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
Colorado Commission on Uniform State Laws

A BILL FOR AN ACT

concerning statutory authority for the revisor of statutes to publish comments relating to bills that enact Uniform Acts approved by the National Conference of 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
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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Be it enacted by the General Assembly of the State of Colorado:

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

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

(a) Reference to the statutory history of the section;
(b) Annotations of state and federal court decisions construing, applying, or relating to the subject matter of the section; and
(c) Such editorial notes, cross references, and other matter as the committee considers desirable or advantageous; AND
(d) IF THE SECTION WAS ENACTED OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (d):

(I) The full text of the official comments, if available, issued by the National Conference of Commissioners on Uniform State Laws for that section of the statutes; and

(II) A Colorado comment, if any, that explains any nonuniform changes to a section of the statutes that is part of a uniform act approved by the National Conference of Commissioners on Uniform State Laws, but only if the Colorado commission on uniform state laws has approved the Colorado 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.
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

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

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

12-55-301. Short title. The short title of this part 3 may be cited as the "Uniform Unsworn Foreign Declarations Act".

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

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

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

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

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

Executed on the____day of_____ , _____,

(date) (month) (year)
at_________________________________
(city or other location, and state)—( OR country)

______________
(printed name)

______________
(signature)

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

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

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

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

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

(2) This act applies to conduct occurring on or after the applicable effective date of this act. <{Do you want a safety clause or a specific effective date?}>
BILLY TOPIC: "Revised Uniform Law On Notarial Acts"
DEADLINES: Finalize by: JAN 30, 2017 File by: FEB 1, 2017

A BILL FOR AN ACT
CONCERNING ENACTMENT OF THE "REVISED UNIFORM LAW ON 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
provides for the recognition of notarial acts performed in this state, in other states, under the authority of a federally recognized Indian tribe, under federal authority, and in foreign jurisdictions.

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

SECTION 1. In Colorado Revised Statutes, repeal parts 1 and 2 of article 55 of title 12.

SECTION 2. In Colorado Revised Statutes, add part 5 to article 21 of title 24 as follows:

PART 5

REVISED UNIFORM LAW ON NOTARIAL ACTS

24-21-501. Short title. The short title of this part 5 is the "Revised Uniform Law on Notarial Acts".

24-21-502. Definitions. In this part 5:

(1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

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

(3) "Electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means.

(4) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with an
ELECTRONIC RECORD AND EXECUTED OR ADOPTED BY AN INDIVIDUAL WITH THE INTENT TO SIGN THE ELECTRONIC RECORD.

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

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

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

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

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

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

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

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

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

(10) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, STATUTORY TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED
LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

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

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

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

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

(13) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(14) "Stamping device" means:

(a) A physical device capable of affixing to a tangible record an official stamp; or

(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

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

(16) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

24-21-503. Applicability. This part 5 applies to a notarial
ACT PERFORMED ON OR AFTER THE EFFECTIVE DATE OF THIS PART 5.

24-21-504. Authority to perform notarial act. (1) A notarial officer may perform a notarial act authorized by this Part 5 or by law of this State other than this Part 5.

(2) A notarial officer shall not perform a notarial act with respect to a record in which the officer has a disqualifying interest. For the purposes of this section, a notarial officer has a disqualifying interest in a record if:

(a) The officer or the officer's spouse, partner in a civil union, ancestor, descendental, or sibling is a party to or is named in the record that is to be notarized; or

(b) The officer or the officer's spouse or partner in a civil union may receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee properly received in accordance with this Part 5.

(3) A notarial act performed in violation of this section is voidable.

24-21-505. Requirements for certain notarial acts. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from
PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF
THE INDIVIDUAL, THAT THE INDIVIDUAL APPEARING BEFORE THE OFFICER
AND MAKING THE VERIFICATION HAS THE IDENTITY CLAIMED AND THAT
THE SIGNATURE ON THE STATEMENT VERIFIED IS THE SIGNATURE OF THE
INDIVIDUAL.

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

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

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

(I) A CLERK AND RECORDER OF PUBLIC DOCUMENTS;

(II) THE SECRETARY OF STATE;

(III) THE STATE ARCHIVES; OR

(IV) AN OFFICE OF VITAL RECORDS.

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

(5) (a) A NOTARIAL OFFICER WHO MAKES OR NOTES A PROTEST OF
A NEGOTIABLE INSTRUMENT SHALL DETERMINE THE MATTERS SET FORTH
IN SECTION 4-3-505 (b) OF THE "UNIFORM COMMERCIAL CODE".
(b) A NOTARY PUBLIC SHALL NOT MAKE OR NOTE A PROTEST OF A
NEGOTIABLE INSTRUMENT UNLESS THE NOTARY IS AN EMPLOYEE OF A
FINANCIAL INSTITUTION ACTING IN THE COURSE AND SCOPE OF THE
NOTARY’S EMPLOYMENT WITH THE FINANCIAL INSTITUTION.

24-21-506. Personal appearance required. If a notarial act
relates to a statement made in or a signature executed on a
record, the individual making the statement or executing the
signature shall appear personally before the notarial officer.

24-21-507. Identification of individual. (1) A notarial
officer has personal knowledge of the identity of an individual
appearing before the officer if the individual is personally
known to the officer through dealings sufficient to provide
reasonable certainty that the individual has the identity
claimed.

(2) A notarial officer has satisfactory evidence of the
identity of an individual appearing before the officer if the
officer can identify the individual:

(a) By means of:

(I) A passport, driver's license, or government-issued
non-driver identification card that is current or expired not
more than one year before performance of the notarial act; or

(II) Another form of government identification issued to
the individual that is current or expired not more than one year
before performance of the notarial act, contains the signature
or a photograph of the individual, and is satisfactory to the
officer; or

(b) By a verification on oath or affirmation of a credible
WITNESS PERSONALLY APPEARING BEFORE THE OFFICER AND KNOWN TO THE OFFICER OR WHOM THE OFFICER CAN IDENTIFY ON THE BASIS OF A PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED NONDRIVER IDENTIFICATION CARD THAT IS CURRENT OR EXPIRED NOT MORE THAN ONE YEAR BEFORE PERFORMANCE OF THE NOTARIAL ACT.

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

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

(a) The individual executing the record is competent or has the capacity to execute the record; or
(b) The individual's signature is knowingly and voluntarily made.

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

24-21-509. Signature if individual unable to sign. (1) If an individual is physically unable to sign a record, the individual may, in the presence of the notarial officer, direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import under or near the signature.

(2) A NOTARY PUBLIC MAY USE SIGNALS OR ELECTRONIC OR MECHANICAL MEANS TO TAKE AN ACKNOWLEDGMENT FROM, ADMINISTER
AN OATH OR AFFIRMATION TO, OR OTHERWISE COMMUNICATE WITH ANY
INDIVIDUAL IN THE PRESENCE OF THE NOTARY PUBLIC WHEN IT APPEARS
THAT THE INDIVIDUAL IS UNABLE TO COMMUNICATE VERBALLY OR IN
WRITING.

24-21-510. Notarial act in this state. (1) A notarial act may
be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state;

or

(c) Any other individual authorized to perform the
specific act by the law of this state.

(2) The signature and title of an individual performing a
notarial act in this state are prima facie evidence that the
signature is genuine and that the individual holds the
designated title.

(3) The signature and title of a notarial officer described
in subsection (1)(a) or (1)(b) of this section conclusively
establish the authority of the officer to perform the notarial
act.

24-21-511. Notarial act in another state. (1) A notarial act
performed in another state has the same effect under the law of
this state as if performed by a notarial officer of this state if
the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, clerk, or deputy clerk of a court of that
state; or

(c) Any other individual authorized by the law of that
STATE TO PERFORM THE NOTARIAL ACT.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

24-21-512. Notarial act under authority of federally recognized Indian tribe. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public of the tribe;

(b) A judge, clerk, or deputy clerk of a court of the tribe;

or

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively
ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL ACT.

24-21-513. Notarial act under federal authority. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

(a) A judge, clerk, or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (1)(b), or (1)(c) of this section conclusively establish the authority of the officer to perform the notarial act.

24-21-514. Foreign notarial act. (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.
(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
24-21-515. Certificate of notarial act. (1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state;

(c) Identify the county and state in which the notarial act is performed;

(d) Contain the title of office of the notarial officer; and

(e) If the notarial officer is a notary public, indicate the date of expiration of the officer's commission.

(2) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be attached to or logically associated with the certificate.

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:

(a) Is in a short form set forth in section 24-21-516;
(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 24-21-505, 24-21-506, and 24-21-507 or law of this state other than this part 5.

(4) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 24-21-504, 24-21-505, and 24-21-506.

(5) A notarial officer shall not affix the officer’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

(6) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to section 24-21-527 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

24-21-516. Short form certificates. (1) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required
BY SECTION 24-21-515 (1) AND (2):

(a) For an acknowledgment in an individual capacity:

STATE OF ____________________________
COUNTY OF ___________________________

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

______ (DATE) ______ BY __________ (NAME(S) OF INDIVIDUAL(S))

______________________________
SIGNATURE OF NOTARIAL OFFICER
STAMP

(_______ (TITLE OF OFFICE) _______

MY COMMISSION EXPIRES: _________

(b) For an acknowledgment in a representative capacity:

STATE OF ____________________________
COUNTY OF ___________________________

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

______ (DATE) ______ BY __________ (NAME(S) OF INDIVIDUAL(S))

AS (TYPE OF AUTHORITY, SUCH AS OFFICER OR TRUSTEE) OF
(NAME OF PARTY ON BEHALF OF WHOM RECORD WAS EXECUTED).

______________________________
SIGNATURE OF NOTARIAL OFFICER
STAMP

(_______ (TITLE OF OFFICE) _______

MY COMMISSION EXPIRES: _________

(c) For a verification on oath or affirmation:

STATE OF ____________________________
COUNTY OF ___________________________

______________________________
SIGNATURE OF NOTARIAL OFFICER
STAMP

(_______ (TITLE OF OFFICE) _______

MY COMMISSION EXPIRES: _________
SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON

_____(DATE)______ BY ___________(NAME(S) OF INDIVIDUAL(S))

MAKING STATEMENT)

__________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(________ (TITLE OF OFFICE)________)

MY COMMISSION EXPIRES: ________

(d) FOR WITNESSING OR ATTESTING A SIGNATURE:

STATE OF ________________________________

COUNTY OF ______________________________

SIGNED BEFORE ME ON ______(DATE)______ BY ___________(NAME(S) OF

INDIVIDUAL(S))

__________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(________ (TITLE OF OFFICE)________)

MY COMMISSION EXPIRES: ________

(e) FOR CERTIFYING A COPY OF A RECORD:

STATE OF ________________________________

COUNTY OF ______________________________

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A

RECORD IN THE POSSESSION OF ________________________.

DATED ____________________________

__________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP
24-21-517. Official stamp. (1) The official stamp of a notary public must:

(a) Be rectangular and contain only the outline of the seal and the following information printed within the outline of the seal:

(I) The notary public's name, as it appears on the notary's certificate of commission;

(II) The notary's identification number;

(III) The notary's commission expiration date;

(IV) The words "state of Colorado"; and

(V) The words "notary public"; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(2) A notary public shall not provide, keep, or use a seal embosser.

24-21-518. Stamping device. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or
ADJUDICATION OF INCOMPETENCY OF A NOTARY PUBLIC, THE NOTARY PUBLIC'S PERSONAL REPRESENTATIVE OR GUARDIAN OR ANY OTHER PERSON KNOWINGLY IN POSSESSION OF THE STAMPING DEVICE SHALL RENDER IT UNUSABLE BY DESTROYING, DEFACING, DAMAGING, ERASING, OR SECURING IT AGAINST USE IN A MANNER THAT RENDERS IT UNUSABLE.

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify the secretary of state in writing within thirty days after discovering that the device is lost or stolen.

24-21-519. Journal. (1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

(2) A journal may be created on a tangible medium or in an electronic format. If a journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If a journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

(3) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

(c) The full name and address of each individual for whom
THE NOTARIAL ACT IS PERFORMED;

(d) The signature or electronic signature of each individual for whom the notarial act is performed;

(e) If identity of the individual is based on personal knowledge, a statement to that effect;

(f) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the type of identification credential presented, if any; and

(g) The fee, if any, charged by the notary public.

(4) A notary public is responsible for the security of the notary public’s journal. A notary public shall keep the journal in a secure area under the exclusive control of the notary, and shall not allow any other notary to use the journal.

(5) Upon written request of any member of the public, which request must include the name of the parties, the type of document, and the month and year in which a record was notarized, a notary public may supply a certified copy of the line item representing the requested transaction. A notary public may charge the fee allowed in section 24-21-529 for each certified copy of a line item, and shall record the transaction in the notary’s journal.

(6) The secretary of state may audit or inspect a notary public’s journal without restriction. A notary public shall surrender the notary’s journal to the secretary of state upon receiving a written request.

(7) A certified peace officer, as defined in section 16-2.5-102, acting in the course of an official investigation may
INSPECT A NOTARY PUBLIC'S JOURNAL WITHOUT RESTRICTION.

(8) If a notary public's journal is lost or stolen, the notary public shall notify the secretary of state in writing within thirty days after discovering that the journal is lost or stolen.

(9) On resignation from, or the revocation or expiration of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the secretary of state where the journal is located.

(10) Instead of retaining a journal as provided in subsections (1) and (9) of this section, a current or former notary public may transmit the journal to the state archives established pursuant to part 1 of article 80 of this title 24. The notary public shall notify the secretary of state in writing if the notary transmits the journal to the state archives.

(7) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the state archives established pursuant to part 1 of article 80 of this title 24. The person shall notify the secretary of state in writing when the person transmits the journal to the state archives.

24-21-520. Notification regarding performance of notarial act on electronic record - selection of technology. (1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may
NOT REQUIRE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT WITH
RESPECT TO AN ELECTRONIC RECORD WITH A TECHNOLOGY THAT THE
NOTARY PUBLIC HAS NOT SELECTED.

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

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

24-21-521. Commission as notary public - qualifications - no
immunity or benefit. (1) AN INDIVIDUAL QUALIFIED UNDER SUBSECTION
(3) OF THIS SECTION MAY APPLY TO THE SECRETARY OF STATE FOR A
commission as a notary public. The applicant shall comply with
and provide the information required by rules established by
the secretary of state and pay any application fee. In
accordance with section 24-21-111 (1), the secretary of state
may require, at the secretary of state’s discretion, the
application required by this section, and any renewal of the
application, to be made by electronic means designated by the
secretary of state.

(2) In accordance with section 42-1-211, the department of
state and the department of revenue shall allow for the
exchange of information and data collected by the systems used
by the departments to collect information on legal names and
signatures of all applicants for driver's licenses or state
identification cards.

(3) An applicant for a commission as a notary public must:
(a) Be at least eighteen years of age;
(b) Be a citizen or permanent legal resident of the United
States or otherwise lawfully present in the United States;
(c) Be a resident of or have a place of employment or
practice in this state;
(d) Be able to read and write English;
(e) Not be disqualified to receive a commission under
section 24-21-523; and
(f) Have passed the examination required under section
24-21-522 (1).

(4) The secretary of state shall verify the lawful
presence in the United States of each applicant through the verification process outlined in Section 24-76.5-103 (4).

(5) Before issuance of a commission as a notary public, an applicant for the commission shall take the following affirmation in the presence of a person qualified to administer an affirmation in this state:

I, (NAME OF APPLICANT), solemnly affirm, under the penalty of perjury in the second degree, as defined in Section 18-8-503, Colorado Revised Statutes, that I have carefully read the notary law of this state, and, if appointed and commissioned as a notary public, I will faithfully perform, to the best of my ability, all notarial acts in conformance with the law.

(SIGNATURE OF APPLICANT)

subscribed and affirmed before me this _____ day of _______. 20__.

(Official signature and seal of person qualified to administer affirmation)

(6) On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless revoked in accordance with Section 24-21-523. An applicant who has been denied appointment and commission may appeal the decision in accordance with Article 4 of this Title 24.

(7) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not
PROVIDE THE NOTARY PUBLIC ANY IMMUNITY OR BENEFIT CONFERRED BY LAW OF THIS STATE ON PUBLIC OFFICIALS OR EMPLOYEES.

**24-21-522. Examination of notary public.** (1) An applicant for a commission as a notary public who does not hold a commission in this state must pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination must be based on the course of study described in subsection (2) of this section.

(2) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts. The office of the secretary of state may enter into a contract with a private contractor or contractors to conduct notary training programs. The contractor or contractors may charge a fee for any such training program.

**24-21-523. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.** (1) The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for:

(a) Failure to comply with this part 5;

(b) A substantial and material misstatement or omission of fact in the application for a commission as a notary public submitted to the secretary of state;

(c) Notwithstanding section 24-5-101, a conviction of the applicant or notary public of any felony or, in the prior five

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YEARS, A MISDEMEANOR INVOLVING DISHONESTY;

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

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

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

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

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

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

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

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

(2) WHENEVER THE SECRETARY OF STATE OR THE SECRETARY OF
STATE'S DESIGNEE BELIEVES THAT A VIOLATION OF THIS PART 5 HAS
OCCURRED, THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S
DESIGNEE MAY INVESTIGATE THE VIOLATION. THE SECRETARY OF STATE
OR THE SECRETARY OF STATE'S DESIGNEE MAY ALSO INVESTIGATE POSSIBLE VIOLATIONS OF THIS PART UPON A SIGNED COMPLAINT FROM ANY PERSON.

(3) IF THE SECRETARY OF STATE DENIES, REFUSES TO RENEW, REVOKES, SUSPENDS, OR IMPOSES CONDITIONS ON A COMMISSION AS A NOTARY PUBLIC, THE APPLICANT OR NOTARY PUBLIC IS ENTITLED TO TIMELY NOTICE AND HEARING IN ACCORDANCE WITH THE "State Administrative Procedure Act", article 4 of this title 24.

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

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

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

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

(a) THROUGH WHICH A PERSON MAY VERIFY THE AUTHORITY OF A NOTARY PUBLIC TO PERFORM NOTARIAL ACTS; AND
(b) Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

24-21-525. Prohibited acts. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or

(d) Receive compensation for performing any of the activities listed in this subsection (1).

(2) A notary public shall not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

(4) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the
NOTARY PUBLIC SHALL INCLUDE THE FOLLOWING STATEMENT, OR AN ALTERNATE STATEMENT AUTHORIZED OR REQUIRED BY THE SECRETARY OF STATE, IN THE ADVERTISEMENT OR REPRESENTATION, PROMINENTLY AND IN EACH LANGUAGE USED IN THE ADVERTISEMENT OR REPRESENTATION:

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF COLORADO AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE. I AM NOT AN IMMIGRATION CONSULTANT, NOR AM I AN EXPERT ON IMMIGRATION MATTERS. IF YOU SUSPECT FRAUD, YOU MAY CONTACT THE COLORADO ATTORNEY GENERAL'S OFFICE OR THE COLORADO SUPREME COURT." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) A notary public, other than an attorney licensed to practice law in this state, shall not engage in conduct that constitutes a deceptive trade practice pursuant to Section 6-1-727.

(6) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(7) A notary public shall not perform any notarial act with respect to a record that is blank or that contains unfilled blanks in its text.

24-21-526. Validity of notarial acts. Except as otherwise
provided in section 24-21-504(2), the failure of a notarial officer
to perform a duty or meet a requirement specified in this part 5
does not invalidate a notarial act performed by the notarial
officer. the validity of a notarial act under this part 5 does not
prevent an aggrieved person from seeking to invalidate the
record or transaction that is the subject of the notarial act or
from seeking other remedies based on law of this state other
than this part 5 or law of the united states. this section does
not validate a purported notarial act performed by an
individual who does not have the authority to perform notarial
acts.

24-21-527. rules. (1) the secretary of state may adopt
rules to implement this part 5 in accordance with article 4 of
this title 24. rules adopted regarding the performance of
notarial acts with respect to electronic records may not
require, or accord greater legal status or effect to, the
implementation or application of a specific technology or
technical specification. the rules may:

(a) prescribe the manner of performing notarial acts
regarding tangible and electronic records;

(b) include provisions to ensure that any change to or
tampering with a record bearing a certificate of a notarial act
is self-evident;

(c) include provisions to ensure integrity in the creation,
transmittal, storage, or authentication of electronic records
or signatures;

(d) prescribe the process of granting, renewing,
CONDITIONING, DENYING, SUSPENDING, OR REVOKING A NOTARY PUBLIC
COMMISSION AND ASSURING THE TRUSTWORTHINESS OF AN INDIVIDUAL
HOLDING A COMMISSION AS NOTARY PUBLIC, INCLUDING RULES FOR USE OF
THE ELECTRONIC FILING SYSTEM;

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

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

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

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

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

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

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

(2) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
APPROPRIATIONS FROM THE DEPARTMENT OF STATE CASH FUND FOR
EXPENDITURES OF THE SECRETARY OF STATE INCURRED IN THE
PERFORMANCE OF THE SECRETARY OF STATE'S DUTIES UNDER THIS PART 5.

24-21-529. **Notary's fees.** (1) Except as specified in subsection (2) of this section, the fees of a notary public may be, but must not exceed, five dollars for each document attested by a person before a notary, except as otherwise provided by law. The fee for each such document must include all duties and functions required to complete the notarial act in accordance with this Part 5.

(2) In lieu of the fee authorized in subsection (1) of this section, a notary public may charge a fee, not to exceed ten dollars, for the notary's electronic signature.

24-21-530. **Change of name or address.** (1) A notary public shall notify the Secretary of State within thirty days after he or she changes his or her name, business address, or residential address. In the case of a name change, the notary public shall include a sample of the notary's handwritten official signature on the notice. Pursuant to section 24-21-104(3), the Secretary of State shall determine the amount of, and collect, the fee, payable to the Secretary of State, for recording notice of change of name or address.

24-21-531. **Official misconduct by a notary public - liability of notary or surety.** (1) A notary public who knowingly and willfully violates the duties imposed by this Part 5 commits official misconduct and is guilty of a Class 2 misdemeanor.

(2) A notary public and the surety or sureties on his or her bond are liable to the persons involved for all damages.
PROXIMATELY CAUSED BY THE NOTARY'S OFFICIAL MISCONDUCT.

