN  
25 DELIVERED TO THE ADMINISTRATOR.

26 (8) A HOLDER IS NOT REQUIRED TO DELIVER TO THE  
27 ADMINISTRATOR A SECURITY IDENTIFIED BY THE HOLDER AS A

1 NON-FREELY TRANSFERABLE SECURITY. UPON DETERMINATION BY THE  
2 ADMINISTRATOR OR THE HOLDER THAT A SECURITY IS NO LONGER A  
3 NON-FREELY TRANSFERABLE SECURITY, THE SECURITY SHALL BE  
4 SUBSEQUENTLY REMITTED ON THE NEXT REGULAR DATE PRESCRIBED FOR  
5 DELIVERY OF SECURITIES PURSUANT TO THIS ARTICLE 13. THE HOLDER  
6 SHALL MAKE A DETERMINATION ANNUALLY WHETHER A SECURITY  
7 IDENTIFIED IN A REPORT FILED UNDER SECTION 38-13-401 AS A  
8 NON-FREELY TRANSFERABLE SECURITY IS NO LONGER A NON-FREELY  
9 TRANSFERABLE SECURITY.

10 **38-13-604. Effect of payment or delivery of property to**  
11 **administrator.** (1) ON PAYMENT OR DELIVERY OF PROPERTY TO THE  
12 ADMINISTRATOR UNDER THIS ARTICLE 13, THE ADMINISTRATOR AS AGENT  
13 FOR THE STATE ASSUMES CUSTODY AND RESPONSIBILITY FOR THE  
14 SAFEKEEPING OF THE PROPERTY. A HOLDER THAT PAYS OR DELIVERS  
15 PROPERTY TO THE ADMINISTRATOR IN GOOD FAITH AND WHO HAS  
16 SUBSTANTIALLY COMPLIED WITH SECTIONS 38-13-501 AND 38-13-502 IS  
17 RELIEVED OF LIABILITY ARISING THEREAFTER WITH RESPECT TO PAYMENT  
18 AND DELIVERY OF THE PROPERTY TO THE ADMINISTRATOR.

19 (2) THIS STATE SHALL DEFEND AND INDEMNIFY A HOLDER AGAINST  
20 LIABILITY ON A CLAIM AGAINST THE HOLDER RESULTING FROM THE  
21 PAYMENT OR DELIVERY OF PROPERTY TO THE ADMINISTRATOR MADE IN  
22 GOOD FAITH AND AFTER THE HOLDER HAS SUBSTANTIALLY COMPLIED WITH  
23 SECTIONS 38-13-501 AND 38-13-502.

24 **38-13-605. Recovery of property by holder from**  
25 **administrator.** (1) A HOLDER THAT PAYS MONEY TO THE  
26 ADMINISTRATOR UNDER THIS ARTICLE 13 MAY CLAIM REIMBURSEMENT  
27 FROM THE ADMINISTRATOR OF THE AMOUNT PAID IF THE HOLDER:

1 (a) PAID THE MONEY IN ERROR; OR

2 (b) AFTER PAYING THE MONEY TO THE ADMINISTRATOR, PAID THE  
3 MONEY TO A PERSON THE HOLDER REASONABLY BELIEVED TO BE ENTITLED  
4 TO THE MONEY.

5 (2) IF A CLAIM FOR REIMBURSEMENT UNDER SUBSECTION (1) OF  
6 THIS SECTION IS MADE FOR A PAYMENT MADE ON A NEGOTIABLE  
7 INSTRUMENT, INCLUDING A TRAVELER'S CHECK, MONEY ORDER, OR  
8 SIMILAR INSTRUMENT, THE HOLDER MUST SUBMIT PROOF THAT THE  
9 INSTRUMENT WAS PRESENTED AND THAT PAYMENT WAS MADE TO A  
10 PERSON THE HOLDER REASONABLY BELIEVED TO BE ENTITLED TO  
11 PAYMENT. THE HOLDER MAY CLAIM REIMBURSEMENT EVEN IF THE  
12 PAYMENT WAS MADE TO A PERSON WHOSE CLAIM WAS MADE AFTER  
13 EXPIRATION OF A PERIOD OF LIMITATION ON THE OWNER'S RIGHT TO  
14 RECEIVE OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT,  
15 STATUTE, OR COURT ORDER.

16 (3) IF A HOLDER IS REIMBURSED BY THE ADMINISTRATOR UNDER  
17 SUBSECTION (1)(b) OF THIS SECTION, THE HOLDER MAY ALSO RECOVER  
18 FROM THE ADMINISTRATOR DIVIDENDS, INTEREST, OR OTHER INCREMENTS  
19 UNDER SECTION 38-13-607 THAT WOULD HAVE BEEN PAID TO THE OWNER  
20 IF THE MONEY HAD BEEN CLAIMED FROM THE ADMINISTRATOR BY THE  
21 OWNER TO THE EXTENT THE INCREMENT WAS PAID BY THE HOLDER TO THE  
22 OWNER.

23 (4) A HOLDER THAT DELIVERS PROPERTY OTHER THAN MONEY TO  
24 THE ADMINISTRATOR UNDER THIS ARTICLE 13 MAY CLAIM THE PROPERTY  
25 IN THE POSSESSION OF THE ADMINISTRATOR BY FILING A CLAIM UNDER  
26 SECTION 38-13-903, TOGETHER WITH EVIDENCE SUFFICIENT TO ESTABLISH  
27 THAT THE APPARENT OWNER HAS CLAIMED THE PROPERTY FROM THE

1 HOLDER OR THAT THE PROPERTY WAS DELIVERED BY THE HOLDER TO THE  
2 ADMINISTRATOR IN ERROR.

3 (5) THE ADMINISTRATOR MAY DETERMINE THAT AN AFFIDAVIT  
4 SUBMITTED BY A HOLDER IS EVIDENCE SUFFICIENT TO ESTABLISH THAT THE  
5 HOLDER IS ENTITLED TO REIMBURSEMENT OR TO RECOVER PROPERTY  
6 UNDER THIS SECTION.

7 (6) A HOLDER IS NOT REQUIRED TO PAY A FEE OR OTHER CHARGE  
8 FOR REIMBURSEMENT OR RETURN OF PROPERTY UNDER THIS SECTION.

9 (7) NOT LATER THAN NINETY DAYS AFTER RECEIVING A CLAIM  
10 FROM A HOLDER UNDER SUBSECTION (1) OR (3) OF THIS SECTION, THE  
11 ADMINISTRATOR SHALL DETERMINE WHETHER TO APPROVE OR DENY THE  
12 CLAIM AND ADVISE THE HOLDER IN A RECORD OF THE ADMINISTRATOR'S  
13 DETERMINATION.

14 (8) NOT LATER THAN THIRTY DAYS AFTER RECEIVING THE  
15 ADMINISTRATOR'S DETERMINATION UNDER SUBSECTION (7) OF THIS  
16 SECTION, THE HOLDER MAY INITIATE A PROCEEDING UNDER THE "STATE  
17 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, FOR REVIEW  
18 OF THE ADMINISTRATOR'S DETERMINATION.

19 (9) A FINAL DECISION IN AN ADMINISTRATIVE PROCEEDING  
20 INITIATED UNDER SUBSECTION (8) OF THIS SECTION IS SUBJECT TO JUDICIAL  
21 REVIEW BY THE [COURT][AS A MATTER OF RIGHT IN A DE NOVO  
22 PROCEEDING ON THE RECORD IN WHICH EITHER PARTY IS ENTITLED TO  
23 INTRODUCE EVIDENCE IN ADDITION TO OR AS A SUPPLEMENT TO THE  
24 RECORD].

25 **38-13-606. Property removed from safe-deposit box.** PROPERTY  
26 REMOVED FROM A SAFE-DEPOSIT BOX AND DELIVERED TO THE  
27 ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO THE HOLDER'S

1 RIGHT TO REIMBURSEMENT FOR THE COST OF OPENING THE BOX AND ANY  
2 VALID LIEN OR CONTRACT PROVIDING REIMBURSEMENT TO THE HOLDER  
3 FOR UNPAID RENT CHARGES FOR THE BOX. THE ADMINISTRATOR SHALL  
4 REIMBURSE THE HOLDER FROM THE PROCEEDS REMAINING AFTER  
5 DEDUCTING THE EXPENSE INCURRED BY THE ADMINISTRATOR IN SELLING  
6 THE PROPERTY.

7 **38-13-607. Crediting dividends, interest, and increments to**  
8 **owner's account.** IF PROPERTY OTHER THAN MONEY IS DELIVERED TO THE  
9 ADMINISTRATOR, THE OWNER IS ENTITLED TO RECEIVE FROM THE  
10 ADMINISTRATOR INCOME OR GAIN REALIZED OR ACCRUED ON THE  
11 PROPERTY BEFORE THE PROPERTY IS SOLD. IF THE PROPERTY WAS AN  
12 INTEREST-BEARING DEMAND, SAVINGS, OR TIME DEPOSIT, THE  
13 ADMINISTRATOR SHALL PAY INTEREST AT THE LESSER OF EIGHT PERCENT  
14 PER ANNUM, COMPOUNDED ANNUALLY, OR THE RATE THE PROPERTY  
15 EARNED WHILE IN THE POSSESSION OF THE HOLDER. INTEREST BEGINS TO  
16 ACCRUE WHEN THE PROPERTY IS DELIVERED TO THE ADMINISTRATOR AND  
17 ENDS ON THE EARLIER OF THE EXPIRATION OF TEN YEARS AFTER ITS  
18 DELIVERY OR THE DATE ON WHICH PAYMENT IS MADE TO THE OWNER.

19 **38-13-608. Administrator's options as to custody.** (1) THE  
20 ADMINISTRATOR MAY DECLINE TO TAKE CUSTODY OF PROPERTY REPORTED  
21 UNDER SECTION 38-13-401 IF THE ADMINISTRATOR DETERMINES THAT:

22 (a) THE PROPERTY HAS A VALUE LESS THAN THE ESTIMATED  
23 EXPENSES OF NOTICE AND SALE OF THE PROPERTY; OR

24 (b) TAKING CUSTODY OF THE PROPERTY WOULD BE UNLAWFUL.

25 (2) A HOLDER MAY PAY OR DELIVER PROPERTY TO THE  
26 ADMINISTRATOR BEFORE THE PROPERTY IS PRESUMED ABANDONED UNDER  
27 THIS ARTICLE 13 IF THE HOLDER:

1 (a) SENDS THE APPARENT OWNER OF THE PROPERTY THE NOTICE OR  
2 NOTICES REQUIRED BY SECTION 38-13-501 AND CONFORMING TO SECTION  
3 38-13-502 AND PROVIDES THE ADMINISTRATOR EVIDENCE OF THE  
4 HOLDER'S COMPLIANCE WITH THIS SUBSECTION (2)(a);

5 (b) INCLUDES WITH THE PAYMENT OR DELIVERY A REPORT  
6 REGARDING THE PROPERTY CONFORMING TO SECTION 38-13-402; AND

7 (c) FIRST OBTAINS THE ADMINISTRATOR'S CONSENT IN A RECORD  
8 TO ACCEPT PAYMENT OR DELIVERY.

9 (3) THE HOLDER MUST REQUEST THE ADMINISTRATOR'S CONSENT  
10 UNDER SUBSECTION (2)(c) OF THIS SECTION IN A RECORD. IF THE  
11 ADMINISTRATOR FAILS TO RESPOND TO THE REQUEST NOT LATER THAN  
12 THIRTY CALENDAR DAYS AFTER RECEIPT OF THE REQUEST, THE  
13 ADMINISTRATOR IS DEEMED TO CONSENT TO THE PAYMENT OR DELIVERY  
14 OF THE PROPERTY AND THE PAYMENT OR DELIVERY IS CONSIDERED TO  
15 HAVE BEEN MADE IN GOOD FAITH.

16 (4) ON PAYMENT OR DELIVERY OF THE PROPERTY UNDER  
17 SUBSECTION (2) OF THIS SECTION, THE PROPERTY IS PRESUMED  
18 ABANDONED.

19 **38-13-609. Disposition of property having no substantial value**  
20 **- immunity from liability.** [(1)] IF THE ADMINISTRATOR TAKES CUSTODY  
21 OF PROPERTY DELIVERED UNDER THIS ARTICLE 13 AND LATER DETERMINES  
22 THAT THE PROPERTY HAS NO SUBSTANTIAL COMMERCIAL VALUE OR THAT  
23 THE COST OF DISPOSING OF THE PROPERTY WILL EXCEED THE VALUE OF  
24 THE PROPERTY, THE ADMINISTRATOR MAY RETURN THE PROPERTY TO THE  
25 HOLDER OR DESTROY OR OTHERWISE DISPOSE OF THE PROPERTY.

