

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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

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

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

AGENDA

Colorado Commission on Uniform State Laws

January 27, 2017, 12:30 p.m.

Committee Room: HCR 0112

1. Determination of a quorum
2. Introduction of new commissioners and election of chair and vice-chair for 2017-18
3. Public testimony regarding anything not on the agenda
4. Status update on introduced CCUSL bills:
 - a. House Bill 17-1028 Uniform Unsworn Declarations Act Include Domestic
 - b. Senate Bill 17-023 Register Athlete Agents Revised Uniform Act 2015
5. Proposed 2017 legislative agenda:
 - a. LLS 17-0190.02: Revised Uniform Law On Notarial Acts
 - b. LLS 17-0192: Uniform Wage Garnishment Act
 - c. LLS 17-0194: Revised Uniform Unclaimed Property Act
 - d. LLS 17-0188: Authorize Revisor to Publish Comments on Uniform Acts
6. Status of other uniform laws
 - a. Uniform Commercial Real Estate Receivership Act
 - b. Uniform Employee and Student Online Privacy Protection Act
7. CCUSL Budget
8. Other business
9. Next meeting

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
11.29.16

DRAFT

LLS NO. 17-0190.02 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

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

A BILL FOR AN ACT

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

Bill Summary

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

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

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

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. The bill postpones the sunset review of the notaries law from July 1, 2018, to September 1, 2022.

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,

1 SOUND, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN
2 ELECTRONIC RECORD AND EXECUTED OR ADOPTED BY AN INDIVIDUAL
3 WITH THE INTENT TO SIGN THE ELECTRONIC RECORD.

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

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

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

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

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

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

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

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

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

27 (10) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS

1 TRUST, STATUTORY TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED
2 LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC
3 CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY,
4 OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

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

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

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

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

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

15 (14) "STAMPING DEVICE" MEANS:

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

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

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

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

1 **24-21-503. Applicability.** THIS PART 5 APPLIES TO A NOTARIAL
2 ACT PERFORMED ON OR AFTER THE EFFECTIVE DATE OF THIS PART 5.

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

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

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

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

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

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

27 (2) A NOTARIAL OFFICER WHO TAKES A VERIFICATION OF A

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

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

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

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

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

20 (II) THE SECRETARY OF STATE;

21 (III) THE STATE ARCHIVES; OR

22 (IV) AN OFFICE OF VITAL RECORDS.

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

26 (5) (a) A NOTARIAL OFFICER WHO MAKES OR NOTES A PROTEST OF
27 A NEGOTIABLE INSTRUMENT SHALL DETERMINE THE MATTERS SET FORTH

1 IN SECTION 4-3-505 (b) OF THE "UNIFORM COMMERCIAL CODE".

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

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

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

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

19 (a) BY MEANS OF:

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

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

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

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

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

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

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

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

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

27 (2) A NOTARY PUBLIC MAY USE SIGNALS OR ELECTRONIC OR

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

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

- 8 (a) A NOTARY PUBLIC OF THIS STATE;
9 (b) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THIS STATE;
10 OR
11 (c) ANY OTHER INDIVIDUAL AUTHORIZED TO PERFORM THE
12 SPECIFIC ACT BY THE LAW OF THIS STATE.

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

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

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

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

1 (c) ANY OTHER INDIVIDUAL AUTHORIZED BY THE LAW OF THAT
2 STATE TO PERFORM THE NOTARIAL ACT.

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

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

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

17 (a) A NOTARY PUBLIC OF THE TRIBE;

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

19 OR

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

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

27 (3) THE SIGNATURE AND TITLE OF A NOTARIAL OFFICER DESCRIBED

1 IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION CONCLUSIVELY
2 ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL
3 ACT.

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

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

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

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

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

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

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

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

1 STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

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

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

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

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

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

1 INDICATED OFFICE.

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

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

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

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

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

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

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

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

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

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

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

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

10 (4) BY EXECUTING A CERTIFICATE OF A NOTARIAL ACT, A
11 NOTARIAL OFFICER CERTIFIES THAT THE OFFICER HAS COMPLIED WITH THE
12 REQUIREMENTS AND MADE THE DETERMINATIONS SPECIFIED IN SECTIONS
13 24-21-504, 24-21-505, AND 24-21-506.

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

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

26 **24-21-516. Short form certificates.** (1) THE FOLLOWING SHORT
27 FORM CERTIFICATES OF NOTARIAL ACTS ARE SUFFICIENT FOR THE

1 PURPOSES INDICATED, IF COMPLETED WITH THE INFORMATION REQUIRED
2 BY SECTION 24-21-515 (1) AND (2):

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

4 STATE OF _____

5 COUNTY OF _____

6 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

7 _____ (DATE) BY _____ (NAME(S) OF INDIVIDUAL(S))

8 _____

9 SIGNATURE OF NOTARIAL OFFICER

10 STAMP

11 (_____ (TITLE OF OFFICE) _____)

12 MY COMMISSION EXPIRES: _____

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

14 STATE OF _____

15 COUNTY OF _____

16 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

17 _____ (DATE) BY _____ (NAME(S) OF INDIVIDUAL(S))

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

19 (NAME OF PARTY ON BEHALF OF WHOM RECORD WAS

20 EXECUTED).

21 _____

22 SIGNATURE OF NOTARIAL OFFICER

23 STAMP

24 (_____ (TITLE OF OFFICE) _____)

25 MY COMMISSION EXPIRES: _____

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

27 STATE OF _____

1 COUNTY OF _____

2 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON

3 _____ (DATE) BY _____ (NAME(S) OF INDIVIDUAL(S))

4 MAKING STATEMENT)

5 _____

6 SIGNATURE OF NOTARIAL OFFICER

7 STAMP

8 (_____ (TITLE OF OFFICE) _____)

9 MY COMMISSION EXPIRES: _____

10 (d) FOR WITNESSING OR ATTESTING A SIGNATURE:

11 STATE OF _____

12 COUNTY OF _____

13 SIGNED BEFORE ME ON _____ (DATE) BY _____ (NAME(S) OF

14 INDIVIDUAL(S))

15 _____

16 SIGNATURE OF NOTARIAL OFFICER

17 STAMP

18 (_____ (TITLE OF OFFICE) _____)

19 MY COMMISSION EXPIRES: _____

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

21 STATE OF _____

22 COUNTY OF _____

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

24 RECORD IN THE POSSESSION OF _____.

25 DATED _____

26 _____

27 SIGNATURE OF NOTARIAL OFFICER

1 STAMP
2 (_____ (TITLE OF OFFICE) _____)

3 MY COMMISSION EXPIRES: _____

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

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

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

11 (II) THE NOTARY'S IDENTIFICATION NUMBER;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) THE FULL NAME AND ADDRESS OF EACH INDIVIDUAL FOR WHOM
2 THE NOTARIAL ACT IS PERFORMED;

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

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

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

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

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

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

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

27 (7) A CERTIFIED PEACE OFFICER, AS DEFINED IN SECTION

1 16-2.5-102, ACTING IN THE COURSE OF AN OFFICIAL INVESTIGATION MAY
2 INSPECT A NOTARY PUBLIC'S JOURNAL WITHOUT RESTRICTION.

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

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

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

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

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

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

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

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

27 **24-21-521. Commission as notary public - qualifications - no**

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

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

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

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

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

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

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

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

26 (f) HAVE PASSED THE EXAMINATION REQUIRED UNDER SECTION
27 24-21-522 (1).

1 (4) THE SECRETARY OF STATE SHALL VERIFY THE LAWFUL
2 PRESENCE IN THE UNITED STATES OF EACH APPLICANT THROUGH THE
3 VERIFICATION PROCESS OUTLINED IN SECTION 24-76.5-103 (4).

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

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

16 (SIGNATURE OF APPLICANT)
17 SUBSCRIBED AND AFFIRMED BEFORE ME THIS _____
18 DAY OF _____, 20_____.

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

21 (6) ON COMPLIANCE WITH THIS SECTION, THE SECRETARY OF STATE
22 SHALL ISSUE A COMMISSION AS A NOTARY PUBLIC TO AN APPLICANT FOR
23 A TERM OF FOUR YEARS, UNLESS REVOKED IN ACCORDANCE WITH SECTION
24 24-21-523. AN APPLICANT WHO HAS BEEN DENIED APPOINTMENT AND
25 COMMISSION MAY APPEAL THE DECISION IN ACCORDANCE WITH ARTICLE
26 4 OF THIS TITLE 24.

27 (7) A COMMISSION TO ACT AS A NOTARY PUBLIC AUTHORIZES THE

1 NOTARY PUBLIC TO PERFORM NOTARIAL ACTS. THE COMMISSION DOES NOT
2 PROVIDE THE NOTARY PUBLIC ANY IMMUNITY OR BENEFIT CONFERRED BY
3 LAW OF THIS STATE ON PUBLIC OFFICIALS OR EMPLOYEES.

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

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

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

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

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

27 (c) NOTWITHSTANDING SECTION 24-5-101, A CONVICTION OF THE

1 APPLICANT OR NOTARY PUBLIC OF ANY FELONY OR, IN THE PRIOR FIVE
2 YEARS, A MISDEMEANOR INVOLVING DISHONESTY;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) THROUGH WHICH A PERSON MAY VERIFY THE AUTHORITY OF A

1 NOTARY PUBLIC TO PERFORM NOTARIAL ACTS; AND

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

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

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

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

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

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

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

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

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

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

17 (5) A NOTARY PUBLIC, OTHER THAN AN ATTORNEY LICENSED TO
18 PRACTICE LAW IN THIS STATE, SHALL NOT ENGAGE IN CONDUCT THAT
19 CONSTITUTES A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION
20 6-1-727.

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

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

1 **24-21-526. Validity of notarial acts.** EXCEPT AS OTHERWISE
2 PROVIDED IN SECTION 24-21-504 (2), THE FAILURE OF A NOTARIAL OFFICER
3 TO PERFORM A DUTY OR MEET A REQUIREMENT SPECIFIED IN THIS PART 5
4 DOES NOT INVALIDATE A NOTARIAL ACT PERFORMED BY THE NOTARIAL
5 OFFICER. THE VALIDITY OF A NOTARIAL ACT UNDER THIS PART 5 DOES NOT
6 PREVENT AN AGGRIEVED PERSON FROM SEEKING TO INVALIDATE THE
7 RECORD OR TRANSACTION THAT IS THE SUBJECT OF THE NOTARIAL ACT OR
8 FROM SEEKING OTHER REMEDIES BASED ON LAW OF THIS STATE OTHER
9 THAN THIS PART 5 OR LAW OF THE UNITED STATES. THIS SECTION DOES
10 NOT VALIDATE A PURPORTED NOTARIAL ACT PERFORMED BY AN
11 INDIVIDUAL WHO DOES NOT HAVE THE AUTHORITY TO PERFORM NOTARIAL
12 ACTS.

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

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

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

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

1 (d) PRESCRIBE THE PROCESS OF GRANTING, RENEWING,
2 CONDITIONING, DENYING, SUSPENDING, OR REVOKING A NOTARY PUBLIC
3 COMMISSION AND ASSURING THE TRUSTWORTHINESS OF AN INDIVIDUAL
4 HOLDING A COMMISSION AS NOTARY PUBLIC, INCLUDING RULES FOR USE OF
5 THE ELECTRONIC FILING SYSTEM;

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

8 (f) PROVIDE FOR THE ADMINISTRATION OF THE EXAMINATION
9 UNDER SECTION 24-21-522(1) AND THE COURSE OF STUDY UNDER SECTION
10 24-21-522 (2).

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

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

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

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

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

26 (2) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
27 APPROPRIATIONS FROM THE DEPARTMENT OF STATE CASH FUND FOR

1 EXPENDITURES OF THE SECRETARY OF STATE INCURRED IN THE
2 PERFORMANCE OF THE SECRETARY OF STATE'S DUTIES UNDER THIS PART
3 5.

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

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

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

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

27 (2) A NOTARY PUBLIC AND THE SURETY OR SURETIES ON HIS OR

1 HER BOND ARE LIABLE TO THE PERSONS INVOLVED FOR ALL DAMAGES
2 PROXIMATELY CAUSED BY THE NOTARY'S OFFICIAL MISCONDUCT.

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

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

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

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

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

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

23 (b) A RECORD:

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

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

1 (III) SETTING FORTH OR IMPLYING FOR THE BEARER A CLAIM OF
2 IMMUNITY FROM THE LAW OF THIS STATE OR FEDERAL LAW.

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

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

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

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

24 **24-21-539. Effective date.** THIS PART 5 TAKES EFFECT ON JULY
25 1, 2018.

26 **24-21-540. Repeal.** THIS PART 5 IS REPEALED, EFFECTIVE
27 SEPTEMBER 1, 2022. BEFORE ITS REPEAL, THIS PART 5 IS SCHEDULED FOR

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

2 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **amend**
3 (14)(a) introductory portion and (23)(a) introductory portion; **repeal**
4 (14)(a)(VII); and **add** (23)(a)(VIII) as follows:

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

9 (VII) ~~The appointment of notaries public through the secretary of~~
10 ~~state in accordance with part 1 of article 55 of title 12, C.R.S.;~~

11 (23) (a) The following agencies, functions, or both, ~~will~~ ARE
12 SCHEDULED FOR repeal on September 1, 2022:

13 (VIII) THE APPOINTMENT OF NOTARIES PUBLIC THROUGH THE
14 SECRETARY OF STATE IN ACCORDANCE WITH PART 5 OF ARTICLE 21 OF THIS
15 TITLE 24;

16 **SECTION 4.** In Colorado Revised Statutes, 6-1-105, **amend**
17 (1)(vv) as follows:

18 **6-1-105. Deceptive trade practices.** (1) A person engages in a
19 deceptive trade practice when, in the course of the person's business,
20 vocation, or occupation, the person:

21 (vv) Violates section ~~12-55-110.3, C.R.S.~~ 24-21-523 (1)(f) OR
22 (1)(i) OR 24-21-525 (3), (4), OR (5);

23 **SECTION 5.** In Colorado Revised Statutes, 6-1-727, **amend**
24 (3)(e)(III)(A) as follows:

25 **6-1-727. Immigration-related services provided by**
26 **nonattorneys - deceptive trade practice.** (3) **Prohibited practices -**
27 **assistance with immigration matters - permitted practices.**

1 (e) Notwithstanding paragraphs (a) to (d) of this subsection (3), a person
2 other than a person listed in subparagraph (I) or (II) of paragraph (a) of
3 this subsection (3) may:

4 (III) Offer other immigration-related services that:

5 (A) Are not prohibited under this subsection (3), section
6 ~~12-55-110.3, C.R.S. 24-21-523 (1)(f) OR (1)(i) OR 24-21-525 (3), (4), OR~~
7 (5), or any other provision of law; and

8 **SECTION 6.** In Colorado Revised Statutes, 42-1-211, **amend**
9 (1.9)(a) as follows:

10 **42-1-211. Colorado state titling and registration system.**

11 (1.9) (a) In accordance with section ~~12-55-104 (6), C.R.S. 24-21-521 (2),~~
12 the department of revenue and the department of state shall allow for the
13 exchange of information on legal names and signatures between the
14 systems used by the department of revenue and the notary public filing
15 system maintained by the department of state for the purpose of electronic
16 filing of notary applications and renewals.