(3) Nothing in this part 5 shall be construed to deny a notary public the right to obtain a surety bond or insurance on a voluntary basis to provide coverage for liability.

24-21-532. Willful impersonation. A person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a class 2 misdemeanor.

24-21-533. Wrongful possession of journal or seal. A person who unlawfully possesses and uses a notary’s journal, an official seal, a notary’s electronic signature, or any papers, copies, or electronic records relating to notarial acts is guilty of a class 3 misdemeanor.

24-21-534. Certification restrictions. (1) The secretary of state may issue certificates or apostilles attesting to the authenticity of a notarial act performed by a commissioned notary public.

(2) The secretary of state shall not certify a signature of a notary public on:

(a) A record that is not properly notarized in accordance with the requirements of this part 5;

(b) A record:

(I) Regarding allegiance to a government or jurisdiction;

(II) Relating to the relinquishment or renunciation of citizenship, sovereignty, in itinere status or world service authority; or

(III) Setting forth or implying for the bearer a claim of
IMMUNITY FROM THE LAW OF THIS STATE OR FEDERAL LAW.

24-21-535. Notary public commission in effect. A commission as a notary public in effect on the effective date of this part continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this part is subject to and shall comply with this part. A notary public, in performing notarial acts after the effective date of this part, shall comply with this part.

24-21-536. Savings clause. This part does not affect the validity or effect of a notarial act performed before the effective date of this part.

24-21-537. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.


24-21-539. Effective date. This part takes effect on July 1, 2018.

24-21-540. Repeal. This part is repealed, effective September 1, 2018. Before its repeal, this part is scheduled for review in accordance with section 24-34-104.
SECTION 3. In Colorado Revised Statutes, 24-34-104, amend (14)(a)(VII) as follows:

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

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

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

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

Do you want a safety clause or a specific effective date? The secretary of state will probably need some time to promulgate rules before the new law becomes effective, and so we may need to coordinate the repeal of existing law with the promulgation of implementing rules by a date certain. That rule-making authority would need to take effect
before either the repeal of existing law or the effectiveness of the new law.
COLORADO COMMISSION ON UNIFORM STATE LAWS

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

A BILL FOR AN ACT

CONCERNING THE "REVISED UNIFORM ATHLETE AGENTS ACT (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.

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
RELATED TO A STUDENT ATHLETE’S PARTICIPATION IN ATHLETICS:

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

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

(III) IN ANTICIPATION OF REPRESENTING A STUDENT ATHLETE FOR A PURPOSE RELATED TO THE STUDENT ATHLETE’S PARTICIPATION IN ATHLETICS:

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

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

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

(b) DOES NOT INCLUDE AN INDIVIDUAL WHO:

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

(II) IS A LICENSED, REGISTERED, OR CERTIFIED PROFESSIONAL AND OFFERS OR PROVIDES SERVICES TO A STUDENT ATHLETE THAT ARE CUSTOMARILY PROVIDED BY MEMBERS OF THE PROFESSION, UNLESS THE INDIVIDUAL:
(A) Also recruits or solicits the student athlete to enter
into an agency contract;

(B) Also, for compensation, procures employment or
offers, promises, attempts, or negotiates to obtain employment
for the athlete as a professional athlete or member of a
professional sports team or organization; or

(C) Receives consideration for providing the services,
which consideration is calculated using a different method than
for an individual who is not a student athlete.

(3) "Athletic director" means the individual responsible
for administering the overall athletic program of an
educational institution or, if an educational institution has
separately administered athletic programs for male students
and female students, the athletic program for males or the
athletic program for females, as appropriate.

(4) "Educational institution" means a public or private
elementary school, secondary school, technical or vocational
school, community college, college, or university.

(5) "Endorsement contract" means an agreement under
which a student athlete is employed or receives consideration
to use on behalf of the other party any value that the student
athlete may have because of publicity, reputation, following, or
fame obtained because of athletic ability or performance.

(6) "Enrolled" means registered for courses and
attending athletic practice or class. "Enrolls" has a
corresponding meaning.

(7) "Intercollegiate sport" means a sport played at the
COLLEGIATE LEVEL FOR WHICH ELIGIBILITY REQUIREMENTS FOR
PARTICIPATION BY A STUDENT ATHLETE ARE ESTABLISHED BY A NATIONAL
ASSOCIATION THAT PROMOTES OR REGULATES COLLEGIATE ATHLETICS.

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

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

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

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

(12) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.
(13) "Recruit or Solicit" means to attempt to influence the choice of an athlete agent by a student athlete or, if the student athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular athlete agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the athlete agent.

(14) "Registration" means registration as an athlete agent under this Part 2.

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

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

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

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

(17) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. "Student athlete" does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for purposes of that sport.

23-16-203. Authority - procedure - rules. The "State
ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, APPLIES TO
THIS PART 2. THE SECRETARY OF STATE MAY ADOPT RULES PURSUANT TO
THE REQUIREMENTS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT"
TO IMPLEMENT THIS PART 2.

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

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

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

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

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

23-16-205. Registration as athlete agent - application -
requirements - reciprocal registration. (1) AN APPLICANT FOR
REGISTRATION AS AN ATHLETE AGENT MUST SUBMIT AN APPLICATION FOR
REGISTRATION TO THE SECRETARY OF STATE IN A FORM PRESCRIBED BY
THE SECRETARY OF STATE. THE APPLICANT MUST BE AN INDIVIDUAL, AND
THE APPLICANT SHALL SIGN THE APPLICATION UNDER PENALTY OF
PERJURY. THE APPLICATION MUST CONTAIN AT LEAST THE FOLLOWING
INFORMATION:
(a) THE NAME AND DATE AND PLACE OF BIRTH OF THE APPLICANT
AND THE FOLLOWING CONTACT INFORMATION FOR THE APPLICANT:
(I) THE ADDRESS OF THE APPLICANT’S PRINCIPAL PLACE OF
BUSINESS;
(II) WORK AND MOBILE TELEPHONE NUMBERS; AND
(III) ANY MEANS OF COMMUNICATING ELECTRONICALLY,
INCLUDING A FACSIMILE NUMBER, ELECTRONIC-MAIL ADDRESS, AND
PERSONAL AND BUSINESS OR EMPLOYER WEBSITES;
(b) THE NAME OF THE APPLICANT’S BUSINESS OR EMPLOYER, IF
APPLICABLE, INCLUDING FOR EACH BUSINESS OR EMPLOYER ITS MAILING
ADDRESS, TELEPHONE NUMBER, ORGANIZATION FORM, AND THE NATURE
OF THE BUSINESS;
(c) EACH SOCIAL MEDIA ACCOUNT WITH WHICH THE APPLICANT OR
THE APPLICANT’S BUSINESS OR EMPLOYER IS AFFILIATED;
(d) EACH BUSINESS OR OCCUPATION IN WHICH THE APPLICANT
ENGAGED WITHIN FIVE YEARS BEFORE THE DATE OF THE APPLICATION,
INCLUDING SELF-EMPLOYMENT AND EMPLOYMENT BY OTHERS, AND ANY
PROFESSIONAL OR OCCUPATIONAL LICENSE, REGISTRATION, OR
CERTIFICATION HELD BY THE APPLICANT DURING THAT TIME;
(e) A DESCRIPTION OF THE APPLICANT’S:
(I) FORMAL TRAINING AS AN ATHLETE AGENT;
(II) PRACTICAL EXPERIENCE AS AN ATHLETE AGENT; AND
(III) EDUCATIONAL BACKGROUND RELATING TO THE APPLICANT’S
ACTIVITIES AS AN ATHLETE AGENT;

(f) The name of each student athlete for whom the applicant acted as an athlete agent within the five years prior to the date of the application or, if the student athlete is a minor, the name of his or her parent or guardian, together with the student athlete's sport and last-known team;

(g) The name and address of each person who:

(I) Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and

(II) Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

(h) A description of the status of any application by the applicant, or any person named pursuant to subsection (1)(g) of this section, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(i) Whether the applicant, or any person named pursuant to subsection (1)(g) of this section, has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:

(I) The crime;
(II) The law enforcement agency involved; and

(III) If applicable, the date of the conviction and the fine

or penalty imposed;

(j) Whether, within fifteen years before the date of application, the applicant, or any person named pursuant to subsection (1)(g) of this section, has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication and, if so, the date and a full explanation of each proceeding;

(k) Whether the applicant, or any person named pursuant to subsection (1)(g) of this section, has an unsatisfied judgment or a judgment of continuing effect, including spousal maintenance or a domestic order in the nature of child support, which is not current at the date of the application;

(l) Whether, within ten years before the date of application, the applicant, or any person named pursuant to subsection (1)(g) of this section, was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(m) Whether there has been any administrative or judicial determination that the applicant, or any person named pursuant to subsection (1)(g) of this section, made a false, misleading, deceptive, or fraudulent representation;

(n) Each instance in which conduct of the applicant, or any person named pursuant to subsection (1)(g) of this section, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student...
ATHLETE OR A SANCTION ON AN EDUCATIONAL INSTITUTION;

(o) Each sanction, suspension, or disciplinary action taken against the applicant, or any person named pursuant to subsection (1)(g) of this section, arising out of occupational or professional conduct;

(p) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named pursuant to subsection (1)(g) of this section, as an athlete agent in any state;

(q) Each state in which the applicant is currently registered as an athlete agent or has applied to be registered as an athlete agent;

(r) If the applicant is certified or registered by a professional league or players association:
   (I) The name of the league or association;
   (II) The date of certification or registration, and the date of expiration of the certification or registration, if any; and
   (III) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and
   (s) Any additional information required by the secretary of state.

(2) Instead of proceeding as provided in subsection (1) of this section, an individual registered as an athlete agent in
ANOTHER STATE MAY APPLY FOR REGISTRATION AS AN ATHLETE AGENT IN
THIS STATE BY SUBMITTING THE FOLLOWING INFORMATION TO THE
SECRETARY OF STATE:

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

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

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

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

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

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

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

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

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

(b) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

23-16-206. Certificate of registration - issuance or denial - renewal. (1) Except as otherwise provided in subsection (2) of this section, the secretary of state shall issue a certificate of registration to an applicant for registration who complies with the provisions of section 23-16-205 (1).

(2) The secretary of state may refuse to issue a certificate of registration to an applicant for registration under section 23-16-205 (1) if the secretary of state determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant’s fitness to act as an athlete agent. In making the determination, the secretary of state may consider whether the applicant has:

(a) Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) Engaged in conduct prohibited by section 23-16-214;

(e) Had a registration as an athlete agent suspended,
REVOKED, OR DENIED IN ANY STATE;

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

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

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

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

(a) HOW RECENTLY THE CONDUCT OCCURRED;

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

(c) OTHER RELEVANT CONDUCT OF THE APPLICANT.

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

(5) AN ATHLETE AGENT REGISTERED PURSUANT TO SECTION 23-16-205(3) MAY RENEW THE REGISTRATION BY PROCEEDING PURSUANT TO SUBSECTION (4) OF THIS SECTION OR, IF THE REGISTRATION IN THE OTHER STATE HAS BEEN RENEWED, BY SUBMITTING TO THE SECRETARY OF STATE COPIES OF THE APPLICATION FOR RENEWAL IN THE OTHER STATE.
AND THE RENEWED REGISTRATION FROM THE OTHER STATE. THE
SECRETARY OF STATE SHALL RENEW THE REGISTRATION IF THE SECRETARY
OF STATE DETERMINES THAT:

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

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

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

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

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

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

23-16-209. Registration and renewal fees. An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the amount determined by rule of the secretary of state.

23-16-210. Required form of agency contract. (1) An agency contract must be in a record signed by the parties.

(2) An agency contract must contain:

(a) A statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which he or she is registered as an athlete agent;

(b) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(c) The name of any person not listed in the athlete agent's application for registration or renewal of registration who will be compensated because the student athlete signed the contract;

(d) A description of any expenses the student athlete agrees to reimburse;

(e) A description of the services to be provided to the student athlete by the athlete agent;

(f) The duration of the contract; and

(g) The date of execution.
(3) Subject to subsection (7) of this section, an agency contract must contain a conspicuous notice in bold-faced type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

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

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

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.

CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

(4) An agency contract must be accompanied by a separate record signed by the student athlete or, if the student athlete is a minor, his or her parent or guardian, acknowledging that signing the contract may result in the loss of the student athlete's eligibility.
ATHLETE'S ELIGIBILITY TO PARTICIPATE IN THE STUDENT ATHLETE'S SPORT.

(5) A student athlete or, if the student athlete is a minor, his or her parent or guardian, may void an agency contract that does not conform to this section. If the contract is voided, the student athlete is not required to return any consideration received from the athlete agent under the contract to induce entering into the contract.

(6) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the student athlete is a minor, his or her parent or guardian, a copy in a record of the contract and the separate acknowledgment required by subsection (4) of this section.

(7) If a student athlete is a minor, an agency contract must be signed by the student athlete's parent or guardian and the notice required by subsection (3) of this section must be revised accordingly.

23-16-211. Notice to educational institution. (1) As used in this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(2) Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled.
OR AT WHICH THE ATHLETE AGENT HAS REASONABLE GROUNDS TO
BELIEVE THE ATHLETE INTENDS TO ENROLL.

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

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

(5) IF AN ATHLETE AGENT HAS A RELATIONSHIP WITH A STUDENT
ATHLETE BEFORE THE STUDENT ATHLETE ENROLLS IN AN EDUCATIONAL
INSTITUTION AND RECEIVES AN ATHLETIC SCHOLARSHIP FROM THE
EDUCATIONAL INSTITUTION, THE ATHLETE AGENT SHALL NOTIFY THE
EDUCATIONAL INSTITUTION OF THE RELATIONSHIP WITHIN TEN DAYS AFTER
THE STUDENT ATHLETE'S ENROLLMENT IF THE ATHLETE AGENT Knows or
Should have known of the enrollment and:

(a) THE RELATIONSHIP WAS MOTIVATED IN WHOLE OR IN PART BY
THE INTENTION OF THE ATHLETE AGENT TO RECRUIT OR SOLICIT THE
STUDENT ATHLETE TO ENTER INTO AN AGENCY CONTRACT IN THE FUTURE;
OR
(b) The athlete agent directly or indirectly recruited or solicited the student athlete to enter into an agency contract before the enrollment.

(6) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the athlete agent communicates or attempts to communicate with:

(a) the student athlete or, if the student athlete is a minor, his or her parent or guardian, to influence the student athlete or his or her parent or guardian to enter into an agency contract; or

(b) another individual with the intent of having that individual influence the student athlete or, if the student athlete is a minor, his or her parent or guardian, to enter into an agency contract.

(7) If a communication or an attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the student athlete, the athlete agent shall notify in a record the athletic director of any educational institution at which the student athlete is enrolled. The notification must be made within ten days after the communication or attempt to communicate.

(8) An educational institution that becomes aware of a violation of this Part 2 by an athlete agent shall provide notice of the violation to the secretary of state and any professional league or players association with which the educational institution is aware the athlete agent is licensed or registered.
23-16-212. Student athlete's right to cancel. (1) A student athlete or, if the student athlete is a minor, his or her parent or guardian, may:

(a) cancel an agency contract by giving notice in a record of cancellation to the athlete agent within fourteen days after the contract is signed; and

(b) not waive the right to cancel an agency contract.

(2) If a student athlete, parent, or guardian cancels an agency contract, the student athlete, parent, or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the student athlete to enter into the agency contract.

23-16-213. Required records. (1) An athlete agent shall create and retain the following records for a period of five years:

(a) the name and address of each individual represented by the athlete agent;

(b) each agency contract entered into by the athlete agent; and

(c) the direct costs incurred by the athlete agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(2) The records described in subsection (1) of this section are open to inspection by the secretary of state during normal business hours.

23-16-214. Prohibited conduct. (1) An athlete agent, with
THE INTENT TO INFLUENCE A STUDENT ATHLETE OR, IF THE STUDENT ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, TO ENTER INTO AN AGENCY CONTRACT, MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS OR ENCOURAGE ANY OTHER INDIVIDUAL TO TAKE OR ASSIST ANY OTHER INDIVIDUAL IN TAKING ANY OF THE FOLLOWING ACTIONS ON BEHALF OF THE ATHLETE AGENT:

(a) Give materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(2) An athlete agent may not intentionally do any of the following actions or encourage any other individual to do any of the following actions on behalf of the athlete agent:

(a) Initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a minor, his or her parent or guardian, to recruit or solicit the student athlete or his or her parent or guardian to enter into an agency contract unless the athlete agent is properly registered pursuant to this Part 2;

(b) Fail to create, retain, or permit inspection of the records required to be retained by Section 23-16-213;

(c) Fail to register when required by Section 23-16-204;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) Fail to notify a student athlete or, if the student
ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, BEFORE THE STUDENT ATHLETE OR HIS OR HER PARENT OR GUARDIAN SIGNS AN AGENCY CONTRACT FOR A PARTICULAR SPORT THAT THE SIGNING MAY MAKE THE STUDENT ATHLETE INELIGIBLE TO PARTICIPATE AS A STUDENT ATHLETE IN THAT SPORT.

**23-16-215. Criminal penalties.** An athlete agent who violates section 23-16-214 commits a class 2 misdemeanor, and shall be punished as provided in section 18-1.3-501, for a first offense and commits a class 6 felony, and shall be punished as provided in section 18-1.3-401, for a second or subsequent offense.

**23-16-216. Civil remedy.** (1) An educational institution or student athlete may bring an action for damages against an athlete agent if the educational institution or student athlete is adversely affected by an act or omission of the athlete agent in violation of this part 2. An educational institution or student athlete is adversely affected by an act or omission of an athlete agent only if, because of the act or omission, the educational institution or an individual who was a student athlete at the time of the act or omission and who was also enrolled in the educational institution:

(a) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(b) Suffers financial damage.
(2) A plaintiff that prevails in an action under this section may recover costs and reasonable attorney fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the athlete agent by or on behalf of the student athlete.

(3) A violation of this part 2 is an unfair trade or deceptive practice pursuant to section 6-1-105 (1)(kkk).

23-16-217. Civil penalty. On motion of the attorney general or the district attorney, the court may impose a civil penalty of not less than twenty-five thousand dollars but not more than fifty thousand dollars for a violation of this part 2.

Money collected under this section shall be transmitted to the state treasurer and credited to the general fund.

23-16-218. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.


23-16-220. Athlete agents registration fund - gifts, grants, donations - software. (1) (a) The athlete agents registration fund,
REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE
state treasury. The secretary of state shall transfer all fees
collected pursuant to this part 2 to the state treasurer, who
shall credit them to the fund. The fund consists of all fees
credited to the fund pursuant to this section and any other
money that the general assembly may appropriate or transfer
to the fund.

(b) The state treasurer shall credit all interest and
income derived from the deposit and investment of money in the
fund to the fund.

(c) Subject to annual appropriation by the general
assembly, the secretary of state may expend money from the
fund to administer this part 2.

(2) The secretary of state may seek, accept, and expend
gifts, grants, or donations from private or public sources for
the purposes of this part 2. The secretary of state shall
transmit all money received through gifts, grants, or donations
to the state treasurer, who shall credit the money to the fund.

(3) To reduce the fiscal impacts of administering this part
2 and in furtherance of the duties specified in section 23-16-205
(4), the secretary of state is authorized and encouraged to
coordinate with the administrators of athlete agent
registration programs in other states regarding cost-effective
means to register athlete agents, including the sharing of
necessary software.

23-16-221. Repeal of part. This part 2 is repealed, effective
September 1, 2027. Before its repeal, this part 2 is scheduled for
REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

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

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

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

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

WARNING TO STUDENT ATHLETE:
DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES. DO NOT SIGN THIS CONTRACT IF IT DOES NOT SPECIFY ALL OF THE GUARANTEES MADE TO YOU BY THE ATHLETE AGENT. IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE CONTRACT WITHIN FOURTEEN DAYS AFTER THE DATE ON WHICH YOU SIGN THIS CONTRACT.

SECTION 3. In Colorado Revised Statutes, 24-34-104, add (28)
as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (28) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2027:

   (I) The registration of student athlete agents pursuant to the "Revised Uniform Athlete Agents Act (2015)", part 2 of article 16 of title 23.

   (b) This subsection (28) is repealed, effective September 1, 2029.

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

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

   (kkk) Violates part 2 of article 16 of title 23.

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

<\{Do you want a safety clause or a specific effective date?\}>
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.
SECTION 1. In Colorado Revised Statutes, add article 54.7 to title 13 as follows:

ARTICLE 54.7

Uniform Wage Garnishment Act

PART 1

SHORT TITLE AND DEFINITIONS

13-54.7-101. Short title. The short title of this article 54.7 is the "Uniform Wage Garnishment Act".

13-54.7-102. Definitions. In this article 54.7:

(1) "Creditor" means a person that has an enforceable money judgment against a debtor, including a successor in interest.

(2) "Debtor" means an individual against whom a creditor has an enforceable money judgment.

(3) "Disposable earnings" means earnings remaining after deductions for any amounts required by law to be withheld.

(4) "Earnings" means compensation owed by an employer to an employee for personal services. The term includes a wage, salary, commission, bonus, profit-sharing distribution, severance payment, fee, and periodic pension and disability payment.

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

(6) "Employee" includes a former employee who is owed earnings and means an individual who:

(a) Is treated by an employer as an employee for federal
INCOME TAX PURPOSES; OR

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

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

(8) "GARNIShee" MEANS:

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

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

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

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

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

(12) "PAYDAY" MEANS A REGULARLY SCHEDULED DAY ON WHICH AN EMPLOYER PAYS EARNINGS TO AN EMPLOYEE FOR A PAY PERIOD OR, IF THE DAY OF PAYMENT IS UNCERTAIN OR LESS OFTEN THAN ONCE A MONTH, THE DAY ON WHICH THE EMPLOYER PAYS EARNINGS TO THE EMPLOYEE.
(13) "Pay record" means a record provided to an employee which includes a statement of the employee's total earnings on a payday and a listing of the amount and purpose of each deduction, if any.

(14) "Periodic payments" means recurring payments on set intervals.