26 [(2) AN ACTION OR PROCEEDING SHALL NOT BE COMMENCED  
27 AGAINST THE STATE, AN AGENCY OF THE STATE, THE ADMINISTRATOR,



1 ANOTHER OFFICER, EMPLOYEE, OR AGENT OF THE STATE, OR A HOLDER FOR  
2 OR BECAUSE OF AN ACT OF THE ADMINISTRATOR UNDER THIS SECTION,  
3 EXCEPT FOR INTENTIONAL MISCONDUCT OR MALFEASANCE.]

4 **38-13-610. Periods of limitation and repose.** (1) EXPIRATION,  
5 BEFORE, ON, OR AFTER [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS  
6 AMENDED], OF A PERIOD OF LIMITATION ON AN OWNER'S RIGHT TO RECEIVE  
7 OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT, STATUTE, OR  
8 COURT ORDER DOES NOT PREVENT THE PROPERTY FROM BEING PRESUMED  
9 ABANDONED OR AFFECT THE DUTY OF A HOLDER TO FILE A REPORT OR PAY  
10 OR DELIVER PROPERTY TO THE ADMINISTRATOR UNDER THIS ARTICLE 13.

11 (2) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION OR  
12 PROCEEDING TO ENFORCE THIS ARTICLE 13 WITH RESPECT TO THE  
13 REPORTING, PAYMENT, OR DELIVERY OF PROPERTY MORE THAN FIVE YEARS  
14 AFTER THE HOLDER FILED A NONFRAUDULENT REPORT WITH THE  
15 ADMINISTRATOR UNDER SECTION 38-13-401. THE PARTIES MAY AGREE IN  
16 A RECORD TO EXTEND THE LIMITATION IN THIS SUBSECTION (2).

17 (3) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION,  
18 PROCEEDING, OR EXAMINATION WITH RESPECT TO A DUTY OF A HOLDER  
19 UNDER THIS ARTICLE 13 MORE THAN TEN YEARS AFTER THE DUTY AROSE.

20 PART 7

21 SALE OF PROPERTY BY ADMINISTRATOR

22 **38-13-701. Public sale of property.** (1) SUBJECT TO SECTION  
23 38-13-702, NOT EARLIER THAN [THREE] YEARS AFTER RECEIPT OF  
24 PROPERTY THAT HAS BEEN PRESUMED ABANDONED, THE ADMINISTRATOR  
25 MAY SELL THE PROPERTY.

26 (2) A SALE UNDER SUBSECTION (1) OF THIS SECTION MUST BE  
27 PRECEDED BY NOTICE TO THE PUBLIC OF:

1 (a) THE DATE OF SALE; AND

2 (b) A REASONABLE DESCRIPTION OF THE PROPERTY.

3 (3) A SALE UNDER SUBSECTION (1) OF THIS SECTION MUST BE TO  
4 THE HIGHEST BIDDER:

5 (a) AT PUBLIC SALE AT A LOCATION IN THIS STATE THAT THE  
6 ADMINISTRATOR DETERMINES TO BE THE MOST FAVORABLE MARKET FOR  
7 THE PROPERTY; OR

8 (b) ON THE INTERNET OR ANOTHER FORUM THE ADMINISTRATOR  
9 DETERMINES IS LIKELY TO YIELD THE HIGHEST NET PROCEEDS OF SALE.

10 (4) THE ADMINISTRATOR MAY DECLINE THE HIGHEST BID AT A SALE  
11 UNDER SUBSECTION (1) OF THIS SECTION AND REOFFER THE PROPERTY FOR  
12 SALE IF THE ADMINISTRATOR DETERMINES THE HIGHEST BID IS  
13 INSUFFICIENT.

14 (5) IF A SALE HELD UNDER THIS SECTION IS TO BE CONDUCTED  
15 OTHER THAN BY ELECTRONIC MEANS, THE ADMINISTRATOR MUST PUBLISH  
16 NOT LESS THAN ONE NOTICE OF THE SALE AT LEAST [THREE] WEEKS BUT  
17 NOT MORE THAN [FIVE] WEEKS BEFORE SALE IN A NEWSPAPER OF GENERAL  
18 CIRCULATION IN THE [COUNTY] IN WHICH THE PROPERTY IS SOLD.

19 **38-13-702. Disposal of securities.** (1) THE ADMINISTRATOR  
20 SHALL NOT SELL OR OTHERWISE LIQUIDATE A SECURITY UNTIL THREE  
21 YEARS AFTER THE ADMINISTRATOR RECEIVES THE SECURITY AND GIVES  
22 THE APPARENT OWNER NOTICE UNDER SECTION 38-13-503 THAT THE  
23 ADMINISTRATOR HOLDS THE SECURITY.

24 (2) THE ADMINISTRATOR SHALL NOT SELL A SECURITY LISTED ON  
25 AN ESTABLISHED STOCK EXCHANGE FOR LESS THAN THE PRICE PREVAILING  
26 ON THE EXCHANGE AT THE TIME OF SALE. THE ADMINISTRATOR MAY SELL  
27 A SECURITY NOT LISTED ON AN ESTABLISHED EXCHANGE BY ANY

1       COMMERCIALLY REASONABLE METHOD.

2               **38-13-703. Recovery of securities or value by owner.** (1) IF THE  
3       ADMINISTRATOR SELLS A SECURITY BEFORE THE EXPIRATION OF SIX YEARS  
4       FOLLOWING DELIVERY TO THE ADMINISTRATOR, AN APPARENT OWNER  
5       THAT MAKES A VALID CLAIM UNDER THIS ARTICLE 13 OF OWNERSHIP OF  
6       THE SECURITY BEFORE THE SIX-YEAR PERIOD EXPIRES IS ENTITLED, AT THE  
7       OPTION OF THE ADMINISTRATOR, TO RECEIVE:

8               (a) A REPLACEMENT OF THE SECURITY; OR

9               (b) THE MARKET VALUE OF THE SECURITY AT THE TIME THE CLAIM  
10       IS MADE, PLUS DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE  
11       SECURITY UP TO THE TIME THE CLAIM IS PAID.

12              (2) REPLACEMENT OF THE SECURITY OR CALCULATION OF MARKET  
13       VALUE UNDER SUBSECTION (1) OF THIS SECTION MUST TAKE INTO  
14       ACCOUNT A STOCK SPLIT, REVERSE STOCK SPLIT, STOCK DIVIDEND, AND  
15       SIMILAR CORPORATE ACTION.

16              (3) A PERSON THAT MAKES A VALID CLAIM UNDER THIS ARTICLE 13  
17       OF OWNERSHIP OF A SECURITY AFTER EXPIRATION OF SIX YEARS  
18       FOLLOWING DELIVERY OF A SECURITY TO THE ADMINISTRATOR IS ENTITLED  
19       TO RECEIVE:

20              (a) THE SECURITY THE HOLDER DELIVERED TO THE  
21       ADMINISTRATOR, IF IT IS IN THE CUSTODY OF THE ADMINISTRATOR, PLUS  
22       DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO  
23       THE TIME THE CLAIM IS PAID; OR

24              (b) THE NET PROCEEDS OF THE SALE OF THE SECURITY, PLUS  
25       DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO  
26       THE TIME THE SECURITY IS SOLD.

27              **38-13-704. Purchaser owns property after sale.** A PURCHASER

1 OF PROPERTY AT A SALE CONDUCTED BY THE ADMINISTRATOR UNDER THIS  
2 ARTICLE 13 TAKES THE PROPERTY FREE OF ALL CLAIMS OF THE OWNER, A  
3 PREVIOUS HOLDER, OR A PERSON CLAIMING THROUGH THE OWNER OR THE  
4 HOLDER. THE ADMINISTRATOR SHALL EXECUTE DOCUMENTS NECESSARY  
5 TO COMPLETE THE TRANSFER OF OWNERSHIP TO THE PURCHASER.

6 **38-13-705. Military medals.** (1) THE ADMINISTRATOR SHALL NOT  
7 SELL A MEDAL OR DECORATION AWARDED FOR MILITARY SERVICE IN THE  
8 ARMED FORCES OF THE UNITED STATES.

9 (2) THE ADMINISTRATOR, WITH THE CONSENT OF THE RESPECTIVE  
10 ORGANIZATION UNDER SUBSECTION (2)(a) OF THIS SECTION, AGENCY  
11 UNDER SUBSECTION (2)(b) OF THIS SECTION, OR ENTITY UNDER  
12 SUBSECTION (2)(c) OF THIS SECTION, MAY DELIVER A MEDAL OR  
13 DECORATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO BE HELD  
14 IN CUSTODY FOR THE OWNER, TO:

15 (a) A MILITARY VETERANS' ORGANIZATION QUALIFIED UNDER  
16 SECTION 501 (c)(19) OF THE FEDERAL "INTERNAL REVENUE CODE OF  
17 1986", AS AMENDED, 26 U.S.C. SEC. 501 (c)(19);

18 (b) THE AGENCY THAT AWARDED THE MEDAL OR DECORATION; OR

19 (c) A GOVERNMENTAL ENTITY.

20 (3) ON DELIVERY UNDER SUBSECTION (2) OF THIS SECTION, THE  
21 ADMINISTRATOR IS NOT RESPONSIBLE FOR SAFEKEEPING OF THE MEDAL OR  
22 DECORATION.

23 PART 8

24 ADMINISTRATION OF PROPERTY

25 **38-13-801. Deposit of funds by administrator.** (1) EXCEPT AS  
26 OTHERWISE PROVIDED IN THIS SECTION, THE ADMINISTRATOR SHALL  
27 DEPOSIT IN THE GENERAL FUND OF THE STATE ALL MONEY RECEIVED

1 UNDER THIS ARTICLE 13, INCLUDING PROCEEDS FROM THE SALE OF  
2 PROPERTY UNDER PART 7 OF THIS ARTICLE 13.

3 (2) THE ADMINISTRATOR SHALL MAINTAIN AN ACCOUNT WITH AN  
4 AMOUNT OF MONEY THE ADMINISTRATOR REASONABLY ESTIMATES TO BE  
5 SUFFICIENT TO PAY CLAIMS ALLOWED UNDER THIS ARTICLE 13 [IN EACH  
6 FISCAL [YEAR] [QUARTER]]. IF THE AGGREGATE AMOUNT OF CLAIMS BY  
7 OWNERS ALLOWED AT ANY TIME EXCEEDS THE AMOUNT HELD IN THE  
8 ACCOUNT, AN EXCESS CLAIM MUST BE PAID AS A PRIORITY CLAIM OUT OF  
9 THE GENERAL FUND OF THE STATE.

10 **38-13-802. Administrator to retain records of property.**

11 (1) THE ADMINISTRATOR SHALL:

12 (a) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS  
13 OF EACH PERSON SHOWN ON A REPORT FILED UNDER SECTION 38-13-401  
14 TO BE THE APPARENT OWNER OF THE PROPERTY DELIVERED TO THE  
15 ADMINISTRATOR;

16 (b) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS  
17 OF EACH INSURED OR ANNUITANT AND BENEFICIARY SHOWN ON THE  
18 REPORT;

19 (c) WITH RESPECT TO EACH POLICY OF INSURANCE OR ANNUITY  
20 CONTRACT LISTED IN THE REPORT OF AN INSURANCE COMPANY, RECORD  
21 AND RETAIN THE POLICY OR ACCOUNT NUMBER, THE NAME OF THE  
22 COMPANY, AND THE AMOUNT DUE OR PAID; AND

23 (d) WITH RESPECT TO EACH APPARENT OWNER LISTED IN THE  
24 REPORT, RECORD AND RETAIN THE NAME OF THE HOLDER WHO FILED THE  
25 REPORT AND THE AMOUNT DUE OR PAID.

26 **38-13-803. Expenses of administrator.** (1) BEFORE MAKING A  
27 DEPOSIT OF MONEY RECEIVED UNDER THIS ARTICLE 13 TO THE [GENERAL

1 FUND OF THE STATE], THE ADMINISTRATOR MAY DEDUCT:

2 (a) EXPENSES OF DISPOSITION OF ABANDONED PROPERTY;

3 (b) COSTS OF MAILING AND PUBLICATION IN CONNECTION WITH  
4 ABANDONED PROPERTY;

5 (c) REASONABLE SERVICE CHARGES; AND

6 (d) EXPENSES INCURRED IN EXAMINING RECORDS OF A PUTATIVE  
7 HOLDER OF PROPERTY AND COLLECTING PROPERTY FROM A PUTATIVE  
8 HOLDER DETERMINED BY THE ADMINISTRATOR TO HOLD PROPERTY  
9 REQUIRED TO BE DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE  
10 13.