17 **SECTION 7.** In Colorado Revised Statutes, 38-30-127, **amend**
18 (1)(b), (2), and (3) as follows:

19 **38-30-127. Acknowledgments taken pursuant to other laws.**

20 (1) In addition to the acknowledgment of instruments as provided by
21 articles 30 to 44 of this title, instruments may be acknowledged by:

22 (b) Any person within or outside of this state, pursuant to ~~part 2~~
23 ~~of article 55 of title 12, C.R.S. PART 5 OF ARTICLE 21 OF TITLE 24.~~

24 (2) Any person otherwise authorized by law to take
25 acknowledgments in this state may take and certify acknowledgments
26 either in accordance with articles 30 to 44 of this title or in the same
27 manner and on the same evidence as provided in ~~part 2 of article 55 of~~

1 ~~title 12, C.R.S.~~ PART 5 OF ARTICLE 21 OF TITLE 24. Any certificate of
2 acknowledgment that is taken pursuant to such part 2 shall be valid and
3 have the benefits set forth in subsection (3) of this section, whether such
4 certificate is given before or after January 1, 1999.

5 (3) A certificate of acknowledgment taken pursuant to ~~part 2 of~~
6 ~~article 55 of title 12, C.R.S.~~ PART 5 OF ARTICLE 21 OF TITLE 24, or taken
7 pursuant to such part 2 and subsection (2) of this section shall:

8 **SECTION 8. Act subject to petition - effective date -**
9 **applicability.** (1) This act takes effect July 1, 2018; except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within the ninety-day period after final adjournment of the general
13 assembly, then the act, item, section, or part will not take effect unless
14 approved by the people at the general election to be held in November
15 2018 and, in such case, will take effect on July 1, 2018, or on the date of
16 the official declaration of the vote thereon by the governor, whichever is
17 later.

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

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
1.3.17

DRAFT

LLS NO. 17-0192.01 Jerry Barry x4341

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Uniform Wage Garnishment Act"
DEADLINES: Finalize by: JAN 30, 2017 File by: FEB 1, 2017

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://leg.colorado.gov/>.)

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

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

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

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

3 **ARTICLE 54.7**

4 **Uniform Wage Garnishment Act**

5

6 **13-54.7-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 54.7
7 IS THE "UNIFORM WAGE GARNISHMENT ACT".

8 **13-54.7-102. Definitions.** IN THIS ARTICLE 54.7:

9 (1) "CREDITOR" MEANS A PERSON THAT HAS AN ENFORCEABLE
10 MONEY JUDGMENT AGAINST A DEBTOR. THE TERM INCLUDES A SUCCESSOR
11 IN INTEREST.

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

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

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

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

24 (6) "EMPLOYEE" MEANS AN INDIVIDUAL, INCLUDING A FORMER
25 EMPLOYEE, WHO IS OWED EARNINGS AND MEANS AN INDIVIDUAL WHO:

26 (a) IS TREATED BY AN EMPLOYER AS AN EMPLOYEE FOR FEDERAL
27 EMPLOYMENT TAX PURPOSES; OR

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

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

6 (8) "GARNISHEE" MEANS:

7 (a) A PERSON SERVED WITH A WRIT OF CONTINUING GARNISHMENT
8 UNDER SECTION 13-54.7-105 (2)(b); OR

9 (b) A PERSON WHOSE REGISTERED AGENT IS SERVED WITH A
10 WRIT OF CONTINUING GARNISHMENT UNDER SECTION 13-54.7-105 (2)(a).

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

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

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

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

26

27 (13) "PERIODIC PAYMENTS" MEANS RECURRING PAYMENTS ON SET

1 INTERVALS.

2 (14) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
3 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR
4 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER
5 LEGAL ENTITY.

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

9 (16) "SEND" MEANS TO:

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

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

16 (c) CAUSE A RECORD TO BE RECEIVED IN ANY OTHER WAY WITHIN
17 THE TIME IT WOULD HAVE ARRIVED IF SENT UNDER SUBSECTION (16)(a) OF
18 THIS SECTION.

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

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

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

24 (18) "STATE" MEANS A STATE OF THE UNITED STATES, THE
25 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
26 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
27 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY

1 RECOGNIZED INDIAN TRIBE.

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

11 _____

12 **13-54.7-103. Scope.** (1) THIS ARTICLE 54.7 APPLIES ONLY TO A
13 GARNISHMENT ACTION.

14 (2) THIS ARTICLE 54.7 DOES NOT APPLY TO ANY OTHER REMEDY
15 AVAILABLE TO A CREDITOR UNDER LAW OF THIS STATE OTHER THAN THIS
16 ARTICLE 54.7.

17 (3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-54.7-114,
18 THIS ARTICLE 54.7 DOES NOT APPLY TO AN ORDERED DEDUCTION THAT IS
19 NOT A GARNISHMENT, INCLUDING AN ORDERED DEDUCTION: _____

20 (a) UNDER AN ORDER OF A BANKRUPTCY COURT;

21 (b) FOR A DEBT DUE FOR A FEDERAL, STATE, CITY, OR LOCAL TAX;

22 (c) UNDER A SUPPORT ORDER; OR

23 (d) FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE OR
24 FRAUDULENTLY OBTAINED OVERPAYMENTS COLLECTED PURSUANT TO
25 SECTION 26-2-128 (1)(a).

26 **13-54.7-104. Choice of law.** (1) EXCEPT AS OTHERWISE
27 PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE COURT SHALL DISMISS

1 OR STAY A GARNISHMENT ACTION IF THE DEBTOR'S PRINCIPAL PLACE OF
2 WORK IS NOT IN THIS STATE WHEN THE ACTION IS COMMENCED.

3 (2) THE COURT IS NOT REQUIRED TO DISMISS OR STAY A
4 GARNISHMENT ACTION UNDER SUBSECTION (1) OF THIS SECTION IF THE
5 EMPLOYER IS SUBJECT TO PERSONAL JURISDICTION IN THIS STATE BUT NOT
6 IN THE STATE OF THE DEBTOR'S PRINCIPAL PLACE OF WORK.

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

12 **13-54.7-105. Commencement of garnishment action.** (1) A
13 CREDITOR MAY COMMENCE A GARNISHMENT ACTION BY FILING A WRIT OF
14 GARNISHMENT WITH THE COURT.

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

17 (a) ON THE REGISTERED AGENT IF THE EMPLOYER AGAINST WHICH
18 THE GARNISHMENT IS SOUGHT HAS A REGISTERED AGENT THAT CAN BE
19 SERVED WITH REASONABLE DILIGENCE UNDER RULE 4 OF THE COLORADO
20 RULES OF CIVIL PROCEDURE; OR

21 (b) IF SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY, ON
22 THE EMPLOYER.

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

25 (a) THE NAME OF THE DEBTOR;

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

1 (c) THE AMOUNT THE CREDITOR CLAIMS IS OWED BY THE DEBTOR
2 AND INFORMATION SUFFICIENT TO IDENTIFY THE JUDGMENT ON WHICH THE
3 GARNISHMENT ACTION IS BASED;

4 (d) A COMPLETED NOTICE THAT SATISFIES SECTION 13-54.7-106;

5 (e) A NOTICE OF COLORADO RULES ABOUT GARNISHMENT THAT
6 SATISFIES SECTION 13-54.7-111;

7 (f) THE NAME OF AND CONTACT INFORMATION FOR THE CREDITOR'S
8 AGENT TO WHICH THE GARNISHEE IS REQUIRED BY SECTIONS 13-54.7-106
9 (1)(a) AND (1)(b)(I) AND 13-54.7-109 (3) TO SEND INFORMATION; AND

10 (g) THE MAILING ADDRESS TO WHICH THE GARNISHEE MUST SEND
11 THE AMOUNT WITHHELD AND, AT THE CREDITOR'S OPTION, A STATEMENT
12 OF OTHER REASONABLE MEANS OF SENDING THE AMOUNT TO THE
13 CREDITOR.

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

16 (a) A SEPARATE DOCUMENT PROVIDED ONLY TO THE GARNISHEE
17 AND NOT FILED WITH THE COURT THAT:

18 (I) PROVIDES THE DEBTOR'S DATE OF BIRTH AND FULL SOCIAL
19 SECURITY NUMBER OR STATES THAT THE DATE OR NUMBER IS NOT KNOWN;
20 AND

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

25 (b) AN ADMINISTRATIVE FEE OF FIFTEEN DOLLARS PAYABLE TO THE
26 GARNISHEE.

27 **13-54.7-106. Garnishee _____ response to garnishment action.**

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

3 (a) IF ONE OF THE FOLLOWING GROUNDS APPLIES, THE GARNISHEE
4 SHALL SEND TO THE AGENT NAMED UNDER SECTION 13-54.7-105 (3)(f) A
5 NOTICE STATING THE APPLICABLE GROUND:

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

7 (II) THE DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT IN THIS STATE
8 AND THE EMPLOYER IS SUBJECT TO JURISDICTION IN THE STATE OF THE
9 DEBTOR'S PRINCIPAL PLACE OF WORK;

10 (III) THE GARNISHMENT DOES NOT CONTAIN ALL _____
11 INFORMATION REQUIRED BY SECTION 13-54.7-105 (3);

12 (IV) THE WRIT OF GARNISHMENT IS NOT ACCOMPANIED BY THE
13 SEPARATE DOCUMENT REQUIRED BY SECTION 13-54.7-105 (4)(a) OR THE
14 DOCUMENT DOES NOT CONTAIN ALL THE REQUIRED INFORMATION; OR

15 (V) THE WRIT OF GARNISHMENT IS NOT ACCOMPANIED BY THE FEE
16 REQUIRED BY SECTION 13-54.7-105 (4)(b); OR

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

19 (I) SEND TO THE AGENT NAMED UNDER SECTION 13-54.7-105 (3)(f)
20 A NOTICE THAT INCLUDES:

21 (A) A STATEMENT THAT THE NAMED DEBTOR IS AN EMPLOYEE OF
22 THE GARNISHEE;

23 (B) THE PAY FREQUENCY OF THE EMPLOYEE AND THE DATE OF THE
24 NEXT PAYDAY;

25 (C) THE NAME OF AND CONTACT INFORMATION FOR THE
26 GARNISHEE'S AGENT TO WHICH THE CREDITOR MUST SEND INFORMATION
27 IF REQUIRED BY SECTION 13-54.7-108 (4) OR (6) OR SECTION 13-54.7-115

1 (1)(b); AND

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

6 (II) SEND TO THE EMPLOYEE A COPY OF THE NOTICES PROVIDED TO
7 THE GARNISHEE UNDER SECTION 13-54.7-105 (3)(d) AND (3)(e).

8 **13-54.7-107. Beginning of garnishment.** IF SECTION 13-54.7-106
9 (1)(b)(I) APPLIES, THE EMPLOYER SHALL BEGIN GARNISHMENT ON THE
10 FIRST PAYDAY THAT OCCURS AT LEAST THIRTY DAYS AFTER THE
11 EMPLOYER SENDS THE EMPLOYEE THE NOTICES UNDER SECTION
12 13-54.7-106 (1)(b)(II).

13 **13-54.7-108. Pendency of garnishment.** (1) NOT LATER
14 THAN FIVE BUSINESS DAYS AFTER WITHHOLDING AN AMOUNT FROM THE
15 EARNINGS OF AN EMPLOYEE UNDER A GARNISHMENT ACTION, THE
16 EMPLOYER SHALL SEND THE AMOUNT TO THE CREDITOR AT THE MAILING
17 ADDRESS SPECIFIED UNDER SECTION 13-54.7-105 (3)(g) OR, AT THE
18 EMPLOYER'S OPTION, BY ANOTHER MEANS SPECIFIED BY THE CREDITOR
19 UNDER SECTION 13-54.7-105 (3)(g).

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

24 (3) AN EMPLOYER SHALL NOTIFY AN EMPLOYEE OF ANY AMOUNT
25 WITHHELD AS A GARNISHMENT IN THE SAME MANNER THAT THE EMPLOYER
26 NOTIFIES THE EMPLOYEE OF OTHER WITHHOLDINGS FROM EARNINGS.

27 (4) BEFORE TERMINATION UNDER SECTION 13-54.7-109(2) OF

1 A GARNISHMENT ACTION, A CREDITOR MAY SEND THE EMPLOYER A NOTICE
2 REQUIRING THE EMPLOYER TO CHANGE ITS RECORDS TO INDICATE AN
3 INCREASE OR DECREASE IN THE AMOUNT OWED. THE CREDITOR SHALL
4 SEND THE NOTICE TO THE AGENT NAMED UNDER SECTION 13-54.7-106
5 (1)(b)(I)(C).

6 (5) THE EMPLOYER THAT RECEIVES A NOTICE UNDER SUBSECTION
7 (4) OF THIS SECTION SHALL SEND THE EMPLOYEE A COPY OF THE NOTICE OR
8 A COMPLETED CALCULATION WORKSHEET UNDER SECTION 13-54.7-112.

9 (6) FOR EACH PAYDAY ON WHICH A GARNISHMENT OCCURS, THE
10 EMPLOYER SHALL MAINTAIN A RECORD SUFFICIENT TO PREPARE FOR EACH
11 CREDITOR A CALCULATION WORKSHEET UNDER SECTION 13-54.7-112. AT
12 ANY TIME, THE EMPLOYEE OR CREDITOR MAY REQUEST IN A RECORD A
13 COMPLETED CALCULATION WORKSHEET. THE CREDITOR SHALL SEND THE
14 REQUEST TO THE AGENT NAMED UNDER SECTION 13-54.7-106 (1)(b)(I)(C).
15 NOT LATER THAN FIVE BUSINESS DAYS AFTER RECEIPT OF A REQUEST, THE
16 EMPLOYER SHALL SEND WITHOUT CHARGE A CALCULATION WORKSHEET
17 FOR THE MOST RECENT PAYDAY. THE EMPLOYER IS NOT REQUIRED TO
18 PROVIDE:

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

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

23 **13-54.7-109. Termination of garnishment action.** (1) NOT
24 LATER THAN TWENTY-ONE DAYS AFTER RECEIVING NOTICE UNDER SECTION
25 13-54.7-106 (1)(a), THE CREDITOR SHALL SEEK DISMISSAL OF THE
26 GARNISHMENT ACTION OR A PROMPT HEARING UNDER SECTION
27 13-54.7-118 TO DETERMINE WHETHER THE GARNISHEE IS REQUIRED TO

1 PROCEED UNDER SECTION 13-54.7-106 (1)(b).

2 (2) A GARNISHMENT BEGUN UNDER SECTION 13-54.7-107
3 TERMINATES WHEN:

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

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

7 (3) NOT LATER THAN TWENTY-ONE DAYS AFTER THE FIRST DAY ON
8 WHICH A DEBTOR IS NO LONGER AN EMPLOYEE OF THE GARNISHEE, THE
9 GARNISHEE SHALL SEND THE AGENT NAMED UNDER SECTION 13-54.7-105
10 (3)(f) NOTICE OF THE CESSATION OF EMPLOYMENT.

11 (4) A CREDITOR SHALL SEEK DISMISSAL OF A GARNISHMENT
12 ACTION NOT LATER THAN TWENTY-ONE DAYS AFTER THE EARLIER OF THE
13 TIME:

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

15 (b) THE CREDITOR RECEIVES THE NOTICE REQUIRED BY
16 SUBSECTION (3) OF THIS SECTION.