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

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

(17) "Send" means to:

(a) Deposit a record in the United States mail to the last-known address of the intended recipient with first-class postage provided;

(b) Deliver a record by any other usual means of communication to the last-known address of the intended recipient with the cost of transmission, if any, provided; or

(c) Cause a record to be received in any other way within the time it would have arrived if sent pursuant to subsection (17)(a) of this section.

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

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an
ELECTRONIC SYMBOL, SOUND, OR PROCESS.

(19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(20) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, spouse, or former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term includes related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

PART 2
GARNISHMENT OF EARNINGS

13-54.7-201. Scope. (1) This article 54.7 applies only to a garnishment action.

(2) This article 54.7 does not apply to any other remedy available to a creditor under law of this state other than this article 54.7.

(3) Except as otherwise provided in section 13-54.7-212, this article 54.7 does not apply to an ordered deduction that is not a garnishment, including an ordered deduction under:

(a) An order of a bankruptcy court;

(b) A debt due for a federal, state, city, or local tax; [OR]
(c) A SUPPORT ORDER [OR]

(d) [OTHER SPECIFIED ORDERED DEDUCTIONS]

other special exceptions for Colorado? >

13-54.7-202. Choice of law. (1) EXCEPT AS PROVIDED IN

SUBSECTION (2) OF THIS SECTION, THE COURT SHALL DISMISS OR STAY A

GARNISHMENT ACTION IF THE DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT

IN THIS STATE WHEN THE ACTION IS COMMENCED.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY IF THE

EMPLOYER IS SUBJECT TO PERSONAL JURISDICTION IN THIS STATE BUT NOT

IN THE STATE OF THE DEBTOR'S PRINCIPAL PLACE OF WORK.

(3) IN A GARNISHMENT ACTION UNDER SUBSECTION (2) OF THIS

SECTION, THIS ARTICLE 54.7 APPLIES; EXCEPT THAT THE DEBTOR IS

ENTITLED TO THE EXEMPTIONS FROM AND LIMITS ON GARNISHMENT

PROVIDED BY THE LAW OF THE JURISDICTION OF THE DEBTOR'S PRINCIPAL

PLACE OF WORK.

13-54.7-203. Commencement of garnishment action. (1) A

CREDITOR MAY COMMENCE A GARNISHMENT ACTION BY FILING A WRIT OF

GARNISHMENT WITH THE COURT.

(2) THE WRIT OF GARNISHMENT UNDER SUBSECTION (1) OF THIS

SECTION MUST BE SERVED:

(a) ON THE REGISTERED AGENT IF THE PERSON AGAINST WHOM THE

GARNISHMENT IS SOUGHT HAS A REGISTERED AGENT THAT CAN BE SERVED

WITH REASONABLE DILIGENCE UNDER RULE 4 OF THE COLORADO RULES OF

CIVIL PROCEDURE; OR

(b) IF SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY, ON

THE PERSON AGAINST WHOM THE GARNISHMENT IS SOUGHT.

(3) THE WRIT OF GARNISHMENT UNDER SUBSECTION (1) OF THIS
SECTION MUST INCLUDE:

(a) The name of the debtor;

(b) The last-known physical and mailing addresses of the debtor, or a statement that the information is not known;

(c) The amount the creditor claims is owed by the debtor and information sufficient to identify the judgment on which the garnishment action is based;

(d) A completed notice that satisfies section 13-54.7-208;

(e) A notice of Colorado rules about garnishment that satisfies section 13-54.7-209;

(f) The name of and contact information for the creditor's agent to whom the garnishee is required by sections 13-54.7-204 (1)(a) and (1)(b)(I) and 13-54.7-207 (3) to send information; and

(g) The mailing address to which the garnishee must send amounts withheld and, at the creditor's option, a statement of other reasonable means of sending the amounts to the creditor.

(4) The writ of garnishment served under subsection (2) of this section must be accompanied by:

(a) A separate document provided only to the garnishee and not filed with the court, which:

(I) Provides the debtor's date of birth and full social security number or states that the date or number is not known; and

(II) If the debtor's full social security number is not known, provides other identifying information known to the creditor or states that no other identifying information is known; and
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1 (b) An administrative fee of $\_[__]\_ payable to the garnishee. \{How much do you want the administrative fee to be?\}

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

1 (1) Not later than twenty-one days after being served with a writ of garnishment in a garnishment action:

2 (a) If one of the following grounds applies, the garnishee shall send to the agent named under section 13-54.7-203 (3)(f) a notice stating the applicable ground:

3 (I) The debtor is not an employee of the garnishee;

4 (II) The debtor's principal place of work is not in this state and the employer is subject to jurisdiction in the state of the debtor's principal place of work;

5 (III) The garnishment does not contain all the information required by section 13-54.7-203 (3);

6 (IV) The writ of garnishment is not accompanied by the separate document required by section 13-54.7-203 (4)(a) or the document does not contain all the required information; or

7 (V) The writ of garnishment is not accompanied by the fee required by section 13-54.7-203 (4)(b); or

8 (b) If subsection (1)(a) of this section does not apply, the garnishee shall:

9 (I) Send the agent named under section 13-54.7-203 (3)(f) a notice that includes:

10 (A) A statement that the named debtor is an employee of the garnishee;

11 (B) The pay frequency of the employee and the date of the next payday;
(C) The name of and contact information for the garnishee's agent to whom the creditor must send information if required by Section 13-54.7-206(4) and (6) or Section 13-54.7-213 (2)(b); and

(D) If the employee's earnings are subject to other ordered deductions, the number of other deductions and the priority of each deduction, including the priority of the garnishment sought by the writ of garnishment; and

(II) Send the employee a copy of the notices provided to the garnishee under Section 13-54.7-203 (3)(d) and (3)(e).

13-54.7-205. Beginning of garnishment. If Section 13-54.7-204 (1)(b)(I) applies, the employer shall begin garnishment on the first payday that occurs at least thirty days after the employer sends the employee the notices under Section 13-54.7-204 (1)(b)(II).

13-54.7-206. Action during pendency of garnishment. (1) Not later than five business days after withholding an amount from the earnings of an employee pursuant to a garnishment action, the employer shall send the amount to the creditor at the mailing address specified under Section 13-54.7-203 (3)(g) or, at the employer's option, by another means specified by the creditor under Section 13-54.7-203 (3)(g).

(2) If an employer withholds earnings from more than one employee for the same creditor and specifies the amount attributable to each employee, the employer may combine the amounts in one payment to the creditor.

(3) An employer shall notify an employee of any amount
WITHHELD AS A GARNISHMENT IN THE SAME MANNER THAT THE EMPLOYER
NOTIFIES THE EMPLOYEE OF OTHER WITHHOLDINGS FROM EARNINGS.

(4) At any time before termination of a garnishment
action under section 13-54.7-207(2), a creditor may send to an
employer a notice requiring the employer to change its records
to indicate an increase or decrease in the amount owed. The
creditor shall send the notice to the agent named under section
13-54.7-204 (1)(b)(I)(C).

(5) An employer that receives a notice under subsection
(4) of this section shall send the employee a copy of the notice or
a completed calculation worksheet under section 13-54.7-210.

(6) For each payday on which a garnishment occurs, the
employer shall maintain a record sufficient to prepare for each
creditor a calculation worksheet under section 13-54.7-210. At
any time, an employee or creditor may request in a record a
completed calculation worksheet. The creditor shall send the
request to the agent named under section 13-54.7-204 (1)(b)(I)(C).
Not later than five business days after receipt of a request, the
employer shall send without charge a calculation worksheet
for the most recent payday. The employer is not required to
provide:

(a) the employee more than one calculation worksheet
for each creditor for any payday; or

(b) the creditor more than four calculation worksheets
for each employee during a calendar year.

13-54.7-207. Termination of garnishment action. (1) Not
later than twenty-one days after receiving notice under section

-10-
(1)(a), a creditor shall seek dismissal of the garnishment action or a prompt hearing under section 13-54.7-302 to determine whether the garnishee is required to proceed under section 13-54.7-204 (1)(b).

(2) A garnishment begun under section 13-54.7-205 terminates when:

(a) The garnishee’s records indicate that the amount owed by the employee has been paid in full; or

(b) The debtor is no longer an employee of the garnishee.

(3) Not later than twenty-one days after the first day on which a debtor is no longer an employee of the garnishee, the garnishee shall send the agent named under section 13-54.7-203 (3)(f) notice of the cessation of employment.

(4) A creditor shall seek dismissal of a garnishment action not later than twenty-one days after the earlier of the time:

(a) The amount owed by the debtor is paid in full; or

(b) The creditor receives the notice required by subsection (3) of this section.

13-54.7-208. Notice to employee of garnishment — form — definition. (1) In this section, "original creditor" means a person to which a debtor originally owed the obligation for which a garnishment is sought.

(2) The notice required by section 13-54.7-203 (3)(d) must be in substantially the following form:

Notice of Garnishment

Money Will Be Taken from Your Pay If You Fail to Act
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 [name or shortened name of creditor] to pay what you owe. The person who pays you does not keep the money.

1. Why Am I Getting This Notice?

- [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].

[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 creditor].

2. How Much Do I Owe?
The person who pays you will soon be required to start taking money from your pay. Money will continue to be taken from your pay until the total amount you owe on this debt is paid.

3. How Will The Amount I Owe Be Paid?

The rules about how much of your pay can be taken are explained in the Notice of Colorado Rules About Garnishment that you received with this notice.

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

You have three options:

**Talk with a lawyer.** A lawyer can explain the situation to you and help you decide what to do. This office can help you find a lawyer:

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

**Contact [insert name or shortened name of creditor].** If you can work something out with them, money might not have to be taken from your pay. This is the creditor's contact information:
Request a court hearing. A hearing could be helpful if there are any disagreements about the garnishment, for example, if you don’t think you owe money. For help in requesting a hearing, contact:

[insert name and address of appropriate entity]

If you don't do anything, the law requires that money be taken out of your pay every payday and given to [insert name or shortened name of creditor]. This process continues until you have paid off your debt.

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

(1) The notice required by section 13-54.7-203 (3)(e) must:

(a) Have a heading stating that it is the Notice of Colorado Rules About Garnishment; and

(b) Reasonably inform an employee of:

(I) The limits on wage garnishment under section 13-54.7-211;

(II) Exemptions from and limits on garnishment under law of this state other than this article 54.7; and

(III) The process for claiming exemptions from and limits on garnishment, if any.

13-54.7-210. Calculation worksheet. A
WORKSHEET REQUIRED UNDER SECTION 13-54.7-206 (5) OR (6) MUST BE
IN SUBSTANTIALLY THE FOLLOWING FORM:

Notice of Garnishment

Debtor:

Creditor:

For Earnings Paid on:

Calculation of Amount Garnished for this Payday

Disposable Earnings:

1. Gross Earnings Paid to Debtor $____

2. Amounts Withheld:

   a. Federal social security tax: $____
   b. Federal Medicare tax: $____
   c. Federal income tax: $____
   d. State income tax: $____
   e. City or local tax: $____
   f. Railroad retirement tax: $____
   g. Other: $____

3. Total Amounts Withheld (Sum of items in line 2) $____

4. Disposable Earnings (Line 1 minus line 3) $____

Garnishment Calculation:

5. [ ___ ]% of Disposable Earnings (line 4) $____

6. Exemption Amount $____

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

8. Enter smaller of line 5 or line 7 $____

9. Amounts of Other Current Garnishments with Higher
Priority (if none, enter $0) $_____

10. Subtract line 9 from line 8 (if less than $0, enter $0) $_____

11. Enter the number of Other Current Garnishments with the Same Priority, plus one ____

12. Divide line 10 by line 11 $_____

The amount on line 12 is the garnishment amount for this pay period.

Statement of Amount Due and Paid

13. Total Amount Currently Claimed by Creditor: $_____

14. Amounts Paid Through Garnishment:

a. Prior Garnishments $_____

b. This Garnishment (Line 12) $_____

c. Total Garnishments $_____

15. Net Amount Owed After Garnishments to Date (Line 13 minus line 14c) $_____

13-54.7-211. Limits on wage garnishment. (1) The maximum amount of earnings subject to garnishment may not exceed the least of:

(a) Twenty-five percent of disposable earnings for a workweek;

(b) The amount by which disposable earnings for a workweek exceed thirty times the federal minimum wage required by section 6 (a) of the federal "Fair Labor Standards Act of 1938", 29 U.S.C. sec. 206 (a) in effect at the time the earnings are payable; or

(c) The amount by which disposable earnings for a workweek exceed thirty times the state minimum wage required by section 15 of article XVIII of the state constitution in effect
11.3.16

AT THE TIME THAT THE EARNINGS ARE PAYABLE.

(2) For a pay period greater than one week, the amount in subsection (1)(b) of this section must be adjusted to be the appropriate multiple of thirty times the state or federal minimum wage. In calculating the multiple, a pay period of one calendar month is deemed to be four and one-third weeks.

13-54.7-212. Multiple ordered deductions. (1) If more than one ordered deduction is in effect against an employee of an employer, the following rules apply:

(a) For ordered deductions with higher priority than a garnishment, the garnishee shall send withheld earnings to persons entitled to the deductions before sending any withheld earnings under subsection (1)(b) or (1)(c) of this section. The garnishee shall send any amounts remaining after payment under this subsection (1)(a) in accordance with subsections (1)(b) and (1)(c) of this section.

(b) For ordered deductions with the same priority as a garnishment, the garnishee shall send an equal amount of the withheld earnings to each person entitled to the deductions without regard to the time the deduction became effective, the amount of the debt, or any other factor.

(c) For ordered deductions with a lower priority than a garnishment, the garnishee shall send all amounts due under subsections (1)(a) and (1)(b) of this section before any payment is made on the deductions.

(2) Priority of ordered deductions is determined under law of this state other than this article 54.7.
13-54.7-213. **Compliance process.** (1) A garnishee is not liable for a sanction under section 13-54.7-214 unless:

(a) The debtor or creditor files a motion with the court which states with specificity the nature of the garnishee's failure to comply with this article 54.7;

(b) If a creditor files the motion under subsection (1)(a) of this section and an agent has been named under section 13-54.7-204 (1)(b)(I)(C), the creditor sends a copy of the motion to the agent; and

(c) The garnishee fails:

(I) To send the information required by section 13-54.7-204 (1)(a) or (1)(b)(I), or (1)(b)(II), as applicable, not later than ten business days after receiving the motion under subsection (1)(a) of this section or a copy of the motion under subsection (1)(b) of this section, whichever is earlier;

(II) To begin garnishment under section 13-54.7-205 not later than twenty-one days after receiving the motion or, if no payday occurs between six and twenty-one days after receiving the motion, on the next payday later than twenty-one days after receiving the motion under subsection (1)(a) of this section or a copy of the motion under subsection (1)(b) of this section, whichever is earlier; or

(III) To remit to the creditor, not later than five business days after receiving the motion, the amount that has been withheld from the earnings of the debtor since garnishment began under section 13-54.7-205 but not properly remitted to the creditor under section 13-54.7-206 (1).
For good cause, the court may waive all or any part of the amounts otherwise due under section 13-54.7-214.

13-54.7-214. Garnishee sanctions for noncompliance.

(1) Subject to section 13-54.7-213, the following rules apply:

(a) A garnishee that fails to comply with section 13-54.7-204 is liable to the creditor for twenty dollars for each day beginning twenty-two days after service of the writ of garnishment:

(I) Until the garnishee sends the information required by section 13-54.7-204 (1)(a); or

(II) Until the earlier of the day the garnishee sends the information required by subsection 13-54.7-204 (1)(b) or garnishment is required to begin under section 13-54.7-205.

(b) A garnishee that fails to comply with section 13-54.7-205 is liable to the creditor for the amount that should have been withheld pursuant to that section and sent to the creditor.

(c) A garnishee that fails to comply with section 13-54.7-206 (1) is liable to the creditor for:

(I) Any amount withheld from the earnings of the employee which the creditor did not receive because of the garnishee’s failure to send the amount properly; and

(II) Twenty dollars for each day beginning six business days after a payday on which the amount was or should have been withheld from the earnings of the employee and ending the day before the amount is sent to the creditor.

(d) A garnishee that fails under section 13-54.7-206 (5) to
SEND A CALCULATION WORKSHEET OR A COPY OF THE NOTICE RECEIVED FROM THE CREDITOR IS LIABLE TO THE EMPLOYEE FOR FIVE DOLLARS FOR EACH DAY BEGINNING ON THE PAYDAY WHEN THE WORKSHEET OR NOTICE SHOULD HAVE BEEN SENT AND ENDING THE DAY BEFORE THE GARNISHEE SENDS THE WORKSHEET OR NOTICE.

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

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

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

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

13-54.7-301. Creditor sanctions. (1) If a court determines that a creditor acted in bad faith in seeking a garnishment under this article 54.7, the creditor is liable for:

(a) An amount not to exceed one thousand dollars;

(b) Any amounts due under subsection (3) of this section;

and

(c) Reasonable attorney's fees, as determined by the court, of the garnishee and the individual whose earnings the creditor sought to garnish.

(2) (a) A creditor acts in bad faith if it receives from a garnishee or an individual whose earnings the creditor sought to garnish a notice in a record stating the reason that the garnishment is wrongful and fails within seven business days after receiving the notice to either:

(I) Take appropriate action to stop the garnishment and return any earnings garnished during the sixty days preceding receipt of the notice and send to the garnishee or individual a record indicating that it has done so; or

(II) File a motion with the court requesting an expedited hearing to determine whether the garnishment was wrongful.

(b) If the creditor is represented by an attorney, the garnishee or individual must send the notice to the attorney.

(3) A creditor that fails to comply with subsection (2) of this section is liable for fifty dollars per day beginning on the eighth business day after receiving the notice provided for in that subsection and ending the day before the creditor complies.
WITH SUBSECTION (2)(a) OF THIS SECTION.

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

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

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

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

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

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

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

(1) AN EMPLOYER MAY NOT DISCHARGE OR TAKE OTHER ADVERSE ACTION
AGAINST AN EMPLOYEE BECAUSE OF A GARNISHMENT OR ATTEMPTED
GARNISHMENT.
(2) Subsection (1) of this section is enforceable by the powers, remedies, and procedures used to enforce Article 2 of Title 18.

13-54.7-304. Other laws not limited. This article 54.7 does not limit any law of this state other than this article 54.7 that otherwise limits or prohibits garnishment.

PART 4

MISCELLANEOUS PROVISIONS

13-54.7-401. Uniformity of application and construction. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

13-54.7-402. Relation to electronic signatures in global and national commerce act. This article 54.7 modifies, limits, or supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersedes section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

13-54.7-403. Savings clause. This article 54.7 does not affect the validity or effect of a garnishment action filed on or before the effective date of this article 54.7.

13-54.7-404. Severability. If any provision of this article 54.7 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article 54.7 which can be given effect.
WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE 54.7 ARE SEVERABLE.

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

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

(b) (I) "Earnings" means:

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

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

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

(2) (a) "Earnings" means:

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

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

13-55-101. Defendant to file written claim. Except in cases of garnishment pursuant to article 54.5 or 54.7 of this title TITLE 13, in cases where a sheriff or other officer by virtue of a writ of execution, writ of attachment, or other order of court issued by a court of record or clerk thereof levies upon, seizes, or takes into his possession any property of the defendant debtor, which said property, or part thereof, the defendant claims as exempt under the provisions of the statutes of the state, said defendant debtor, within fourteen days after being served with notice of
such levy or seizure, shall make and file with the clerk of the court of
record out of which such writ of execution, writ of attachment, or other
order was issued a written claim of such exemption setting forth with
reasonable detail the description of the property so claimed to be exempt
together with the grounds of such claim of exemption.

<\{Does the commission want a safety clause?\}>
A BILL FOR AN ACT

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

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

ARTICLE 12.5

Uniform Family Law Arbitration Act

14-12.5-101. Short title. This article 12.5 may be cited as the "Uniform Family Law Arbitration Act".

14-12.5-102. Definitions. In this article 12.5:

(1) "Arbitration agreement" means an agreement that subjects a family law dispute to arbitration.

(2) "Arbitration organization" means an association,
AGENCY, BOARD, COMMISSION, OR OTHER ENTITY THAT IS NEUTRAL AND
INITIATES, SPONSORS, OR ADMINISTERS AN ARBITRATION OR IS INVOLVED
IN THE SELECTION OF AN ARBITRATOR.

(3) "Arbitrator" means an individual selected, alone or
with others, to make an award in a family law dispute that is
subject to an arbitration agreement.

(4) "Child-related dispute" means a family law dispute
regarding the allocation of parental rights and responsibilities
or financial support regarding a child.

(5) "Court" means the district court.

(6) "Family law dispute" means a contested issue arising
under article 10 of this title or under article 15 of this title
as specified in section 14-15-115.

(7) "Party" means an individual who signs an arbitration
agreement and whose rights will be determined by an award.

(8) "Person" means an individual, estate, business or
nonprofit entity, public corporation, government or
governmental subdivision, agency, or instrumentality, or any
other legal entity.

(9) "Record", used as a noun, means information that is
inscribed on a tangible medium or that is stored in an electronic
or other medium and is retrievable in perceptible form.

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

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

(b) To attach to or logically associate with the record
an electronic symbol, sound, or process.
"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

14-12.5-103. Scope. (1) This article 12.5 governs arbitration of a family law dispute.

(2) This article 12.5 does not authorize an arbitrator to make an award that:
   (a) Grants a legal separation, dissolution, or declaration of invalidity of a marriage or grants a legal separation, dissolution, or declaration of invalidity of a civil union;
   (b) Terminates parental rights;
   (c) Grants an adoption or a guardianship of a child or incapacitated individual; or
   (d) Determines the status of a child as dependent or neglected.

14-12.5-104. Applicable law. (1) Except as otherwise provided in this article 12.5, the law applicable to arbitration is the Uniform Arbitration Act, part 2 of article 22 of title 13.

(2) In determining the merits of a family law dispute, an arbitrator shall apply the law of this state, including its choice of law rules.