11 **38-13-804. Administrator holds property as custodian for**  
12 **owner.** PROPERTY RECEIVED BY THE ADMINISTRATOR UNDER THIS  
13 ARTICLE 13 IS HELD IN CUSTODY FOR THE BENEFIT OF THE OWNER AND IS  
14 NOT OWNED BY THE STATE.

15 PART 9

16 CLAIM TO RECOVER PROPERTY

17 FROM ADMINISTRATOR

18 **38-13-901. Claim of another state to recover property.** (1) IF  
19 THE ADMINISTRATOR KNOWS THAT PROPERTY HELD BY THE  
20 ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO A SUPERIOR CLAIM  
21 OF ANOTHER STATE, THE ADMINISTRATOR SHALL:

22 (a) REPORT AND PAY OR DELIVER THE PROPERTY TO THE OTHER  
23 STATE; OR

24 (b) RETURN THE PROPERTY TO THE HOLDER SO THAT THE HOLDER  
25 MAY PAY OR DELIVER THE PROPERTY TO THE OTHER STATE.

26 (2) THE ADMINISTRATOR IS NOT REQUIRED TO ENTER INTO A  
27 FORMAL AGREEMENT TO TRANSFER THE PROPERTY TO THE OTHER STATE

1 UNDER SUBSECTION (1) OF THIS SECTION.

2 **38-13-902. When property subject to recovery by another**

3 **state.** (1) PROPERTY HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE  
4 13 IS SUBJECT TO THE RIGHT OF ANOTHER STATE TO TAKE CUSTODY OF THE  
5 PROPERTY IF:

6 (a) THE PROPERTY WAS PAID OR DELIVERED TO THE  
7 ADMINISTRATOR BECAUSE THE RECORDS OF THE HOLDER DID NOT REFLECT  
8 A LAST-KNOWN ADDRESS IN THE OTHER STATE OF THE APPARENT OWNER  
9 AND:

10 (I) THE OTHER STATE ESTABLISHES THAT THE LAST-KNOWN  
11 ADDRESS OF THE APPARENT OWNER OR OTHER PERSON ENTITLED TO THE  
12 PROPERTY WAS IN THE OTHER STATE; OR

13 (II) UNDER THE LAW OF THE OTHER STATE, THE PROPERTY HAS  
14 BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE OTHER STATE;

15 (b) THE RECORDS OF THE HOLDER DID NOT ACCURATELY IDENTIFY  
16 THE OWNER OF THE PROPERTY, THE LAST-KNOWN ADDRESS OF THE OWNER  
17 WAS IN ANOTHER STATE, AND, UNDER THE LAW OF THE OTHER STATE, THE  
18 PROPERTY HAS BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE  
19 OTHER STATE;

20 (c) THE PROPERTY WAS SUBJECT TO THE CUSTODY OF THE  
21 ADMINISTRATOR OF THIS STATE UNDER SECTION 38-13-305 AND, UNDER  
22 THE LAW OF THE STATE OF DOMICILE OF THE HOLDER, THE PROPERTY HAS  
23 BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE STATE OF  
24 DOMICILE OF THE HOLDER; OR

25 (d) THE PROPERTY:

26 (I) IS A SUM PAYABLE ON A TRAVELER'S CHECK, MONEY ORDER, OR  
27 SIMILAR INSTRUMENT THAT WAS PURCHASED IN THE OTHER STATE AND

1 DELIVERED TO THE ADMINISTRATOR UNDER SECTION 38-13-306; AND

2 (II) UNDER THE LAW OF THE OTHER STATE, HAS BECOME SUBJECT  
3 TO A CLAIM OF ABANDONMENT BY THE OTHER STATE.

4 (2) A CLAIM BY ANOTHER STATE TO RECOVER PROPERTY UNDER  
5 THIS SECTION MUST BE PRESENTED IN A FORM PRESCRIBED BY THE  
6 ADMINISTRATOR UNLESS THE ADMINISTRATOR WAIVES PRESENTATION OF  
7 THE FORM.

8 (3) THE ADMINISTRATOR SHALL DECIDE A CLAIM UNDER THIS  
9 SECTION NOT LATER THAN [NINETY] DAYS AFTER IT IS PRESENTED. IF THE  
10 ADMINISTRATOR DETERMINES THAT THE OTHER STATE IS ENTITLED UNDER  
11 SUBSECTION (1) OF THIS SECTION TO CUSTODY OF THE PROPERTY, THE  
12 ADMINISTRATOR SHALL ALLOW THE CLAIM AND PAY OR DELIVER THE  
13 PROPERTY TO THE OTHER STATE.

14 (4) THE ADMINISTRATOR MAY REQUIRE ANOTHER STATE, BEFORE  
15 RECOVERING PROPERTY UNDER THIS SECTION, TO AGREE TO INDEMNIFY  
16 THIS STATE AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LIABILITY ON  
17 A CLAIM TO THE PROPERTY.

18 **38-13-903. Claim for property by person claiming to be**  
19 **owner.** (1) A PERSON CLAIMING TO BE THE OWNER OF PROPERTY HELD BY  
20 THE ADMINISTRATOR MAY FILE A CLAIM FOR THE PROPERTY ON A FORM  
21 PRESCRIBED BY THE ADMINISTRATOR AND VERIFIED BY THE CLAIMANT.

22 (2) THE ADMINISTRATOR MAY WAIVE THE REQUIREMENT IN  
23 SUBSECTION (1) OF THIS SECTION TO FILE A CLAIM AND PAY OR DELIVER  
24 PROPERTY DIRECTLY TO A PERSON IF:

25 (a) THE PERSON RECEIVING THE PROPERTY OR PAYMENT IS SHOWN  
26 TO BE THE SAME PERSON AS THE APPARENT OWNER INCLUDED ON A  
27 REPORT FILED UNDER SECTION 38-13-401;



1 (b) THE ADMINISTRATOR REASONABLY BELIEVES THE PERSON IS  
2 ENTITLED TO RECEIVE THE PROPERTY OR PAYMENT; AND

3 (c) THE PROPERTY HAS A VALUE OF LESS THAN [TWO HUNDRED  
4 FIFTY DOLLARS].

5 **38-13-904. When administrator must honor claim for**  
6 **property.** (1) THE ADMINISTRATOR SHALL PAY OR DELIVER PROPERTY TO  
7 A CLAIMANT UNDER SECTION 38-13-903 IF THE ADMINISTRATOR RECEIVES  
8 EVIDENCE SUFFICIENT TO ESTABLISH TO THE REASONABLE SATISFACTION  
9 OF THE ADMINISTRATOR THAT THE CLAIMANT IS THE OWNER OF THE  
10 PROPERTY.

11 (2) NOT LATER THAN [NINETY] DAYS AFTER A CLAIM IS FILED  
12 UNDER SECTION 38-13-903, THE ADMINISTRATOR SHALL ALLOW OR DENY  
13 THE CLAIM AND GIVE THE CLAIMANT NOTICE OF THE DECISION IN A  
14 RECORD. IF THE CLAIM IS DENIED:

15 (a) THE ADMINISTRATOR SHALL INFORM THE CLAIMANT OF THE  
16 REASON FOR THE DENIAL AND SPECIFY WHAT ADDITIONAL EVIDENCE, IF  
17 ANY, IS REQUIRED FOR THE CLAIM TO BE ALLOWED;

18 (b) THE CLAIMANT MAY FILE AN AMENDED CLAIM WITH THE  
19 ADMINISTRATOR OR COMMENCE AN ACTION UNDER SECTION 38-13-906;  
20 AND

21 (c) THE ADMINISTRATOR SHALL TREAT AN AMENDED CLAIM AS AN  
22 INITIAL CLAIM UNDER THIS SECTION.

23 **38-13-905. Allowance of claim for property.** (1) NOT LATER  
24 THAN [THIRTY] DAYS AFTER A CLAIM IS ALLOWED BY THE ADMINISTRATOR  
25 UNDER SECTION 38-13-904 (2), THE ADMINISTRATOR SHALL PAY OR  
26 DELIVER TO THE OWNER THE PROPERTY OR THE NET PROCEEDS OF A SALE  
27 OF THE PROPERTY, TOGETHER WITH DIVIDENDS, INTEREST, OR OTHER

1 INCREMENTS TO WHICH THE OWNER IS ENTITLED UNDER SECTION  
2 38-13-607. ON REQUEST OF THE OWNER, THE ADMINISTRATOR MAY SELL  
3 OR LIQUIDATE A SECURITY AND PAY THE NET PROCEEDS TO THE OWNER,  
4 EVEN IF THE SECURITY HAD BEEN HELD BY THE ADMINISTRATOR FOR LESS  
5 THAN THREE YEARS OR THE ADMINISTRATOR HAS NOT COMPLIED WITH THE  
6 NOTICE REQUIREMENTS UNDER SECTION 38-13-702.

7 (2) PROPERTY HELD BY THE ADMINISTRATOR IS SUBJECT TO A  
8 CLAIM FOR THE PAYMENT OF AN ENFORCEABLE DEBT THAT THE OWNER  
9 OWES IN THIS STATE FOR:

10 (a) CHILD-SUPPORT ARREARAGES, INCLUDING CHILD-SUPPORT  
11 COLLECTION COSTS AND CHILD-SUPPORT ARREARAGES THAT ARE  
12 COMBINED WITH MAINTENANCE;

13 (b) A CIVIL OR CRIMINAL FINE OR PENALTY, COURT COSTS, A  
14 SURCHARGE, OR RESTITUTION IMPOSED BY A FINAL ORDER OF AN  
15 ADMINISTRATIVE AGENCY OR A FINAL COURT JUDGMENT; OR

16 (c) STATE [OR LOCAL] TAXES, PENALTIES, AND INTEREST THAT  
17 HAVE BEEN DETERMINED TO BE DELINQUENT OR AS TO WHICH NOTICE HAS  
18 BEEN RECORDED WITH THE [SECRETARY OF STATE] [OR LOCAL TAXING  
19 AUTHORITY].

20 (3) THE ADMINISTRATOR MAY MAKE PERIODIC INQUIRIES OF STATE  
21 [AND LOCAL] AGENCIES IN THE ABSENCE OF A CLAIM FILED UNDER SECTION  
22 38-13-903 TO DETERMINE WHETHER APPARENT OWNERS INCLUDED IN THE  
23 UNCLAIMED-PROPERTY RECORDS OF THIS STATE HAVE ENFORCEABLE  
24 DEBTS DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE  
25 ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS OF  
26 A SALE OF PROPERTY HELD BY THE ADMINISTRATOR TO A DEBT UNDER  
27 SUBSECTION (2) OF THIS SECTION OF AN APPARENT OWNER THAT APPEARS

1 IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE AMOUNT TO  
2 THE APPROPRIATE STATE [OR LOCAL] AGENCY. THE ADMINISTRATOR  
3 SHALL NOTIFY THE APPARENT OWNER OF THE PAYMENT.

4 (4) BEFORE DELIVERY OR PAYMENT TO AN OWNER UNDER  
5 SUBSECTION (1) OF THIS SECTION OF PROPERTY OR NET PROCEEDS OF A  
6 SALE OF THE PROPERTY, THE ADMINISTRATOR FIRST SHALL APPLY THE  
7 PROPERTY OR NET PROCEEDS TO A DEBT UNDER SUBSECTION (2) OF THIS  
8 SECTION THE ADMINISTRATOR HAS DETERMINED IS OWED BY THE OWNER.  
9 THE ADMINISTRATOR SHALL PAY THE AMOUNT TO THE APPROPRIATE STATE  
10 [OR LOCAL] AGENCY AND NOTIFY THE OWNER OF THE PAYMENT.

11 **38-13-906. Action by person whose claim is denied.** NOT LATER  
12 THAN ONE YEAR AFTER FILING A CLAIM WITH THE ADMINISTRATOR UNDER  
13 SECTION 38-13-903, THE CLAIMANT MAY COMMENCE AN ACTION AGAINST  
14 THE ADMINISTRATOR IN THE [APPROPRIATE COURT] TO ESTABLISH A CLAIM  
15 THAT HAS BEEN DENIED OR ON WHICH THE ADMINISTRATOR HAS NOT  
16 ACTED NOT LATER THAN [NINETY] DAYS AFTER THE FILING OF THE CLAIM.  
17 [ON FINAL DETERMINATION OF THE ACTION, THE COURT MAY AWARD  
18 REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION  
19 INCURRED BY THE [CLAIMANT] [PREVAILING PARTY].]