17 **13-54.7-110. Notice to employee of garnishment - form -**
18 **definition.** (1) IN THIS SECTION, "ORIGINAL CREDITOR" MEANS A PERSON
19 TO WHICH A DEBTOR ORIGINALLY OWED THE OBLIGATION FOR WHICH A
20 GARNISHMENT IS SOUGHT.

21 (2) THE NOTICE REQUIRED BY SECTION 13-54.7-105 (3)(d) MUST
22 BE IN SUBSTANTIALLY THE FOLLOWING FORM:

23 **Notice of Garnishment**

24 **Money Will Be Taken from Your Pay If You Fail to Act**

25

26 You are getting this notice because (name of
27 creditor) says you owe them money

1 ● (Name or shortened name of creditor)
2 has started a legal process called
3 "garnishment." The process requires that
4 money be taken from your pay and given to
5 them to pay what you owe. The person who
6 pays you does not keep the money.

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

7 ● (Name or shortened name of creditor)
8 filled out this form. The law requires the
9 person who pays you to give you this form.

10 ● If the line below is checked, (name or
11 shortened name of creditor) is not the
12 creditor you originally owed money to. If
13 that is the case, knowing the name of the
14 original creditor might help you understand
15 why money will be taken from your pay.

16 ___ The amount you owe originally
17 comes from a debt you owed to (insert
18 name of original creditor).

19 _____

20 (Name or shortened name of creditor) says you
21 currently owe \$(state amount). The amount could
22 go up if there are more court costs or additional
23 interest. The amount also could go down if you
24 make payments to (name or shortened name of
25 creditor).

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

26
27 _____

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

5 **3. How Will** The rules about how much of your pay can be
6 **The Amount I** taken are explained in the Notice of Colorado
7 **Owe Be Paid?** Rules About Garnishment that you received with
8 this notice.

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

16 You have three options:
17 **4. What** *Talk with a lawyer.* A lawyer can explain the
18 **Options Do I** situation to you and help you decide what to do.
19 **Have?** This office can help you find a lawyer:
20 (insert name and contact information for
21 legal aid or lawyer referral service)
22 *Contact (insert name or shortened name of*
23 *creditor).* If you can work something out with
24 them, money might not have to be taken from your
25 pay. This is the creditor's contact information:
26 (Insert creditor's contact information)

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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)

5. What If I Don't Do Anything? 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.

13-54.7-111. Notice of Colorado rules about garnishment.

- (1) THE NOTICE REQUIRED BY SECTION 13-54.7-105 (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 13-54.7-113;
 - (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.

13-54.7-112. Calculation worksheet. A CALCULATION

1 WORKSHEET REQUIRED UNDER SECTION 13-54.7-108 (5) OR (6) MUST BE
2 IN SUBSTANTIALLY THE FOLLOWING FORM:

3 **Notice of Garnishment**

4 Debtor:

5 Creditor:

6 For Earnings Paid on:

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

8 Disposable Earnings:

9 1. Gross Earnings Paid to Debtor \$ _____

10 2. Amounts Withheld:

11 a. Federal social security tax: \$ _____

12 b. Federal Medicare tax: \$ _____

13 c. Federal income tax: \$ _____

14 d. State income tax: \$ _____

15 e. City or local tax: \$ _____

16 f. Railroad retirement tax: \$ _____

17 g. Other: \$ _____

18 3. Total Amounts Withheld

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

20 4. Disposable Earnings

21 (Line 1 minus line 3) \$ _____

22 Garnishment Calculation:

23 5. (___)% of Disposable Earnings (line 4) \$ _____

24 6. Exemption Amount \$ _____

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

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

27 9. Amounts of Other Current Garnishments with Higher

- 1 Priority (if none, enter \$0) \$_____
- 2 10. Subtract line 9 from line 8 (if less than \$0, enter \$0) \$_____
- 3 11. Enter the number of Other Current Garnishments
- 4 with the Same Priority, plus one _____
- 5 12. Divide line 10 by line 11 \$_____

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

Statement of Amount Due and Paid

- 8 13. Total Amount Currently Claimed by Creditor: \$_____
- 9 14. Amounts Paid Through Garnishment:
- 10 a. Prior Garnishments \$_____
- 11 b. This Garnishment (Line 12) \$_____
- 12 c. Total Garnishments \$_____
- 13 15. Net Amount Owed After Garnishments \$_____
- 14 to Date (Line 13 minus line 14c)

15 **13-54.7-113. Limits on wage garnishment.** (1) THE MAXIMUM
 16 AMOUNT OF EARNINGS SUBJECT TO GARNISHMENT MAY NOT EXCEED THE
 17 LEAST OF:

- 18 (a) TWENTY-FIVE PERCENT OF DISPOSABLE EARNINGS FOR A
- 19 WORKWEEK;
- 20 (b) THE AMOUNT BY WHICH DISPOSABLE EARNINGS FOR A
- 21 WORKWEEK EXCEED THIRTY TIMES THE FEDERAL MINIMUM WAGE
- 22 REQUIRED BY SECTION 6 (a) OF THE FEDERAL "FAIR LABOR STANDARDS
- 23 ACT OF 1938", 29 U.S.C. SEC. 206 (a) IN EFFECT AT THE TIME THE
- 24 EARNINGS ARE PAYABLE; OR
- 25 (c) THE AMOUNT BY WHICH DISPOSABLE EARNINGS FOR A
- 26 WORKWEEK EXCEED THIRTY TIMES THE STATE MINIMUM WAGE REQUIRED
- 27 BY SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION IN EFFECT

1 AT THE TIME THAT THE EARNINGS ARE PAYABLE.

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

7 **13-54.7-114. Multiple ordered deductions.** (1) IF MORE THAN
8 ONE ORDERED DEDUCTION IS IN EFFECT AGAINST AN EMPLOYEE OF AN
9 EMPLOYER, THE FOLLOWING RULES APPLY:

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

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

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

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

1 **13-54.7-115. Compliance process.** (1) A GARNISHEE IS NOT
2 LIABLE FOR A SANCTION UNDER SECTION 13-54.7-116 UNLESS:

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

6 (b) IF A CREDITOR FILES THE MOTION UNDER SUBSECTION (1)(a) OF
7 THIS SECTION AND AN AGENT HAS BEEN NAMED UNDER SECTION
8 13-54.7-106 (1)(b)(I)(C), THE CREDITOR SENDS A COPY OF THE MOTION TO
9 THE AGENT; AND

10 (c) THE GARNISHEE FAILS:

11 (I) TO SEND THE INFORMATION REQUIRED BY SECTION 13-54.7-106
12 (1)(a) OR (1)(b)(I), OR (1)(b)(II), AS APPLICABLE, NOT LATER THAN
13 FOURTEEN BUSINESS DAYS AFTER RECEIVING THE MOTION UNDER
14 SUBSECTION (1)(a) OF THIS SECTION OR A COPY OF THE MOTION UNDER
15 SUBSECTION (1)(b) OF THIS SECTION, WHICHEVER IS EARLIER;

16 (II) TO BEGIN GARNISHMENT UNDER SECTION 13-54.7-107 NOT
17 LATER THAN TWENTY-ONE DAYS AFTER RECEIVING THE MOTION OR, IF NO
18 PAYDAY OCCURS BETWEEN SIX AND TWENTY-ONE DAYS AFTER RECEIVING
19 THE MOTION, ON THE NEXT PAYDAY LATER THAN TWENTY-ONE DAYS
20 AFTER RECEIVING THE MOTION UNDER SUBSECTION (1)(a) OF THIS SECTION
21 OR A COPY OF THE MOTION UNDER SUBSECTION (1)(b) OF THIS SECTION,
22 WHICHEVER IS EARLIER; OR

23 (III) TO REMIT TO THE CREDITOR, NOT LATER THAN FIVE BUSINESS
24 DAYS AFTER RECEIVING THE MOTION, THE AMOUNT THAT HAS BEEN
25 WITHHELD FROM THE EARNINGS OF THE DEBTOR SINCE GARNISHMENT
26 BEGAN UNDER SECTION 13-54.7-107 BUT NOT PROPERLY REMITTED TO THE
27 CREDITOR UNDER SECTION 13-54.7-108 (1).

1 (2) FOR GOOD CAUSE, THE COURT MAY WAIVE ALL OR ANY PART
2 OF THE AMOUNTS OTHERWISE DUE UNDER SECTION 13-54.7-116.

3 **13-54.7-116. Garnishee sanctions for noncompliance.**

4 (1) SUBJECT TO SECTION 13-54.7-115, THE FOLLOWING RULES APPLY:

5 (a) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION
6 13-54.7-106 IS LIABLE TO THE CREDITOR FOR TWENTY DOLLARS FOR EACH
7 DAY BEGINNING TWENTY-TWO DAYS AFTER SERVICE OF THE WRIT OF
8 GARNISHMENT:

9 (I) UNTIL THE GARNISHEE SENDS THE INFORMATION REQUIRED BY
10 SECTION 13-54.7-106 (1)(a); OR

11 (II) UNTIL THE EARLIER OF THE DAY THE GARNISHEE SENDS THE
12 INFORMATION REQUIRED BY SUBSECTION 13-54.7-106 (1)(b) OR
13 GARNISHMENT IS REQUIRED TO BEGIN UNDER SECTION 13-54.7-107;

14 (b) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION
15 13-54.7-107 IS LIABLE TO THE CREDITOR FOR THE AMOUNT THAT SHOULD
16 HAVE BEEN WITHHELD PURSUANT TO THAT SECTION AND SENT TO THE
17 CREDITOR;

18 (c) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION
19 13-54.7-108 (1) IS LIABLE TO THE CREDITOR FOR:

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

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

27 (d) A GARNISHEE THAT FAILS UNDER SECTION 13-54.7-108 (5) TO

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

6 (e) A GARNISHEE THAT FAILS TO COMPLY WITH A REQUEST BY AN
7 EMPLOYEE OR CREDITOR FOR A CALCULATION WORKSHEET UNDER SECTION
8 13-54.7-108 (6) IS LIABLE TO THE REQUESTING EMPLOYEE OR CREDITOR
9 FOR FIVE DOLLARS FOR EACH DAY BEGINNING SIX BUSINESS DAYS AFTER
10 THE REQUEST AND ENDING THE DAY BEFORE THE GARNISHEE SENDS THE
11 WORKSHEET;

12 (f) A GARNISHEE THAT FAILS TO COMPLY WITH SECTION
13 13-54.7-109 (3) IS LIABLE TO THE CREDITOR FOR FIVE DOLLARS FOR EACH
14 DAY BEGINNING TWENTY-TWO DAYS AFTER THE FIRST DAY ON WHICH THE
15 DEBTOR IS NO LONGER AN EMPLOYEE OF THE GARNISHEE AND ENDING THE
16 DAY THE NOTICE IS SENT;

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

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

27 _____

1 **13-54.7-117. Creditor sanctions.** (1) IF A COURT DETERMINES
2 THAT A CREDITOR ACTED IN BAD FAITH IN SEEKING A GARNISHMENT
3 UNDER THIS ARTICLE 54.7, THE CREDITOR IS LIABLE FOR:

- 4 (a) AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS;
5 (b) ANY AMOUNTS DUE UNDER SUBSECTION (3) OF THIS SECTION;

6 AND

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

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

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

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

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

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

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

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

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

14 **13-54.7-118. Hearing.** (1) A GARNISHEE, CREDITOR, OR DEBTOR
15 AT ANY TIME MAY REQUEST THE COURT TO HOLD A HEARING TO
16 DETERMINE ANY ISSUE ARISING UNDER THIS ARTICLE 54.7.

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

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

23 **13-54.7-119. Protection of employee subject to garnishment.**

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

27 (2) SUBSECTION (1) OF THIS SECTION IS ENFORCEABLE BY THE

1 POWERS, REMEDIES, AND PROCEDURES USED TO ENFORCE ARTICLE 2 OF
2 TITLE 8.

3 **13-54.7-120. Other laws not limited.** THIS ARTICLE 54.7 DOES
4 NOT LIMIT ANY LAW OF THIS STATE OTHER THAN THIS ARTICLE 54.7 THAT
5 OTHERWISE LIMITS OR PROHIBITS GARNISHMENT.

6 _____
7 **13-54.7-121. Uniformity of application and construction.** IN
8 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
9 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
10 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

11 **13-54.7-122. Relation to electronic signatures in global and**
12 **national commerce act.** THIS ARTICLE 54.7 MODIFIES, LIMITS, OR
13 SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND
14 NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT
15 MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C.
16 SEC. 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE
17 NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003
18 (b).

19 **13-54.7-123. Savings clause.** THIS ARTICLE 54.7 DOES NOT
20 AFFECT THE VALIDITY OR EFFECT OF A GARNISHMENT ACTION FILED ON OR
21 BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 54.7.

22 **13-54.7-124. Severability.** IF ANY PROVISION OF THIS ARTICLE
23 54.7 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD
24 INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
25 APPLICATIONS OF THIS ARTICLE 54.7 THAT CAN BE GIVEN EFFECT WITHOUT
26 THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
27 PROVISIONS OF THIS ARTICLE 54.7 ARE SEVERABLE.

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

3 **13-54-104. Restrictions on garnishment and levy under**
4 **execution or attachment - definitions.** (1) As used in this section,
5 unless the context otherwise requires:

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

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

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

11 **13-54.5-101. Definitions.** As used in this ~~article~~ ARTICLE 54.5,
12 unless the context otherwise requires:

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

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

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

18 **13-55-101. Defendant to file written claim.** Except in cases of
19 garnishment pursuant to article 54.5 OR 54.7 of this ~~title~~ TITLE 13, in cases
20 where a sheriff or other officer by virtue of a writ of execution, writ of
21 attachment, or other order of court issued by a court of record or clerk
22 thereof levies upon, seizes, or takes into his OR HER possession any
23 property of the defendant debtor, which said property, or part thereof, the
24 defendant claims as exempt under the provisions of the statutes of the
25 state, said defendant debtor, within fourteen days after being served with
26 notice of such levy or seizure, shall make and file with the clerk of the
27 court of record out of which such writ of execution, writ of attachment,

1 or other order was issued a written claim of such exemption setting forth
2 with reasonable detail the description of the property so claimed to be
3 exempt together with the grounds of such claim of exemption.

4 **SECTION 5. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect January 1, 2018; except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within the ninety-day period after final adjournment of the general
9 assembly, then the act, item, section, or part will not take effect unless
10 approved by the people at the general election to be held in November
11 2018 and, in such case, will take effect on the date of the official
12 declaration of the vote thereon by the governor.

13 (2) This act applies to writs of garnishment filed on or after the
14 applicable effective date of this act.

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
12.6.16

DRAFT

LLS NO. 17-0194.01 Duane Gall x4335

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Revised Uniform Unclaimed Property Act"

DEADLINES: File by: 2/1/2017

A BILL FOR AN ACT

101 CONCERNING ADOPTION OF THE "REVISED UNIFORM UNCLAIMED
102 PROPERTY ACT".

Bill Summary

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

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.*

Colorado-specific provisions of the prior version, known simply as the "Unclaimed Property Act", are retained and indicated by their former statutory section numbers. Examples of these provisions include rules for the disposition of money held by the Colorado public employees' retirement association and by utilities under Colorado's low-income energy assistance program.