14-12.5-105. Arbitration agreement. (1) An arbitration agreement must:
   (a) Be in a record signed by the parties;
   (b) Identify the arbitrator, an arbitration organization,
OR A METHOD OF SELECTING AN ARBITRATOR; AND

(c) IDENTIFY THE FAMILY LAW DISPUTE THE PARTIES INTEND TO

ARBITRATE.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS

SECTION, AN AGREEMENT IN A RECORD TO ARBITRATE A FAMILY LAW

DISPUTE THAT ARISES BETWEEN THE PARTIES BEFORE, AT THE TIME, OR

AFTER THE AGREEMENT IS MADE IS VALID AND ENFORCEABLE AS ANY

OTHER CONTRACT AND IRREVOCABLE EXCEPT ON A GROUND THAT EXISTS

AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

(3) AN AGREEMENT TO ARBITRATE A CHILD-RELATED DISPUTE

THAT ARISES BETWEEN THE PARTIES AFTER THE AGREEMENT IS MADE IS

UNENFORCEABLE UNLESS:

(a) THE PARTIES AFFIRM THE AGREEMENT IN A RECORD AFTER THE

DISPUTE ARISES; OR

(b) THE AGREEMENT WAS ENTERED DURING A FAMILY LAW

PROCEEDING AND THE COURT APPROVED OR INCORPORATED THE

AGREEMENT IN AN ORDER ISSUED IN THE PROCEEDING.

(4) IF A PARTY OBJECTS TO ARBITRATION ON THE GROUND THE

ARBITRATION AGREEMENT IS UNENFORCEABLE OR THE AGREEMENT DOES

NOT INCLUDE A FAMILY LAW DISPUTE, THE COURT SHALL DECIDE WHETHER

THE AGREEMENT IS ENFORCEABLE OR INCLUDES THE FAMILY LAW DISPUTE.

14-12.5-106. Notice of arbitration. A PARTY MAY INITIATE

ARBITRATION BY GIVING NOTICE TO ARBITRATE TO THE OTHER PARTY IN

THE MANNER SPECIFIED IN THE ARBITRATION AGREEMENT OR, IN THE

ABSENCE OF A SPECIFIED MANNER, UNDER THE LAW AND PROCEDURAL

RULES OF THIS STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING

CONTRACTUAL ARBITRATION.
14-12.5-107. Motion for judicial relief. (1) A motion for judicial relief under this article 12.5 must be made to the court in which a proceeding is pending involving a family law dispute subject to arbitration or, if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

(2) On motion of a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with section 14-12.5-105 unless the court determines under section 14-12.5-112 that the arbitration should not proceed.

(3) On motion of a party, the court shall terminate arbitration if it determines that:

   (a) The agreement to arbitrate is unenforceable;
   (b) The family law dispute is not subject to arbitration; or
   (c) Under section 14-12.5-112, the arbitration should not proceed.

(4) Unless prohibited by an arbitration agreement, on motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

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

(1) Except as otherwise provided in subsection (2) of this section, unless waived in a record by the parties, an arbitrator must be:

   (a) An attorney in good standing admitted to practice or on inactive status or a judge on retired status in a state; and
   (b) Trained in identifying domestic violence and child
ABUSE.

(2) The identification in the arbitration agreement of an arbitrator, arbitration organization, or method of selection of the arbitrator controls.

(3) If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator.


(1) Before agreeing to serve as an arbitrator, an individual, after making reasonable inquiry, shall disclose to all parties any known fact a reasonable person would believe is likely to affect:

   (a) The impartiality of the arbitrator in the arbitration, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, attorney representing a party, or witness; or

   (b) The arbitrator's ability to make a timely award.

(2) An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

(3) An objection to the selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator must be made under the law and procedural rules of this state other than this Article 12.5 governing arbitrator disqualification.
(4) If a disclosure required by subsection (1)(a) or (2) of this section is not made, the court may:

(a) On motion of a party not later than thirty-five days after the failure to disclose is known or by the exercise of reasonable care should have been known to the party, suspend the arbitration;

(b) On timely motion of a party, vacate an award under section 14-12.5-119 (1)(b); or

(c) If an award has been confirmed, grant other appropriate relief under law of this state other than this article 12.5.

(5) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided in section 14-12.5-108.

14-12.5-110. Party participation. (1) A party may:

(a) Be represented in an arbitration by an attorney;

(b) Be accompanied by an individual who will not be called as a witness or act as an advocate; and

(c) Participate in the arbitration to the full extent permitted under the law and procedural rules of this state other than this article 12.5 governing a party's participation in contractual arbitration.

(2) A party or representative of a party may not communicate ex parte with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.
14-12.5-111. Temporary order or award. (1) Before an arbitrator is selected and able to act, on motion of a party, the court may enter a temporary order under section 14-10-108.

(2) After an arbitrator is selected:

(a) the arbitrator may make a temporary award under section 14-10-108; and

(b) if the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, on motion of a party, the court may enter a temporary order.

(3) On motion of a party, before the court confirms a final award, the court under section 14-12.5-116, 14-12.5-118, or 14-12.5-119 may confirm, correct, vacate, or amend a temporary award made under subsection (2)(a) of this section.

(4) On motion of a party, the court may enforce a subpoena or interim award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

14-12.5-112. Protection of party or child - definition. (1) In this section, "protection order" means an injunction or other order, issued under the domestic-violence, family-violence, or stalking laws of the issuing jurisdiction, to prevent an individual from engaging in a violent or threatening act against, harassment of, contact or communication with, or being in physical proximity to another individual who is a party or a child under the custodial responsibility of a party.

(2) If a party is subject to a protection order or an arbitrator determines there is a reasonable basis to believe a party's safety or ability to participate effectively in...
11.9.16

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

(a) The affirmation is informed and voluntary;
(b) Arbitration is not inconsistent with the protection order; and
(c) Reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

(3) If an arbitrator determines that there is a reasonable basis to believe a child who is the subject of a child-related dispute is abused or neglected, the arbitrator shall terminate the arbitration of the child-related dispute and report the abuse or neglect to the county department as defined in section 19-1-103, to the local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111.

(4) An arbitrator may make a temporary award to protect a party or child from harm, harassment, or intimidation.

(5) On motion of a party, the court may stay arbitration and review a determination or temporary award under this section.

(6) This section supplements remedies available under law of this state other than this article 12.5 for the protection of victims of domestic violence, family violence, stalking, harassment, or similar abuse.

14-12.5-113. Powers and duties of arbitrator. (1) An
ARBITRATOR SHALL CONDUCT AN ARBITRATION IN A MANNER THE ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS DISPOSITION OF THE DISPUTE.

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

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

(a) SELECT THE RULES FOR CONDUCTING THE ARBITRATION;

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

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

(d) REQUIRE A PARTY TO PROVIDE:

(I) A COPY OF A RELEVANT COURT ORDER;

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

AND

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

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

(f) APPOINT A PRIVATE EXPERT AT THE EXPENSE OF THE PARTIES;

(g) ADMINISTER AN OATH OR AFFIRMATION AND ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS OR THE PRODUCTION OF DOCUMENTS AND OTHER EVIDENCE AT A HEARING;

(h) COMPEL DISCOVERY CONCERNING THE FAMILY LAW DISPUTE AND DETERMINE THE DATE, TIME, AND PLACE OF DISCOVERY;

(i) DETERMINE THE ADMISSIBILITY AND WEIGHT OF EVIDENCE;
(j) Permit deposition of a witness for use as evidence at a hearing;

(k) For good cause, prohibit a party from disclosing information;

(l) Appoint an attorney, guardian ad litem, or other representative for a child at the expense of the parties;

(m) Impose a procedure to protect a party or child from risk of harm, harassment, or intimidation;

(n) Allocate arbitration fees, attorney's fees, expert-witness fees, and other costs to the parties; and

(o) Impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

(4) An arbitrator may not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

14-12.5-114. Recording of hearing. (1) Except as otherwise provided in subsection (2) of this section or required by law of this state other than this article 12.5, an arbitration hearing need not be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

(2) An arbitrator shall request a verbatim recording be made of any part of an arbitration hearing concerning a child-related dispute.

14-12.5-115. Award. (1) An arbitrator shall make an award in a record, dated and signed by the arbitrator. The
ARBITRATOR SHALL GIVE NOTICE OF THE AWARD TO EACH PARTY BY A
METHOD AGREED ON BY THE PARTIES OR, IF THE PARTIES HAVE NOT
AGREED ON A METHOD, UNDER THE LAW AND PROCEDURAL RULES OF THIS
STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING NOTICE IN
CONTRACTUAL ARBITRATION.

(2) Except as otherwise provided in subsection (3) of this
section, the award under this Article 12.5 must state the reasons
on which it is based unless otherwise agreed by the parties.

(3) An award determining a child-related dispute must
state the reasons on which it is based as required by law of this
state other than this Article 12.5 for a court order in a family
law proceeding.

(4) An award under this Article 12.5 is not enforceable as
a judgment until confirmed under section 14-12.5-116.

14-12.5-116. Confirmation of award. (1) After an
arbitrator gives notice under section 14-12.5-115 (1) of an
award, including an award corrected under section 14-12.5-117,
a party may move the court for an order confirming the award.

(2) Except as otherwise provided in subsection (3) of this
section, the court shall confirm an award under this Article
12.5 if:

(a) The parties agree in a record to confirmation; or

(b) The time has expired for making a motion, and no
motion is pending, under section 14-12.5-118 or 14-12.5-119.

(3) If an award determines a child-related dispute, the
court shall confirm the award under subsection (2) of this
section if the court finds, after a review of the record if
NECESSARY, THAT THE AWARD ON ITS FACE:

(a) COMPLIES WITH SECTION 14-12.5-115 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE 12.5 GOVERNING A CHILD-RELATED DISPUTE; AND

(b) IS IN THE BEST INTERESTS OF THE CHILD.

(4) ON CONFIRMATION, AN AWARD UNDER THIS ARTICLE 12.5 IS ENFORCEABLE AS A JUDGMENT.

14-12.5-117. Correction by arbitrator of unconfirmed award.

ON MOTION OF A PARTY MADE NOT LATER THAN THIRTY-FIVE DAYS AFTER AN ARBITRATOR GIVES NOTICE UNDER SECTION 14-12.5-115 (1) OF AN AWARD, THE ARBITRATOR MAY CORRECT THE AWARD:

(1) IF THE AWARD HAS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A PERSON, THING, OR PROPERTY;

(2) IF THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS ON THE ISSUES SUBMITTED; OR

(3) TO CLARIFY THE AWARD.

14-12.5-118. Correction by court of unconfirmed award.

(1) ON MOTION OF A PARTY MADE NOT LATER THAN NINETY-ONE DAYS AFTER AN ARBITRATOR GIVES NOTICE UNDER SECTION 14-12.5-115 (1) OF AN AWARD, INCLUDING AN AWARD CORRECTED UNDER SECTION 14-12.5-117, THE COURT SHALL CORRECT THE AWARD IF:

(a) THE AWARD HAS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A PERSON, THING, OR PROPERTY;

(b) THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS OF THE ISSUES SUBMITTED; OR
(c) The arbitrator made an award on a dispute not submitted to the arbitrator and the award may be corrected without affecting the merits of the issues submitted.

(2) A motion under this section to correct an award may be joined with a motion to vacate or amend the award under section 14-12.5-119.

(3) Unless a motion under section 14-12.5-119 is pending, the court may confirm a corrected award under section 14-12.5-116.

14-12.5-119. Vacation or amendment by court of unconfirmed award. (1) On motion of a party, the court shall vacate an unconfirmed award if the moving party establishes that:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

(I) Evident partiality by the arbitrator;

(II) Corruption by the arbitrator; or

(III) Misconduct by the arbitrator substantially prejudicing the rights of a party;

(c) The arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 14-12.5-113, so as to prejudice substantially the rights of a party;

(d) The arbitrator exceeded the arbitrator's powers;

(e) No arbitration agreement exists, unless the moving party participated in the arbitration without making a motion
UNDER SECTION 14-12.5-107 NOT LATER THAN THE BEGINNING OF THE
FIRST ARBITRATION HEARING; OR

(f) The arbitration was conducted without proper notice
under Section 14-12.5-106 of the initiation of arbitration, so as to
prejudice substantially the rights of a party.

(2) Except as otherwise provided in subsection (3) of this
section, on motion of a party, the court shall vacate an
unconfirmed award that determines a child-related dispute if
the moving party establishes that:

(a) The award does not comply with Section 14-12.5-115 or
law of this state other than this Article 12.5 governing a
child-related dispute or is contrary to the best interests of the
child;

(b) The record of the hearing or the statement of reasons
in the award is inadequate for the court to review the award; or

(c) A ground for vacating the award under subsection (1)
of this section exists.

(3) If an award is subject to vacation under subsection
(2)(a) of this section, on motion of a party, the court may amend
the award if amending rather than vacating is in the best
interests of the child.

(4) The court may determine a motion under subsection (2)
or (3) of this section based on the record of the arbitration
hearing and facts occurring after the hearing or may exercise
de novo review.

(5) A motion under this section to vacate or amend an
award must be filed not later than ninety-one days:
(a) After an arbitrator gives the party filing the motion notice of the award or a corrected award; or

(b) For a motion under subsection (1)(a) of this section, after the ground of corruption, fraud, or other undue means is known or by the exercise of reasonable care should have been known to the party filing the motion.

(6) If the court under this section vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. If the reason for vacating the award is that the award was procured by corruption, fraud, or other undue means or there was evident partiality, corruption, or misconduct by the arbitrator, the rehearing must be before another arbitrator.

(7) If the court under this section denies a motion to vacate or amend an award, the court may confirm the award under section 14-12.5-116 unless a motion is pending under section 14-12.5-118.

14-12.5-120. Clarification of confirmed award. If the meaning or effect of an award confirmed under section 14-12.5-116 is in dispute, the parties may:

(1) Agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

(2) Proceed in court under law of this state other than this article 12.5 governing clarification of a judgment in a family law proceeding.

14-12.5-121. Judgment on award. (1) On granting an order
CONFIRMING, VACATING WITHOUT DIRECTING A REHEARING, OR AMENDING
AN AWARD UNDER THIS ARTICLE 12.5, THE COURT SHALL ENTER JUDGMENT
IN CONFORMITY WITH THE ORDER.

(2) ON MOTION OF A PARTY, THE COURT MAY ORDER THAT A
DOCUMENT OR PART OF THE ARBITRATION RECORD BE SEALED OR
REDACTED TO PREVENT PUBLIC DISCLOSURE OF ALL OR PART OF THE
RECORD OR AWARD TO THE EXTENT PERMITTED UNDER LAW OF THIS STATE
OTHER THAN THIS ARTICLE 12.5.

14-12.5-122. Modification of confirmed award or judgment.

IF A PARTY REQUESTS UNDER LAW OF THIS STATE OTHER THAN THIS
ARTICLE 12.5 A MODIFICATION OF AN AWARD CONFIRMED UNDER SECTION
14-12.5-116 OR JUDGMENT ON THE AWARD BASED ON A FACT OCCURRING
AFTER CONFIRMATION:

(1) THE PARTIES SHALL PROCEED UNDER THE DISPUTE-RESOLUTION
METHOD SPECIFIED IN THE AWARD OR JUDGMENT; OR

(2) IF THE AWARD OR JUDGMENT DOES NOT SPECIFY A
DISPUTE-RESOLUTION METHOD, THE PARTIES MAY:

(a) AGREE TO ARBITRATE THE MODIFICATION BEFORE THE
ORIGINAL ARBITRATOR OR ANOTHER ARBITRATOR; OR

(b) ABSENT AGREEMENT PROCEED UNDER LAW OF THIS STATE
OTHER THAN THIS ARTICLE 12.5 GOVERNING MODIFICATION OF A
JUDGMENT IN A FAMILY LAW PROCEEDING.

14-12.5-123. Enforcement of confirmed award.

(1) THE COURT
SHALL ENFORCE AN AWARD CONFIRMED UNDER SECTION 14-12.5-116,
INCLUDING A TEMPORARY AWARD, IN THE MANNER AND TO THE SAME
EXENT AS ANY OTHER ORDER OR JUDGMENT OF A COURT.

(2) THE COURT SHALL ENFORCE AN ARBITRATION AWARD IN A
FAMILY LAW DISPUTE CONFIRMED BY A COURT IN ANOTHER STATE IN THE
MANNER AND TO THE SAME EXTENT AS ANY OTHER ORDER OR JUDGMENT
FROM ANOTHER STATE.

**14-12.5-124. Appeal.** (1) An appeal may be taken under this
article 12.5 from:

(a) An order denying a motion to compel arbitration;

(b) An order granting a motion to stay arbitration;

(c) An order confirming or denying confirmation of an
award;

(d) An order correcting an award;

(e) An order vacating an award without directing a
rehearing; or

(f) A final judgment.

(2) An appeal under this section may be taken as from an
order or a judgment in a civil action.

**14-12.5-125. Immunity of arbitrator.** (1) An arbitrator or
arbitration organization acting in that capacity in a family law
dispute is immune from civil liability to the same extent as a
judge of a court of this state acting in a judicial capacity.

(2) The immunity provided by this section supplements any
immunity under law of this state other than this article 12.5.

(3) An arbitrator’s failure to make a disclosure required
by section 14-12.5-109 does not cause the arbitrator to lose
immunity under this section.

(4) An arbitrator is not competent to testify, and may not
be required to produce records, in a judicial, administrative, or
similar proceeding about a statement, conduct, decision, or
RULING OCCURRING DURING AN ARBITRATION, TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY. THIS SUBSECTION (4) DOES NOT APPLY:

(a) TO THE EXTENT DISCLOSURE IS NECESSARY TO DETERMINE A CLAIM BY THE ARBITRATOR OR ARBITRATION ORGANIZATION AGAINST A PARTY TO THE ARBITRATION; OR

(b) TO A HEARING ON A MOTION UNDER SECTION 14-12.5-119 (1)(a) OR (1)(b) TO VACATE AN AWARD, IF THERE IS PRIMA FACIE EVIDENCE THAT A GROUND FOR VACATING THE AWARD EXISTS.

(5) IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN ARBITRATOR ARISING FROM THE SERVICES OF THE ARBITRATOR OR SEeks TO COMPEL THE ARBITRATOR TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF SUBSECTION (4) OF THIS SECTION AND THE COURT DETERMINES THAT THE ARBITRATOR IS IMMUNE FROM CIVIL LIABILITY OR IS NOT COMPETENT TO TESTIFY OR REQUIRED TO PRODUCE THE RECORDS, THE COURT SHALL AWARD THE ARBITRATOR REASONABLE ATTORNEY'S FEES, COSTS, AND REASONABLE EXPENSES OF LITIGATION.

14-12.5-126. Uniformity of application and construction. In applying and construing this Article 12.5, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

14-12.5-127. Relation to electronic signatures in global and national commerce act. This Article 12.5 modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. section 7001 et seq., but does not modify, limit, or supercede section 101 (c) of that act, 15 U.S.C. section 7001 (c), or authorize electronic delivery of any of the
NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SECTION 7003 (b).

14-12.5-128. Transitional provision. This article 12.5 applies to arbitration of a family law dispute under an arbitration agreement made on or after the effective date of this article 12.5. If an arbitration agreement was made before the effective date of this article 12.5, the parties may agree in a record that this article 12.5 applies to the arbitration.

14-12.5-129. Effective date. This article 12.5 takes effect January 1, 2018.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

<{{Need to review conforming amendments to section 14-10-128.5 and 14-10-128.3}}>
A BILL FOR AN ACT

Concerning adoption of the "Revised Uniform Unclaimed 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/billsummaries.)

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

SECTION 1. In Colorado Revised Statutes, repeal and reenact, with amendments, article 13 of title 38 as follows:

ARTICLE 13
Revised Uniform Unclaimed Property Act

PART 1
IN GENERAL

38-13-101. Short title. The short title of this article 13 is the "Revised Uniform Unclaimed Property Act".

38-13-102. Definitions. As used in this article 13, unless the context otherwise requires:

(1) "Administrator" means the state treasurer.

(2) "Administrator's agent" means a person with whom the administrator contracts to conduct an examination under part 10 of this article 13 on behalf of the administrator and an independent contractor of the person. The term includes each individual participating in the examination on behalf of the person or contractor.

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

(4) "Business association" means a for-profit or nonprofit corporation; joint stock company; investment company other than an investment company registered under the federal "Investment Company Act of 1940", as amended, 15 U.S.C. secs. 80a-1 to 80a-64; partnership; unincorporated association; joint

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VENTURE; LIMITED LIABILITY COMPANY; BUSINESS TRUST; TRUST
COMPANY; LAND BANK; SAFE DEPOSIT COMPANY; SAFEKEEPING
DEPOSITORY; FINANCIAL ORGANIZATION; INSURANCE COMPANY;
FEDERALLY CHARTERED ENTITY; UTILITY; SOLE PROPRIETORSHIP; OR
OTHER BUSINESS ENTITY.

(5) "CONFIDENTIAL INFORMATION" means confidential
information as defined in Section 38-13-1402.

(6) "DOMICILE" means:

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

(b) For a business association, other than a corporation,
whose formation requires a filing with a state, the state of its
filing;

(c) For a federally chartered entity or an investment
company registered under the federal "INVESTMENT COMPANY ACT
OF 1940", as amended, 15 U.S.C. SECS. 80a-1 TO 80a-64, THE STATE OF
ITS HOME OFFICE; AND

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

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

(8) "ELECTRONIC MAIL" means any communication of
information by electronic means that is automatically retained
and stored and may be readily accessed or retrieved.

(9) "FINANCIAL ORGANIZATION" means a savings and loan
association, building and loan association, savings bank,
industrial bank, bank, banking organization, or credit union.
(10) "GAME-RELATED DIGITAL CONTENT" MEANS DIGITAL CONTENT THAT EXISTS ONLY IN AN ELECTRONIC GAME OR ELECTRONIC-GAME PLATFORM. THE TERM:
(a) INCLUDES:
(I) GAME-PLAY CURRENCY SUCH AS A VIRTUAL WALLET, EVEN IF DENOMINATED IN UNITED STATES CURRENCY; AND
(II) THE FOLLOWING IF FOR USE OR REDEMPTION ONLY WITHIN THAT GAME OR PLATFORM OR ANOTHER ELECTRONIC GAME OR ELECTRONIC-GAME PLATFORM:
(A) POINTS SOMETIMES REFERRED TO AS GEMS, TOKENS, GOLD, AND SIMILAR NAMES; AND
(B) DIGITAL CODES; AND
(b) DOES NOT INCLUDE AN ITEM THAT THE ISSUER:
(I) PERMITS TO BE REDEEMED FOR USE OUTSIDE OF A GAME OR PLATFORM FOR:
(A) MONEY; OR
(B) GOODS OR SERVICES THAT HAVE MORE THAN MINIMAL VALUE; OR
(II) OTHERWISE MONETIZES FOR USE OUTSIDE OF A GAME OR PLATFORM.