## 20 PART 10

### 21 REPORT OF PROPERTY; EXAMINATION OF RECORDS

22 **38-13-1001. Request for report of property.** (1) IF A PERSON  
23 DOES NOT FILE A REPORT REQUIRED BY SECTION 38-13-401 OR THE  
24 ADMINISTRATOR BELIEVES THAT A PERSON MAY HAVE FILED AN  
25 INACCURATE, INCOMPLETE, OR FALSE REPORT, THE ADMINISTRATOR MAY  
26 REQUIRE THE PERSON TO FILE A VERIFIED REPORT IN A FORM PRESCRIBED  
27 BY THE ADMINISTRATOR. THE REPORT MUST:

1 (a) STATE WHETHER THE PERSON IS HOLDING PROPERTY  
2 REPORTABLE UNDER THIS ARTICLE 13;

3 (b) DESCRIBE PROPERTY NOT PREVIOUSLY REPORTED OR AS TO  
4 WHICH THE ADMINISTRATOR HAS ENQUIRED; AND

5 (c) SPECIFICALLY IDENTIFY PROPERTY DESCRIBED UNDER  
6 SUBSECTION (1)(b) OF THIS SECTION AS TO WHICH THERE IS A DISPUTE  
7 WHETHER IT IS REPORTABLE UNDER THIS ARTICLE 13 AND STATE THE  
8 AMOUNT OR VALUE OF THE PROPERTY.

9 **38-13-1002. Examination of records to determine compliance**  
10 **with article.** (1) THE ADMINISTRATOR, AT REASONABLE TIMES AND ON  
11 REASONABLE NOTICE, MAY:

12 (a) EXAMINE THE RECORDS OF A PERSON TO DETERMINE WHETHER  
13 THE PERSON HAS COMPLIED WITH THIS ARTICLE 13, INCLUDING  
14 EXAMINATION OF APPROPRIATE RECORDS IN THE POSSESSION OF AN AGENT  
15 OF THE PERSON UNDER EXAMINATION, IF SUCH RECORDS ARE REASONABLY  
16 NECESSARY FOR THE DETERMINATION OF COMPLIANCE OF THE PERSON  
17 UNDER EXAMINATION WITH THIS ARTICLE 13;

18 (b) ISSUE AN ADMINISTRATIVE SUBPOENA REQUIRING THE PERSON  
19 OR AN AGENT OF THE PERSON TO MAKE RECORDS AVAILABLE FOR  
20 EXAMINATION; AND

21 (c) BRING AN ACTION SEEKING JUDICIAL ENFORCEMENT OF THE  
22 SUBPOENA.

23 **38-13-1003. Rules and procedures for conducting**  
24 **examination.** (1) THE ADMINISTRATOR SHALL ADOPT RULES GOVERNING  
25 PROCEDURES AND STANDARDS FOR AN EXAMINATION UNDER SECTION  
26 38-13-1002, INCLUDING RULES FOR USE OF AN ESTIMATION,  
27 EXTRAPOLATION, AND STATISTICAL SAMPLING IN CONDUCTING AN

1 EXAMINATION.

2 (2) AN EXAMINATION UNDER SECTION 38-13-1002 MUST BE  
3 PERFORMED IN ACCORD WITH RULES ADOPTED UNDER SUBSECTION (1) OF  
4 THIS SECTION AND WITH GENERALLY ACCEPTED EXAMINATION PRACTICES  
5 AND STANDARDS APPLICABLE TO UNCLAIMED-PROPERTY EXAMINATIONS.

6 (3) IF THE PERSON SUBJECT TO EXAMINATION UNDER SECTION  
7 38-13-1002 HAS FILED ALL REPORTS REQUIRED BY SECTION 38-13-401 AND  
8 HAS RETAINED THE RECORDS REQUIRED BY SECTION 38-13-404, THE  
9 FOLLOWING RULES APPLY:

10 (a) THE EXAMINATION MUST INCLUDE A REVIEW OF THE PERSON'S  
11 RECORDS.

12 (b) THE EXAMINATION MUST NOT BE BASED ON AN ESTIMATE  
13 UNLESS THE PERSON EXPRESSLY CONSENTS IN A RECORD TO THE USE OF AN  
14 ESTIMATE.

15 (c) THE PERSON CONDUCTING THE EXAMINATION SHALL CONSIDER  
16 ALL EVIDENCE PRESENTED BY THE PERSON IN GOOD FAITH IN PREPARING  
17 THE FINDINGS OF THE EXAMINATION UNDER SECTION 38-13-1007.

18 **38-13-1004. Records obtained in examination.** (1) RECORDS  
19 OBTAINED AND RECORDS, INCLUDING WORK PAPERS, COMPILED BY THE  
20 ADMINISTRATOR IN THE COURSE OF CONDUCTING AN EXAMINATION UNDER  
21 SECTION 38-13-1002:

22 (a) ARE SUBJECT TO THE CONFIDENTIALITY AND SECURITY  
23 PROVISIONS OF PART 14 OF THIS ARTICLE 13 AND ARE NOT PUBLIC  
24 RECORDS;

25 (b) MAY BE USED BY THE ADMINISTRATOR IN AN ACTION TO  
26 COLLECT PROPERTY OR OTHERWISE ENFORCE THIS ARTICLE 13;

27 (c) MAY BE USED IN A JOINT EXAMINATION CONDUCTED WITH

1 ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR  
2 SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER  
3 GOVERNMENTAL ENTITY IF THE OTHER PERSON CONDUCTING THE  
4 EXAMINATION IS LEGALLY BOUND TO MAINTAIN THE CONFIDENTIALITY  
5 AND SECURITY OF INFORMATION OBTAINED FROM A PERSON SUBJECT TO  
6 EXAMINATION IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF  
7 THIS ARTICLE 13;

8 (d) MUST BE DISCLOSED TO THE PERSON THAT ADMINISTERS THE  
9 UNCLAIMED PROPERTY LAW OF ANOTHER STATE FOR THAT STATE'S USE IN  
10 CIRCUMSTANCES EQUIVALENT TO CIRCUMSTANCES DESCRIBED IN THIS  
11 PART 10, IF THE OTHER STATE IS REQUIRED TO MAINTAIN THE  
12 CONFIDENTIALITY AND SECURITY OF INFORMATION OBTAINED IN A  
13 MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS ARTICLE 13;

14 (e) SHALL BE PRODUCED BY THE ADMINISTRATOR UNDER AN  
15 ADMINISTRATIVE OR JUDICIAL SUBPOENA OR ADMINISTRATIVE OR COURT  
16 ORDER; AND

17 (f) SHALL BE PRODUCED BY THE ADMINISTRATOR ON REQUEST OF  
18 A PERSON THAT IS THE SUBJECT OF THE EXAMINATION IN AN  
19 ADMINISTRATIVE OR JUDICIAL PROCEEDING RELATING TO THE PROPERTY.

20 **38-13-1005. Evidence of unpaid debt or undischarged**  
21 **obligation.** (1) A RECORD OF A PUTATIVE HOLDER SHOWING AN UNPAID  
22 DEBT OR UNDISCHARGED OBLIGATION IS PRIMA FACIE EVIDENCE OF THE  
23 DEBT OR OBLIGATION.

24 (2) A PUTATIVE HOLDER MAY ESTABLISH BY A PREPONDERANCE OF  
25 THE EVIDENCE THAT THERE IS NO UNPAID DEBT OR UNDISCHARGED  
26 OBLIGATION WITH RESPECT TO DEBT OR OBLIGATION DESCRIBED IN  
27 SUBSECTION (1) OF THIS SECTION OR THAT THE DEBT OR OBLIGATION WAS

1 NOT, OR NO LONGER IS, A FIXED AND CERTAIN OBLIGATION OF THE  
2 PUTATIVE HOLDER.

3 (3) A PUTATIVE HOLDER MAY OVERCOME PRIMA FACIE EVIDENCE  
4 UNDER SUBSECTION (1) OF THIS SECTION BY ESTABLISHING BY A  
5 PREPONDERANCE OF THE EVIDENCE THAT A CHECK, DRAFT, OR SIMILAR  
6 INSTRUMENT WAS:

7 (a) ISSUED AS AN UNACCEPTED OFFER IN SETTLEMENT OF AN  
8 UNLIQUIDATED AMOUNT;

9 (b) ISSUED BUT LATER WAS REPLACED WITH ANOTHER  
10 INSTRUMENT BECAUSE THE EARLIER INSTRUMENT WAS LOST OR  
11 CONTAINED ERRORS THAT WERE CORRECTED;

12 (c) ISSUED TO A PARTY AFFILIATED WITH THE ISSUER;

13 (d) PAID, SATISFIED, OR DISCHARGED;

14 (e) ISSUED IN ERROR;

15 (f) ISSUED WITHOUT CONSIDERATION;

16 (g) ISSUED BUT THERE WAS A FAILURE OF CONSIDERATION;

17 (h) VOIDED [NOT LATER THAN NINETY DAYS] [WITHIN A  
18 REASONABLE TIME] AFTER ISSUANCE FOR A VALID BUSINESS REASON SET  
19 FORTH IN A CONTEMPORANEOUS RECORD; OR

20 (i) ISSUED BUT WAS NOT DELIVERED TO THE THIRD-PARTY PAYEE  
21 FOR A SUFFICIENT REASON RECORDED WITHIN A REASONABLE TIME AFTER  
22 ISSUANCE.

23 (4) IN ASSERTING A DEFENSE UNDER THIS SECTION, A PUTATIVE  
24 HOLDER MAY PRESENT EVIDENCE OF A COURSE OF DEALING BETWEEN THE  
25 PUTATIVE HOLDER AND THE APPARENT OWNER OR OF CUSTOM AND  
26 PRACTICE.

27 **38-13-1006. Failure of person examined to retain records. IF**

1 A PERSON SUBJECT TO EXAMINATION UNDER SECTION 38-13-1002 DOES  
2 NOT RETAIN THE RECORDS REQUIRED BY SECTION 38-13-404, THE  
3 ADMINISTRATOR MAY DETERMINE THE AMOUNT OF PROPERTY DUE USING  
4 A REASONABLE METHOD OF ESTIMATION BASED ON ALL INFORMATION  
5 AVAILABLE TO THE ADMINISTRATOR, INCLUDING EXTRAPOLATION AND USE  
6 OF STATISTICAL SAMPLING WHEN APPROPRIATE AND NECESSARY,  
7 CONSISTENT WITH EXAMINATION PROCEDURES AND STANDARDS ADOPTED  
8 UNDER SECTION 38-13-1003 (1).

9 **38-13-1007. Report to person whose records were examined.**

10 (1) AT THE CONCLUSION OF AN EXAMINATION UNDER SECTION  
11 38-13-1002, THE ADMINISTRATOR SHALL PROVIDE TO THE PERSON WHOSE  
12 RECORDS WERE EXAMINED A COMPLETE AND UNREDACTED EXAMINATION  
13 REPORT, WHICH MUST IDENTIFY IN DETAIL:

14 (a) THE WORK PERFORMED;

15 (b) THE PROPERTY TYPES REVIEWED;

16 (c) THE METHODOLOGY OF ANY ESTIMATION TECHNIQUE,  
17 EXTRAPOLATION, OR STATISTICAL SAMPLING METHOD USED IN  
18 CONDUCTING THE EXAMINATION;

19 (d) EACH CALCULATION SHOWING THE VALUE OF PROPERTY  
20 DETERMINED TO BE DUE; AND

21 (e) THE FINDINGS OF THE PERSON CONDUCTING THE EXAMINATION.

22 **38-13-1008. Complaint to administrator about conduct of  
23 person conducting examination.**

(1) IF A PERSON SUBJECT TO  
24 EXAMINATION UNDER SECTION 38-13-1002 BELIEVES THE PERSON  
25 CONDUCTING THE EXAMINATION HAS MADE AN UNREASONABLE OR  
26 UNAUTHORIZED REQUEST OR IS NOT PROCEEDING EXPEDITIOUSLY TO  
27 COMPLETE THE EXAMINATION, THE PERSON IN A RECORD MAY ASK THE



1 ADMINISTRATOR TO INTERVENE AND TAKE REMEDIAL ACTION THE  
2 CIRCUMSTANCES REQUIRE, INCLUDING COUNTERMANDING THE REQUEST  
3 OF THE PERSON CONDUCTING THE EXAMINATION, IMPOSING A TIME LIMIT  
4 FOR COMPLETION OF THE EXAMINATION, OR REASSIGNING THE  
5 EXAMINATION TO ANOTHER PERSON.