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

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

4 **ARTICLE 13**

5 **Revised Uniform Unclaimed Property Act**

6 **PART 1**

7 **IN GENERAL**

8 **38-13-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 13 IS
9 THE "REVISED UNIFORM UNCLAIMED PROPERTY ACT".

10 **38-13-102. Definitions.** AS USED IN THIS ARTICLE 13, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "ADMINISTRATOR" MEANS THE STATE TREASURER.

13 (2) "ADMINISTRATOR'S AGENT" MEANS A PERSON WITH WHOM THE
14 ADMINISTRATOR CONTRACTS TO CONDUCT AN EXAMINATION UNDER PART
15 10 OF THIS ARTICLE 13 ON BEHALF OF THE ADMINISTRATOR. THE TERM
16 INCLUDES AN INDEPENDENT CONTRACTOR OF THE PERSON AND EACH
17 INDIVIDUAL PARTICIPATING IN THE EXAMINATION ON BEHALF OF THE
18 PERSON OR CONTRACTOR.

19 (3) "APPARENT OWNER" MEANS A PERSON WHOSE NAME APPEARS
20 ON THE RECORDS OF A HOLDER AS THE OWNER OF PROPERTY HELD, ISSUED,
21 OR OWING BY THE HOLDER.

22 (4) "BUSINESS ASSOCIATION" MEANS A FOR-PROFIT OR NONPROFIT

1 CORPORATION; JOINT STOCK COMPANY; INVESTMENT COMPANY OTHER
2 THAN AN INVESTMENT COMPANY REGISTERED UNDER THE FEDERAL
3 "INVESTMENT COMPANY ACT OF 1940", AS AMENDED, 15 U.S.C. SECS.
4 80a-1 TO 80a-64; PARTNERSHIP; UNINCORPORATED ASSOCIATION; JOINT
5 VENTURE; LIMITED LIABILITY COMPANY; BUSINESS TRUST; TRUST
6 COMPANY; LAND BANK; SAFE DEPOSIT COMPANY; SAFEKEEPING
7 DEPOSITORY; FINANCIAL ORGANIZATION; INSURANCE COMPANY;
8 FEDERALLY CHARTERED ENTITY; UTILITY; SOLE PROPRIETORSHIP; OR
9 OTHER BUSINESS ENTITY.

10 (5) "CONFIDENTIAL INFORMATION" MEANS RECORDS, REPORTS,
11 AND INFORMATION THAT ARE CONFIDENTIAL UNDER SECTION 38-13-1402.

12 (6) "DOMICILE" MEANS:

13 (a) FOR A CORPORATION, THE STATE OF ITS INCORPORATION;

14 (b) FOR A BUSINESS ASSOCIATION WHOSE FORMATION REQUIRES A
15 FILING WITH A STATE, OTHER THAN A CORPORATION, THE STATE OF ITS
16 FILING;

17 (c) FOR A FEDERALLY CHARTERED ENTITY OR AN INVESTMENT
18 COMPANY REGISTERED UNDER THE FEDERAL "INVESTMENT COMPANY ACT
19 OF 1940", AS AMENDED, 15 U.S.C. SECS. 80a-1 TO 80a-64, THE STATE OF
20 ITS HOME OFFICE; AND

21 (d) FOR ANY OTHER HOLDER, THE STATE OF ITS PRINCIPAL PLACE
22 OF BUSINESS.

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

26 (8) "ELECTRONIC MAIL" MEANS ANY COMMUNICATION OF
27 INFORMATION BY ELECTRONIC MEANS THAT IS AUTOMATICALLY RETAINED

1 AND STORED AND MAY BE READILY ACCESSED OR RETRIEVED.

2 (9) "FINANCIAL ORGANIZATION" MEANS A SAVINGS AND LOAN
3 ASSOCIATION, BUILDING AND LOAN ASSOCIATION, SAVINGS BANK,
4 INDUSTRIAL BANK, BANK, BANKING ORGANIZATION, OR CREDIT UNION.

5 (10) "GAME-RELATED DIGITAL CONTENT" MEANS DIGITAL
6 CONTENT THAT EXISTS ONLY IN AN ELECTRONIC GAME OR
7 ELECTRONIC-GAME PLATFORM. THE TERM:

8 (a) INCLUDES:

9 (I) GAME-PLAY CURRENCY SUCH AS A VIRTUAL WALLET, EVEN IF
10 DENOMINATED IN UNITED STATES CURRENCY; AND

11 (II) THE FOLLOWING IF FOR USE OR REDEMPTION ONLY WITHIN
12 THAT GAME OR PLATFORM OR ANOTHER ELECTRONIC GAME OR
13 ELECTRONIC-GAME PLATFORM:

14 (A) POINTS SOMETIMES REFERRED TO AS GEMS, TOKENS, GOLD,
15 AND SIMILAR NAMES; AND

16 (B) DIGITAL CODES; AND

17 (b) DOES NOT INCLUDE AN ITEM THAT THE ISSUER:

18 (I) PERMITS TO BE REDEEMED FOR USE OUTSIDE OF A GAME OR
19 PLATFORM FOR:

20 (A) MONEY; OR

21 (B) GOODS OR SERVICES THAT HAVE MORE THAN MINIMAL VALUE;

22 OR

23 (II) OTHERWISE MONETIZES FOR USE OUTSIDE OF A GAME OR
24 PLATFORM.

25 (11) "GIFT CARD" MEANS:

26 (a) A STORED-VALUE CARD:

27 (I) THE VALUE OF WHICH DOES NOT EXPIRE; <{*See note, p. 9*}>

1 (II) THAT MAY BE DECREASED IN VALUE ONLY BY REDEMPTION
2 FOR MERCHANDISE, GOODS, OR SERVICES; AND

3 (III) THAT, UNLESS REQUIRED BY LAW, MAY NOT BE REDEEMED
4 FOR OR CONVERTED INTO MONEY OR OTHERWISE MONETIZED BY THE
5 ISSUER; AND

6 (b) INCLUDES A PREPAID COMMERCIAL MOBILE RADIO SERVICE, AS
7 DEFINED IN 47 CFR 20.3, AS AMENDED.

8 (12) "HOLDER" MEANS A PERSON OBLIGATED TO HOLD FOR THE
9 ACCOUNT OF, OR TO DELIVER OR PAY TO, THE OWNER PROPERTY THAT IS
10 SUBJECT TO THIS ARTICLE 13.

11 (13) "INSURANCE COMPANY" MEANS AN ASSOCIATION,
12 CORPORATION, OR FRATERNAL OR MUTUAL-BENEFIT ORGANIZATION,
13 WHETHER OR NOT FOR PROFIT, ENGAGED IN THE BUSINESS OF PROVIDING
14 LIFE ENDOWMENTS, ANNUITIES, OR INSURANCE, INCLUDING ACCIDENT,
15 BURIAL, CASUALTY, CREDIT-LIFE, CONTRACT-PERFORMANCE, DENTAL,
16 DISABILITY, FIDELITY, FIRE, HEALTH, HOSPITALIZATION, ILLNESS, LIFE,
17 MALPRACTICE, MARINE, MORTGAGE, SURETY, WAGE-PROTECTION, AND
18 WORKERS' COMPENSATION INSURANCE.

19 (13.5) "LAWYER COLTAF TRUST ACCOUNT" MEANS A COLORADO
20 LAWYER TRUST ACCOUNT FOUNDATION TRUST ACCOUNT IN WHICH A
21 LAWYER, IN ACCORDANCE WITH THE LAWYER'S PROFESSIONAL
22 OBLIGATIONS, HOLDS FUNDS OF CLIENTS OR THIRD PERSONS THAT ARE
23 NOMINAL IN AMOUNT OR THAT ARE EXPECTED TO BE HELD FOR A SHORT
24 PERIOD.

25 (14) "LOYALTY CARD" MEANS A RECORD GIVEN WITHOUT DIRECT
26 MONETARY CONSIDERATION, UNDER AN AWARD, REWARD, BENEFIT,
27 LOYALTY, INCENTIVE, REBATE, OR PROMOTIONAL PROGRAM, THAT MAY BE

1 USED OR REDEEMED ONLY TO OBTAIN GOODS OR SERVICES OR A DISCOUNT
2 ON GOODS OR SERVICES. THE TERM DOES NOT INCLUDE A RECORD THAT
3 MAY BE REDEEMED FOR MONEY OR OTHERWISE MONETIZED BY THE ISSUER.

4 (15) "MINERAL" MEANS GAS, OIL, COAL, OIL SHALE, OTHER
5 GASEOUS LIQUID OR SOLID HYDROCARBON, CEMENT MATERIAL, SAND AND
6 GRAVEL, ROAD MATERIAL, BUILDING STONE, CHEMICAL RAW MATERIAL,
7 GEMSTONE, FISSIONABLE AND NONFISSIONABLE ORES, COLLOIDAL AND
8 OTHER CLAY, STEAM AND OTHER GEOTHERMAL RESOURCES, AND ANY
9 OTHER SUBSTANCE DEFINED AS A MINERAL UNDER COLORADO LAW OTHER
10 THAN THIS ARTICLE 13.

11 (16) "MINERAL PROCEEDS" MEANS AN AMOUNT PAYABLE FOR
12 EXTRACTION, PRODUCTION, OR SALE OF MINERALS OR, ON THE
13 ABANDONMENT OF THE AMOUNT, THE AMOUNT THAT BECOMES PAYABLE
14 AFTER ABANDONMENT. THE TERM INCLUDES AN AMOUNT PAYABLE:

15 (a) FOR THE ACQUISITION AND RETENTION OF A MINERAL LEASE,
16 INCLUDING A BONUS, ROYALTY, COMPENSATORY ROYALTY, SHUT-IN
17 ROYALTY, MINIMUM ROYALTY, AND DELAY RENTAL;

18 (b) FOR THE EXTRACTION, PRODUCTION, OR SALE OF MINERALS,
19 INCLUDING A NET REVENUE INTEREST, ROYALTY, OVERRIDING ROYALTY,
20 EXTRACTION PAYMENT, AND PRODUCTION PAYMENT; AND

21 (c) UNDER AN AGREEMENT OR OPTION, INCLUDING A JOINT
22 OPERATING AGREEMENT, UNIT AGREEMENT, POOLING AGREEMENT, AND
23 FARM-OUT AGREEMENT.

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

27 (18) "MUNICIPAL BOND" MEANS A BOND OR EVIDENCE OF

1 INDEBTEDNESS ISSUED BY A MUNICIPALITY OR OTHER POLITICAL
2 SUBDIVISION OF A STATE.

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

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

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

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

23 (22) "PAYROLL CARD" MEANS A RECORD THAT EVIDENCES A
24 PAYROLL-CARD ACCOUNT AS DEFINED IN REGULATION E, 12 CFR PART
25 1005, AS AMENDED.

26 (23) "PERSON" MEANS AN INDIVIDUAL; ESTATE; BUSINESS
27 ASSOCIATION; PUBLIC CORPORATION; GOVERNMENT OR GOVERNMENTAL

1 SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER LEGAL ENTITY.

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

7 (a) INCLUDES ALL INCOME FROM OR INCREMENTS TO THE
8 PROPERTY;

9 (b) INCLUDES PROPERTY REFERRED TO AS OR EVIDENCED BY:

10 (I) MONEY, VIRTUAL CURRENCY, INTEREST, DIVIDEND, A CHECK,
11 DRAFT, DEPOSIT, OR PAYROLL CARD;

12 (II) A CREDIT BALANCE, CUSTOMER'S OVERPAYMENT,
13 STORED-VALUE CARD, SECURITY DEPOSIT, REFUND, CREDIT
14 MEMORANDUM, UNPAID WAGE, UNUSED TICKET FOR WHICH THE ISSUER
15 HAS AN OBLIGATION TO PROVIDE A REFUND, MINERAL PROCEEDS, OR
16 UNIDENTIFIED REMITTANCE;

17 (III) A SECURITY EXCEPT FOR:

18 (A) A WORTHLESS SECURITY; OR

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

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

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

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

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

8 (c) DOES NOT INCLUDE:

9 (I) PROPERTY HELD IN A PLAN DESCRIBED IN SECTION 529A OF THE
10 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, 26 U.S.C.
11 SEC. 529A;

12 (II) GAME-RELATED DIGITAL CONTENT; [OR]

13 (III) A LOYALTY CARD.[;] [OR]

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

15 [(V) A GIFT CARD]. <{**Note from NCCUSL: A state that wants to**
16 **exempt gift cards may remove the brackets so as to include the words**
17 **"a gift card" where they appear in paragraph (24)(c)(V) as part of the**
18 **phrase beginning "but does not include." A state that does not want to**
19 **exempt gift cards should do the reverse: delete the words "a gift card"**
20 **in paragraph (24)(c)(V). In (30)(a)(II) ("stored-value card") delete "a**
21 **gift card", and in (30)(b) delete the brackets around the words "gift**
22 **card." States that wish to exempt gift cards without regard to whether**
23 **they expire may delete (11)(a)(I) from the definition of "gift card"**
24 **above.**>

25 (25) "PUTATIVE HOLDER" MEANS A PERSON BELIEVED BY THE
26 ADMINISTRATOR TO BE A HOLDER, UNTIL THE PERSON PAYS OR DELIVERS
27 TO THE ADMINISTRATOR PROPERTY SUBJECT TO THIS ARTICLE 13 OR THE

1 ADMINISTRATOR OR A COURT MAKES A FINAL DETERMINATION THAT THE
2 PERSON IS OR IS NOT A HOLDER.

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

6 (27) "SECURITY" MEANS:

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

8 (b) A SECURITY ENTITLEMENT AS DEFINED IN SECTION 4-8-102
9 (17), INCLUDING A CUSTOMER SECURITY ACCOUNT HELD BY A REGISTERED
10 BROKER-DEALER TO THE EXTENT THAT THE FINANCIAL ASSETS HELD IN
11 THE SECURITY ACCOUNT ARE NOT:

12 (I) REGISTERED ON THE BOOKS OF THE ISSUER IN THE NAME OF THE
13 PERSON FOR WHICH THE BROKER-DEALER HOLDS THE ASSETS;

14 (II) PAYABLE TO THE ORDER OF THE PERSON; OR

15 (III) SPECIFICALLY INDORSED TO THE PERSON; OR

16 (c) AN EQUITY INTEREST IN A BUSINESS ASSOCIATION NOT
17 INCLUDED IN SUBSECTION (27)(a) OR (27)(b) OF THIS SECTION.

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

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

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

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

27 (30) "STORED-VALUE CARD": <{Note from NCCUSL: The

1 definition of a stored-value card includes a payroll card and a gift card.
2 A state that exempts gift cards may continue to do so by deleting "a gift
3 card" in (30)(a)(II) below. A state that does not exempt gift cards will
4 need to remove the brackets around the words "a gift card" in
5 paragraph (30)(a)(II) and retain the words, and delete the words "gift
6 card" in brackets in (30)(b).}>

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

11 (b) INCLUDES:

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

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

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

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

23 (a) TRANSMISSION OF COMMUNICATIONS OR INFORMATION;

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

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

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

5 (a) THE SOFTWARE OR PROTOCOLS GOVERNING THE TRANSFER OF
6 THE DIGITAL REPRESENTATION OF VALUE;

7 (b) GAME-RELATED DIGITAL CONTENT; OR

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

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

13 **38-13-103. Inapplicability to wholly foreign transaction.** THIS
14 ARTICLE 13 DOES NOT APPLY TO PROPERTY HELD, DUE, AND OWING IN A
15 FOREIGN COUNTRY IF THE TRANSACTION OUT OF WHICH THE PROPERTY
16 AROSE WAS A FOREIGN TRANSACTION.