(11) "GIFT CARD" MEANS:
(a) A STORED-VALUE CARD:
(I) THE VALUE OF WHICH DOES NOT EXPIRE;
(II) THAT MAY BE DECREASED IN VALUE ONLY BY REDEMPTION FOR MERCHANDISE, GOODS, OR SERVICES; AND
(III) THAT, UNLESS REQUIRED BY LAW, MAY NOT BE REDEEMED FOR OR CONVERTED INTO MONEY OR OTHERWISE MONETIZED BY THE
(b) includes a prepaid commercial mobile radio service, as defined in 47 CFR 20.3, as amended.

(12) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner property that is subject to this article 13.

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

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

(15) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral under Colorado law.

(16) "Mineral proceeds" means an amount payable for
EXTRACTION, PRODUCTION, OR SALE OF MINERALS OR, ON THE
ABANDONMENT OF THE AMOUNT, THE AMOUNT THAT BECOMES PAYABLE
AFTER ABANDONMENT. THE TERM INCLUDES AN AMOUNT PAYABLE:
(a) FOR THE ACQUISITION AND RETENTION OF A MINERAL LEASE,
INCLUDING A BONUS, ROYALTY, COMPENSATORY ROYALTY, SHUT-IN
ROYALTY, MINIMUM ROYALTY, AND DELAY RENTAL;
(b) FOR THE EXTRACTION, PRODUCTION, OR SALE OF MINERALS,
INCLUDING A NET REVENUE INTEREST, ROYALTY, OVERRIDING ROYALTY,
EXTRACTION PAYMENT, AND PRODUCTION PAYMENT; AND
(c) UNDER AN AGREEMENT OR OPTION, INCLUDING A JOINT
OPERATING AGREEMENT, UNIT AGREEMENT, POOLING AGREEMENT, AND
FARM-OUT AGREEMENT.

(17) "MONEY ORDER" MEANS A PAYMENT ORDER FOR A SPECIFIED
AMOUNT OF MONEY AND INCLUDES AN EXPRESS MONEY ORDER AND A
PERSONAL MONEY ORDER ON WHICH THE REMITTER IS THE PURCHASER.

(18) "MUNICIPAL BOND" MEANS A BOND OR EVIDENCE OF
INDEBTEDNESS ISSUED BY A MUNICIPALITY OR OTHER POLITICAL
SUBDIVISION OF A STATE.

(19) "NET CARD VALUE" MEANS THE ORIGINAL PURCHASE PRICE OR
ORIGINAL ISSUED VALUE OF A STORED-VALUE CARD, PLUS AMOUNTS
ADDED TO ITS ORIGINAL VALUE AND MINUS AMOUNTS USED AND ANY
SERVICE CHARGE, FEE, OR DORMANCY CHARGE PERMITTED BY LAW.

(20) "NON-FREELY TRANSFERABLE SECURITY" MEANS A SECURITY
THAT CANNOT BE DELIVERED TO THE ADMINISTRATOR BY THE DEPOSITORY
TRUST CLEARING CORPORATION OR A SIMILAR CUSTODIAN OF SECURITIES
PROVIDING POST-TRADE CLEARING AND SETTLEMENT SERVICES TO
FINANCIAL MARKETS OR CANNOT BE DELIVERED BECAUSE THERE IS NO
AGENT TO EFFECT TRANSFER. THE TERM INCLUDES A WORTHLESS SECURITY.

(21) "OWNER" MEANS A PERSON THAT HAS A LEGAL, BENEFICIAL, OR EQUITABLE INTEREST IN PROPERTY SUBJECT TO THIS ARTICLE 13 OR THE PERSON'S LEGAL REPRESENTATIVE WHEN ACTING ON BEHALF OF THE OWNER. THE TERM INCLUDES:

(a) A DEPOSITOR, FOR A DEPOSIT;
(b) A BENEFICIARY, FOR A TRUST OTHER THAN A DEPOSIT IN TRUST;
(c) A CREDITOR, CLAIMANT, OR PAYEE, FOR OTHER PROPERTY; AND
(d) THE LAWFUL BEARER OF A RECORD THAT MAY BE USED TO OBTAIN MONEY, A REWARD, OR A THING OF VALUE.

(22) "PAYROLL CARD" MEANS A RECORD THAT EVIDENCES A PAYROLL-CARD ACCOUNT AS DEFINED IN REGULATION E, 12 CFR PART 1005, AS AMENDED.

(23) "PERSON" MEANS AN INDIVIDUAL; ESTATE; BUSINESS ASSOCIATION; PUBLIC CORPORATION; GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER LEGAL ENTITY.

(24) "PROPERTY" MEANS TANGIBLE PROPERTY DESCRIBED IN SECTION 38-13-205 OR A FIXED AND CERTAIN INTEREST IN INTANGIBLE PROPERTY HELD, ISSUED, OR OWED IN THE COURSE OF A HOLDER'S BUSINESS OR BY A GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY. THE TERM:

(a) INCLUDES ALL INCOME FROM OR INCREMENTS TO THE PROPERTY;
(b) INCLUDES PROPERTY REFERRED TO AS OR EVIDENCED BY:
   (I) MONEY, VIRTUAL CURRENCY, INTEREST, DIVIDEND, A CHECK, DRAFT, DEPOSIT, OR PAYROLL CARD;
(II) A CREDIT BALANCE, CUSTOMER'S OVERPAYMENT, STORED-VALUE CARD, SECURITY DEPOSIT, REFUND, CREDIT MEMORANDUM, UNPAID WAGE, UNUSED TICKET FOR WHICH THE ISSUER HAS AN OBLIGATION TO PROVIDE A REFUND, MINERAL PROCEEDS, OR UNIDENTIFIED REMITTANCE;

(III) A SECURITY EXCEPT FOR:

(A) A WORTHLESS SECURITY; OR

(B) A SECURITY THAT IS SUBJECT TO A LIEN, LEGAL HOLD, OR RESTRICTION EVIDENCED ON THE RECORDS OF THE HOLDER OR IMPOSED BY OPERATION OF LAW, THAT RESTRICTS THE HOLDER'S OR OWNER'S ABILITY LAWFULLY TO RECEIVE, TRANSFER, SELL, OR OTHERWISE NEGOTIATE THE SECURITY;

(IV) A BOND, DEBENTURE, NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS;

(V) MONEY DEPOSITED TO REDEEM A SECURITY, MAKE A DISTRIBUTION, OR PAY A DIVIDEND;

(VI) AN AMOUNT DUE AND PAYABLE UNDER THE TERMS OF AN ANNUITY CONTRACT OR INSURANCE POLICY; AND

(VII) AN AMOUNT DISTRIBUTABLE FROM A TRUST OR CUSTODIAL FUND ESTABLISHED UNDER A PLAN TO PROVIDE HEALTH, WELFARE, PENSION, VACATION, SEVERANCE, RETIREMENT, DEATH, STOCK PURCHASE, PROFIT-SHARING, EMPLOYEE-SAVINGS, SUPPLEMENTAL-UNEMPLOYMENT INSURANCE, OR SIMILAR BENEFITS; AND

(c) DOES NOT INCLUDE:

(I) GAME-RELATED DIGITAL CONTENT; [OR]

(II) A LOYALTY CARD.; [OR]

[(III) AN IN-STORE CREDIT FOR RETURNED MERCHANDISE][;][OR]

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(IV) A GIFT CARD.

(25) "PUTATIVE HOLDER" MEANS A PERSON BELIEVED BY THE ADMINISTRATOR TO BE A HOLDER, UNTIL THE PERSON PAYS OR DELIVERS TO THE ADMINISTRATOR PROPERTY SUBJECT TO THIS ARTICLE 13 OR A FINAL DETERMINATION IS MADE THAT THE PERSON IS A HOLDER.

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

(27) "SECURITY" MEANS:

(a) A SECURITY AS DEFINED IN SECTION 4-8-102 (15); OR

(b) A SECURITY ENTITLEMENT AS DEFINED IN SECTION 4-8-102 (17), INCLUDING A CUSTOMER SECURITY ACCOUNT HELD BY A REGISTERED BROKER-DEALER TO THE EXTENT THAT THE FINANCIAL ASSETS HELD IN THE SECURITY ACCOUNT ARE NEITHER REGISTERED ON THE BOOKS OF THE ISSUER IN THE NAME OF, NOR ARE PAYABLE TO THE ORDER OF NOR SPECIFICALLY INDORSED TO, THE PERSON FOR WHICH THE BROKER-DEALER HOLDS THE ASSETS.

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

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

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

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

(30) "STORED-VALUE CARD":

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(a) MEANS A RECORD EVIDENCING A PROMISE MADE FOR CONSIDERATION BY THE SELLER OR ISSUER OF THE RECORD THAT GOODS, SERVICES, OR MONEY WILL BE PROVIDED TO THE OWNER OF THE RECORD TO THE VALUE OR AMOUNT SHOWN IN THE RECORD;

(b) INCLUDES:

(I) A RECORD THAT CONTAINS OR CONSISTS OF A MICROPROCESSOR CHIP, MAGNETIC STRIP, OR OTHER MEANS FOR THE STORAGE OF INFORMATION, THAT IS PREFUNDED AND WHOSE VALUE OR AMOUNT IS DECREASED ON EACH USE AND INCREASED BY PAYMENT OF ADDITIONAL CONSIDERATION; AND

(II) [A GIFT CARD AND] A PAYROLL CARD; AND

(c) DOES NOT INCLUDE A LOYALTY CARD[, GIFT CARD,] OR GAME-RELATED DIGITAL CONTENT.

(31) "UTILITY" MEANS A PERSON THAT OWNS OR OPERATES FOR PUBLIC USE A PLANT, EQUIPMENT, REAL PROPERTY, FRANCHISE, OR LICENSE FOR THE FOLLOWING PUBLIC SERVICES:

(a) TRANSMISSION OF COMMUNICATIONS OR INFORMATION;

(b) PRODUCTION, STORAGE, TRANSMISSION, SALE, DELIVERY, OR FURNISHING OF ELECTRICITY, WATER, STEAM, OR GAS; OR

(c) PROVISION OF SEWAGE AND SEPTIC SERVICES OR TRASH, GARBAGE, OR RECYCLING DISPOSAL.

(32) "VIRTUAL CURRENCY" MEANS A DIGITAL REPRESENTATION OF VALUE USED AS A MEDIUM OF EXCHANGE, UNIT OF ACCOUNT, OR A STORE OF VALUE, BUT DOES NOT HAVE LEGAL TENDER STATUS AS RECOGNIZED BY THE UNITED STATES. THE TERM DOES NOT INCLUDE:

(a) THE SOFTWARE OR PROTOCOLS GOVERNING THE TRANSFER OF THE DIGITAL REPRESENTATION OF VALUE;
(b) GAME-RELATED DIGITAL CONTENT; OR

(c) A LOYALTY CARD[ OR GIFT CARD].

(33) "WORTHLESS SECURITY" MEANS A SECURITY WHOSE COST OF LIQUIDATION AND DELIVERY WOULD EXCEED THE VALUE OF THE SECURITY ON THE DATE A REPORT IS DUE UNDER THIS ARTICLE 13.

38-13-103. Inapplicability to wholly foreign transaction. THIS ARTICLE 13 DOES NOT APPLY TO PROPERTY HELD, DUE, AND OWING IN A FOREIGN COUNTRY IF THE TRANSACTION INVOLVING THE PROPERTY WAS A WHOLLY FOREIGN TRANSACTION.


PART 2

PRESUMPTION OF ABANDONMENT

38-13-201. When property presumed abandoned. (1) SUBJECT TO SECTION 38-13-210, PROPERTY IS PRESUMED ABANDONED IF IT IS UNCLAIMED BY THE APPARENT OWNER AT THE TIME SPECIFIED FOR THE FOLLOWING PROPERTY:

(a) A TRAVELER'S CHECK, FIFTEEN YEARS AFTER ISSUANCE;

(b) A MONEY ORDER, SEVEN YEARS AFTER ISSUANCE;

(c) A STATE OR MUNICIPAL BOND, A BEARER BOND, OR AN ORIGINAL-ISSUE-DISCOUNT BOND, THREE YEARS AFTER THE EARLIEST OF THE DATE THE BOND MATURES OR IS CALLED OR THE OBLIGATION TO PAY THE PRINCIPAL OF THE BOND ARISES;

(d) A DEBT OF A BUSINESS ASSOCIATION, THREE YEARS AFTER THE OBLIGATION TO PAY ARISES;

(e) A PAYROLL CARD OR DEMAND, SAVINGS, OR TIME DEPOSIT,
INCLUDING A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE, THREE
YEARS AFTER THE EARLIER OF MATURITY OR THE DATE OF THE LAST
INDICATION OF INTEREST IN THE PROPERTY BY THE APPARENT OWNER;
EXCEPT THAT A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE IS DEEMED
MATUR ED ON ITS INITIAL DATE OF MATURITY UNLESS THE APPARENT
OWNER CONSENTED IN A RECORD ON FILE WITH THE HOLDER TO A
RENEWAL AT OR ABOUT THE TIME OF THE RENEWAL;

(f) Money or credits owed to a customer as a result of a
retail business transaction, [other than in-store credit for
returned merchandise,] three years after the obligation arose;

(g) An amount owed by an insurance company on a life or
endowment insurance policy or an annuity contract that has
matured or terminated, three years after the obligation to pay
arose under the terms of the policy or contract or, if a policy or
contract for which an amount is owed on proof of death has not
matured by proof of the death of the insured or annuitant, three
years after the earlier of the date:

(I) The insurance company has knowledge of the death of
the insured or annuitant; or

(II) The insured has attained, or would have attained if
living, the limiting age under the mortality table on which the
reserve for the policy or contract is based;

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

(i) Property held by a court, including property received
as proceeds of a class action, one year after the property
BECOMES DISTRIBUTABLE;

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

(k) Wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one year after the amount becomes payable;

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

(m) All other property not specified in this section or sections 38-13-202 to 38-13-208 [*207?*], the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

38-13-202. When tax-deferred retirement or health-savings account presumed abandoned. (1) Subject to section 38-13-210, property held in a pension account, retirement account, or health-savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the later of:

(a) The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service, but if the second communication is sent
LATER THAN THIRTY DAYS AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS RETURNED UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

(b) The earlier of:

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

(II) If the federal "Internal Revenue Code of 1986", as amended, 26 U.S.C. sec. 1 et seq., requires distribution, two years after the date the holder in the ordinary course of its business receives confirmation of the death of the apparent owner.

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

(3) If the apparent owner of an account described in subsection (1) of this section does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property. If the holder receives notification that the electronic-mail communication was not received or if the apparent owner does not respond to the electronic-mail communication not later than thirty days after the communication was sent, the holder promptly shall
ATTEMPT TO CONTACT THE APPARENT OWNER BY FIRST-CLASS UNITED STATES MAIL. IF THE MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL SERVICE, THE PROPERTY IS PRESUMED ABANDONED THREE YEARS AFTER THE LATER OF:

(a) THE DATE A SECOND CONSECUTIVE COMMUNICATION TO CONTACT THE APPARENT OWNER SENT BY FIRST-CLASS UNITED STATES MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL SERVICE, BUT IF THE SECOND COMMUNICATION IS SENT LATER THAN THIRTY DAYS AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS RETURNED UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

(b) THE DATE ESTABLISHED BY SUBSECTION (1)(b) OF THIS SECTION.


(a) THE DATE, IF DETERMINABLE BY THE HOLDER, SPECIFIED IN THE INCOME TAX LAWS AND REGULATIONS OF THE UNITED STATES BY WHICH DISTRIBUTION OF THE PROPERTY MUST BEGIN TO AVOID A TAX PENALTY, WITH NO DISTRIBUTION HAVING BEEN MADE; OR

(b) THIRTY YEARS AFTER THE DATE THE ACCOUNT WAS OPENED.

38-13-204. When custodial account for minor presumed
abandoned. (1) Subject to section 38-13-210, property held in an
account established under the "Colorado Uniform Transfers to
Minors Act", article 50 of title 11, is presumed abandoned if it is
unclaimed by or on behalf of the minor on whose behalf the
account was opened three years after the later of:

   (a) The date a second consecutive communication sent by
the holder by first-class United States mail to the custodian of
the minor on whose behalf the account was opened is returned
undelivered to the holder by the United States postal service,
but if the second communication is sent later than thirty days
after the date the first communication is returned undelivered,
the date the first communication was returned undelivered by
the United States postal service; or

   (b) The date on which the minor on whose behalf the
account was opened reaches the statutory age of majority in
accordance with the "Colorado Uniform Transfers to Minors
Act", article 50 of title 11.

(2) If the custodian of the minor on whose behalf an
account described in subsection (1) of this section was opened
does not receive communications from the holder by first-class
United States mail, the holder shall attempt to confirm the
custodian's interest in the property by sending the custodian an
electronic-mail communication not later than two years after
the custodian's last indication of interest in the property. If the
holder receives notification that the electronic-mail
communication was not received or if the custodian does not
respond to the electronic-mail communication not later than
THIRTY DAYS AFTER THE COMMUNICATION WAS SENT, THE HOLDER PROMPTLY SHALL ATTEMPT TO CONTACT THE CUSTODIAN BY FIRST-CLASS UNITED STATES MAIL. IF THE MAIL IS RETURNED UNDELIVERED TO THE HOLDER BY THE UNITED STATES POSTAL SERVICE, THE PROPERTY IS PRESUMED ABANDONED THREE YEARS AFTER THE LATER OF:

(a) THE DATE A SECOND CONSECUTIVE COMMUNICATION TO CONTACT THE CUSTODIAN BY FIRST-CLASS UNITED STATES MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

(b) THE DATE ESTABLISHED BY SUBSECTION (1)(b) OF THIS SECTION.

(3) WHEN THE MINOR ON WHOSE BEHALF AN ACCOUNT DESCRIBED IN SUBSECTION (1) OF THIS SECTION REACHES THE AGE REQUIRED FOR TRANSFER TO A MINOR OF CUSTODIAL PROPERTY UNDER APPLICABLE LAW, THE PROPERTY IN THE ACCOUNT IS NO LONGER SUBJECT TO THIS SECTION.

38-13-205. When contents of safe-deposit box presumed abandoned. (1) Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this article 13 are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

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

(b) Earliest date when the lessor of the box is authorized by law of this state other than this article 13 to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

38-13-206. When stored-value card presumed abandoned.
(1) Subject to section 38-13-210, a stored-value card other than a payroll card [or a gift card] is presumed abandoned on the latest of three years after:

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

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

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

(2) The amount abandoned by the owner in a stored-value card is the net card value at the time it is presumed abandoned.

[38-13-207. When gift card presumed abandoned. Subject to section 38-13-210, a gift card is presumed abandoned if it is unclaimed by the apparent owner five years after the later of the date of purchase or its most recent use.]

38-13-208. When security presumed abandoned. (1) Subject to section 38-13-210, a security is presumed abandoned three years after:

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

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

(2) If the apparent owner of a security does not receive
COMMUNICATIONS FROM THE HOLDER BY FIRST-CLASS UNITED STATES MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S INTEREST IN THE SECURITY BY SENDING THE APPARENT OWNER AN ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN TWO YEARS AFTER THE APPARENT OWNER'S LAST INDICATION OF INTEREST IN THE SECURITY.

IF THE HOLDER RECEIVES NOTIFICATION THAT THE ELECTRONIC-MAIL COMMUNICATION WAS NOT RECEIVED OR IF THE APPARENT OWNER DOES NOT RESPOND TO THE ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN THIRTY DAYS AFTER THE COMMUNICATION WAS SENT, THE HOLDER PROMPTLY SHALL ATTEMPT TO CONTACT THE APPARENT OWNER BY FIRST-CLASS UNITED STATES MAIL. IF THE MAIL IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL SERVICE, THE SECURITY IS PRESUMED ABANDONED THREE YEARS AFTER THE DATE THE MAIL IS RETURNED.

38-13-209. When related property interest presumed abandoned. At the time an interest is presumed abandoned under this article 13, any other property right accrued or accruing to the apparent owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

38-13-210. Indication of apparent owner interest in property.

(1) Property is not presumed abandoned if the apparent owner indicates an interest in the property during the applicable periods in this part 2.

(2) Under this article 13, an indication of an apparent owner's interest in property includes:

   (a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the
ACCOUNT IN WHICH THE PROPERTY IS HELD;

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

(c) Presentation of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an:

(I) Account;

(II) Underlying security; or

(III) Interest in a business association;

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

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

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

(g) Any other action by the apparent owner that reasonably demonstrates to the holder that the apparent owner is aware that the property exists.
(3) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

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

(5) Application of an automatic-premium-loan provision or other nonforfeiture provision contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

38-13-211. Knowledge of death of insured or annuitant. (1) In this section, "death master file" means the United States Social Security Administration's death master file or other database or service that is at least as comprehensive as the United States Social Security Administration's death master file for determining that a person reportedly has died.

(2) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but that has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:
(a) The company receives a death certificate or a court order determining that the insured or annuitant has died;

(b) Due diligence performed as required under Colorado law to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, results in validation of the death of the insured or annuitant;

(c) A comparison is conducted by the company for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, a match is found providing notice that the insured or annuitant has died and the company validates the death;

(d) A comparison is conducted by the administrator or the administrator's agent for the purpose of finding matches during an examination conducted under Part 10 of this Article 13 between a death master file and the names of some or all of the company's insureds or annuitants, a match is found providing notice that the insured or annuitant has died and the company validates the death; or

(e) The company:

(I) Receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a [personal representative], [executor], or other legal representative of the insured's or annuitant's estate; and

(II) Validates the death of the insured or annuitant.