6 (2) IF A PERSON IN A RECORD REQUESTS A CONFERENCE WITH THE  
7 ADMINISTRATOR TO PRESENT MATTERS THAT ARE THE BASIS OF A REQUEST  
8 FOR INTERVENTION UNDER SUBSECTION (1) OF THIS SECTION, THE  
9 ADMINISTRATOR SHALL HOLD THE CONFERENCE NOT LATER THAN [THIRTY]  
10 DAYS AFTER RECEIVING THE REQUEST. THE ADMINISTRATOR MAY HOLD  
11 THE CONFERENCE IN PERSON, BY TELEPHONE, OR BY ELECTRONIC MEANS.

12 (3) IF A CONFERENCE IS HELD UNDER SUBSECTION (2) OF THIS  
13 SECTION, THE ADMINISTRATOR SHALL PROVIDE A REPORT IN A RECORD OF  
14 THE CONFERENCE TO THE PERSON THAT REQUESTED THE CONFERENCE NOT  
15 LATER THAN THIRTY DAYS AFTER THE CONFERENCE ENDS.

16 **38-13-1009. Administrator's contract with another to conduct**  
17 **examination - definition.** (1) IN THIS SECTION, AN INDIVIDUAL IS  
18 "RELATED TO THE ADMINISTRATOR" IF THE INDIVIDUAL IS THE  
19 ADMINISTRATOR'S SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC  
20 PARTNER, RECIPROCAL BENEFICIARY, CHILD, STEPCHILD, GRANDCHILD,  
21 PARENT, STEPPARENT, SIBLING, STEPSIBLING, HALF-SIBLING, AUNT, UNCLE,  
22 NIECE, NEPHEW, SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC PARTNER,  
23 OR RECIPROCAL BENEFICIARY OF ANY OF THEM, OR ANY OTHER PERSON  
24 RESIDING IN THE ADMINISTRATOR'S HOME.

25 (2) THE ADMINISTRATOR MAY CONTRACT WITH A PERSON TO  
26 CONDUCT AN EXAMINATION UNDER THIS PART 10.

27 (3) IF THE PERSON WITH WHOM THE ADMINISTRATOR CONTRACTS

1 UNDER SUBSECTION (2) OF THIS SECTION IS:

2 (a) AN INDIVIDUAL, THE INDIVIDUAL MUST NOT BE RELATED TO  
3 THE ADMINISTRATOR; OR

4 (b) A BUSINESS ENTITY, THE ENTITY MUST NOT BE OWNED IN  
5 WHOLE OR IN PART BY THE ADMINISTRATOR OR AN INDIVIDUAL RELATED  
6 TO THE ADMINISTRATOR.

7 (4) NOT LESS THAN SIXTY DAYS BEFORE CONTRACTING WITH A  
8 PERSON TO CONDUCT AN EXAMINATION FOR THE ADMINISTRATOR UNDER  
9 SUBSECTION (2) OF THIS SECTION, THE ADMINISTRATOR SHALL GIVE THE  
10 PERSON TO BE EXAMINED A DEMAND IN A RECORD TO SUBMIT A REPORT  
11 AND DELIVER PROPERTY THAT IS SUBJECT TO THIS ARTICLE 13.

12 (5) IF THE ADMINISTRATOR CONTRACTS WITH A PERSON UNDER  
13 SUBSECTION (2) OF THIS SECTION:

14 (a) THE TERMS OF THE CONTRACT MAY PROVIDE FOR  
15 COMPENSATION OF THE PERSON BASED ON A FIXED FEE, HOURLY FEE, OR  
16 CONTINGENT FEE;

17 (b) A CONTINGENT FEE ARRANGEMENT MUST NOT PROVIDE FOR A  
18 PAYMENT THAT EXCEEDS [TEN] PERCENT OF THE AMOUNT OR VALUE OF  
19 PROPERTY PAID OR DELIVERED AS A RESULT OF AN EXAMINATION; AND

20 (c) ON REQUEST BY A PERSON SUBJECT TO EXAMINATION BY A  
21 CONTRACTOR, THE ADMINISTRATOR SHALL DELIVER TO THE PERSON A  
22 COMPLETE UNREDACTED COPY OF THE CONTRACT BETWEEN THE  
23 ADMINISTRATOR AND THE CONTRACTOR RELATING TO THE EXAMINATION  
24 AND ANY CONTRACT BETWEEN THE CONTRACTOR AND A PERSON  
25 EMPLOYED OR ENGAGED BY THE CONTRACTOR TO CONDUCT THE  
26 EXAMINATION.

27 (6) A CONTRACT UNDER SUBSECTION (2) OF THIS SECTION MAY BE

1 AWARDED ONLY UNDER THE "PROCUREMENT CODE", ARTICLES 101 TO 112  
2 OF TITLE 24.

3 (7) A CONTRACT UNDER SUBSECTION (2) OF THIS SECTION IS  
4 SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION UNDER THE  
5 COLORADO OPEN RECORDS LAW, ARTICLE 72 OF TITLE 24.

6 **38-13-1010. Limit on future employment.** THE ADMINISTRATOR  
7 OR AN INDIVIDUAL EMPLOYED BY THE ADMINISTRATOR WHO PARTICIPATES  
8 IN, RECOMMENDS, OR APPROVES THE AWARD OF A CONTRACT UNDER THIS  
9 PART 10 ON OR AFTER [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS  
10 AMENDED,] MUST NOT BE EMPLOYED BY, CONTRACTED WITH, OR  
11 COMPENSATED IN ANY CAPACITY BY THE CONTRACTOR OR AN AFFILIATE  
12 OF THE CONTRACTOR WHOSE CONTRACT THE ADMINISTRATOR OR  
13 EMPLOYEE PARTICIPATED IN, RECOMMENDED, OR APPROVED, FOR [TWO]  
14 YEARS AFTER THE LATEST OF PARTICIPATION IN, RECOMMENDATION OF, OR  
15 APPROVAL OF THE AWARD OR CONCLUSION OF THE CONTRACT.

16 **38-13-1011. Report by administrator to state official.** (1) NOT  
17 LATER THAN THREE MONTHS AFTER THE END OF THE STATE FISCAL YEAR,  
18 THE ADMINISTRATOR SHALL COMPILE AND SUBMIT A REPORT TO THE  
19 [GOVERNOR,][TREASURER,][COMPTROLLER,][PRESIDENT OF THE SENATE,]  
20 [AND] [SPEAKER OF THE HOUSE] THAT MUST CONTAIN THE FOLLOWING  
21 INFORMATION ABOUT PROPERTY PRESUMED ABANDONED FOR THE  
22 PRECEDING STATE FISCAL YEAR:

23 (a) THE TOTAL AMOUNT AND VALUE OF ALL PROPERTY PAID OR  
24 DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE 13, SEPARATED  
25 INTO:

26 (I) THE PART VOLUNTARILY PAID OR DELIVERED; AND

27 (II) THE PART PAID OR DELIVERED AS A RESULT OF AN

1 EXAMINATION UNDER SECTION 38-13-1002, WHICH AMOUNT MUST BE  
2 SEPARATED INTO THE PART RECOVERED AS A RESULT OF AN EXAMINATION  
3 CONDUCTED BY:

4 (A) A STATE EMPLOYEE; AND

5 (B) A PERSON UNDER CONTRACT UNDER SECTION 38-13-1009;

6 (b) THE NAME AND AMOUNT PAID TO EACH CONTRACTOR UNDER  
7 SECTION 38-13-1009 AND THE PERCENTAGE THE TOTAL COMPENSATION  
8 PAID TO ALL CONTRACTORS UNDER SECTION 38-13-1009 BEARS TO THE  
9 TOTAL AMOUNT PAID OR DELIVERED TO THE ADMINISTRATOR AS A RESULT  
10 OF EXAMINATIONS;

11 (c) THE TOTAL AMOUNT AND VALUE OF ALL PROPERTY PAID OR  
12 DELIVERED BY THE ADMINISTRATOR TO PERSONS THAT MADE CLAIMS FOR  
13 PROPERTY HELD BY THE ADMINISTRATOR AND THE PERCENTAGE THE  
14 TOTAL PAYMENTS MADE OR VALUE OF PROPERTY DELIVERED TO  
15 CLAIMANTS BEARS TO THE TOTAL AMOUNTS PAID OR VALUE DELIVERED TO  
16 THE ADMINISTRATOR; AND

17 (d) THE TOTAL AMOUNT OF:

18 (I) CLAIMS MADE BY PERSONS CLAIMING TO BE OWNERS THAT  
19 WERE DENIED;

20 (II) CLAIMS MADE BY PERSONS CLAIMING TO BE OWNERS THAT  
21 WERE ALLOWED; AND

22 (III) FUNDS RECEIVED AND THE VALUE OF PROPERTY HELD BY THE  
23 ADMINISTRATOR SUBJECT TO CLAIMS OF OWNERS.

24 (2) THE REPORT SUBMITTED BY THE ADMINISTRATOR UNDER  
25 SUBSECTION (1) OF THIS SECTION IS A PUBLIC RECORD SUBJECT TO PUBLIC  
26 DISCLOSURE WITHOUT REDACTION UNDER THE COLORADO OPEN RECORDS  
27 LAW, ARTICLE 72 OF TITLE 24.



1 38-13-1103 AND 38-13-1104 UNTIL NOTICE OF A DECISION UNDER  
2 SUBSECTION (2)(g) OF THIS SECTION HAS BEEN GIVEN TO THE PUTATIVE  
3 HOLDER OR THE PUTATIVE HOLDER WITHDRAWS THE REQUEST FOR THE  
4 CONFERENCE;

5 (e) THE CONFERENCE MAY BE POSTPONED, ADJOURNED, AND  
6 RECONVENED AS THE ADMINISTRATOR DETERMINES APPROPRIATE;

7 (f) THE ADMINISTRATOR OR ADMINISTRATOR'S DESIGNEE WITH THE  
8 APPROVAL OF THE ADMINISTRATOR MAY MODIFY A DETERMINATION MADE  
9 UNDER SECTION 38-13-1012 IN PART OR WITHDRAW IT IN ITS ENTIRETY;  
10 AND

11 (g) THE ADMINISTRATOR SHALL ISSUE A DECISION IN A RECORD  
12 AND PROVIDE A COPY OF THE RECORD TO THE PUTATIVE HOLDER AND  
13 EXAMINER NOT LATER THAN [TWENTY] DAYS AFTER THE CONFERENCE  
14 ENDS.

15 (3) A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION IS NOT  
16 AN ADMINISTRATIVE REMEDY AND IS NOT A CONTESTED CASE SUBJECT TO  
17 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.  
18 AN OATH IS NOT REQUIRED AND THE RULES OF EVIDENCE DO NOT APPLY IN  
19 THE CONFERENCE.

20 (4) AT A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION,  
21 THE PUTATIVE HOLDER SHALL BE GIVEN AN OPPORTUNITY TO CONFER  
22 INFORMALLY WITH THE ADMINISTRATOR AND THE PERSON WHO EXAMINED  
23 THE RECORDS OF THE PUTATIVE HOLDER TO:

24 (a) DISCUSS THE DETERMINATION MADE UNDER SECTION  
25 38-13-1012; AND

26 (b) PRESENT ANY ISSUE THE PUTATIVE HOLDER RAISES  
27 CONCERNING THE VALIDITY OF THE DETERMINATION.

1 (5) IF THE ADMINISTRATOR FAILS TO ACT WITHIN A PERIOD  
2 PRESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE FAILURE DOES NOT  
3 AFFECT A RIGHT OF THE ADMINISTRATOR; EXCEPT THAT INTEREST DOES  
4 NOT ACCRUE ON THE AMOUNT FOR WHICH THE HOLDER WAS DETERMINED  
5 TO BE LIABLE UNDER SECTION 38-13-1012 DURING THE PERIOD IN WHICH  
6 THE ADMINISTRATOR FAILED TO ACT UNTIL THE EARLIER OF:

7 (a) THE DATE UNDER SECTION 38-13-1103 WHEN THE PUTATIVE  
8 HOLDER INITIATES ADMINISTRATIVE REVIEW OR FILES AN ACTION UNDER  
9 SECTION 38-13-1104; OR

10 (b) THE NINETY-DAY PERIOD FOR INITIATING ADMINISTRATIVE  
11 REVIEW UNDER SECTION 38-13-1103 OR FILING AN ACTION UNDER SECTION  
12 38-13-1104 AND NO REVIEW WAS INITIATED AND NO ACTION WAS FILED.