17 **38-13-104. Rule-making.** THE ADMINISTRATOR MAY ADOPT
18 UNDER THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF
19 TITLE 24, RULES TO IMPLEMENT AND ADMINISTER THIS ARTICLE 13.

20 PART 2

21 PRESUMPTION OF ABANDONMENT

22 **38-13-201. When property presumed abandoned.** (1) SUBJECT
23 TO SECTION 38-13-210, THE FOLLOWING PROPERTY IS PRESUMED
24 ABANDONED IF IT IS UNCLAIMED BY THE APPARENT OWNER DURING THE
25 PERIOD SPECIFIED IN THIS SECTION:

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

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

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

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

7 (e) A PAYROLL CARD OR DEMAND, SAVINGS, OR TIME DEPOSIT,
8 INCLUDING A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE, THREE
9 YEARS AFTER THE MATURITY OF THE DEPOSIT; EXCEPT THAT A DEPOSIT
10 THAT IS AUTOMATICALLY RENEWABLE IS DEEMED MATURED ON ITS INITIAL
11 DATE OF MATURITY UNLESS THE APPARENT OWNER CONSENTED IN A
12 RECORD ON FILE WITH THE HOLDER TO RENEWAL AT OR ABOUT THE TIME
13 OF THE RENEWAL;

14 (f) MONEY OR A CREDIT OWED TO A CUSTOMER AS A RESULT OF A
15 RETAIL BUSINESS TRANSACTION, [OTHER THAN IN-STORE CREDIT FOR
16 RETURNED MERCHANDISE,] THREE YEARS AFTER THE OBLIGATION AROSE;
17 <{*See note at end of section.*}>

18 (g) AN AMOUNT OWED BY AN INSURANCE COMPANY ON A LIFE OR
19 ENDOWMENT INSURANCE POLICY OR AN ANNUITY CONTRACT THAT HAS
20 MATURED OR TERMINATED, THREE YEARS AFTER THE OBLIGATION TO PAY
21 AROSE UNDER THE TERMS OF THE POLICY OR CONTRACT OR, IF A POLICY OR
22 CONTRACT FOR WHICH AN AMOUNT IS OWED ON PROOF OF DEATH HAS NOT
23 MATURED BY PROOF OF THE DEATH OF THE INSURED OR ANNUITANT, AS
24 FOLLOWS:

25 (I) WITH RESPECT TO AN AMOUNT OWED ON A LIFE OR
26 ENDOWMENT INSURANCE POLICY, THREE YEARS AFTER THE EARLIER OF
27 THE DATE:

1 (A) THE INSURANCE COMPANY HAS KNOWLEDGE OF THE DEATH OF
2 THE INSURED; OR

3 (B) THE INSURED HAS ATTAINED, OR WOULD HAVE ATTAINED IF
4 LIVING, THE LIMITING AGE UNDER THE MORTALITY TABLE ON WHICH THE
5 RESERVE FOR THE POLICY IS BASED; AND

6 (II) WITH RESPECT TO AN AMOUNT OWED ON AN ANNUITY
7 CONTRACT, THREE YEARS AFTER THE DATE THE INSURANCE COMPANY HAS
8 KNOWLEDGE OF THE DEATH OF THE ANNUITANT.

9 (h) PROPERTY DISTRIBUTABLE BY A BUSINESS ASSOCIATION IN THE
10 COURSE OF DISSOLUTION, ONE YEAR AFTER THE PROPERTY BECOMES
11 DISTRIBUTABLE;

12 (i) PROPERTY HELD BY A COURT, INCLUDING PROPERTY RECEIVED
13 AS PROCEEDS OF A CLASS ACTION, ONE YEAR AFTER THE PROPERTY
14 BECOMES DISTRIBUTABLE;

15 (j) PROPERTY HELD BY A GOVERNMENT OR GOVERNMENTAL
16 SUBDIVISION, AGENCY, OR INSTRUMENTALITY, INCLUDING MUNICIPAL
17 BOND INTEREST AND UNREDEEMED PRINCIPAL UNDER THE
18 ADMINISTRATION OF A PAYING AGENT OR INDENTURE TRUSTEE, ONE YEAR
19 AFTER THE PROPERTY BECOMES DISTRIBUTABLE;

20 (k) WAGES, COMMISSIONS, BONUSES, OR REIMBURSEMENTS TO
21 WHICH AN EMPLOYEE IS ENTITLED, OR OTHER COMPENSATION FOR
22 PERSONAL SERVICES, OTHER THAN AMOUNTS HELD IN A PAYROLL CARD,
23 ONE YEAR AFTER THE AMOUNT BECOMES PAYABLE;

24 (l) A DEPOSIT OR REFUND OWED TO A SUBSCRIBER BY A UTILITY,
25 ONE YEAR AFTER THE DEPOSIT OR REFUND BECOMES PAYABLE; AND

26 (m) ALL OTHER PROPERTY NOT SPECIFIED IN THIS SECTION OR
27 SECTIONS 38-13-202 TO 38-13-208 [*207?], THE EARLIER OF THREE

1 YEARS AFTER THE OWNER FIRST HAS A RIGHT TO DEMAND THE PROPERTY
2 OR THE OBLIGATION TO PAY OR DISTRIBUTE THE PROPERTY ARISES.

3 <{Note from NCCUSL: A state that wants to exclude in-store
4 credits for returned merchandise from unclaimed property should
5 delete the brackets around the language in paragraph (f). A state that
6 wants to include these credits should delete the bracketed language.

7 A state that wants to exclude gift cards from unclaimed property
8 should delete the bracketed reference to section 38-13-207 in paragraph
9 (m) and delete section 38-13-207. Renumber the sections of part 2
10 following section 38-13-206, and delete the reference to section
11 38-13-208 in paragraph (m).}>

12 **38-13-202. When tax-deferred retirement account presumed**
13 **abandoned.** (1) SUBJECT TO SECTION 38-13-210, PROPERTY HELD IN A
14 PENSION ACCOUNT OR RETIREMENT ACCOUNT THAT QUALIFIES FOR TAX
15 DEFERRAL UNDER THE INCOME TAX LAWS OF THE UNITED STATES IS
16 PRESUMED ABANDONED IF IT IS UNCLAIMED BY THE APPARENT OWNER
17 THREE YEARS AFTER THE LATER OF:

18 (a) THE FOLLOWING DATES:

19 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II) OF
20 THIS SECTION, THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT
21 BY THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE APPARENT
22 OWNER IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED
23 STATES POSTAL SERVICE; OR

24 (II) IF THE SECOND COMMUNICATION IS SENT LATER THAN THIRTY
25 DAYS AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED
26 UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS RETURNED
27 UNDELIVERED BY THE UNITED STATES POSTAL SERVICE; OR

1 (b) THE EARLIER OF THE FOLLOWING DATES:

2 (I) THE DATE THE APPARENT OWNER BECOMES SEVENTY AND
3 ONE-HALF YEARS OF AGE, IF DETERMINABLE BY THE HOLDER; OR

4 (II) IF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
5 AMENDED, 26 U.S.C. SEC. 1 ET SEQ., REQUIRES DISTRIBUTION TO AVOID A
6 TAX PENALTY, TWO YEARS AFTER THE DATE THE HOLDER:

7 (A) RECEIVES CONFIRMATION OF THE DEATH OF THE APPARENT
8 OWNER IN THE ORDINARY COURSE OF ITS BUSINESS; OR

9 (B) CONFIRMS THE DEATH OF THE APPARENT OWNER UNDER
10 SUBSECTION (2) OF THIS SECTION.

11 (2) IF A HOLDER IN THE ORDINARY COURSE OF ITS BUSINESS
12 RECEIVES NOTICE OR AN INDICATION OF THE DEATH OF AN APPARENT
13 OWNER AND SUBSECTION (1)(b) OF THIS SECTION APPLIES, THE HOLDER
14 SHALL ATTEMPT NOT LATER THAN NINETY DAYS AFTER RECEIPT OF THE
15 NOTICE OR INDICATION TO CONFIRM WHETHER THE APPARENT OWNER IS
16 DECEASED.

17 (3) IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO THE
18 APPARENT OWNER OF AN ACCOUNT DESCRIBED IN SUBSECTION (1) OF THIS
19 SECTION BY FIRST-CLASS UNITED STATES MAIL, THE HOLDER SHALL
20 ATTEMPT TO CONFIRM THE APPARENT OWNER'S INTEREST IN THE PROPERTY
21 BY SENDING THE APPARENT OWNER AN ELECTRONIC-MAIL
22 COMMUNICATION NOT LATER THAN TWO YEARS AFTER THE APPARENT
23 OWNER'S LAST INDICATION OF INTEREST IN THE PROPERTY; EXCEPT THAT
24 THE HOLDER PROMPTLY SHALL ATTEMPT TO CONTACT THE APPARENT
25 OWNER BY FIRST-CLASS UNITED STATES MAIL IF:

26 (a) THE HOLDER DOES NOT HAVE INFORMATION NEEDED TO SEND
27 THE APPARENT OWNER AN ELECTRONIC-MAIL COMMUNICATION OR THE

1 HOLDER BELIEVES THAT THE APPARENT OWNER'S ELECTRONIC-MAIL
2 ADDRESS IN THE HOLDER'S RECORDS IS NOT VALID;

3 (b) THE HOLDER RECEIVES NOTIFICATION THAT THE
4 ELECTRONIC-MAIL COMMUNICATION WAS NOT RECEIVED; OR

5 (c) THE APPARENT OWNER DOES NOT RESPOND TO THE
6 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN THIRTY DAYS AFTER
7 THE COMMUNICATION WAS SENT.

8 (4) IF FIRST-CLASS UNITED STATES MAIL SENT UNDER SUBSECTION
9 (3) OF THIS SECTION IS RETURNED TO THE HOLDER UNDELIVERED BY THE
10 UNITED STATES POSTAL SERVICE, THE PROPERTY IS PRESUMED
11 ABANDONED THREE YEARS AFTER THE LATER OF:

12 (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b) OF THIS
13 SECTION, THE DATE A SECOND CONSECUTIVE COMMUNICATION TO
14 CONTACT THE APPARENT OWNER SENT BY FIRST-CLASS UNITED STATES
15 MAIL IS RETURNED TO THE HOLDER UNDELIVERED;

16 (b) IF THE SECOND COMMUNICATION IS SENT LATER THAN THIRTY
17 DAYS AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED
18 UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS RETURNED
19 UNDELIVERED; OR

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

22 **38-13-203. When other tax-deferred account presumed**
23 **abandoned.** (1) SUBJECT TO SECTION 38-13-210 AND EXCEPT FOR
24 PROPERTY DESCRIBED IN SECTION 38-13-202 AND PROPERTY HELD IN A
25 PLAN DESCRIBED IN SECTION 529A OF THE FEDERAL "INTERNAL REVENUE
26 CODE OF 1986", AS AMENDED, 26 U.S.C. SEC. 529A, PROPERTY HELD IN AN
27 ACCOUNT OR PLAN, INCLUDING A HEALTH SAVINGS ACCOUNT, THAT

1 QUALIFIES FOR TAX DEFERRAL UNDER THE INCOME TAX LAWS OF THE
2 UNITED STATES IS PRESUMED ABANDONED IF IT IS UNCLAIMED BY THE
3 OWNER THREE YEARS AFTER THE EARLIER OF:

4 (a) THE DATE, IF DETERMINABLE BY THE HOLDER, SPECIFIED IN THE
5 INCOME TAX LAWS AND REGULATIONS OF THE UNITED STATES BY WHICH
6 DISTRIBUTION OF THE PROPERTY MUST BEGIN TO AVOID A TAX PENALTY,
7 WITH NO DISTRIBUTION HAVING BEEN MADE; OR

8 (b) THIRTY YEARS AFTER THE DATE THE ACCOUNT WAS OPENED.

9 **38-13-204. When custodial account for minor presumed**
10 **abandoned.** (1) SUBJECT TO SECTION 38-13-210, PROPERTY HELD IN AN
11 ACCOUNT ESTABLISHED UNDER THE "COLORADO UNIFORM TRANSFERS TO
12 MINORS ACT", ARTICLE 50 OF TITLE 11, IS PRESUMED ABANDONED IF IT IS
13 UNCLAIMED BY OR ON BEHALF OF THE MINOR ON WHOSE BEHALF THE
14 ACCOUNT WAS OPENED THREE YEARS AFTER THE LATER OF:

15 (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b) OF THIS
16 SECTION, THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY
17 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE CUSTODIAN OF
18 THE MINOR ON WHOSE BEHALF THE ACCOUNT WAS OPENED IS RETURNED
19 UNDELIVERED TO THE HOLDER BY THE UNITED STATES POSTAL SERVICE;

20 (b) IF THE SECOND COMMUNICATION IS SENT LATER THAN THIRTY
21 DAYS AFTER THE DATE THE FIRST COMMUNICATION IS RETURNED
22 UNDELIVERED, THE DATE THE FIRST COMMUNICATION WAS RETURNED
23 UNDELIVERED; OR

24 (c) THE DATE ON WHICH THE CUSTODIAN IS REQUIRED TO
25 TRANSFER THE PROPERTY TO THE MINOR OR THE MINOR'S ESTATE IN
26 ACCORDANCE WITH THE "COLORADO UNIFORM TRANSFERS TO MINORS
27 ACT", ARTICLE 50 OF TITLE 11.

1 (2) IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO THE
2 CUSTODIAN OF THE MINOR ON WHOSE BEHALF AN ACCOUNT DESCRIBED IN
3 SUBSECTION (1) OF THIS SECTION WAS OPENED BY FIRST-CLASS UNITED
4 STATES MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE CUSTODIAN'S
5 INTEREST IN THE PROPERTY BY SENDING THE CUSTODIAN AN
6 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN TWO YEARS AFTER
7 THE CUSTODIAN'S LAST INDICATION OF INTEREST IN THE PROPERTY;
8 EXCEPT THAT THE HOLDER PROMPTLY SHALL ATTEMPT TO CONTACT THE
9 CUSTODIAN BY FIRST-CLASS UNITED STATES MAIL IF:

10 (a) THE HOLDER DOES NOT HAVE INFORMATION NEEDED TO SEND
11 THE CUSTODIAN AN ELECTRONIC-MAIL COMMUNICATION OR THE HOLDER
12 BELIEVES THAT THE CUSTODIAN'S ELECTRONIC-MAIL ADDRESS IN THE
13 HOLDER'S RECORDS IS NOT VALID;

14 (b) THE HOLDER RECEIVES NOTIFICATION THAT THE
15 ELECTRONIC-MAIL COMMUNICATION WAS NOT RECEIVED; OR

16 (c) THE CUSTODIAN DOES NOT RESPOND TO THE ELECTRONIC-MAIL
17 COMMUNICATION NOT LATER THAN THIRTY DAYS AFTER THE
18 COMMUNICATION WAS SENT.