(3) The following rules apply to a death-master-file comparison under subsections (2)(c) and (2)(d) of this section:
(a) A death-master-file match occurs if the criteria for an exact or partial match are satisfied as provided by:

(I) A law of this State other than this Article 13;

(II) A rule or policy adopted by the commissioner of insurance; or

(III) Absent a law, rule, or policy, under subsection (1) or (2) of this section, standards in the National Conference of Insurance Legislators' "Model Unclaimed Life Insurance Benefits Act" as published in 2014;

(b) A death-master-file match does not constitute proof of death for purposes of submission of a claim by a beneficiary, annuitant, or owner of the policy or contract to an insurance company for amounts due under an insurance policy or annuity contract;

(c) A death-master-file match under either subsection (2)(c) or (2)(d) of this section or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract; and

(d) Absent a provision in title 10 or rules of the commissioner of insurance that establish a time for the validation of a death of an insured or annuitant, the insurance company shall make a good-faith effort using other available records and information to validate the death and document the effort taken not later than ninety days after the insurance 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.

PART 3

RULES FOR TAKING CUSTODY OF

ABANDONED PROPERTY

38-13-301. Address of apparent owner to establish priority.

(1) In this part 3:

(a) The last-known address of an apparent owner is any
description, code, or other indication of the location of the
apparent owner that identifies the state, regardless of whether
the description, code, or indication of location is sufficient to
direct the delivery of first-class United States mail to the
apparent owner;
(b) If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last-known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in a different state;

(c) If the address under subsection (1)(b) of this section is in a different state, the different state is deemed to be the state of the last-known address of the apparent owner; and

(d) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under Section 38-13-302.

38-13-302. Address of apparent owner in this state. (1) The administrator may take custody of property that is presumed abandoned, whether located in this state or another state, or in a foreign country if:

(a) The last-known address of the apparent owner, as shown on the records of the holder, is in this state; or

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

38-13-303. When records show multiple addresses of apparent
owner. (1) Except as otherwise provided in subsection (2) of this section, if records of a holder reflect multiple addresses for an apparent owner and if this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.

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

38-13-304. Holder domiciled in this state. (1) Except as otherwise provided in subsection (2) of this section or in section 38-13-302 or 38-13-303, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is the state or a governmental subdivision, agency, or instrumentality of this state, and:

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

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

(2) The property is not subject to the custody of the
ADMINISTRATOR UNDER SUBSECTION (1) OF THIS SECTION IF:

(a) The property is specifically exempt from custodial taking under the law of the state or foreign country of the last-known address of the apparent owner; or

(b) The property is specifically exempt from custodial taking under the law of this state.

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

38-13-305. Custody if transaction occurred in this state.

(1) Except as otherwise provided in sections 38-13-302, 38-13-303, and 38-13-304, the administrator may take custody of property presumed abandoned whether located in this or another state if:

(a) The transaction involving the property occurred in this state;

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

(c) The last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property; except that, if the property is specifically exempt from custodial taking.
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.

38-13-306. Traveler's check, money order, or similar instrument. The administrator may take custody of sums payable
on a traveler's check, money order, or similar instrument
presumed abandoned to the extent permissible under [12 U.S.C.
secs. 2501 to 2503, as amended] [federal law].

38-13-307. Burden of proof to establish administrator's right
to custody. (1) When an administrator asserts a right to custody
of unclaimed property, the administrator has the burden to
prove:
   (a) The existence and amount of the property;
   (b) That the property is presumed abandoned; and
   (c) That the property is subject to the custody of the
   administrator.

PART 4
REPORT BY HOLDER

38-13-401. Report required by holder. (1) A holder of
property presumed abandoned and subject to the custody of the
administrator shall report in a record to the administrator
concerning the property. The administrator shall not require a
holder to file a paper report.

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

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

   (a) Responsible to the administrator for the complete,
ACCRUATE, AND TIMELY REPORTING OF PROPERTY PRESUMED ABANDONED; AND

(b) RESPONSIBLE FOR PAYING OR DELIVERING TO THE ADMINISTRATOR PROPERTY DESCRIBED IN THE REPORT FILED UNDER THIS SECTION.

38-13-402. Content of report. (1) THE REPORT REQUIRED UNDER SECTION 38-13-401 MUST:

(a) BE SIGNED BY OR ON BEHALF OF THE HOLDER AND VERIFIED AS TO ITS COMPLETENESS AND ACCURACY;

(b) IF FILED ELECTRONICALLY, BE IN A SECURE FORMAT APPROVED BY THE ADMINISTRATOR THAT PROTECTS CONFIDENTIAL INFORMATION OF THE APPARENT OWNER IN THE SAME MANNER AS REQUIRED OF THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT UNDER PART 14 OF THIS ARTICLE 13;

(c) DESCRIBE THE PROPERTY;

(d) EXCEPT FOR A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR INSTRUMENT, CONTAIN THE NAME, IF KNOWN; LAST-KNOWN ADDRESS, IF KNOWN; AND SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION NUMBER, IF KNOWN OR READILY ASCERTAINABLE, OF THE APPARENT OWNER OF PROPERTY WITH A VALUE OF [FIFTY DOLLARS] OR MORE;

(e) IN THE CASE OF AN AMOUNT HELD OR OWING UNDER A LIFE OR ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT, CONTAIN THE FULL NAME AND LAST-KNOWN ADDRESS OF THE INSURED, ANNUITANT, OR OTHER APPARENT OWNER OF THE POLICY OR CONTRACT AND OF THE BENEFICIARY;

(f) IN THE CASE OF PROPERTY HELD IN OR REMOVED FROM A SAFE-DEPOSIT BOX, INDICATE THE LOCATION OF THE PROPERTY, WHERE IT
MAY BE INSPECTED BY THE ADMINISTRATOR, AND ANY AMOUNTS OWED TO
THE HOLDER UNDER SECTION 38-13-606;

(g) Contain the commencement date for determining
abandonment under Part 2 of this Article 13;

(h) State that the holder has complied with the notice
requirements of Section 38-13-501;

(i) Identify property that is a non-freely transferable
security, and explain why it is a non-freely transferable
security; and

(j) Contain other information the administrator
prescribes by rules necessary for the administrator.

(2) A report under Section 38-13-401 may include in the
aggregate items valued under [fifty dollars] each. If the report
includes items in the aggregate valued under [fifty dollars]
each, the administrator shall not require the holder to provide
the name and address of an apparent owner of an item unless the
information is necessary to verify or process a claim in progress
by the apparent owner.

(3) A report under Section 38-13-401 may include personal
information as defined in Section 38-13-1402 (1)(c) about the
apparent owner or the apparent owner's property to the extent
not otherwise prohibited by federal law.

(4) If a holder has changed its name while holding
property presumed abandoned or is a successor to another
person that previously held the property for the apparent
owner, the holder shall include in the report under Section
38-13-401 its former name or the name of the previous holder, if
ANY, AND THE KNOWN NAME AND ADDRESS OF EACH PREVIOUS HOLDER OF THE PROPERTY.

38-13-403. When report to be filed. (1) Except as otherwise provided in subsection (2) of this section and subject to subsection (3) of this section, the report under section 38-13-401 must be filed before November 1 of each year and cover the twelve months preceding July 1 of that year.

(2) Subject to subsection (3) of this section, the report required to be filed by an insurance company under section 38-13-401 must be filed before May 1 of each year for the immediately preceding calendar year.

(3) Before the date for filing the report under section 38-13-401, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension for good cause. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

38-13-404. Retention of records by holder. (1) A holder required to file a report under section 38-13-401 shall retain records for ten years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator. A holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

(a) The information required to be included in the report;
(b) The date, place, and nature of the circumstances that gave rise to the property right;

(c) The amount or value of the property;

(d) The last address of the apparent owner, if known to the holder; and

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

38-13-405. When property reportable and payable or deliverable. Property is reportable and payable or deliverable under this article 13 even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

PART 5

NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED

38-13-501. Notice to apparent owner by holder. (1) Subject to subsection (2) of this section, the holder of property presumed abandoned shall send to the apparent owner notice that complies with section 38-13-502 in a format acceptable to the administrator, by first-class United States mail, not more than one hundred eighty days nor less than sixty days before filing the report under section 38-13-401 if the:

(a) Holder has in its records an address for the apparent
OWNER SUFFICIENT TO DIRECT THE DELIVERY OF FIRST-CLASS UNITED STATES MAIL TO THE APPARENT OWNER THAT THE HOLDER'S RECORDS DO NOT DISCLOSE TO BE INVALID; AND

(b) Value of the property is [fifty dollars] or more.

(2) If an apparent owner has consented to receive electronic-mail delivery from the holder, the holder shall send the notice described in subsection (1) of this section both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder has reason to believe that the apparent owner's electronic-mail address is not valid.

38-13-502. Contents of notice by holder. (1) The notice under section 38-13-501 must contain a heading that reads substantially as follows: "Notice. The State of Colorado requires us to notify you that your property may be transferred to the custody of the state treasurer if you do not contact us before [insert date that is thirty days after the date of this notice]."

(2) The notice under section 38-13-501 must:

(a) State that the property will be turned over to the administrator;

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

(c) Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
(d) State that property that is not legal tender of the United States may be sold by the administrator; and

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

38-13-503. Notice to apparent owner by administrator.

(1) The administrator shall give notice to an apparent owner that property that is presumed abandoned and appears to be owned by the apparent owner is held by the administrator under this article 13.

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

(a) Except as otherwise provided in subsection (2)(b) of this section, send written notice by first-class United States mail to each apparent owner of property valued at [fifty dollars] or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic-mail address of the apparent owner is known to the administrator instead of by first-class United States mail;

(b) Send the notice to the apparent owner’s electronic-mail address if the administrator does not have a valid United States mail address for an apparent owner, but has an electronic-mail address that the administrator does not
KNOW TO BE INVALID;

(c) Publish every [six] months in at least one newspaper of general circulation in this state notice of property held by the administrator, which notice must include:

(I) The total value of property received by the administrator during the preceding [six]-month period, taken from the reports under section 38-13-401;

(II) The total value of claims paid by the administrator during the preceding [six]-month period;

(III) The internet web address of the unclaimed property website maintained by the administrator;

(IV) A telephone number and electronic-mail address to contact the administrator to inquire about or claim property; and

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

(d) Maintain a website or database accessible by the public and electronically searchable that contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator.

(3) The website or database maintained under subsection (2)(d) of this section must include instructions for filing with the administrator a claim to property and a printable claim form with instructions for its use.

(4) In addition to giving notice under subsection (2) of this
SECTION, THE ADMINISTRATOR MAY USE PRINTED PUBLICATION, TELECOMMUNICATION, THE INTERNET, OR OTHER MEDIA TO INFORM THE PUBLIC OF THE EXISTENCE OF UNCLAIMED PROPERTY HELD BY THE ADMINISTRATOR.

38-13-504. Cooperation among agencies to locate apparent owner. Unless prohibited by law of this state other than this article 13, on request of the Administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the Administrator and cooperate with the Administrator to determine the current address of an apparent owner of property held by the Administrator under this article 13.

PART 6

TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

38-13-601. Definition of good faith. (1) In this part 6, payment or delivery of property is made in good faith if a holder:

(a) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the Administrator under this article 13; or

(b) made payment or delivery:

(I) in response to a demand by the Administrator or Administrator's agent; or

(II) pursuant to a guidance or ruling issued by the administrator that the holder reasonably believed required or
PERMITTED THE PROPERTY TO BE PAID OR DELIVERED.

38-13-602. Dormancy charge. (1) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

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

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

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

38-13-603. Payment or delivery of property to administrator.

(1) Except as otherwise provided in this section, on filing a report under section 38-13-401, the holder shall pay or deliver to the administrator the property described in the report.

(2) If property in a report under section 38-13-401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.
(3) Tangible property held in a safe-deposit box shall not be delivered to the administrator until [one hundred twenty] days after filing the report under section 38-13-401.

(4) If property reported to the administrator under section 38-13-401 is a security, the administrator may:

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

   (b) Dispose of the security under section 38-13-702.

(5) If the holder of property reported to the administrator under section 38-13-401 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under section 4-8-405. An indemnity bond is not required.

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

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

(8) A holder is not required to deliver to the administrator a security identified by the holder as a
NON-FREELY TRANSFERABLE SECURITY. UPON DETERMINATION BY THE
ADMINISTRATOR OR THE HOLDER THAT A SECURITY IS NO LONGER A
NON-FREELY TRANSFERABLE SECURITY, THE SECURITY SHALL BE
SUBSEQUENTLY REMITTED ON THE NEXT REGULAR DATE PRESCRIBED FOR
DELIVERY OF SECURITIES PURSUANT TO THIS ARTICLE 13. THE HOLDER
SHALL MAKE A DETERMINATION ANNUALLY WHETHER A SECURITY
IDENTIFIED IN A REPORT FILED UNDER SECTION 38-13-401 AS A
NON-FREELY TRANSFERABLE SECURITY IS NO LONGER A NON-FREELY
TRANSFERABLE SECURITY.

38-13-604. Effect of payment or delivery of property to
administrator. (1) ON PAYMENT OR DELIVERY OF PROPERTY TO THE
ADMINISTRATOR UNDER THIS ARTICLE 13, THE ADMINISTRATOR AS AGENT
FOR THE STATE ASSUMES CUSTODY AND RESPONSIBILITY FOR THE
SAFEKEEPING OF THE PROPERTY. A HOLDER THAT PAYS OR DELIVERS
PROPERTY TO THE ADMINISTRATOR IN GOOD FAITH AND WHO HAS
SUBSTANTIALLY COMPLIED WITH SECTIONS 38-13-501 AND 38-13-502 IS
RELIEVED OF LIABILITY ARISING THEREAFTER WITH RESPECT TO PAYMENT
AND DELIVERY OF THE PROPERTY TO THE ADMINISTRATOR.

(2) THIS STATE SHALL DEFEND AND INDEMNIFY A HOLDER AGAINST
LIABILITY ON A CLAIM AGAINST THE HOLDER RESULTING FROM THE
PAYMENT OR DELIVERY OF PROPERTY TO THE ADMINISTRATOR MADE IN
GOOD FAITH AND AFTER THE HOLDER HAS SUBSTANTIALLY COMPLIED WITH

38-13-605. Recovery of property by holder from
administrator. (1) A HOLDER THAT PAYS MONEY TO THE
ADMINISTRATOR UNDER THIS ARTICLE 13 MAY CLAIM REIMBURSEMENT
FROM THE ADMINISTRATOR OF THE AMOUNT PAID IF THE HOLDER:
1 (a) Paid the money in error; or
2
3 (b) After paying the money to the administrator, paid the
4 money to a person the holder reasonably believed to be entitled
5 to the money.

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

3 (3) If a holder is reimbursed by the administrator under
4 subsection (1)(b) of this section, the holder may also recover
5 from the administrator dividends, interest, or other increments
6 under section 38-13-607 that would have been paid to the owner
7 if the money had been claimed from the administrator by the
8 owner to the extent the increment was paid by the holder to the
9 owner.

4 (4) A holder that delivers property other than money to
5 the administrator under this article 13 may claim the property
6 in the possession of the administrator by filing a claim under
7 section 38-13-903, together with evidence sufficient to establish
8 that the apparent owner has claimed the property from the
HOLDER OR THAT THE PROPERTY WAS DELIVERED BY THE HOLDER TO THE ADMINISTRATOR IN ERROR.

(5) THE ADMINISTRATOR MAY DETERMINE THAT AN AFFIDAVIT SUBMITTED BY A HOLDER IS EVIDENCE SUFFICIENT TO ESTABLISH THAT THE HOLDER IS ENTITLED TO REIMBURSEMENT OR TO RECOVER PROPERTY UNDER THIS SECTION.

(6) A HOLDER IS NOT REQUIRED TO PAY A FEE OR OTHER CHARGE FOR REIMBURSEMENT OR RETURN OF PROPERTY UNDER THIS SECTION.

(7) NOT LATER THAN NINETY DAYS AFTER RECEIVING A CLAIM FROM A HOLDER UNDER SUBSECTION (1) OR (3) OF THIS SECTION, THE ADMINISTRATOR SHALL DETERMINE WHETHER TO APPROVE OR DENY THE CLAIM AND ADVISE THE HOLDER IN A RECORD OF THE ADMINISTRATOR'S DETERMINATION.

(8) NOT LATER THAN THIRTY DAYS AFTER RECEIVING THE ADMINISTRATOR'S DETERMINATION UNDER SUBSECTION (7) OF THIS SECTION, THE HOLDER MAY INITIATE A PROCEEDING UNDER THE "State Administrative Procedure Act", article 4 of title 24, for review of the administrator's determination.

(9) A FINAL DECISION IN AN ADMINISTRATIVE PROCEEDING INITIATED UNDER SUBSECTION (8) OF THIS SECTION IS SUBJECT TO JUDICIAL REVIEW BY THE [COURT][AS A MATTER OF RIGHT IN A DE NOVO PROCEEDING ON THE RECORD IN WHICH EITHER PARTY IS ENTITLED TO INTRODUCE EVIDENCE IN ADDITION TO OR AS A SUPPLEMENT TO THE RECORD].

38-13-606. Property removed from safe-deposit box. Property removed from a safe-deposit box and delivered to the administrator under this article 13 is subject to the holder's
RIGHT TO REIMBURSEMENT FOR THE COST OF OPENING THE BOX AND ANY
VALID LIEN OR CONTRACT PROVIDING REIMBURSEMENT TO THE HOLDER
FOR UNPAID RENT CHARGES FOR THE BOX. THE ADMINISTRATOR SHALL
REIMBURSE THE HOLDER FROM THE PROCEEDS REMAINING AFTER
DEDUCTING THE EXPENSE INCURRED BY THE ADMINISTRATOR IN SELLING
THE PROPERTY.

38-13-607. Crediting dividends, interest, and increments to
owner's account. If property other than money is delivered to the
administrator, the owner is entitled to receive from the
administrator income or gain realized or accrued on the
property before the property is sold. If the property was an
interest-bearing demand, savings, or time deposit, the
administrator shall pay interest at the lesser of eight percent
per annum, compounded annually, or the rate the property
earned while in the possession of the holder. Interest begins to
accrue when the property is delivered to the administrator and
ends on the earlier of the expiration of ten years after its
delivery or the date on which payment is made to the owner.

38-13-608. Administrator's options as to custody. (1) The
administrator may decline to take custody of property reported
under section 38-13-401 if the administrator determines that:
(a) The property has a value less than the estimated
expenses of notice and sale of the property; or
(b) Taking custody of the property would be unlawful.
(2) A holder may pay or deliver property to the
administrator before the property is presumed abandoned under
this article 13 if the holder:
(a) Sends the apparent owner of the property the notice or notices required by Section 38-13-501 and conforming to Section 38-13-502 and provides the administrator evidence of the holder's compliance with this subsection (2)(a);

(b) Includes with the payment or delivery a report regarding the property conforming to Section 38-13-402; and

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

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

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

38-13-609. Disposition of property having no substantial value

- immunity from liability. [(1)] If the administrator takes custody of property delivered under this article 13 and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.

[(2) An action or proceeding shall not be commenced against the state, an agency of the state, the administrator,
ANOTHER OFFICER, EMPLOYEE, OR AGENT OF THE STATE, OR A HOLDER FOR
OR BECAUSE OF AN ACT OF THE ADMINISTRATOR UNDER THIS SECTION,
EXCEPT FOR INTENTIONAL MISCONDUCT OR MALFEASANCE.]

38-13-610. Periods of limitation and repose. (1) Expiration,
BEFORE, ON, OR AFTER [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS
AMENDED], OF A PERIOD OF LIMITATION ON AN OWNER'S RIGHT TO RECEIVE
OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT, STATUTE, OR
COURT ORDER DOES NOT PREVENT THE PROPERTY FROM BEING PRESUMED
ABANDONED OR AFFECT THE DUTY OF A HOLDER TO FILE A REPORT OR PAY
OR DELIVER PROPERTY TO THE ADMINISTRATOR UNDER THIS ARTICLE 13.

(2) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION OR
PROCEEDING TO ENFORCE THIS ARTICLE 13 WITH RESPECT TO THE
REPORTING, PAYMENT, OR DELIVERY OF PROPERTY MORE THAN FIVE YEARS
AFTER THE HOLDER FILED A NONFRAUDULENT REPORT WITH THE
ADMINISTRATOR UNDER SECTION 38-13-401. THE PARTIES MAY AGREE IN
A RECORD TO EXTEND THE LIMITATION IN THIS SUBSECTION (2).

(3) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION,
PROCEEDING, OR EXAMINATION WITH RESPECT TO A DUTY OF A HOLDER
UNDER THIS ARTICLE 13 MORE THAN TEN YEARS AFTER THE DUTY AROSE.

PART 7
SALE OF PROPERTY BY ADMINISTRATOR

38-13-701. Public sale of property. (1) Subject to section
38-13-702, NOT EARLIER THAN [THREE] YEARS AFTER RECEIPT OF
PROPERTY THAT HAS BEEN PRESUMED ABANDONED, THE ADMINISTRATOR
MAY SELL THE PROPERTY.

(2) A SALE UNDER SUBSECTION (1) OF THIS SECTION MUST BE
PRECEDED BY NOTICE TO THE PUBLIC OF:
(a) The date of sale; and

(b) A reasonable description of the property.

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

(a) at public sale at a location in this state that the administrator determines to be the most favorable market for the property; or

(b) on the internet or another forum the administrator determines is likely to yield the highest net proceeds of sale.

(4) The administrator may decline the highest bid at a sale under subsection (1) of this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.

(5) If a sale held under this section is to be conducted other than by electronic means, the administrator must publish not less than one notice of the sale at least [three] weeks but not more than [five] weeks before sale in a newspaper of general circulation in the [county] in which the property is sold.

38-13-702. Disposal of securities. (1) The administrator shall not sell or otherwise liquidate a security until three years after the administrator receives the security and gives the apparent owner notice under section 38-13-503 that the administrator holds the security.

(2) The administrator shall not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any
COMMERCIAL REASONABLE METHOD.

38-13-703. Recovery of securities or value by owner. (1) If the administrator sells a security before the expiration of six years following delivery to the administrator, an apparent owner that makes a valid claim under this article 13 of ownership of the security before the six-year period expires is entitled, at the option of the administrator, to receive:

(a) A replacement of the security; or

(b) The market value of the security at the time the claim is made, plus dividends, interest, and other increments on the security up to the time the claim is paid.