13 (6) THE ADMINISTRATOR MAY HOLD AN INFORMAL CONFERENCE  
14 WITH THE PUTATIVE HOLDER WITHOUT A REQUEST AT ANY TIME BEFORE  
15 A PUTATIVE HOLDER INITIATES ADMINISTRATIVE REVIEW UNDER SECTION  
16 38-13-1103 OR FILES SUIT UNDER SECTION 38-13-1104.

17 (7) INTEREST AND PENALTIES UNDER SECTION 38-13-1204  
18 CONTINUE TO ACCRUE ON PROPERTY NOT REPORTED, PAID, OR DELIVERED  
19 AS REQUIRED BY THIS ARTICLE 13 FOLLOWING THE INITIATION, AND  
20 DURING THE PENDENCY, OF AN INFORMAL CONFERENCE UNDER THIS  
21 SECTION.

22 **38-13-1102. Review of determination by administrator.** (1) A  
23 PUTATIVE HOLDER MAY SEEK RELIEF FOR A DETERMINATION UNDER  
24 SECTION 38-13-1012 THAT THE PUTATIVE HOLDER BELIEVES IS ILLEGAL,  
25 UNJUST, INCORRECT, OR IN ERROR, IN WHOLE OR IN PART, BY SEEKING:

26 (a) ADMINISTRATIVE REVIEW OF THE DETERMINATION UNDER  
27 SECTION 38-13-1103; OR

1 (b) JUDICIAL REVIEW OF THE DETERMINATION UNDER SECTION  
2 38-13-1104.

3 **38-13-1103. Administrative review.** (1) NOT LATER THAN  
4 NINETY DAYS AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S  
5 DETERMINATION UNDER SECTION 38-13-1012, A PUTATIVE HOLDER MAY  
6 INITIATE A PROCEEDING UNDER THE "STATE ADMINISTRATIVE PROCEDURE  
7 ACT", ARTICLE 4 OF TITLE 24, FOR REVIEW OF THE ADMINISTRATOR'S  
8 DETERMINATION.

9 (2) A FINAL DECISION IN AN ADMINISTRATIVE PROCEEDING  
10 INITIATED UNDER SUBSECTION (1) OF THIS SECTION IS SUBJECT TO JUDICIAL  
11 REVIEW BY THE [COURT] [AS A MATTER OF RIGHT IN A DE NOVO  
12 PROCEEDING ON THE RECORD IN WHICH EITHER PARTY IS ENTITLED TO  
13 INTRODUCE EVIDENCE IN ADDITION TO OR AS A SUPPLEMENT TO THE  
14 RECORD].

15 **38-13-1104. Judicial remedy.** (1) NOT LATER THAN NINETY DAYS  
16 AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S DETERMINATION  
17 UNDER SECTION 38-13-1012, THE PUTATIVE HOLDER MAY:

18 (a) FILE AN ACTION AGAINST THE ADMINISTRATOR IN THE [COURT]  
19 CHALLENGING ALL OR PART OF THE ADMINISTRATOR'S DETERMINATION OF  
20 LIABILITY AND SEEKING A DECLARATION THAT THE DETERMINATION IS  
21 UNENFORCEABLE, IN WHOLE OR IN PART; OR

22 (b) PAY THE AMOUNT OR DELIVER THE PROPERTY DETERMINED BY  
23 THE ADMINISTRATOR TO BE PAID OR DELIVERED TO THE ADMINISTRATOR  
24 AND, NOT LATER THAN SIX MONTHS AFTER PAYMENT OR DELIVERY,  
25 INITIATE AN ACTION AGAINST THE ADMINISTRATOR IN THE [COURT] FOR A  
26 REFUND OF ALL OR PART OF THE AMOUNT PAID OR RETURN OF ALL OR PART  
27 OF THE PROPERTY DELIVERED.





1           (2) IN AN ACTION UNDER SUBSECTION (1) OF THIS SECTION, IF NO  
2 COURT IN THIS STATE HAS JURISDICTION OVER THE DEFENDANT, THE  
3 ADMINISTRATOR MAY COMMENCE AN ACTION IN A FEDERAL COURT OR  
4 STATE COURT HAVING JURISDICTION OVER THE DEFENDANT.

5           **38-13-1202. Interstate and international agreement and**  
6 **cooperation.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE  
7 ADMINISTRATOR MAY:

8           (a) EXCHANGE INFORMATION WITH ANOTHER STATE OR FOREIGN  
9 COUNTRY RELATING TO PROPERTY PRESUMED ABANDONED OR RELATING  
10 TO THE POSSIBLE EXISTENCE OF PROPERTY PRESUMED ABANDONED; AND

11           (b) AUTHORIZE IN A RECORD ANOTHER STATE OR FOREIGN  
12 COUNTRY OR A PERSON ACTING ON BEHALF OF THE OTHER STATE OR  
13 COUNTRY TO EXAMINE ITS RECORDS OF A PUTATIVE HOLDER AS PROVIDED  
14 IN PART 10 OF THIS ARTICLE 13.

15           (2) AN EXCHANGE OR EXAMINATION UNDER SUBSECTION (1) OF  
16 THIS SECTION MAY BE DONE ONLY IF THE STATE OR FOREIGN COUNTRY HAS  
17 CONFIDENTIALITY AND SECURITY REQUIREMENTS SUBSTANTIALLY  
18 EQUIVALENT TO THOSE IN PART 14 OF THIS ARTICLE 13 OR AGREES IN A  
19 RECORD TO BE BOUND BY THIS STATE'S CONFIDENTIALITY AND SECURITY  
20 REQUIREMENTS.

21           **38-13-1203. Action involving another state or foreign country.**

22           (1) THE ADMINISTRATOR MAY JOIN OTHER STATES OR FOREIGN COUNTRIES  
23 TO EXAMINE AND SEEK ENFORCEMENT OF THIS ARTICLE 13 AGAINST ANY  
24 PERSON BELIEVED TO BE HOLDING PROPERTY REPORTABLE UNDER THIS  
25 ARTICLE 13.

26           (2) ON REQUEST OF ANOTHER STATE OR FOREIGN COUNTRY, THE  
27 ATTORNEY GENERAL MAY COMMENCE AN ACTION ON BEHALF OF THE

1 OTHER STATE OR COUNTRY TO ENFORCE, IN THIS STATE, THE LAW OF THE  
2 OTHER STATE OR FOREIGN COUNTRY AGAINST A PUTATIVE HOLDER OF  
3 PROPERTY PRESUMED ABANDONED AND THEREFORE SUBJECT TO A CLAIM  
4 BY THE OTHER STATE OR COUNTRY, IF THE OTHER STATE OR COUNTRY  
5 AGREES TO PAY COSTS INCURRED BY THE ATTORNEY GENERAL IN THE  
6 ACTION.

7 (3) THE ADMINISTRATOR MAY REQUEST THE OFFICIAL AUTHORIZED  
8 TO ENFORCE THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE OR  
9 FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY IN  
10 THE OTHER STATE OR COUNTRY ON BEHALF OF THE ADMINISTRATOR. THIS  
11 STATE SHALL PAY ALL COSTS, INCLUDING REASONABLE ATTORNEY FEES  
12 AND EXPENSES, INCURRED BY THE OTHER STATE OR FOREIGN COUNTRY IN  
13 AN ACTION UNDER THIS SUBSECTION (3).

14 (4) THE ADMINISTRATOR MAY PURSUE AN ACTION ON BEHALF OF  
15 THIS STATE TO RECOVER PROPERTY SUBJECT TO THIS ARTICLE 13 BUT  
16 DELIVERED TO THE CUSTODY OF ANOTHER STATE IF THE ADMINISTRATOR  
17 BELIEVES THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE  
18 ADMINISTRATOR.

19 (5) THE ADMINISTRATOR MAY RETAIN A PRIVATE ATTORNEY IN  
20 THIS STATE OR ANOTHER STATE OR FOREIGN COUNTRY TO COMMENCE AN  
21 ACTION TO RECOVER PROPERTY ON BEHALF OF THE ADMINISTRATOR AND  
22 MAY AGREE TO PAY ATTORNEY FEES BASED IN WHOLE OR IN PART ON A  
23 FIXED FEE, HOURLY FEE, OR PERCENTAGE OF THE AMOUNT OR VALUE OF  
24 PROPERTY RECOVERED IN THE ACTION.

25 (6) EXPENSES INCURRED BY THIS STATE IN AN ACTION UNDER THIS  
26 SECTION MAY BE PAID FROM PROPERTY RECEIVED UNDER THIS ARTICLE 13  
27 OR NET PROCEEDS OF THE PROPERTY. EXPENSES PAID TO RECOVER

1 PROPERTY SHALL NOT BE DEDUCTED FROM THE AMOUNT THAT IS SUBJECT  
2 TO A CLAIM UNDER THIS ARTICLE 13 BY THE OWNER.

3 **38-13-1204. Interest and penalty for failure to act in timely**  
4 **manner.** (1) A HOLDER THAT FAILS TO REPORT, PAY, OR DELIVER  
5 PROPERTY WITHIN THE TIME PRESCRIBED BY THIS ARTICLE 13 SHALL PAY  
6 TO THE ADMINISTRATOR INTEREST AT AN ANNUAL RATE OF [[ ] PERCENT]  
7 [THE RATE OF INTEREST PAYABLE TO THE DEPARTMENT OF REVENUE OF  
8 THIS STATE ON DELINQUENT TAXES] ON THE PROPERTY OR VALUE OF THE  
9 PROPERTY FROM THE DATE THE PROPERTY SHOULD HAVE BEEN REPORTED,  
10 PAID, OR DELIVERED TO THE ADMINISTRATOR UNTIL REPORTED, PAID, OR  
11 DELIVERED.

12 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1205 OR  
13 38-13-1206, THE ADMINISTRATOR MAY REQUIRE A HOLDER WHO FAILS TO  
14 REPORT, PAY, OR DELIVER PROPERTY WITHIN THE TIME PRESCRIBED BY  
15 THIS ARTICLE 13 TO PAY TO THE ADMINISTRATOR, IN ADDITION TO  
16 INTEREST THAT MAY BE INCLUDED UNDER SUBSECTION (1) OF THIS  
17 SECTION, A CIVIL PENALTY OF [TWO HUNDRED DOLLARS] FOR EACH DAY  
18 THE DUTY IS NOT PERFORMED, UP TO A CUMULATIVE MAXIMUM AMOUNT  
19 OF [FIVE THOUSAND DOLLARS].

20 **38-13-1205. Other civil penalties.** (1) IF A HOLDER ENTERS INTO  
21 A CONTRACT OR OTHER ARRANGEMENT FOR THE PURPOSE OF EVADING AN  
22 OBLIGATION UNDER THIS ARTICLE 13 OR OTHERWISE WILLFULLY FAILS TO  
23 PERFORM A DUTY IMPOSED ON THE HOLDER UNDER THIS ARTICLE 13, THE  
24 ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY THE ADMINISTRATOR,  
25 IN ADDITION TO INTEREST AS PROVIDED IN SECTION 38-13-1204 (1), A  
26 CIVIL PENALTY OF [ONE THOUSAND DOLLARS] FOR EACH DAY THE  
27 OBLIGATION IS EVADED OR THE DUTY IS NOT PERFORMED, UP TO A

1 CUMULATIVE MAXIMUM AMOUNT OF [TWENTY-FIVE THOUSAND DOLLARS],  
2 PLUS [TWENTY-FIVE] PERCENT OF THE AMOUNT OR VALUE OF ANY  
3 PROPERTY THAT SHOULD HAVE BEEN BUT WAS NOT REPORTED, PAID, OR  
4 DELIVERED AS A RESULT OF THE EVASION OR FAILURE TO PERFORM.

5 (2) IF A HOLDER MAKES A FRAUDULENT REPORT UNDER THIS  
6 ARTICLE 13, THE ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY TO  
7 THE ADMINISTRATOR, IN ADDITION TO INTEREST AS PROVIDED IN SECTION  
8 38-13-1204 (1), A CIVIL PENALTY OF [ONE THOUSAND DOLLARS] FOR EACH  
9 DAY FROM THE DATE THE REPORT WAS MADE UNTIL CORRECTED, UP TO A  
10 CUMULATIVE MAXIMUM OF [TWENTY-FIVE THOUSAND DOLLARS], PLUS  
11 [TWENTY-FIVE] PERCENT OF THE AMOUNT OR VALUE OF ANY PROPERTY  
12 THAT SHOULD HAVE BEEN REPORTED BUT WAS NOT INCLUDED IN THE  
13 REPORT OR WAS UNDER REPORTED.