19 (3) IF FIRST-CLASS UNITED STATES MAIL SENT UNDER SUBSECTION
20 (2) OF THIS SECTION IS RETURNED UNDELIVERED TO THE HOLDER BY THE
21 UNITED STATES POSTAL SERVICE, THE PROPERTY IS PRESUMED
22 ABANDONED THREE YEARS AFTER THE LATER OF:

23 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION TO
24 CONTACT THE CUSTODIAN BY FIRST-CLASS UNITED STATES MAIL IS
25 RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED STATES POSTAL
26 SERVICE; OR

27 (b) THE DATE ESTABLISHED BY SUBSECTION (1)(c) OF THIS

1 SECTION.

2 (4) WHEN THE PROPERTY IN THE ACCOUNT DESCRIBED IN
3 SUBSECTION (1) OF THIS SECTION IS TRANSFERRED TO THE MINOR ON
4 WHOSE BEHALF AN ACCOUNT WAS OPENED OR TO THE MINOR'S ESTATE,
5 THE PROPERTY IN THE ACCOUNT IS NO LONGER SUBJECT TO THIS SECTION.

6 **38-13-205. When contents of safe-deposit box presumed**

7 **abandoned.** (1) TANGIBLE PROPERTY HELD IN A SAFE-DEPOSIT BOX AND
8 PROCEEDS FROM A SALE OF THE PROPERTY BY THE HOLDER PERMITTED BY
9 LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 ARE PRESUMED
10 ABANDONED IF THE PROPERTY REMAINS UNCLAIMED BY THE APPARENT
11 OWNER FIVE YEARS AFTER THE EARLIER OF THE:

12 (a) EXPIRATION OF THE LEASE OR RENTAL PERIOD FOR THE BOX; OR

13 (b) EARLIEST DATE WHEN THE LESSOR OF THE BOX IS AUTHORIZED
14 BY LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 TO ENTER THE BOX
15 AND REMOVE OR DISPOSE OF THE CONTENTS WITHOUT CONSENT OR
16 AUTHORIZATION OF THE LESSEE.

17 **38-13-206. When stored-value card presumed abandoned.**

18 (1) SUBJECT TO SECTION 38-13-210, THE NET VALUE OF A STORED-VALUE
19 CARD OTHER THAN A PAYROLL CARD [OR A GIFT CARD] IS PRESUMED
20 ABANDONED ON THE LATEST OF THREE YEARS AFTER:

21 (a) DECEMBER 31 OF THE YEAR IN WHICH THE CARD IS ISSUED OR
22 ADDITIONAL FUNDS ARE DEPOSITED INTO IT;

23 (b) THE MOST RECENT INDICATION OF INTEREST IN THE CARD BY
24 THE APPARENT OWNER; OR

25 (c) A VERIFICATION OR REVIEW OF THE BALANCE BY OR ON BEHALF
26 OF THE APPARENT OWNER.

27 (2) THE AMOUNT PRESUMED ABANDONED IN A STORED-VALUE

1 CARD IS THE NET CARD VALUE AT THE TIME IT IS PRESUMED ABANDONED.

2 <*{Note from NCCUSL: A state that wants to exclude gift cards*
3 *from unclaimed property should delete the bracketed reference to gift*
4 *cards in subsection (1). A state that wants to include gift card balances*
5 *as unclaimed property should delete the brackets and retain the*
6 *reference to gift cards in subsection (1) to exclude them from the*
7 *three-year dormancy provided in this section for stored value cards*
8 *generally. Gift cards would then be reportable based on the five-year*
9 *dormancy period provided in section 38-13-207.*>

10 [38-13-207. When gift card presumed abandoned. SUBJECT TO
11 SECTION 38-13-210, A GIFT CARD IS PRESUMED ABANDONED IF IT IS
12 UNCLAIMED BY THE APPARENT OWNER FIVE YEARS AFTER THE LATER OF
13 THE DATE OF PURCHASE OR ITS MOST RECENT USE.]

14 <*{Note from NCCUSL: A state that wants to exclude gift cards*
15 *from unclaimed property should delete this section and renumber the*
16 *succeeding sections in part 2. If gift cards are to be included, the*
17 *brackets should be removed and the language retained.*>

18 **38-13-208. When security presumed abandoned.** (1) SUBJECT
19 TO SECTION 38-13-210, A SECURITY IS PRESUMED ABANDONED THREE
20 YEARS AFTER:

21 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY
22 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE APPARENT
23 OWNER IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED
24 STATES POSTAL SERVICE; OR

25 (b) IF THE SECOND COMMUNICATION IS MADE LATER THAN THIRTY
26 DAYS AFTER THE FIRST COMMUNICATION IS RETURNED, THE DATE THE
27 FIRST COMMUNICATION IS RETURNED UNDELIVERED TO THE HOLDER BY

1 THE UNITED STATES POSTAL SERVICE.

2 (2) IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO THE
3 APPARENT OWNER OF A SECURITY BY FIRST-CLASS UNITED STATES MAIL,
4 THE HOLDER SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S
5 INTEREST IN THE SECURITY BY SENDING THE APPARENT OWNER AN
6 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN TWO YEARS AFTER
7 THE APPARENT OWNER'S LAST INDICATION OF INTEREST IN THE SECURITY.
8 HOWEVER, THE HOLDER PROMPTLY SHALL ATTEMPT TO CONTACT THE
9 APPARENT OWNER BY FIRST-CLASS UNITED STATES MAIL IF:

10 (a) THE HOLDER DOES NOT HAVE INFORMATION NEEDED TO SEND
11 THE APPARENT OWNER AN ELECTRONIC-MAIL COMMUNICATION OR THE
12 HOLDER BELIEVES THAT THE APPARENT OWNER'S ELECTRONIC-MAIL
13 ADDRESS IN THE HOLDER'S RECORDS IS NOT VALID;

14 (b) THE HOLDER RECEIVES NOTIFICATION THAT THE
15 ELECTRONIC-MAIL COMMUNICATION WAS NOT RECEIVED; OR

16 (c) THE APPARENT OWNER DOES NOT RESPOND TO THE
17 ELECTRONIC-MAIL COMMUNICATION NOT LATER THAN THIRTY DAYS AFTER
18 THE COMMUNICATION WAS SENT.

19 (3) IF FIRST-CLASS UNITED STATES MAIL SENT UNDER SUBSECTION
20 (2) OF THIS SECTION IS RETURNED TO THE HOLDER UNDELIVERED BY THE
21 UNITED STATES POSTAL SERVICE, THE SECURITY IS PRESUMED
22 ABANDONED THREE YEARS AFTER THE DATE THE MAIL IS RETURNED.

23 **38-13-209. When related property interest presumed**
24 **abandoned.** AT AND AFTER THE TIME PROPERTY IS PRESUMED
25 ABANDONED UNDER THIS PART 2, ANY OTHER PROPERTY RIGHT OR
26 INTEREST ACCRUED OR ACCRUING FROM THE PROPERTY AND NOT
27 PREVIOUSLY PRESUMED ABANDONED IS ALSO PRESUMED ABANDONED.

1 **38-13-210. Indication of apparent owner interest in property.**

2 (1) THE PERIOD AFTER WHICH PROPERTY IS PRESUMED ABANDONED IS
3 MEASURED FROM THE LATER OF:

4 (a) THE DATE THE PROPERTY IS PRESUMED ABANDONED UNDER
5 THIS PART 2; OR

6 (b) THE LATEST INDICATION OF INTEREST BY THE APPARENT
7 OWNER IN THE PROPERTY.

8 (2) UNDER THIS ARTICLE 13, AN INDICATION OF AN APPARENT
9 OWNER'S INTEREST IN PROPERTY INCLUDES:

10 (a) A RECORD COMMUNICATED BY THE APPARENT OWNER TO THE
11 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE
12 ACCOUNT IN WHICH THE PROPERTY IS HELD;

13 (b) AN ORAL COMMUNICATION BY THE APPARENT OWNER TO THE
14 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE
15 ACCOUNT IN WHICH THE PROPERTY IS HELD, IF THE HOLDER OR ITS AGENT
16 CONTEMPORANEOUSLY MAKES AND PRESERVES A RECORD OF THE FACT OF
17 THE APPARENT OWNER'S COMMUNICATION;

18 (c) PRESENTMENT OF A CHECK OR OTHER INSTRUMENT OF
19 PAYMENT OF A DIVIDEND, INTEREST PAYMENT, OR OTHER DISTRIBUTION,
20 OR EVIDENCE OF RECEIPT OF A DISTRIBUTION MADE BY ELECTRONIC OR
21 SIMILAR MEANS, WITH RESPECT TO AN ACCOUNT, UNDERLYING SECURITY,
22 OR INTEREST IN A BUSINESS ASSOCIATION;

23 (d) ACTIVITY DIRECTED BY AN APPARENT OWNER IN THE ACCOUNT
24 IN WHICH THE PROPERTY IS HELD, INCLUDING ACCESSING THE ACCOUNT OR
25 INFORMATION CONCERNING THE ACCOUNT, OR A DIRECTION BY THE
26 APPARENT OWNER TO INCREASE, DECREASE, OR OTHERWISE CHANGE THE
27 AMOUNT OR TYPE OF PROPERTY HELD IN THE ACCOUNT;

1 (e) MAKING A DEPOSIT INTO OR WITHDRAWAL FROM AN ACCOUNT
2 AT A FINANCIAL ORGANIZATION, INCLUDING AN AUTOMATIC DEPOSIT OR
3 WITHDRAWAL PREVIOUSLY AUTHORIZED BY THE APPARENT OWNER OTHER
4 THAN AN AUTOMATIC REINVESTMENT OF DIVIDENDS OR INTEREST;

5 (f) SUBJECT TO SUBSECTION (5) OF THIS SECTION, PAYMENT OF A
6 PREMIUM ON AN INSURANCE POLICY; AND

7 (g) ANY OTHER ACTION BY THE APPARENT OWNER THAT
8 REASONABLY DEMONSTRATES TO THE HOLDER THAT THE APPARENT
9 OWNER IS AWARE THAT THE PROPERTY EXISTS.

10 (3) AN ACTION BY AN AGENT OR OTHER REPRESENTATIVE OF AN
11 APPARENT OWNER, OTHER THAN THE HOLDER ACTING AS THE APPARENT
12 OWNER'S AGENT, IS PRESUMED TO BE AN ACTION ON BEHALF OF THE
13 APPARENT OWNER.

14 (4) A COMMUNICATION WITH AN APPARENT OWNER BY A PERSON
15 OTHER THAN THE HOLDER OR THE HOLDER'S REPRESENTATIVE IS NOT AN
16 INDICATION OF INTEREST IN THE PROPERTY BY THE APPARENT OWNER
17 UNLESS A RECORD OF THE COMMUNICATION EVIDENCES THE APPARENT
18 OWNER'S KNOWLEDGE OF A RIGHT TO THE PROPERTY.

19 (5) IF THE INSURED DIES OR THE INSURED OR BENEFICIARY OF AN
20 INSURANCE POLICY OTHERWISE BECOMES ENTITLED TO THE PROCEEDS
21 BEFORE DEPLETION OF THE CASH SURRENDER VALUE OF THE POLICY BY
22 OPERATION OF AN AUTOMATIC-PREMIUM-LOAN PROVISION OR OTHER
23 NONFORFEITURE PROVISION CONTAINED IN THE POLICY, THE OPERATION
24 DOES NOT PREVENT THE POLICY FROM MATURING OR TERMINATING.

25 **38-13-211. Knowledge of death of insured or annuitant -**
26 **definition.** (1) IN THIS SECTION, "DEATH MASTER FILE" MEANS THE
27 UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE

1 OR OTHER DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE
2 AS THE UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH
3 MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS
4 DIED.

5 (2) WITH RESPECT TO A LIFE OR ENDOWMENT INSURANCE POLICY
6 OR ANNUITY CONTRACT FOR WHICH AN AMOUNT IS OWED ON PROOF OF
7 DEATH, BUT THAT HAS NOT MATURED BY PROOF OF DEATH OF THE INSURED
8 OR ANNUITANT, THE COMPANY HAS KNOWLEDGE OF THE DEATH OF AN
9 INSURED OR ANNUITANT WHEN:

10 (a) THE COMPANY RECEIVES A DEATH CERTIFICATE OR A COURT
11 ORDER DETERMINING THAT THE INSURED OR ANNUITANT HAS DIED;

12 (b) DUE DILIGENCE PERFORMED AS REQUIRED UNDER COLORADO
13 LAW TO MAINTAIN CONTACT WITH THE INSURED OR ANNUITANT OR
14 DETERMINE WHETHER THE INSURED OR ANNUITANT HAS DIED, VALIDATES
15 THE DEATH OF THE INSURED OR ANNUITANT;

16 (c) THE COMPANY CONDUCTS A COMPARISON FOR ANY PURPOSE
17 BETWEEN A DEATH MASTER FILE AND THE NAMES OF SOME OR ALL OF THE
18 COMPANY'S INSURED OR ANNUITANTS, FINDS A MATCH THAT PROVIDES
19 NOTICE THAT THE INSURED OR ANNUITANT HAS DIED, AND VALIDATES THE
20 DEATH;

21 (d) THE ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT
22 CONDUCTS A COMPARISON FOR THE PURPOSE OF FINDING MATCHES DURING
23 AN EXAMINATION CONDUCTED UNDER PART 10 OF THIS ARTICLE 13
24 BETWEEN A DEATH MASTER FILE AND THE NAMES OF SOME OR ALL OF THE
25 COMPANY'S INSURED OR ANNUITANTS, FINDS A MATCH THAT PROVIDES
26 NOTICE THAT THE INSURED OR ANNUITANT HAS DIED, AND THE COMPANY
27 VALIDATES THE DEATH; OR

1 (e) THE COMPANY:

2 (I) RECEIVES NOTICE OF THE DEATH OF THE INSURED OR
3 ANNUITANT FROM AN ADMINISTRATOR, BENEFICIARY, POLICY OWNER,
4 RELATIVE OF THE INSURED, OR TRUSTEE OR FROM A [PERSONAL
5 REPRESENTATIVE], [EXECUTOR], OR OTHER LEGAL REPRESENTATIVE OF
6 THE INSURED'S OR ANNUITANT'S ESTATE; AND

7 (II) VALIDATES THE DEATH OF THE INSURED OR ANNUITANT.

8 (3) THE FOLLOWING RULES APPLY UNDER THIS SECTION:

9 (a) A DEATH-MASTER-FILE MATCH UNDER SUBSECTION (2)(c) OR
10 (2)(d) OF THIS SECTION OCCURS IF THE CRITERIA FOR AN EXACT OR
11 PARTIAL MATCH ARE SATISFIED AS PROVIDED BY:

12 (I) A LAW OF THIS STATE OTHER THAN THIS ARTICLE 13;

13 (II) A RULE OR POLICY ADOPTED BY THE COMMISSIONER OF
14 INSURANCE; OR

15 (III) ABSENT A LAW, RULE, OR POLICY, UNDER SUBSECTION
16 (3)(a)(I) OR (3)(a)(II) OF THIS SECTION, STANDARDS IN THE [NATIONAL
17 CONFERENCE OF INSURANCE LEGISLATORS' "MODEL UNCLAIMED LIFE
18 INSURANCE BENEFITS ACT" AS PUBLISHED IN 2014].