(2) Replacement of the security or calculation of market value under subsection (1) of this section must take into account a stock split, reverse stock split, stock dividend, and similar corporate action.

(3) A person that makes a valid claim under this article 13 of ownership of a security after expiration of six years following delivery of a security to the administrator is entitled to receive:

(a) The security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the claim is paid; or

(b) The net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security is sold.

38-13-704. Purchaser owns property after sale. A purchaser
OF PROPERTY AT A SALE CONDUCTED BY THE ADMINISTRATOR UNDER THIS
ARTICLE 13 TAKES THE PROPERTY FREE OF ALL CLAIMS OF THE OWNER, A
PREVIOUS HOLDER, OR A PERSON CLAIMING THROUGH THE OWNER OR THE
HOLDER. THE ADMINISTRATOR SHALL EXECUTE DOCUMENTS NECESSARY
TO COMPLETE THE TRANSFER OF OWNERSHIP TO THE PURCHASER.

38-13-705. Military medals. (1) The administrator shall not
sell a medal or decoration awarded for military service in the
armed forces of the United States.

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

(a) A military veterans' organization qualified under
section 501 (c)(19) of the federal "Internal Revenue Code of
1986", as amended, 26 U.S.C. sec. 501 (c)(19);

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

(c) A governmental entity.

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

PART 8
ADMINISTRATION OF PROPERTY

38-13-801. Deposit of funds by administrator. (1) Except as
otherwise provided in this section, the administrator shall
deposit in the general fund of the state all money received
UNDER THIS ARTICLE 13, INCLUDING PROCEEDS FROM THE SALE OF
PROPERTY UNDER PART 7 OF THIS ARTICLE 13.

(2) THE ADMINISTRATOR SHALL MAINTAIN AN ACCOUNT WITH AN
AMOUNT OF MONEY THE ADMINISTRATOR REASONABLY ESTIMATES TO BE
SUFFICIENT TO PAY CLAIMS ALLOWED UNDER THIS ARTICLE 13 [IN EACH
FISCAL [YEAR] [QUARTER]]. IF THE AGGREGATE AMOUNT OF CLAIMS BY
OWNERS ALLOWED AT ANY TIME EXCEEDS THE AMOUNT HELD IN THE
ACCOUNT, AN EXCESS CLAIM MUST BE PAID AS A PRIORITY CLAIM OUT OF
THE GENERAL FUND OF THE STATE.

38-13-802. Administrator to retain records of property.
(1) THE ADMINISTRATOR SHALL:

(a) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS
OF EACH PERSON SHOWN ON A REPORT FILED UNDER SECTION 38-13-401
to be the apparent owner of the property delivered to the
administrator;

(b) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS
OF EACH INSURED OR ANNUITANT AND BENEFICIARY SHOWN ON THE
REPORT;

(c) WITH RESPECT TO EACH POLICY OF INSURANCE OR ANNUITY
CONTRACT LISTED IN THE REPORT OF AN INSURANCE COMPANY, RECORD
AND RETAIN THE POLICY OR ACCOUNT NUMBER, THE NAME OF THE
COMPANY, AND THE AMOUNT DUE OR PAID; AND

(d) WITH RESPECT TO EACH APPARENT OWNER LISTED IN THE
REPORT, RECORD AND RETAIN THE NAME OF THE HOLDER WHO FILED THE
REPORT AND THE AMOUNT DUE OR PAID.

38-13-803. Expenses of administrator. (1) BEFORE MAKING A
DEPOSIT OF MONEY RECEIVED UNDER THIS ARTICLE 13 TO THE [GENERAL
1. The administrator may deduct:
   (a) Expenses of disposition of abandoned property;
   (b) Costs of mailing and publication in connection with abandoned property;
   (c) Reasonable service charges; and
   (d) Expenses incurred in examining records of a putative holder of property and collecting property from a putative holder determined by the administrator to hold property required to be delivered to the administrator under this Article 13.

38-13-804. Administrator holds property as custodian for owner. Property received by the administrator under this Article 13 is held in custody for the benefit of the owner and is not owned by the state.

PART 9
CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR

38-13-901. Claim of another state to recover property. (1) If the administrator knows that property held by the administrator under this Article 13 is subject to a superior claim of another state, the administrator shall:
   (a) Report and pay or deliver the property to the other state; or
   (b) Return the property to the holder so that the holder may pay or deliver the property to the other state.
   (2) The administrator is not required to enter into a formal agreement to transfer the property to the other state.
38-13-902. When property subject to recovery by another state. (1) Property held by the Administrator under this Article 13 is subject to the right of another state to take custody of the property if:

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

(I) The other state establishes that the last-known address of the apparent owner or other person entitled to the property was in the other state; or

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

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

(c) The property was subject to the custody of the Administrator of this state under Section 38-13-305 and, under the law of the state of domicile of the holder, the property has become subject to a claim of abandonment by the state of domicile of the holder; or

(d) The property:

(I) Is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and
DELIVERED TO THE ADMINISTRATOR UNDER SECTION 38-13-306; AND

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

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

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

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

38-13-903. Claim for property by person claiming to be owner. (1) A person claiming to be the owner of property held by the administrator may file a claim for the property on a form prescribed by the administrator and verified by the claimant.

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

(a) the person receiving the property or payment is shown to be the same person as the apparent owner included on a report filed under section 38-13-401;
(b) The administrator reasonably believes the person is entitled to receive the property or payment; and

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

38-13-904. When administrator must honor claim for property. (1) The administrator shall pay or deliver property to a claimant under section 38-13-903 if the administrator receives evidence sufficient to establish to the reasonable satisfaction of the administrator that the claimant is the owner of the property.

(2) Not later than [ninety] days after a claim is filed under section 38-13-903, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the claim is denied:

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

(b) The claimant may file an amended claim with the administrator or commence an action under section 38-13-906; and

(c) The administrator shall treat an amended claim as an initial claim under this section.

38-13-905. Allowance of claim for property. (1) Not later than [thirty] days after a claim is allowed by the administrator under section 38-13-904 (2), the administrator shall pay or deliver to the owner the property or the net proceeds of a sale of the property, together with dividends, interest, or other

(2) PROPERTY HELD BY THE ADMINISTRATOR IS SUBJECT TO A CLAIM FOR THE PAYMENT OF AN ENFORCEABLE DEBT THAT THE OWNER OWES IN THIS STATE FOR:

(a) CHILD-SUPPORT ARREARAGES, INCLUDING CHILD-SUPPORT COLLECTION COSTS AND CHILD-SUPPORT ARREARAGES THAT ARE COMBINED WITH MAINTENANCE;

(b) A CIVIL OR CRIMINAL FINE OR PENALTY, COURT COSTS, A SURCHARGE, OR RESTITUTION IMPOSED BY A FINAL ORDER OF AN ADMINISTRATIVE AGENCY OR A FINAL COURT JUDGMENT; OR

(c) STATE [OR LOCAL] TAXES, PENALTIES, AND INTEREST THAT HAVE BEEN DETERMINED TO BE DELINQUENT OR AS TO WHICH NOTICE HAS BEEN RECORDED WITH THE [SECRETARY OF STATE] [OR LOCAL TAXING AUTHORITY].

(3) THE ADMINISTRATOR MAY MAKE PERIODIC INQUIRIES OF STATE [AND LOCAL] AGENCIES IN THE ABSENCE OF A CLAIM FILED UNDER SECTION 38-13-903 TO DETERMINE WHETHER APPARENT OWNERS INCLUDED IN THE UNCLAIMED-PROPERTY RECORDS OF THIS STATE HAVE ENFORCEABLE DEBTS DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS OF A SALE OF PROPERTY HELD BY THE ADMINISTRATOR TO A DEBT UNDER SUBSECTION (2) OF THIS SECTION OF AN APPARENT OWNER THAT APPEARS
IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE AMOUNT TO
THE APPROPRIATE STATE [OR LOCAL] AGENCY. THE ADMINISTRATOR
SHALL NOTIFY THE APPARENT OWNER OF THE PAYMENT.

(4) BEFORE DELIVERY OR PAYMENT TO AN OWNER UNDER
SUBSECTION (1) OF THIS SECTION OF PROPERTY OR NET PROCEEDS OF A
SALE OF THE PROPERTY, THE ADMINISTRATOR FIRST SHALL APPLY THE
PROPERTY OR NET PROCEEDS TO A DEBT UNDER SUBSECTION (2) OF THIS
SECTION THE ADMINISTRATOR HAS DETERMINED IS OWED BY THE OWNER.
THE ADMINISTRATOR SHALL PAY THE AMOUNT TO THE APPROPRIATE STATE
[OR LOCAL] AGENCY AND NOTIFY THE OWNER OF THE PAYMENT.

38-13-906. Action by person whose claim is denied. Not later
than one year after filing a claim with the administrator under
section 38-13-903, the claimant may commence an action against
the administrator in the [APPROPRIATE COURT] TO ESTABLISH A CLAIM
THAT HAS BEEN DENIED OR ON WHICH THE ADMINISTRATOR HAS NOT
ACTED NOT LATER THAN [NINETY] DAYS AFTER THE FILING OF THE CLAIM.
[ON FINAL DETERMINATION OF THE ACTION, THE COURT MAY AWARD
REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION
INCURRED BY THE [CLAIMANT] [PREVAILING PARTY].]

PART 10

REPORT OF PROPERTY; EXAMINATION OF RECORDS

38-13-1001. Request for report of property. (1) IF A PERSON
DOES NOT FILE A REPORT REQUIRED BY SECTION 38-13-401 OR THE
ADMINISTRATOR BELIEVES THAT A PERSON MAY HAVE FILED AN
INACCURATE, INCOMPLETE, OR FALSE REPORT, THE ADMINISTRATOR MAY
REQUIRE THE PERSON TO FILE A VERIFIED REPORT IN A FORM PRESCRIBED
BY THE ADMINISTRATOR. THE REPORT MUST:
(a) State whether the person is holding property reportable under this article 13;

(b) Describe property not previously reported or as to which the administrator has enquired; and

(c) Specifically identify property described under subsection (1)(b) of this section as to which there is a dispute whether it is reportable under this article 13 and state the amount or value of the property.

38-13-1002. Examination of records to determine compliance with article. (1) The administrator, at reasonable times and on reasonable notice, may:

(a) Examine the records of a person to determine whether the person has complied with this article 13, including examination of appropriate records in the possession of an agent of the person under examination, if such records are reasonably necessary for the determination of compliance of the person under examination with this article 13;

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

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

38-13-1003. Rules and procedures for conducting examination. (1) The administrator shall adopt rules governing procedures and standards for an examination under section 38-13-1002, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an
EXAMINATION.

(2) An examination under section 38-13-1002 must be performed in accord with rules adopted under subsection (1) of this section and with generally accepted examination practices and standards applicable to unclaimed-property examinations.

(3) If the person subject to examination under section 38-13-1002 has filed all reports required by section 38-13-401 and has retained the records required by section 38-13-404, the following rules apply:

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

(b) The examination must not be based on an estimate unless the person expressly consents in a record to the use of an estimate.

(c) The person conducting the examination shall consider all evidence presented by the person in good faith in preparing the findings of the examination under section 38-13-1007.

38-13-1004. Records obtained in examination. (1) Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination under section 38-13-1002:

(a) Are subject to the confidentiality and security provisions of part 14 of this article 13 and are not public records;

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

(c) May be used in a joint examination conducted with
ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER GOVERNMENTAL ENTITY IF THE OTHER PERSON CONDUCTING THE EXAMINATION IS LEGALLY BOUND TO MAINTAIN THE CONFIDENTIALITY AND SECURITY OF INFORMATION OBTAINED FROM A PERSON SUBJECT TO EXAMINATION IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS ARTICLE 13;

(d) MUST BE DISCLOSED TO THE PERSON THAT ADMINISTERS THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE FOR THAT STATE'S USE IN CIRCUMSTANCES EQUIVALENT TO CIRCUMSTANCES DESCRIBED IN THIS PART 10, IF THE OTHER STATE IS REQUIRED TO MAINTAIN THE CONFIDENTIALITY AND SECURITY OF INFORMATION OBTAINED IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS ARTICLE 13;

(e) SHALL BE PRODUCED BY THE ADMINISTRATOR UNDER AN ADMINISTRATIVE OR JUDICIAL SUBPOENA OR ADMINISTRATIVE OR COURT ORDER; AND

(f) SHALL BE PRODUCED BY THE ADMINISTRATOR ON REQUEST OF A PERSON THAT IS THE SUBJECT OF THE EXAMINATION IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING RELATING TO THE PROPERTY.

38-13-1005. Evidence of unpaid debt or undischarged obligation. (1) A RECORD OF A PUTATIVE HOLDER SHOWING AN UNPAID DEBT OR UNDISCHARGED OBLIGATION IS PRIMA FACIE EVIDENCE OF THE DEBT OR OBLIGATION.

(2) A PUTATIVE HOLDER MAY ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS NO UNPAID DEBT OR UNDISCHARGED OBLIGATION WITH RESPECT TO DEBT OR OBLIGATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION OR THAT THE DEBT OR OBLIGATION WAS
NOT, OR NO LONGER IS, A FIXED AND CERTAIN OBLIGATION OF THE
PUTATIVE HOLDER.

(3) A PUTATIVE HOLDER MAY OVERCOME PRIMA FACIE EVIDENCE
UNDER SUBSECTION (1) OF THIS SECTION BY ESTABLISHING BY A
PREPONDERANCE OF THE EVIDENCE THAT A CHECK, DRAFT, OR SIMILAR
INSTRUMENT WAS:

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

(b) Issued but later was replaced with another
instrument because the earlier instrument was lost or
contained errors that were corrected;

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

(d) Paid, satisfied, or discharged;

(e) Issued in error;

(f) Issued without consideration;

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

(h) Voided [not later than ninety days] [within a
reasonable time] after issuance for a valid business reason set
forth in a contemporaneous record; or

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

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

38-13-1006. Failure of person examined to retain records. If
A person subject to examination under section 38-13-1002 does not retain the records required by section 38-13-404, the administrator may determine the amount of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under section 38-13-1003 (1).

38-13-1007. Report to person whose records were examined.

(1) At the conclusion of an examination under section 38-13-1002, the administrator shall provide to the person whose records were examined a complete and unredacted examination report, which must identify in detail:

(a) The work performed;
(b) The property types reviewed;
(c) The methodology of any estimation technique, extrapolation, or statistical sampling method used in conducting the examination;
(d) Each calculation showing the value of property determined to be due; and
(e) The findings of the person conducting the examination.

38-13-1008. Complaint to administrator about conduct of person conducting examination. (1) If a person subject to examination under section 38-13-1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the
ADMINISTRATOR TO INTERVENE AND TAKE REMEDIAL ACTION THE
CIRCUMSTANCES REQUIRE, INCLUDING COUNTERMANDING THE REQUEST
OF THE PERSON CONDUCTING THE EXAMINATION, IMPOSING A TIME LIMIT
FOR COMPLETION OF THE EXAMINATION, OR REASSIGNING THE
EXAMINATION TO ANOTHER PERSON.

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

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

38-13-1009. Administrator's contract with another to conduct
examination - definition. (1) In this section, an individual is
"RELATED TO THE ADMINISTRATOR" IF THE INDIVIDUAL IS THE
ADMINISTRATOR'S SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC
PARTNER, RECIPROCAL BENEFICIARY, CHILD, STEPCHILD, GRANDCHILD,
PARENT, STEPPARENT, SIBLING, STEPSIBLING, HALF-SIBLING, AUNT, UNCLE,
NIECE, NEPHEW, SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC PARTNER,
OR RECIPROCAL BENEFICIARY OF ANY OF THEM, OR ANY OTHER PERSON
RESIDING IN THE ADMINISTRATOR'S HOME.

(2) The administrator may contract with a person to
conduct an examination under this part 10.

(3) If the person with whom the administrator contracts
UNDER SUBSECTION (2) OF THIS SECTION IS:

(a) An individual, the individual must not be related to
    the administrator; or

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

(4) Not less than sixty days before contracting with a
    person to conduct an examination for the administrator under
    subsection (2) of this section, the administrator shall give the
    person to be examined a demand in a record to submit a report
    and deliver property that is subject to this article 13.

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

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

(b) A contingent fee arrangement must not provide for a
    payment that exceeds [ten] percent of the amount or value of
    property paid or delivered as a result of an examination; and

(c) On request by a person subject to examination by a
    contractor, the administrator shall deliver to the person a
    complete unredacted copy of the contract between the
    administrator and the contractor relating to the examination
    and any contract between the contractor and a person
    employed or engaged by the contractor to conduct the
    examination.

(6) A contract under subsection (2) of this section may be
AWARDED ONLY UNDER THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

(7) A CONTRACT UNDER SUBSECTION (2) OF THIS SECTION IS SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION UNDER THE COLORADO OPEN RECORDS LAW, ARTICLE 72 OF TITLE 24.

38-13-1010. Limit on future employment. The administrator or an individual employed by the administrator who participates in, recommends, or approves the award of a contract under this part 10 on or after [the effective date of this article 13, as amended,] must not be employed by, contracted with, or compensated in any capacity by the contractor or an affiliate of the contractor whose contract the administrator or employee participated in, recommended, or approved, for [two] years after the latest of participation in, recommendation of, or approval of the award or conclusion of the contract.

38-13-1011. Report by administrator to state official. (1) Not later than three months after the end of the state fiscal year, the administrator shall compile and submit a report to the governor,[treasurer,][comptroller,][president of the senate,][and] [speaker of the house] that must contain the following information about property presumed abandoned for the preceding state fiscal year:

(a) The total amount and value of all property paid or delivered to the administrator under this article 13, separated into:

(I) The part voluntarily paid or delivered; and

(II) The part paid or delivered as a result of an
EXAMINATION UNDER SECTION 38-13-1002, WHICH AMOUNT MUST BE SEPARATED INTO THE PART RECOVERED AS A RESULT OF AN EXAMINATION CONDUCTED BY:

(A) A STATE EMPLOYEE; AND

(B) A PERSON UNDER CONTRACT UNDER SECTION 38-13-1009;

(b) THE NAME AND AMOUNT PAID TO EACH CONTRACTOR UNDER SECTION 38-13-1009 AND THE PERCENTAGE THE TOTAL COMPENSATION PAID TO ALL CONTRACTORS UNDER SECTION 38-13-1009 BEARS TO THE TOTAL AMOUNT PAID OR DELIVERED TO THE ADMINISTRATOR AS A RESULT OF EXAMINATIONS;

(c) THE TOTAL AMOUNT AND VALUE OF ALL PROPERTY PAID OR DELIVERED BY THE ADMINISTRATOR TO PERSONS THAT MADE CLAIMS FOR PROPERTY HELD BY THE ADMINISTRATOR AND THE PERCENTAGE THE TOTAL PAYMENTS MADE OR VALUE OF PROPERTY DELIVERED TO CLAIMANTS BEARS TO THE TOTAL AMOUNTS PAID OR VALUE DELIVERED TO THE ADMINISTRATOR; AND

(d) THE TOTAL AMOUNT OF:

(I) CLAIMS MADE BY PERSONS CLAIMING TO BE OWNERS THAT WERE DENIED;

(II) CLAIMS MADE BY PERSONS CLAIMING TO BE OWNERS THAT WERE ALLOWED; AND

(III) FUNDS RECEIVED AND THE VALUE OF PROPERTY HELD BY THE ADMINISTRATOR SUBJECT TO CLAIMS OF OWNERS.

(2) THE REPORT SUBMITTED BY THE ADMINISTRATOR UNDER SUBSECTION (1) OF THIS SECTION IS A PUBLIC RECORD SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION UNDER THE COLORADO OPEN RECORDS LAW, ARTICLE 72 OF TITLE 24.
38-13-1012. Determination of liability for unreported reportable property. If the administrator determines from an examination conducted under section 38-13-1002 that a putative holder has failed or refused to pay or deliver property to the administrator that is reportable under this article 13, the administrator shall issue a determination of the putative holder's liability to pay or deliver and provide to the putative holder notice in a record of the determination.

PART 11

DETERMINATION OF LIABILITY; HOLDER REMEDIES

38-13-1101. Informal conference. (1) Not later than thirty days after receipt of a notice of determination of liability under section 38-13-1012, a putative holder may request an informal conference with the administrator to review the determination. Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator for all purposes of this section.

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

(a) The administrator shall set a place for the conference and a time for it not later than [twenty] days after the date of the request;

(b) The administrator shall give the putative holder notice of the time and place of the conference;

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

(d) The request tolls the ninety-day period under sections
38-13-1103 AND 38-13-1104 UNTIL NOTICE OF A DECISION UNDER
SUBSECTION (2)(g) OF THIS SECTION HAS BEEN GIVEN TO THE PUTATIVE
HOLDER OR THE PUTATIVE HOLDER WITHDRAWS THE REQUEST FOR THE
CONFERENCE;

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

(f) The administrator or administrator's designee with the
approval of the administrator may modify a determination made
under section 38-13-1012 in part or withdraw it in its entirety;

and

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

(3) A conference under subsection (2) of this section is not
an administrative remedy and is not a contested case subject to
the "State Administrative Procedure Act", article 4 of title 24.
An oath is not required and the rules of evidence do not apply in
the conference.

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

(a) Discuss the determination made under section
38-13-1012; and

(b) Present any issue the putative holder raises
concerning the validity of the determination.
(5) If the administrator fails to act within a period prescribed in subsection (2) of this section, the failure does not affect a right of the administrator; except that interest does not accrue on the amount for which the holder was determined to be liable under Section 38-13-1012 during the period in which the administrator failed to act until the earlier of:

(a) The date under Section 38-13-1103 when the putative holder initiates administrative review or files an action under Section 38-13-1104; or

(b) The ninety-day period for initiating administrative review under Section 38-13-1103 or filing an action under Section 38-13-1104 and no review was initiated and no action was filed.

(6) The administrator may hold an informal conference with the putative holder without a request at any time before a putative holder initiates administrative review under Section 38-13-1103 or files suit under Section 38-13-1104.

(7) Interest and penalties under Section 38-13-1204 continue to accrue on property not reported, paid, or delivered as required by this Article 13 following the initiation, and during the pendency, of an informal conference under this section.