14 **38-13-1206. Waiver of interest and penalty.** (1) THE  
15 ADMINISTRATOR:

16 (a) FOR GOOD CAUSE MAY WAIVE, IN WHOLE OR IN PART,  
17 [INTEREST UNDER SECTION 38-13-1204 (1) AND] PENALTIES UNDER  
18 SECTION 38-13-1204 (2) OR 38-13-1205; AND

19 (b) SHALL WAIVE A PENALTY UNDER SECTION 38-13-1204 (2) IF  
20 THE ADMINISTRATOR DETERMINES THAT THE HOLDER ACTED IN GOOD  
21 FAITH AND WITHOUT NEGLIGENCE.

22 PART 13

23 AGREEMENT TO LOCATE PROPERTY OF

24 APPARENT OWNER HELD BY ADMINISTRATOR

25 **38-13-1301. When agreement to locate property enforceable.**

26 (1) AN AGREEMENT BY AN APPARENT OWNER AND A PERSON, THE  
27 PRIMARY PURPOSE OF WHICH IS TO LOCATE, DELIVER, RECOVER, OR ASSIST

1 IN THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY HELD BY THE  
2 ADMINISTRATOR, IS ENFORCEABLE ONLY IF THE AGREEMENT:

3 (a) IS IN A RECORD THAT CLEARLY SETS FORTH THE NATURE OF THE  
4 PROPERTY AND THE SERVICES TO BE PROVIDED;

5 (b) IS SIGNED BY OR ON BEHALF OF THE APPARENT OWNER; AND

6 (c) STATES THE AMOUNT OR VALUE OF THE PROPERTY  
7 REASONABLY ESTIMATED OR EXPECTED TO BE RECOVERED COMPUTED  
8 BOTH BEFORE AND AFTER A FEE OR OTHER COMPENSATION TO BE PAID TO  
9 THE OTHER PERSON HAS BEEN DEDUCTED.

10 **38-13-1302. When agreement to locate property**  
11 **unenforceable.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, AN  
12 AGREEMENT UNDER SECTION 38-13-1301 IS VOID AND UNENFORCEABLE IF  
13 IT IS ENTERED INTO DURING THE PERIOD BEGINNING ON THE DATE THE  
14 PROPERTY WAS PAID OR DELIVERED BY A HOLDER TO THE ADMINISTRATOR  
15 AND ENDING TWENTY-FOUR MONTHS AFTER THE PAYMENT OR DELIVERY.

16 (2) IF A PROVISION IN AN AGREEMENT DESCRIBED IN SUBSECTION  
17 (1) OF THIS SECTION APPLIES TO MINERAL PROCEEDS FOR WHICH  
18 COMPENSATION IS TO BE PAID TO THE OTHER PERSON BASED IN WHOLE OR  
19 IN PART ON A PORTION OF THE UNDERLYING MINERALS OR MINERAL  
20 PROCEEDS NOT THEN PRESUMED ABANDONED, THE PROVISION IS VOID AND  
21 UNENFORCEABLE REGARDLESS OF WHEN THE AGREEMENT IS ENTERED  
22 INTO.

23 (3) AN AGREEMENT UNDER SUBSECTION (1) OF THIS SECTION THAT  
24 PROVIDES FOR COMPENSATION IN AN AMOUNT THAT IS UNCONSCIONABLE  
25 IS UNENFORCEABLE EXCEPT BY THE APPARENT OWNER. AN APPARENT  
26 OWNER THAT BELIEVES THE COMPENSATION THE APPARENT OWNER HAS  
27 AGREED TO PAY IS UNCONSCIONABLE OR THE ADMINISTRATOR, ACTING ON

1 BEHALF OF AN APPARENT OWNER, OR BOTH, MAY COMMENCE AN ACTION  
2 TO REDUCE THE COMPENSATION TO THE MAXIMUM AMOUNT THAT IS NOT  
3 UNCONSCIONABLE. [THE COURT MAY AWARD REASONABLE ATTORNEY  
4 FEES AND EXPENSES OF LITIGATION TO THE PREVAILING PARTY IN THE  
5 ACTION.]

6 (4) AN APPARENT OWNER OR THE ADMINISTRATOR MAY ASSERT  
7 THAT AN AGREEMENT DESCRIBED IN THIS SECTION IS INVALID ON THE  
8 GROUND OTHER THAN IT PROVIDES FOR PAYMENT OF UNCONSCIONABLE  
9 COMPENSATION.

10 (5) THIS SECTION DOES NOT APPLY TO AN APPARENT OWNER'S  
11 AGREEMENT WITH AN ATTORNEY TO PURSUE A CLAIM FOR RECOVERY OF  
12 SPECIFICALLY IDENTIFIED PROPERTY HELD BY THE ADMINISTRATOR OR TO  
13 CONTEST THE ADMINISTRATOR'S DENIAL OF A CLAIM FOR RECOVERY OF  
14 THE PROPERTY.

15 **38-13-1303. Right of apparent owner's agent to recover**  
16 **property held by administrator.** (1) AN APPARENT OWNER THAT  
17 CONTRACTS WITH A PERSON TO LOCATE, DELIVER, RECOVER, OR ASSIST IN  
18 THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY OF THE APPARENT  
19 OWNER THAT IS HELD BY THE ADMINISTRATOR MAY APPOINT OR  
20 DESIGNATE THE PERSON AS THE APPARENT OWNER'S AGENT. THE  
21 APPOINTMENT OR DESIGNATION MUST BE IN A RECORD SIGNED BY THE  
22 APPARENT OWNER.

23 (2) AN APPARENT OWNER'S AGENT IS ENTITLED TO RECEIVE FROM  
24 THE ADMINISTRATOR ALL INFORMATION CONCERNING THE PROPERTY THAT  
25 THE APPARENT OWNER WOULD BE ENTITLED TO RECEIVE, INCLUDING  
26 INFORMATION THAT WOULD OTHERWISE BE CONFIDENTIAL INFORMATION  
27 UNDER SECTION 38-13-1402.

1 (3) IF AUTHORIZED BY THE APPARENT OWNER, THE APPARENT  
2 OWNER'S AGENT MAY BRING AN ACTION AGAINST THE ADMINISTRATOR ON  
3 BEHALF OF AND IN THE NAME OF THE APPARENT OWNER.

4 PART 14

5 CONFIDENTIALITY AND SECURITY OF INFORMATION

6 **38-13-1401. Definitions - applicability.** (1) IN THIS PART 14,  
7 "PERSONAL INFORMATION" MEANS:

8 (a) INFORMATION THAT IDENTIFIES OR REASONABLY CAN BE USED  
9 TO IDENTIFY AN INDIVIDUAL, SUCH AS FIRST AND LAST NAME IN  
10 COMBINATION WITH THE INDIVIDUAL'S:

11 (I) SOCIAL SECURITY NUMBER OR OTHER GOVERNMENT-ISSUED  
12 NUMBER OR IDENTIFIER;

13 (II) DATE OF BIRTH;

14 (III) HOME OR PHYSICAL ADDRESS;

15 (IV) ELECTRONIC-MAIL ADDRESS OR OTHER ONLINE CONTACT  
16 INFORMATION OR INTERNET PROVIDER ADDRESS;

17 (V) FINANCIAL ACCOUNT NUMBER OR CREDIT OR DEBIT CARD  
18 NUMBER;

19 (VI) BIOMETRIC DATA, HEALTH OR MEDICAL DATA, OR INSURANCE  
20 INFORMATION; OR

21 (VII) PASSWORDS OR OTHER CREDENTIALS THAT PERMIT ACCESS  
22 TO AN ONLINE OR OTHER ACCOUNT;

23 (b) PERSONALLY IDENTIFIABLE FINANCIAL OR INSURANCE  
24 INFORMATION, INCLUDING NONPUBLIC PERSONAL INFORMATION DEFINED  
25 BY APPLICABLE FEDERAL LAW; AND

26 (c) ANY COMBINATION OF DATA THAT, IF ACCESSED, DISCLOSED,  
27 MODIFIED, OR DESTROYED WITHOUT AUTHORIZATION OF THE OWNER OF



1 THE DATA OR IS LOST OR MISUSED, WOULD REQUIRE NOTICE OR REPORTING  
2 UNDER APPLICABLE FEDERAL AND STATE PRIVACY AND DATA SECURITY  
3 LAW, WHETHER OR NOT THE ADMINISTRATOR OR THE ADMINISTRATOR'S  
4 AGENT IS SUBJECT TO THE LAW.

5 (2) PROVISIONS OF THIS PART 14 APPLICABLE TO THE  
6 ADMINISTRATOR ALSO APPLY TO AN ADMINISTRATOR'S AGENT.

7 **38-13-1402. Confidential information.** (1) EXCEPT AS  
8 OTHERWISE PROVIDED IN THIS ARTICLE 13, THE FOLLOWING ARE  
9 CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION OR DISCLOSURE:

10 (a) RECORDS OF THE ADMINISTRATOR AND THE ADMINISTRATOR'S  
11 AGENT RELATED TO THE ADMINISTRATION OF THIS ARTICLE 13;

12 (b) REPORTS AND RECORDS OF A HOLDER IN POSSESSION OF THE  
13 ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT; AND

14 (c) PERSONAL INFORMATION AND OTHER INFORMATION DERIVED  
15 OR OTHERWISE OBTAINED BY OR COMMUNICATED TO THE ADMINISTRATOR  
16 OR THE ADMINISTRATOR'S AGENT FROM AN EXAMINATION UNDER THIS  
17 ARTICLE 13 OF THE RECORDS OF A PERSON.

18 (2) A RECORD OR OTHER INFORMATION THAT IS CONFIDENTIAL  
19 UNDER THE LAW OF THIS STATE OTHER THAN THIS ARTICLE 13, ANOTHER  
20 STATE, OR THE UNITED STATES CONTINUES TO BE CONFIDENTIAL WHEN  
21 DISCLOSED OR DELIVERED UNDER THIS ARTICLE 13 TO THE  
22 ADMINISTRATOR OR ADMINISTRATOR'S AGENT.

23 **38-13-1403. When confidential information may be disclosed.**

24 (1) THE ADMINISTRATOR, FOR GOOD CAUSE REASONABLY NECESSARY FOR  
25 ENFORCEMENT OR IMPLEMENTATION OF THIS ARTICLE 13, MAY DISCLOSE  
26 CONFIDENTIAL INFORMATION CONCERNING PROPERTY HELD BY THE  
27 ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT ONLY TO:

1 (a) AN APPARENT OWNER OR THE APPARENT OWNER'S PERSONAL  
2 REPRESENTATIVE, NEXT OF KIN, ATTORNEY-AT-LAW, OR AGENT  
3 DESIGNATED UNDER SECTION 38-13-1303 TO HAVE THE INFORMATION;

4 (b) THE PERSONAL REPRESENTATIVE OF A DECEASED APPARENT  
5 OWNER, NEXT OF KIN, ATTORNEY-AT-LAW, OR AGENT DESIGNATED UNDER  
6 SECTION 38-13-1303 BY THE DECEASED APPARENT OWNER OR A PERSON  
7 ENTITLED TO INHERIT FROM A DECEASED APPARENT OWNER;

8 (c) ANOTHER DEPARTMENT OR AGENCY OF THIS STATE OR THE  
9 UNITED STATES;

10 (d) THE PERSON THAT ADMINISTERS THE UNCLAIMED PROPERTY  
11 LAW OF ANOTHER STATE, IF THE OTHER STATE ACCORDS SUBSTANTIALLY  
12 RECIPROCAL PRIVILEGES TO THE ADMINISTRATOR OF THIS STATE AND THE  
13 OTHER STATE HAS LEGAL REQUIREMENTS OF CONFIDENTIALITY AND  
14 SECURITY OF RECORDS SUBSTANTIALLY EQUIVALENT TO THOSE OF THIS  
15 STATE; AND

16 (e) A PERSON THAT IS THE SUBJECT OF AN EXAMINATION AS  
17 PROVIDED FOR IN SECTION 38-13-1004 (1)(f).