19 (b) THE DEATH-MASTER-FILE MATCH DOES NOT CONSTITUTE PROOF
20 OF DEATH FOR THE PURPOSE OF SUBMISSION TO AN INSURANCE COMPANY
21 OF A CLAIM BY A BENEFICIARY, ANNUITANT, OR OWNER OF THE POLICY OR
22 CONTRACT FOR AN AMOUNT DUE UNDER AN INSURANCE POLICY OR
23 ANNUITY CONTRACT.

24 (c) THE DEATH-MASTER-FILE MATCH OR VALIDATION OF THE
25 INSURED'S OR ANNUITANT'S DEATH DOES NOT ALTER THE REQUIREMENTS
26 FOR A BENEFICIARY, ANNUITANT, OR OWNER OF THE POLICY OR CONTRACT
27 TO MAKE A CLAIM TO RECEIVE PROCEEDS UNDER THE TERMS OF THE

1 POLICY OR CONTRACT.

2 (d) IF NO PROVISION IN TITLE 10 OR RULES OF THE COMMISSIONER
3 OF INSURANCE ESTABLISHES A TIME FOR THE VALIDATION OF A DEATH OF
4 AN INSURED OR ANNUITANT, THE INSURANCE COMPANY SHALL MAKE A
5 GOOD-FAITH EFFORT USING OTHER AVAILABLE RECORDS AND
6 INFORMATION TO VALIDATE THE DEATH AND DOCUMENT THE EFFORT
7 TAKEN NOT LATER THAN NINETY DAYS AFTER THE INSURANCE COMPANY
8 HAS NOTICE OF THE DEATH.

9 (4) THIS ARTICLE 13 DOES NOT AFFECT THE DETERMINATION OF
10 THE EXTENT TO WHICH AN INSURANCE COMPANY, BEFORE THE EFFECTIVE
11 DATE OF THIS ARTICLE 13, AS AMENDED, HAD KNOWLEDGE OF THE DEATH
12 OF AN INSURED OR ANNUITANT OR WAS REQUIRED TO CONDUCT A
13 DEATH-MASTER-FILE COMPARISON TO DETERMINE WHETHER AMOUNTS
14 OWED BY THE COMPANY ON A LIFE OR ENDOWMENT INSURANCE POLICY OR
15 ANNUITY CONTRACT WERE PRESUMED ABANDONED OR UNCLAIMED.

16 **38-13-212. Deposit account for insurance policy or annuity**
17 **contract.** IF PROCEEDS PAYABLE UNDER A LIFE OR ENDOWMENT
18 INSURANCE POLICY OR ANNUITY CONTRACT ARE DEPOSITED INTO AN
19 ACCOUNT WITH CHECK- OR DRAFT-WRITING PRIVILEGES FOR THE
20 BENEFICIARY OF THE POLICY OR CONTRACT AND, UNDER A
21 SUPPLEMENTARY CONTRACT NOT INVOLVING ANNUITY BENEFITS OTHER
22 THAN DEATH BENEFITS, THE PROCEEDS ARE RETAINED BY THE INSURANCE
23 COMPANY OR THE FINANCIAL ORGANIZATION WHERE THE ACCOUNT IS
24 HELD, THE POLICY OR CONTRACT INCLUDES THE ASSETS IN THE ACCOUNT.

25 <{*The following 8 sections import Colorado-specific provisions*
26 *from the prior "Unclaimed Property Act". Not included, because they*
27 *appear to be subsumed by the new material, are sections 38-13-107.5*

1 *("Stock and other intangible interest in business associations"),*
2 *38-13-107.9 ("Property of business associations held in the course of*
3 *dissolution"), 38-13-108.4 ("Gift certificates and credit memos"),*
4 *38-13-108.7 (exempting "Gaming chips or tokens"), 38-13-108.9*
5 *("Unclaimed gift cards"), and 38-13-109.5 ("Funds owing under life*
6 *insurance policies").}>*

7 **38-13-213. [Similar to former 38-13-107.1] Deposits held by**
8 **utilities.** EXCEPT AS OTHERWISE PROVIDED FOR UNCLAIMED UTILITY
9 DEPOSITS UNDER SECTION 40-8.5-106, A DEPOSIT, INCLUDING ANY
10 INTEREST THEREON, MADE AFTER JANUARY 1, 1992, BY A SUBSCRIBER
11 WITH A UTILITY TO SECURE PAYMENT OR ANY SUM PAID IN ADVANCE
12 AFTER JANUARY 1, 1992, FOR UTILITY SERVICES TO BE FURNISHED, LESS
13 ANY LAWFUL DEDUCTIONS, THAT REMAINS UNCLAIMED BY THE OWNER FOR
14 MORE THAN ONE YEAR AFTER TERMINATION OF THE SERVICES FOR WHICH
15 THE DEPOSIT OR ADVANCE PAYMENT WAS MADE IS PRESUMED
16 ABANDONED.

17 **38-13-214. [Similar to former 38-13-107.3] Refunds held by**
18 **business associations.** EXCEPT TO THE EXTENT OTHERWISE ORDERED BY
19 A COURT OR ADMINISTRATIVE AGENCY, ANY SUM THAT A BUSINESS
20 ASSOCIATION HAS BEEN ORDERED TO REFUND BY A COURT OR
21 ADMINISTRATIVE AGENCY THAT REMAINS UNCLAIMED BY THE OWNER FOR
22 MORE THAN ONE YEAR AFTER IT BECAME PAYABLE IN ACCORDANCE WITH
23 THE FINAL DETERMINATION OR ORDER PROVIDING FOR THE REFUND,
24 WHETHER OR NOT THE FINAL DETERMINATION OR ORDER REQUIRES ANY
25 PERSON ENTITLED TO A REFUND TO MAKE A CLAIM FOR IT, IS PRESUMED
26 ABANDONED.

27 **38-13-215. [Similar to former 38-13-108.2] Property held by**

1 **courts and public agencies.** (1) EXCEPT AS SET FORTH IN SUBSECTION
2 (2) OF THIS SECTION, INTANGIBLE PROPERTY HELD FOR THE OWNER BY A
3 COURT, STATE OR OTHER GOVERNMENT, GOVERNMENTAL SUBDIVISION OR
4 AGENCY, PUBLIC CORPORATION, OR PUBLIC AUTHORITY THAT REMAINS
5 UNCLAIMED BY THE OWNER FOR MORE THAN ONE YEAR AFTER BECOMING
6 PAYABLE OR DISTRIBUTABLE IS PRESUMED ABANDONED.

7 (2) ANY OVERBID, AS DEFINED IN SECTION 38-38-100.3, THAT IS
8 EQUAL TO OR GREATER THAN TWENTY-FIVE DOLLARS AND THAT REMAINS
9 UNCLAIMED FOR FIVE YEARS AFTER THE DATE OF SALE IS PRESUMED
10 ABANDONED.

11 **38-13-216. [Similar to former 38-13-108.3] Funds held in**
12 **lawyer COLTAF trust accounts - exemption.** THIS ARTICLE 13 DOES
13 NOT APPLY TO MONEY HELD IN A LAWYER COLTAF TRUST ACCOUNT.

14 **38-13-217. [Similar to former 38-13-108.5] Money held by the**
15 **public employees' retirement association - definitions.** (1) FOR THE
16 PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

17 (a) "ACCOUNT LEFT INACTIVE" MEANS THE CONTRIBUTIONS OF
18 ANY NONVESTED MEMBER WHO HAS TERMINATED EMPLOYMENT WITH AN
19 EMPLOYER IF THE MEMBER'S MEMBER CONTRIBUTION ACCOUNT WITH THE
20 ASSOCIATION HAS BEEN LEFT INACTIVE.

21 (b) "ASSOCIATION" MEANS THE PUBLIC EMPLOYEES' RETIREMENT
22 ASSOCIATION CREATED PURSUANT TO SECTION 24-51-201.

23 (c) "BENEFIT" HAS THE SAME MEANING AS SET FORTH IN SECTION
24 24-51-101 (7).

25 (d) "BENEFIT RECIPIENT" HAS THE SAME MEANING AS SET FORTH
26 IN SECTION 24-51-101 (8).

27 (e) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN

1 SECTION 24-51-101 (20).

2 (f) "MEMBER" HAS THE SAME MEANING AS SET FORTH IN SECTION
3 24-51-101 (29).

4 (g) "UNCLAIMED BENEFIT" MEANS A BENEFIT OWED TO ANY
5 BENEFIT RECIPIENT IF THE BENEFIT REMAINS UNPAID.

6 (h) "UNCLAIMED MEMBER REFUND" MEANS THE CONTRIBUTIONS
7 OF A MEMBER WHO HAS TERMINATED EMPLOYMENT WITH AN EMPLOYER
8 AND WHO HAS REQUESTED A REFUND OF THE CONTRIBUTIONS IF THE
9 REFUND REMAINS UNPAID.

10 (2) ANY MONEY AND ANY ACCRUED INTEREST HELD BY THE
11 ASSOCIATION FOR ACCOUNTS LEFT INACTIVE, UNCLAIMED BENEFITS, OR
12 UNCLAIMED MEMBER REFUNDS ARE PRESUMED ABANDONED IF THE
13 MONEY, BENEFIT, OR REFUND REMAINS UNCLAIMED FOR MORE THAN FIVE
14 YEARS AFTER THE MONEY, BENEFIT, OR REFUND BECOMES PAYABLE OR
15 DISTRIBUTABLE PURSUANT TO ARTICLE 51 OF TITLE 24 UNLESS THE OWNER
16 OF THE MONEY, WITHIN FIVE YEARS, HAS:

17 (a) COMMUNICATED IN WRITING WITH THE ASSOCIATION
18 CONCERNING THE MONEY; OR

19 (b) OTHERWISE INDICATED AN INTEREST IN THE MONEY AS
20 EVIDENCED BY A MEMORANDUM OR OTHER RECORD ON FILE PREPARED BY
21 AN EMPLOYEE OF THE ASSOCIATION.

22 (3) PROPERTY THAT IS PRESUMED ABANDONED PURSUANT TO THIS
23 SECTION IS THE ONLY PROPERTY HELD BY THE ASSOCIATION THAT IS
24 SUBJECT TO THIS ARTICLE 13.

25 **38-13-218. [Similar to former 38-13-108.6] Wages.** UNPAID
26 WAGES, INCLUDING WAGES REPRESENTED BY UNPRESENTED PAYROLL
27 CHECKS, OWING IN THE ORDINARY COURSE OF THE HOLDER'S BUSINESS

1 THAT REMAIN UNCLAIMED BY THE OWNER FOR MORE THAN ONE YEAR
2 AFTER BECOMING PAYABLE ARE PRESUMED ABANDONED.

3 **38-13-219. [Similar to former 38-13-108.8] Property held by**
4 **racetracks - inapplicability.** THIS ARTICLE 13 DOES NOT APPLY TO ANY
5 INTANGIBLE UNCLAIMED PROPERTY HELD BY A RACETRACK, AS DEFINED
6 IN SECTION 12-60-102 (26).

7 **38-13-220. [Similar to former 38-13-109.7] Tax refunds.**

8 (1) ON AND AFTER OCTOBER 1, 2002, ANY AMOUNT DUE AND PAYABLE AS
9 A REFUND OF COLORADO INCOME TAX OR GRANT FOR PROPERTY TAXES,
10 RENT, OR HEAT OR FUEL EXPENSES ASSISTANCE REPRESENTED BY A
11 WARRANT THAT HAS NOT BEEN PRESENTED FOR PAYMENT WITHIN SIX
12 MONTHS AFTER THE DATE OF ISSUANCE OF THE WARRANT AND THAT HAS
13 BEEN FORWARDED BY THE DEPARTMENT OF REVENUE TO THE
14 ADMINISTRATOR PURSUANT TO SECTION 39-21-108 (5) IS PRESUMED
15 ABANDONED.

16 (2) ON AND AFTER OCTOBER 1, 2010, ANY AMOUNT DUE AND
17 PAYABLE AS A REFUND OF A TAX IMPOSED OR ASSESSED BY THE
18 DEPARTMENT OF REVENUE THAT IS NOT ADDRESSED IN SUBSECTION (1) OF
19 THIS SECTION, THAT IS REPRESENTED BY A WARRANT THAT HAS NOT BEEN
20 PRESENTED FOR PAYMENT WITHIN SIX MONTHS AFTER THE DATE OF
21 ISSUANCE OF THE WARRANT, AND THAT HAS BEEN FORWARDED BY THE
22 DEPARTMENT TO THE ADMINISTRATOR PURSUANT TO SECTION 39-21-108
23 (7) IS PRESUMED ABANDONED.

24 PART 3

25 RULES FOR TAKING CUSTODY OF
26 PROPERTY PRESUMED ABANDONED

27 **38-13-301. Address of apparent owner to establish priority.**

1 (1) IN THIS PART 3, THE FOLLOWING RULES APPLY:

2 (a) THE LAST-KNOWN ADDRESS OF AN APPARENT OWNER IS ANY
3 DESCRIPTION, CODE, OR OTHER INDICATION OF THE LOCATION OF THE
4 APPARENT OWNER THAT IDENTIFIES THE STATE, EVEN IF THE DESCRIPTION,
5 CODE, OR INDICATION OF LOCATION IS NOT SUFFICIENT TO DIRECT THE
6 DELIVERY OF FIRST-CLASS UNITED STATES MAIL TO THE APPARENT
7 OWNER;

8 (b) IF THE UNITED STATES POSTAL ZIP CODE ASSOCIATED WITH THE
9 APPARENT OWNER IS FOR A POST OFFICE LOCATED IN THIS STATE, THIS
10 STATE IS DEEMED TO BE THE STATE OF THE LAST-KNOWN ADDRESS OF THE
11 APPARENT OWNER UNLESS OTHER RECORDS ASSOCIATED WITH THE
12 APPARENT OWNER SPECIFICALLY IDENTIFY THE PHYSICAL ADDRESS OF THE
13 APPARENT OWNER TO BE IN ANOTHER STATE;

14 (c) IF THE ADDRESS UNDER SUBSECTION (1)(b) OF THIS SECTION IS
15 IN ANOTHER STATE, THE OTHER STATE IS DEEMED TO BE THE STATE OF THE
16 LAST-KNOWN ADDRESS OF THE APPARENT OWNER; AND

17 (d) THE ADDRESS OF THE APPARENT OWNER OF A LIFE OR
18 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT OR ITS PROCEEDS
19 IS PRESUMED TO BE THE ADDRESS OF THE INSURED OR ANNUITANT IF A
20 PERSON OTHER THAN THE INSURED OR ANNUITANT IS ENTITLED TO THE
21 AMOUNT OWED UNDER THE POLICY OR CONTRACT AND THE ADDRESS OF
22 THE OTHER PERSON IS NOT KNOWN BY THE INSURANCE COMPANY AND
23 CANNOT BE DETERMINED UNDER SECTION 38-13-302.