38-13-1102. Review of determination by administrator. (1) A putative holder may seek relief for a determination under Section 38-13-1012 that the putative holder believes is illegal, unjust, incorrect, or in error, in whole or in part, by seeking:

(a) Administrative review of the determination under Section 38-13-1103; or
(b) Judicial review of the determination under section 38-13-1104.

38-13-1103. Administrative review. (1) Not later than ninety days after receiving notice of the administrator's determination under section 38-13-1012, a putative holder may initiate a proceeding under the "State Administrative Procedure Act", article 4 of title 24, for review of the administrator's determination.

(2) A final decision in an administrative proceeding initiated under subsection (1) of this section is subject to judicial review by the [COURT] [AS A MATTER OF RIGHT IN A DE NOVO PROCEEDING ON THE RECORD IN WHICH EITHER PARTY IS ENTITLED TO INTRODUCE EVIDENCE IN ADDITION TO OR AS A SUPPLEMENT TO THE RECORD].

38-13-1104. Judicial remedy. (1) Not later than ninety days after receiving notice of the administrator's determination under section 38-13-1012, the putative holder may:

(a) File an action against the administrator in the [COURT] challenging all or part of the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(b) Pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six months after payment or delivery, initiate an action against the administrator in the [COURT] for a refund of all or part of the amount paid or return of all or part of the property delivered.
(2) If a putative holder pays or delivers property determined by the administrator to be paid or delivered to the administrator at any time after the putative holder files an action under subsection (1)(a) of this section, the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection (1)(b) of this section.

[(3) On the final determination of an action filed under subsection (1) of this section, the court [may] [shall], on application, award to the [plaintiff] [prevailing party] its reasonable attorney fees and expenses of litigation.]

[(3)][(4)] A putative holder that is the prevailing party in an action under subsection (1) of this section for refund of money paid to the administrator is entitled to interest, at the same rate a holder is required to pay to the administrator under section 38-13-1204 (1), on the amount refunded, from the date paid to the administrator until the date of the refund.

PART 12

ENFORCEMENT BY ADMINISTRATOR

38-13-1201. Judicial action to enforce liability. (1) When a determination under section 38-13-1012 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the [court] or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. The action must be brought not later than [one] year after the determination becomes final.
(2) In an action under subsection (1) of this section, if no
court in this state has jurisdiction over the defendant, the
administrator may commence an action in a federal court or
state court having jurisdiction over the defendant.

38-13-1202. Interstate and international agreement and
cooperation. (1) Subject to subsection (2) of this section, the
administrator may:

(a) Exchange information with another state or foreign
country relating to property presumed abandoned or relating
to the possible existence of property presumed abandoned; and
(b) Authorize in a record another state or foreign
country or a person acting on behalf of the other state or
country to examine its records of a putative holder as provided
in part 10 of this article 13.

(2) An exchange or examination under subsection (1) of
this section may be done only if the state or foreign country has
confidentiality and security requirements substantially
equivalent to those in part 14 of this article 13 or agrees in a
record to be bound by this state’s confidentiality and security
requirements.

38-13-1203. Action involving another state or foreign country.

(1) The administrator may join other states or foreign countries
to examine and seek enforcement of this article 13 against any
person believed to be holding property reportable under this
article 13.

(2) On request of another state or foreign country, the
attorney general may commence an action on behalf of the
OTHER STATE OR COUNTRY TO ENFORCE, IN THIS STATE, THE LAW OF THE
OTHER STATE OR FOREIGN COUNTRY AGAINST A PUTATIVE HOLDER OF
PROPERTY PRESUMED ABANDONED AND THEREFORE SUBJECT TO A CLAIM
BY THE OTHER STATE OR COUNTRY, IF THE OTHER STATE OR COUNTRY
AGrees TO PAY COSTS INCURRED BY THE ATTORNEY GENERAL IN THE
ACTION.

(3) THE ADMINISTRATOR MAY REQUEST THE OFFICIAL AUTHORIZED
TO ENFORCE THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE OR
FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY IN
THE OTHER STATE OR COUNTRY ON BEHALF OF THE ADMINISTRATOR. THIS
STATE SHALL PAY ALL COSTS, INCLUDING REASONABLE ATTORNEY FEES
AND EXPENSES, INCURRED BY THE OTHER STATE OR FOREIGN COUNTRY IN
AN ACTION UNDER THIS SUBSECTION (3).

(4) THE ADMINISTRATOR MAY PURSUE AN ACTION ON BEHALF OF
THIS STATE TO RECOVER PROPERTY SUBJECT TO THIS ARTICLE 13 BUT
DELIVERED TO THE CUSTODY OF ANOTHER STATE IF THE ADMINISTRATOR
BELIEVES THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE
ADMINISTRATOR.

(5) THE ADMINISTRATOR MAY RETAIN A PRIVATE ATTORNEY IN
THIS STATE OR ANOTHER STATE OR FOREIGN COUNTRY TO COMMENCE AN
ACTION TO RECOVER PROPERTY ON BEHALF OF THE ADMINISTRATOR AND
MAY AGREE TO PAY ATTORNEY FEES BASED IN WHOLE OR IN PART ON A
FIXED FEE, HOURLY FEE, OR PERCENTAGE OF THE AMOUNT OR VALUE OF
PROPERTY RECOVERED IN THE ACTION.

(6) EXPENSES INCURRED BY THIS STATE IN AN ACTION UNDER THIS
SECTION MAY BE PAID FROM PROPERTY RECEIVED UNDER THIS ARTICLE 13
OR NET PROCEEDS OF THE PROPERTY. EXPENSES PAID TO RECOVER
PROPERTY SHALL NOT BE DEDUCTED FROM THE AMOUNT THAT IS SUBJECT TO A CLAIM UNDER THIS ARTICLE 13 BY THE OWNER.

38-13-1204. Interest and penalty for failure to act in timely manner. (1) A holder that fails to report, pay, or deliver property within the time prescribed by this article 13 shall pay to the administrator interest at an annual rate of [______] percent [the rate of interest payable to the department of revenue of this state on delinquent taxes] on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until reported, paid, or delivered.

(2) Except as otherwise provided in section 38-13-1205 or 38-13-1206, the administrator may require a holder who fails to report, pay, or deliver property within the time prescribed by this article 13 to pay to the administrator, in addition to interest that may be included under subsection (1) of this section, a civil penalty of [two hundred dollars] for each day the duty is not performed, up to a cumulative maximum amount of [five thousand dollars].

38-13-1205. Other civil penalties. (1) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this article 13 or otherwise willfully fails to perform a duty imposed on the holder under this article 13, the administrator may require the holder to pay the administrator, in addition to interest as provided in section 38-13-1204 (1), a civil penalty of [one thousand dollars] for each day the obligation is evaded or the duty is not performed, up to a
CUMULATIVE MAXIMUM AMOUNT OF [TWENTY-FIVE THOUSAND DOLLARS],
PLUS [TWENTY-FIVE] PERCENT OF THE AMOUNT OR VALUE OF ANY
PROPERTY THAT SHOULD HAVE BEEN BUT WAS NOT REPORTED, PAID, OR
DELIVERED AS A RESULT OF THE EVASION OR FAILURE TO PERFORM.

(2) If a holder makes a fraudulent report under this
article 13, the administrator may require the holder to pay to
the administrator, in addition to interest as provided in section
38-13-1204 (1), a civil penalty of [ONE THOUSAND DOLLARS] for each
day from the date the report was made until corrected, up to a
cumulative maximum of [TWENTY-FIVE THOUSAND DOLLARS], plus
[TWENTY-FIVE] percent of the amount or value of any property
that should have been reported but was not included in the
report or was under reported.

38-13-1206. Waiver of interest and penalty. (1) The
administrator:
(a) For good cause may waive, in whole or in part,
[interest under section 38-13-1204 (1) and] penalties under
section 38-13-1204 (2) or 38-13-1205; and
(b) Shall waive a penalty under section 38-13-1204 (2) if
the administrator determines that the holder acted in good
faith and without negligence.

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

38-13-1301. When agreement to locate property enforceable.
(1) An agreement by an apparent owner and a person, the
primary purpose of which is to locate, deliver, recover, or assist
IN THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY HELD BY THE
ADMINISTRATOR, IS ENFORCEABLE ONLY IF THE AGREEMENT:

(a) IS IN A RECORD THAT CLEARLY SETS FORTH THE NATURE OF THE
PROPERTY AND THE SERVICES TO BE PROVIDED;

(b) IS SIGNED BY OR ON BEHALF OF THE APPARENT OWNER; AND

(c) STATES THE AMOUNT OR VALUE OF THE PROPERTY
REASONABLY ESTIMATED OR EXPECTED TO BE RECOVERED COMPUTED
BOTH BEFORE AND AFTER A FEE OR OTHER COMPENSATION TO BE PAID TO
THE OTHER PERSON HAS BEEN DEDUCTED.

38-13-1302. When agreement to locate property
unenforceable. (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, AN
AGREEMENT UNDER SECTION 38-13-1301 IS VOID AND UNENFORCEABLE IF
IT IS ENTERED INTO DURING THE PERIOD BEGINNING ON THE DATE THE
PROPERTY WAS PAID OR DELIVERED BY A HOLDER TO THE ADMINISTRATOR
AND ENDING TWENTY-FOUR MONTHS AFTER THE PAYMENT OR DELIVERY.

(2) IF A PROVISION IN AN AGREEMENT DESCRIBED IN SUBSECTION
(1) OF THIS SECTION APPLIES TO MINERAL PROCEEDS FOR WHICH
COMPENSATION IS TO BE PAID TO THE OTHER PERSON BASED IN WHOLE OR
IN PART ON A PORTION OF THE UNDERLYING MINERALS OR MINERAL
PROCEEDS NOT THEN PRESUMED ABANDONED, THE PROVISION IS VOID AND
UNENFORCEABLE REGARDLESS OF WHEN THE AGREEMENT IS ENTERED
INTO.

(3) AN AGREEMENT UNDER SUBSECTION (1) OF THIS SECTION THAT
Provides for compensation in an amount that is unconscionable
is unenforceable except by the apparent owner. An apparent
owner that believes the compensation the apparent owner has
agreed to pay is unconscionable or the administrator, acting on
BEHALF OF AN APPARENT OWNER, OR BOTH, MAY COMMENCE AN ACTION TO REDUCE THE COMPENSATION TO THE MAXIMUM AMOUNT THAT IS NOT UNCONSCIONABLE. [THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND EXPENSES OF LITIGATION TO THE PREVAILING PARTY IN THE ACTION.]

(4) AN APPARENT OWNER OR THE ADMINISTRATOR MAY ASSERT THAT AN AGREEMENT DESCRIBED IN THIS SECTION IS INVALID ON THE GROUND OTHER THAN IT PROVIDES FOR PAYMENT OF UNCONSCIONABLE COMPENSATION.

(5) THIS SECTION DOES NOT APPLY TO AN APPARENT OWNER'S AGREEMENT WITH AN ATTORNEY TO PURSUE A CLAIM FOR RECOVERY OF SPECIFICALLY IDENTIFIED PROPERTY HELD BY THE ADMINISTRATOR OR TO CONTEST THE ADMINISTRATOR'S DENIAL OF A CLAIM FOR RECOVERY OF THE PROPERTY.

38-13-1303. Right of apparent owner's agent to recover property held by administrator. (1) AN APPARENT OWNER THAT CONTRACTS WITH A PERSON TO LOCATE, DELIVER, RECOVER, OR ASSIST IN THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY OF THE APPARENT OWNER THAT IS HELD BY THE ADMINISTRATOR MAY APPOINT OR DESIGNATE THE PERSON AS THE APPARENT OWNER'S AGENT. THE APPOINTMENT OR DESIGNATION MUST BE IN A RECORD SIGNED BY THE APPARENT OWNER.

(2) AN APPARENT OWNER'S AGENT IS ENTITLED TO RECEIVE FROM THE ADMINISTRATOR ALL INFORMATION CONCERNING THE PROPERTY THAT THE APPARENT OWNER WOULD BE ENTITLED TO RECEIVE, INCLUDING INFORMATION THAT WOULD OTHERWISE BE CONFIDENTIAL INFORMATION UNDER SECTION 38-13-1402.
(3) If authorized by the apparent owner, the apparent owner's agent may bring an action against the administrator on behalf of and in the name of the apparent owner.

PART 14
CONFIDENTIALITY AND SECURITY OF INFORMATION

38-13-1401. Definitions - applicability. (1) In this Part 14, "personal information" means:

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

(I) Social security number or other government-issued number or identifier;

(II) Date of birth;

(III) Home or physical address;

(IV) Electronic-mail address or other online contact information or internet provider address;

(V) Financial account number or credit or debit card number;

(VI) Biometric data, health or medical data, or insurance information; or

(VII) Passwords or other credentials that permit access to an online or other account;

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

(c) Any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of
THE DATA OR IS LOST OR MISUSED, WOULD REQUIRE NOTICE OR REPORTING
UNDER APPLICABLE FEDERAL AND STATE PRIVACY AND DATA SECURITY
LAW, WHETHER OR NOT THE ADMINISTRATOR OR THE ADMINISTRATOR'S
AGENT IS SUBJECT TO THE LAW.

(2) PROVISIONS OF THIS PART 14 APPLICABLE TO THE
ADMINISTRATOR ALSO APPLY TO AN ADMINISTRATOR'S AGENT.

38-13-1402. Confidential information. (1) EXCEPT AS
OTHERWISE PROVIDED IN THIS ARTICLE 13, THE FOLLOWING ARE
CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION OR DISCLOSURE:

(a) Records of the Administrator and the Administrator's
agent related to the administration of this Article 13;

(b) Reports and records of a holder in possession of the
Administrator or the Administrator's agent; and

(c) Personal information and other information derived
or otherwise obtained by or communicated to the Administrator
or the Administrator's agent from an examination under this
Article 13 of the records of a person.

(2) A RECORD OR OTHER INFORMATION THAT IS CONFIDENTIAL
UNDER THE LAW OF THIS STATE OTHER THAN THIS ARTICLE 13, ANOTHER
STATE, OR THE UNITED STATES CONTINUES TO BE CONFIDENTIAL WHEN
DISCLOSED OR DELIVERED UNDER THIS ARTICLE 13 TO THE
ADMINISTRATOR OR ADMINISTRATOR'S AGENT.

38-13-1403. When confidential information may be disclosed.

(1) THE ADMINISTRATOR, FOR GOOD CAUSE REASONABLY NECESSARY FOR
ENFORCEMENT OR IMPLEMENTATION OF THIS ARTICLE 13, MAY DISCLOSE
CONFIDENTIAL INFORMATION CONCERNING PROPERTY HELD BY THE
ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT ONLY TO:
(a) An apparent owner or the apparent owner’s personal representative, next of kin, attorney-at-law, or agent designated under Section 38-13-1303 to have the information;

(b) The personal representative of a deceased apparent owner, next of kin, attorney-at-law, or agent designated under Section 38-13-1303 by the deceased apparent owner or a person entitled to inherit from a deceased apparent owner;

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

(d) The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state and the other state has legal requirements of confidentiality and security of records substantially equivalent to those of this state; and

(e) A person that is the subject of an examination as provided for in Section 38-13-1004 (1)(f).

(2) Except as otherwise provided in Section 38-13-1402 (1), the administrator shall include in published notices and on a website or database required by Section 38-13-503 (2)(d) the name of each apparent owner of property held by the administrator. The administrator may include in published notices and on the website or database additional information concerning the apparent owner’s property if the administrator believes the information will assist in facilitating identification and return of property to the owner and does not disclose personal information except the home or physical address of an apparent owner.
(3) The administrator and the administrator's agent shall not use confidential information provided to them or in their possession for any purpose except as expressly authorized by this article 13 or required by law other than this article 13.

38-13-1404. Confidentiality agreement. (1) A person to be examined under section 38-13-1002 may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

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

(b) requires the person to comply with the provisions of this part 14 applicable to the person.

38-13-1405. No confidential information in notice. Except as otherwise provided in sections 38-13-501 and 38-13-502, a holder is not required under this article 13 to include confidential information in a notice the holder is required to provide to an apparent owner under this article 13.

38-13-1406. Security of information. (1) If a holder is required to include confidential information in a report to the administrator, the information must be provided by a secure means.

(2) If confidential information in a record is provided to and maintained by the administrator and administrator's agent as required by this article 13, the administrator and
ADMINISTRATOR'S AGENT SHALL:

(a) IMPLEMENT ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS DESIGNED TO PROTECT THE SECURITY, CONFIDENTIALITY, AND INTEGRITY OF THE INFORMATION AS REQUIRED BY THE LAW OF THIS STATE AND FEDERAL LAW;

(b) PROTECT AGAINST REASONABLY ANTICIPATED THREATS OR HAZARDS TO THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE INFORMATION; AND

(c) PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE INFORMATION THAT COULD RESULT IN SUBSTANTIAL HARM OR INCONVENIENCE TO A HOLDER OR THE HOLDER’S CUSTOMERS, INCLUDING INSUREDS, ANNUITANTS, OR POLICY OR CONTRACT OWNERS OR THEIR BENEFICIARIES.

(3) THE ADMINISTRATOR:

(a) SHALL, AFTER NOTICE AND COMMENT, ADOPT AND IMPLEMENT A SECURITY PLAN THAT IDENTIFIES AND ASSESSES REASONABLY FORESEEABLE INTERNAL AND EXTERNAL RISKS TO CONFIDENTIAL INFORMATION IN THE ADMINISTRATOR’S POSSESSION AND SEEKS TO MITIGATE THE RISKS; AND

(b) SHALL ENSURE THAT AN ADMINISTRATOR’S AGENT ADOPTS AND IMPLEMENTS A SIMILAR PLAN WITH RESPECT TO CONFIDENTIAL INFORMATION IN THE AGENT’S POSSESSION.

(4) THE ADMINISTRATOR AND THE ADMINISTRATOR’S AGENT SHALL EDUCATE AND TRAIN THEIR EMPLOYEES REGARDING THE PLAN ADOPTED UNDER SUBSECTION (3) OF THIS SECTION.

(5) THE ADMINISTRATOR AND THE ADMINISTRATOR’S AGENT SHALL IN A SECURE MANNER RETURN OR DESTROY ALL CONFIDENTIAL
INFORMATION NO LONGER REASONABLY NEEDED UNDER THIS ARTICLE 13.

38-13-1407. Security breach. (1) Except to the extent prohibited by law other than this Article 13, the administrator or administrator's agent shall notify a holder as soon as practicable of:

(a) Any suspected loss or misuse or an unauthorized access, disclosure, modification, or destruction of any confidential information in the possession of the administrator or administrator's agent; and

(b) Interference with operations in any system hosting or housing confidential information that:

(I) Compromises the security, confidentiality, or integrity of the information; or

(II) Otherwise creates a substantial risk of identity fraud or theft.

(2) Except as necessary to inform insurers, legal counsel, investigators, or others as required by law, the administrator and administrator's agent shall not disclose, without the express consent in a record of the holder, an event described in subsection (1) of this section to a person whose confidential information was supplied by the holder.

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

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

(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.

38-13-1408. Indemnification for breach. [(1) If a claim is
4 made or action commenced arising out of an event described in
5 section 38-13-1407 (1) relating to confidential information
6 possessed by the administrator, this state shall indemnify,
7 defend, and hold harmless a holder and the holder's affiliates,
8 officers, directors, employees, and agents as to:
9 (a) A third-party claim or action; and
10 (b) A liability, obligation, loss, damage, cost, fee, penalty,
11 fine, settlement, charge, or other expense, including reasonable
12 attorney fees and costs.]

[(1)][(2)] If a claim is made or action commenced arising
out of an event described in section 38-13-1407 (1) relating to
confidential information possessed by an administrator's agent,
the administrator's agent shall indemnify, defend, and hold
harmless a holder and the holder's affiliates, officers,
directors, employees, and agents as to:
(a) A third-party claim or action; and
(b) A liability, obligation, loss, damage, cost, fee, penalty,
fine, settlement, charge, or other expense, including reasonable
attorney fees and costs.

[(2)][(3)] The administrator shall require an
administrator's agent that will receive confidential
information required under this article 13 to maintain adequate
insurance for indemnification obligations of the administrator's
AGENT UNDER SUBSECTION (2) [(1)] OF THIS SECTION. THE AGENT REQUIRED TO MAINTAIN THE INSURANCE SHALL PROVIDE EVIDENCE OF THE INSURANCE TO:

(a) THE ADMINISTRATOR NO LESS FREQUENTLY THAN ANNUALLY;

AND

(b) THE HOLDER ON COMMENCEMENT OF AN EXAMINATION AND ANNUALLY THEREAFTER UNTIL ALL CONFIDENTIAL INFORMATION IS RETURNED OR DESTROYED UNDER SECTION 38-13-1406 (5).

PART 15

MISCELLANEOUS PROVISIONS

38-13-1501. Uniformity of application and construction. IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.


38-13-1503. Transitional provision. (1) AN INITIAL REPORT FILED UNDER THIS ARTICLE FOR PROPERTY THAT WAS NOT REQUIRED TO BE REPORTED BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE, AS AMENDED], BUT THAT IS REQUIRED TO BE REPORTED UNDER THIS ARTICLE 13, MUST INCLUDE ALL ITEMS OF PROPERTY THAT WOULD HAVE BEEN PRESUMED ABANDONED DURING THE TEN-YEAR PERIOD PRECEDING [THE
EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,] AS IF THIS ARTICLE 13 HAD BEEN IN EFFECT DURING THAT PERIOD.

(2) THIS ARTICLE 13 DOES NOT RELIEVE A HOLDER OF A DUTY THAT AROSE BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,] TO REPORT, PAY, OR DELIVER PROPERTY. EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-610, A HOLDER THAT DID NOT COMPLY WITH THE LAW GOVERNING UNCLAIMED PROPERTY BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,] IS SUBJECT TO APPLICABLE PROVISIONS FOR ENFORCEMENT AND PENALTIES IN EFFECT BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED].

(3) INTEREST ON INTEREST-BEARING PROPERTY IS NOT PAYABLE FOR ANY PERIOD BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED, UNLESS AUTHORIZED BY LAW SUPERSEDED BY THIS ARTICLE 13.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.