18 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1402 (1),  
19 THE ADMINISTRATOR SHALL INCLUDE IN PUBLISHED NOTICES AND ON A  
20 WEBSITE OR DATABASE REQUIRED BY SECTION 38-13-503 (2)(d) THE NAME  
21 OF EACH APPARENT OWNER OF PROPERTY HELD BY THE ADMINISTRATOR.  
22 THE ADMINISTRATOR MAY INCLUDE IN PUBLISHED NOTICES AND ON THE  
23 WEBSITE OR DATABASE ADDITIONAL INFORMATION CONCERNING THE  
24 APPARENT OWNER'S PROPERTY IF THE ADMINISTRATOR BELIEVES THE  
25 INFORMATION WILL ASSIST IN FACILITATING IDENTIFICATION AND RETURN  
26 OF PROPERTY TO THE OWNER AND DOES NOT DISCLOSE PERSONAL  
27 INFORMATION EXCEPT THE HOME OR PHYSICAL ADDRESS OF AN APPARENT

1 OWNER.

2 (3) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL  
3 NOT USE CONFIDENTIAL INFORMATION PROVIDED TO THEM OR IN THEIR  
4 POSSESSION FOR ANY PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED BY  
5 THIS ARTICLE 13 OR REQUIRED BY LAW OTHER THAN THIS ARTICLE 13.

6 **38-13-1404. Confidentiality agreement.** (1) A PERSON TO BE  
7 EXAMINED UNDER SECTION 38-13-1002 MAY REQUIRE, AS A CONDITION OF  
8 DISCLOSURE OF THE RECORDS OF THE PERSON TO BE EXAMINED, THAT  
9 EACH PERSON HAVING ACCESS TO THE RECORDS DISCLOSED IN THE  
10 EXAMINATION EXECUTE AND DELIVER TO THE PERSON TO BE EXAMINED A  
11 CONFIDENTIALITY AGREEMENT THAT:

12 (a) IS IN A FORM THAT IS REASONABLY SATISFACTORY TO THE  
13 ADMINISTRATOR; AND

14 (b) REQUIRES THE PERSON TO COMPLY WITH THE PROVISIONS OF  
15 THIS PART 14 APPLICABLE TO THE PERSON.

16 **38-13-1405. No confidential information in notice.** EXCEPT AS  
17 OTHERWISE PROVIDED IN SECTIONS 38-13-501 AND 38-13-502, A HOLDER  
18 IS NOT REQUIRED UNDER THIS ARTICLE 13 TO INCLUDE CONFIDENTIAL  
19 INFORMATION IN A NOTICE THE HOLDER IS REQUIRED TO PROVIDE TO AN  
20 APPARENT OWNER UNDER THIS ARTICLE 13.

21 **38-13-1406. Security of information.** (1) IF A HOLDER IS  
22 REQUIRED TO INCLUDE CONFIDENTIAL INFORMATION IN A REPORT TO THE  
23 ADMINISTRATOR, THE INFORMATION MUST BE PROVIDED BY A SECURE  
24 MEANS.

25 (2) IF CONFIDENTIAL INFORMATION IN A RECORD IS PROVIDED TO  
26 AND MAINTAINED BY THE ADMINISTRATOR AND ADMINISTRATOR'S AGENT  
27 AS REQUIRED BY THIS ARTICLE 13, THE ADMINISTRATOR AND

1 ADMINISTRATOR'S AGENT SHALL:

2 (a) IMPLEMENT ADMINISTRATIVE, TECHNICAL, AND PHYSICAL  
3 SAFEGUARDS DESIGNED TO PROTECT THE SECURITY, CONFIDENTIALITY,  
4 AND INTEGRITY OF THE INFORMATION AS REQUIRED BY THE LAW OF THIS  
5 STATE AND FEDERAL LAW;

6 (b) PROTECT AGAINST REASONABLY ANTICIPATED THREATS OR  
7 HAZARDS TO THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE  
8 INFORMATION; AND

9 (c) PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE  
10 INFORMATION THAT COULD RESULT IN SUBSTANTIAL HARM OR  
11 INCONVENIENCE TO A HOLDER OR THE HOLDER'S CUSTOMERS, INCLUDING  
12 INSUREDS, ANNUITANTS, OR POLICY OR CONTRACT OWNERS OR THEIR  
13 BENEFICIARIES.

14 (3) THE ADMINISTRATOR:

15 (a) SHALL, AFTER NOTICE AND COMMENT, ADOPT AND IMPLEMENT  
16 A SECURITY PLAN THAT IDENTIFIES AND ASSESSES REASONABLY  
17 FORESEEABLE INTERNAL AND EXTERNAL RISKS TO CONFIDENTIAL  
18 INFORMATION IN THE ADMINISTRATOR'S POSSESSION AND SEEKS TO  
19 MITIGATE THE RISKS; AND

20 (b) SHALL ENSURE THAT AN ADMINISTRATOR'S AGENT ADOPTS AND  
21 IMPLEMENTS A SIMILAR PLAN WITH RESPECT TO CONFIDENTIAL  
22 INFORMATION IN THE AGENT'S POSSESSION.

23 (4) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL  
24 EDUCATE AND TRAIN THEIR EMPLOYEES REGARDING THE PLAN ADOPTED  
25 UNDER SUBSECTION (3) OF THIS SECTION.

26 (5) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL  
27 IN A SECURE MANNER RETURN OR DESTROY ALL CONFIDENTIAL

1 INFORMATION NO LONGER REASONABLY NEEDED UNDER THIS ARTICLE 13.

2 **38-13-1407. Security breach.** (1) EXCEPT TO THE EXTENT  
3 PROHIBITED BY LAW OTHER THAN THIS ARTICLE 13, THE ADMINISTRATOR  
4 OR ADMINISTRATOR'S AGENT SHALL NOTIFY A HOLDER AS SOON AS  
5 PRACTICABLE OF:

6 (a) ANY SUSPECTED LOSS OR MISUSE OR AN UNAUTHORIZED  
7 ACCESS, DISCLOSURE, MODIFICATION, OR DESTRUCTION OF ANY  
8 CONFIDENTIAL INFORMATION IN THE POSSESSION OF THE ADMINISTRATOR  
9 OR ADMINISTRATOR'S AGENT; AND

10 (b) INTERFERENCE WITH OPERATIONS IN ANY SYSTEM HOSTING OR  
11 HOUSING CONFIDENTIAL INFORMATION THAT:

12 (I) COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY  
13 OF THE INFORMATION; OR

14 (II) OTHERWISE CREATES A SUBSTANTIAL RISK OF IDENTITY FRAUD  
15 OR THEFT.

16 (2) EXCEPT AS NECESSARY TO INFORM INSURERS, LEGAL COUNSEL,  
17 INVESTIGATORS, OR OTHERS AS REQUIRED BY LAW, THE ADMINISTRATOR  
18 AND ADMINISTRATOR'S AGENT SHALL NOT DISCLOSE, WITHOUT THE  
19 EXPRESS CONSENT IN A RECORD OF THE HOLDER, AN EVENT DESCRIBED IN  
20 SUBSECTION (1) OF THIS SECTION TO A PERSON WHOSE CONFIDENTIAL  
21 INFORMATION WAS SUPPLIED BY THE HOLDER.

22 (3) IF AN EVENT DESCRIBED IN SUBSECTION (1) OF THIS SECTION  
23 OCCURS, THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL:

24 (a) TAKE ACTION NECESSARY FOR THE HOLDER TO UNDERSTAND  
25 AND MINIMIZE THE EFFECTS OF THE EVENT AND DETERMINE ITS SCOPE;  
26 AND

27 (b) COOPERATE WITH RESPECT TO:

- 1 (I) ANY DATA BREACH NOTIFICATIONS REQUIRED BY LAW; AND  
2 (II) A REGULATORY INQUIRY, LITIGATION, AND OTHER SIMILAR  
3 ACTION.

4 **38-13-1408. Indemnification for breach.** [(1) IF A CLAIM IS  
5 MADE OR ACTION COMMENCED ARISING OUT OF AN EVENT DESCRIBED IN  
6 SECTION 38-13-1407 (1) RELATING TO CONFIDENTIAL INFORMATION  
7 POSSESSED BY THE ADMINISTRATOR, THIS STATE SHALL INDEMNIFY,  
8 DEFEND, AND HOLD HARMLESS A HOLDER AND THE HOLDER'S AFFILIATES,  
9 OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AS TO:

10 (a) A THIRD-PARTY CLAIM OR ACTION; AND

11 (b) A LIABILITY, OBLIGATION, LOSS, DAMAGE, COST, FEE, PENALTY,  
12 FINE, SETTLEMENT, CHARGE, OR OTHER EXPENSE, INCLUDING REASONABLE  
13 ATTORNEY FEES AND COSTS.]

14 [(1)][(2)] IF A CLAIM IS MADE OR ACTION COMMENCED ARISING  
15 OUT OF AN EVENT DESCRIBED IN SECTION 38-13-1407 (1) RELATING TO  
16 CONFIDENTIAL INFORMATION POSSESSED BY AN ADMINISTRATOR'S AGENT,  
17 THE ADMINISTRATOR'S AGENT SHALL INDEMNIFY, DEFEND, AND HOLD  
18 HARMLESS A HOLDER AND THE HOLDER'S AFFILIATES, OFFICERS,  
19 DIRECTORS, EMPLOYEES, AND AGENTS AS TO:

20 (a) A THIRD-PARTY CLAIM OR ACTION; AND

21 (b) A LIABILITY, OBLIGATION, LOSS, DAMAGE, COST, FEE, PENALTY,  
22 FINE, SETTLEMENT, CHARGE, OR OTHER EXPENSE, INCLUDING REASONABLE  
23 ATTORNEY FEES AND COSTS.

24 [(2)][(3)] THE ADMINISTRATOR SHALL REQUIRE AN  
25 ADMINISTRATOR'S AGENT THAT WILL RECEIVE CONFIDENTIAL  
26 INFORMATION REQUIRED UNDER THIS ARTICLE 13 TO MAINTAIN ADEQUATE  
27 INSURANCE FOR INDEMNIFICATION OBLIGATIONS OF THE ADMINISTRATOR'S

1 AGENT UNDER SUBSECTION (2) [(1)] OF THIS SECTION. THE AGENT  
2 REQUIRED TO MAINTAIN THE INSURANCE SHALL PROVIDE EVIDENCE OF THE  
3 INSURANCE TO:

4 (a) THE ADMINISTRATOR NO LESS FREQUENTLY THAN ANNUALLY;  
5 AND

6 (b) THE HOLDER ON COMMENCEMENT OF AN EXAMINATION AND  
7 ANNUALLY THEREAFTER UNTIL ALL CONFIDENTIAL INFORMATION IS  
8 RETURNED OR DESTROYED UNDER SECTION 38-13-1406 (5).

9 PART 15

10 MISCELLANEOUS PROVISIONS

11 **38-13-1501. Uniformity of application and construction.** IN  
12 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE  
13 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT  
14 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

15 **38-13-1502. Relation to electronic signatures in global and**  
16 **national commerce act.** THIS ARTICLE 13 MODIFIES, LIMITS, OR  
17 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
18 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,  
19 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001  
20 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES  
21 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

22 **38-13-1503. Transitional provision.** (1) AN INITIAL REPORT  
23 FILED UNDER THIS ARTICLE 13 FOR PROPERTY THAT WAS NOT REQUIRED TO  
24 BE REPORTED BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS  
25 AMENDED], BUT THAT IS REQUIRED TO BE REPORTED UNDER THIS ARTICLE  
26 13, MUST INCLUDE ALL ITEMS OF PROPERTY THAT WOULD HAVE BEEN  
27 PRESUMED ABANDONED DURING THE TEN-YEAR PERIOD PRECEDING [THE

1 EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,] AS IF THIS ARTICLE 13  
2 HAD BEEN IN EFFECT DURING THAT PERIOD.

3 (2) THIS ARTICLE 13 DOES NOT RELIEVE A HOLDER OF A DUTY THAT  
4 AROSE BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,]  
5 TO REPORT, PAY, OR DELIVER PROPERTY. EXCEPT AS OTHERWISE PROVIDED  
6 IN SECTION 38-13-610, A HOLDER THAT DID NOT COMPLY WITH THE LAW  
7 GOVERNING UNCLAIMED PROPERTY BEFORE [THE EFFECTIVE DATE OF THIS  
8 ARTICLE 13, AS AMENDED,] IS SUBJECT TO APPLICABLE PROVISIONS FOR  
9 ENFORCEMENT AND PENALTIES IN EFFECT BEFORE [THE EFFECTIVE DATE  
10 OF THIS ARTICLE 13, AS AMENDED].

11 (3) INTEREST ON INTEREST-BEARING PROPERTY IS NOT PAYABLE  
12 FOR ANY PERIOD BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 13, AS  
13 AMENDED, UNLESS AUTHORIZED BY LAW SUPERSEDED BY THIS ARTICLE 13.

14 **SECTION 2. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly (August  
17 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within such period, then the act, item, section, or part will not take effect  
21 unless approved by the people at the general election to be held in  
22 November 2018 and, in such case, will take effect on the date of the  
23 official declaration of the vote thereon by the governor.