24 **38-13-302. Address of apparent owner in this state.** (1) THE
25 ADMINISTRATOR MAY TAKE CUSTODY OF PROPERTY THAT IS PRESUMED
26 ABANDONED, WHETHER LOCATED IN THIS STATE, ANOTHER STATE, OR A
27 FOREIGN COUNTRY IF:

1 (a) THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER IN THE
2 RECORDS OF THE HOLDER IS IN THIS STATE; OR

3 (b) THE RECORDS OF THE HOLDER DO NOT REFLECT THE IDENTITY
4 OR LAST-KNOWN ADDRESS OF THE APPARENT OWNER, BUT THE
5 ADMINISTRATOR HAS DETERMINED THAT THE LAST-KNOWN ADDRESS OF
6 THE APPARENT OWNER IS IN THIS STATE.

7 **38-13-303. If records show multiple addresses of apparent**
8 **owner.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
9 SECTION, IF RECORDS OF A HOLDER REFLECT MULTIPLE ADDRESSES FOR AN
10 APPARENT OWNER AND IF THIS STATE IS THE STATE OF THE MOST
11 RECENTLY RECORDED ADDRESS, THIS STATE MAY TAKE CUSTODY OF
12 PROPERTY PRESUMED ABANDONED, WHETHER LOCATED IN THIS STATE OR
13 ANOTHER STATE.

14 (2) IF IT APPEARS FROM RECORDS OF THE HOLDER THAT THE MOST
15 RECENTLY RECORDED ADDRESS OF THE APPARENT OWNER UNDER
16 SUBSECTION (1) OF THIS SECTION IS A TEMPORARY ADDRESS AND IF THIS
17 STATE IS THE STATE OF THE NEXT MOST RECENTLY RECORDED ADDRESS
18 THAT IS NOT A TEMPORARY ADDRESS, THIS STATE MAY TAKE CUSTODY OF
19 THE PROPERTY PRESUMED ABANDONED.

20 **38-13-304. Holder domiciled in this state.** (1) EXCEPT AS
21 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION OR IN SECTION
22 38-13-302 OR 38-13-303, THE ADMINISTRATOR MAY TAKE CUSTODY OF
23 PROPERTY PRESUMED ABANDONED, WHETHER LOCATED IN THIS STATE,
24 ANOTHER STATE, OR A FOREIGN COUNTRY, IF THE HOLDER IS DOMICILED IN
25 THIS STATE OR IS THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,
26 OR INSTRUMENTALITY OF THIS STATE, AND:

27 (a) ANOTHER STATE OR FOREIGN COUNTRY IS NOT ENTITLED TO

1 THE PROPERTY BECAUSE THERE IS NO LAST-KNOWN ADDRESS IN THE
2 RECORDS OF THE HOLDER OF THE APPARENT OWNER OR OTHER PERSON
3 ENTITLED TO THE PROPERTY; OR

4 (b) THE STATE OR FOREIGN COUNTRY OF THE LAST-KNOWN
5 ADDRESS OF THE APPARENT OWNER OR OTHER PERSON ENTITLED TO THE
6 PROPERTY DOES NOT PROVIDE FOR CUSTODIAL TAKING OF THE PROPERTY.

7 (2) PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE
8 ADMINISTRATOR UNDER SUBSECTION (1) OF THIS SECTION IF THE PROPERTY
9 IS SPECIFICALLY EXEMPT FROM CUSTODIAL TAKING UNDER THE LAW OF
10 THIS STATE OR THE STATE OR FOREIGN COUNTRY OF THE LAST-KNOWN
11 ADDRESS OF THE APPARENT OWNER.

12 (3) IF A HOLDER'S STATE OF DOMICILE HAS CHANGED SINCE THE
13 TIME PROPERTY WAS PRESUMED ABANDONED, THE HOLDER'S STATE OF
14 DOMICILE IN THIS SECTION IS DEEMED TO BE THE STATE WHERE THE
15 HOLDER WAS DOMICILED AT THE TIME THE PROPERTY WAS PRESUMED
16 ABANDONED.

17 **38-13-305. Custody if transaction took place in this state.**

18 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 38-13-302, 38-13-303,
19 AND 38-13-304, THE ADMINISTRATOR MAY TAKE CUSTODY OF PROPERTY
20 PRESUMED ABANDONED WHETHER LOCATED IN THIS STATE OR ANOTHER
21 STATE IF:

22 (a) THE TRANSACTION OUT OF WHICH THE PROPERTY AROSE TOOK
23 PLACE IN THIS STATE;

24 (b) THE HOLDER IS DOMICILED IN A STATE THAT DOES NOT PROVIDE
25 FOR THE CUSTODIAL TAKING OF THE PROPERTY; EXCEPT THAT, IF THE
26 PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL TAKING UNDER THE
27 LAW OF THE STATE OF THE HOLDER'S DOMICILE, THE PROPERTY IS NOT

1 SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR; AND

2 (c) THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER OR
3 OTHER PERSON ENTITLED TO THE PROPERTY IS UNKNOWN OR IN A STATE
4 THAT DOES NOT PROVIDE FOR THE CUSTODIAL TAKING OF THE PROPERTY;
5 EXCEPT THAT, IF THE PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL
6 TAKING UNDER THE LAW OF THE STATE OF THE LAST-KNOWN ADDRESS,
7 THE PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR.

8 **38-13-306. Traveler's check, money order, or similar**
9 **instrument.** THE ADMINISTRATOR MAY TAKE CUSTODY OF SUMS PAYABLE
10 ON A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR INSTRUMENT
11 PRESUMED ABANDONED TO THE EXTENT PERMISSIBLE UNDER [12 U.S.C.
12 SECS. 2501 TO 2503, AS AMENDED] [FEDERAL LAW].

13 **38-13-307. Burden of proof to establish administrator's right**
14 **to custody.** (1) IF THE ADMINISTRATOR ASSERTS A RIGHT TO CUSTODY OF
15 UNCLAIMED PROPERTY, THE ADMINISTRATOR HAS THE BURDEN TO PROVE:

- 16 (a) THE EXISTENCE AND AMOUNT OF THE PROPERTY;
17 (b) THAT THE PROPERTY IS PRESUMED ABANDONED; AND
18 (c) THAT THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE
19 ADMINISTRATOR.

20 PART 4

21 REPORT BY HOLDER

22 **38-13-401. Report required by holder.** (1) A HOLDER OF
23 PROPERTY PRESUMED ABANDONED AND SUBJECT TO THE CUSTODY OF THE
24 ADMINISTRATOR SHALL REPORT IN A RECORD TO THE ADMINISTRATOR
25 CONCERNING THE PROPERTY. THE ADMINISTRATOR SHALL NOT REQUIRE A
26 HOLDER TO FILE A PAPER REPORT.

27 (2) A HOLDER MAY CONTRACT WITH A THIRD PARTY TO MAKE THE

1 REPORT REQUIRED UNDER SUBSECTION (1) OF THIS SECTION.

2 (3) WHETHER OR NOT A HOLDER CONTRACTS WITH A THIRD PARTY
3 UNDER SUBSECTION (2) OF THIS SECTION, THE HOLDER IS RESPONSIBLE:

4 (a) TO THE ADMINISTRATOR FOR THE COMPLETE, ACCURATE, AND
5 TIMELY REPORTING OF PROPERTY PRESUMED ABANDONED; AND

6 (b) FOR PAYING OR DELIVERING TO THE ADMINISTRATOR PROPERTY
7 DESCRIBED IN THE REPORT.

8 **38-13-402. Content of report.** (1) THE REPORT REQUIRED UNDER
9 SECTION 38-13-401 MUST:

10 (a) BE SIGNED BY OR ON BEHALF OF THE HOLDER AND VERIFIED AS
11 TO ITS COMPLETENESS AND ACCURACY;

12 (b) IF FILED ELECTRONICALLY, BE IN A SECURE FORMAT APPROVED
13 BY THE ADMINISTRATOR THAT PROTECTS CONFIDENTIAL INFORMATION OF
14 THE APPARENT OWNER IN THE SAME MANNER AS REQUIRED OF THE
15 ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT UNDER PART 14 OF
16 THIS ARTICLE 13;

17 (c) DESCRIBE THE PROPERTY;

18 (d) EXCEPT FOR A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR
19 INSTRUMENT, CONTAIN THE NAME, IF KNOWN; LAST-KNOWN ADDRESS, IF
20 KNOWN; AND SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION
21 NUMBER, IF KNOWN OR READILY ASCERTAINABLE, OF THE APPARENT
22 OWNER OF PROPERTY WITH A VALUE OF [FIFTY DOLLARS] OR MORE;

23 (e) FOR AN AMOUNT HELD OR OWING UNDER A LIFE OR
24 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT, CONTAIN THE
25 FULL NAME AND LAST-KNOWN ADDRESS OF THE INSURED, ANNUITANT, OR
26 OTHER APPARENT OWNER OF THE POLICY OR CONTRACT AND OF THE
27 BENEFICIARY;

1 (f) FOR PROPERTY HELD IN OR REMOVED FROM A SAFE-DEPOSIT
2 BOX, INDICATE THE LOCATION OF THE PROPERTY, WHERE IT MAY BE
3 INSPECTED BY THE ADMINISTRATOR, AND ANY AMOUNTS OWED TO THE
4 HOLDER UNDER SECTION 38-13-606;

5 (g) CONTAIN THE COMMENCEMENT DATE FOR DETERMINING
6 ABANDONMENT UNDER PART 2 OF THIS ARTICLE 13;

7 (h) STATE THAT THE HOLDER HAS COMPLIED WITH THE NOTICE
8 REQUIREMENTS OF SECTION 38-13-501;

9 (i) IDENTIFY PROPERTY THAT IS A NON-FREELY TRANSFERABLE
10 SECURITY, AND EXPLAIN WHY IT IS A NON-FREELY TRANSFERABLE
11 SECURITY; AND

12 (j) CONTAIN OTHER INFORMATION THE ADMINISTRATOR
13 PRESCRIBES BY RULES NECESSARY FOR THE ADMINISTRATOR.

14 (2) A REPORT UNDER SECTION 38-13-401 MAY INCLUDE IN THE
15 AGGREGATE ITEMS VALUED UNDER [FIFTY DOLLARS] EACH. IF THE REPORT
16 INCLUDES ITEMS IN THE AGGREGATE VALUED UNDER [FIFTY DOLLARS]
17 EACH, THE ADMINISTRATOR SHALL NOT REQUIRE THE HOLDER TO PROVIDE
18 THE NAME AND ADDRESS OF AN APPARENT OWNER OF AN ITEM UNLESS THE
19 INFORMATION IS NECESSARY TO VERIFY OR PROCESS A CLAIM IN PROGRESS
20 BY THE APPARENT OWNER.

21 (3) A REPORT UNDER SECTION 38-13-401 MAY INCLUDE PERSONAL
22 INFORMATION AS DEFINED IN SECTION 38-13-1402 (1)(c) ABOUT THE
23 APPARENT OWNER OR THE APPARENT OWNER'S PROPERTY TO THE EXTENT
24 NOT OTHERWISE PROHIBITED BY FEDERAL LAW.

25 (4) IF A HOLDER HAS CHANGED ITS NAME WHILE HOLDING
26 PROPERTY PRESUMED ABANDONED OR IS A SUCCESSOR TO ANOTHER
27 PERSON THAT PREVIOUSLY HELD THE PROPERTY FOR THE APPARENT

1 OWNER, THE HOLDER SHALL INCLUDE IN THE REPORT UNDER SECTION
2 38-13-401 ITS FORMER NAME OR THE NAME OF THE PREVIOUS HOLDER, IF
3 ANY, AND THE KNOWN NAME AND ADDRESS OF EACH PREVIOUS HOLDER OF
4 THE PROPERTY.

5 **38-13-403. When report to be filed.** (1) EXCEPT AS OTHERWISE
6 PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SUBJECT TO
7 SUBSECTION (3) OF THIS SECTION, THE REPORT UNDER SECTION 38-13-401
8 MUST BE FILED BEFORE NOVEMBER 1 OF EACH YEAR AND COVER THE
9 TWELVE MONTHS PRECEDING JULY 1 OF THAT YEAR.

10 (2) SUBJECT TO SUBSECTION (3) OF THIS SECTION, THE REPORT TO
11 BE FILED BY AN INSURANCE COMPANY UNDER SECTION 38-13-401 MUST BE
12 FILED BEFORE MAY 1 OF EACH YEAR FOR THE IMMEDIATELY PRECEDING
13 CALENDAR YEAR.

14 (3) BEFORE THE DATE FOR FILING THE REPORT UNDER SECTION
15 38-13-401, THE HOLDER OF PROPERTY PRESUMED ABANDONED MAY
16 REQUEST THE ADMINISTRATOR TO EXTEND THE TIME FOR FILING. THE
17 ADMINISTRATOR MAY GRANT AN EXTENSION. IF THE EXTENSION IS
18 GRANTED, THE HOLDER MAY PAY OR MAKE A PARTIAL PAYMENT OF THE
19 AMOUNT THE HOLDER ESTIMATES ULTIMATELY WILL BE DUE. THE
20 PAYMENT OR PARTIAL PAYMENT TERMINATES ACCRUAL OF INTEREST ON
21 THE AMOUNT PAID.

22 **38-13-404. Retention of records by holder.** (1) A HOLDER
23 REQUIRED TO FILE A REPORT UNDER SECTION 38-13-401 SHALL RETAIN
24 RECORDS FOR TEN YEARS AFTER THE LATER OF THE DATE THE REPORT WAS
25 FILED OR THE LAST DATE A TIMELY REPORT WAS DUE TO BE FILED, UNLESS
26 A SHORTER PERIOD IS PROVIDED BY RULE OF THE ADMINISTRATOR. A
27 HOLDER MAY SATISFY THE REQUIREMENT TO RETAIN RECORDS UNDER THIS

1 SECTION THROUGH AN AGENT. THE RECORDS MUST CONTAIN:

2 (a) THE INFORMATION REQUIRED TO BE INCLUDED IN THE REPORT;

3 (b) THE DATE, PLACE, AND NATURE OF THE CIRCUMSTANCES THAT
4 GAVE RISE TO THE PROPERTY RIGHT;

5 (c) THE AMOUNT OR VALUE OF THE PROPERTY;

6 (d) THE LAST ADDRESS OF THE APPARENT OWNER, IF KNOWN TO
7 THE HOLDER; AND

8 (e) IF THE HOLDER SELLS, ISSUES, OR PROVIDES TO OTHERS FOR
9 SALE OR ISSUE IN THIS STATE TRAVELER'S CHECKS, MONEY ORDERS, OR
10 SIMILAR INSTRUMENTS, OTHER THAN THIRD-PARTY BANK CHECKS, ON
11 WHICH THE HOLDER IS DIRECTLY LIABLE, A RECORD OF THE INSTRUMENTS
12 WHILE THEY REMAIN OUTSTANDING INDICATING THE STATE AND DATE OF
13 ISSUE.

14 **38-13-405. When property reportable and payable or**
15 **deliverable.** PROPERTY IS REPORTABLE AND PAYABLE OR DELIVERABLE
16 UNDER THIS ARTICLE 13 EVEN IF THE OWNER FAILS TO MAKE DEMAND OR
17 PRESENT AN INSTRUMENT OR DOCUMENT OTHERWISE REQUIRED TO OBTAIN
18 PAYMENT.

19 PART 5

20 NOTICE TO APPARENT OWNER OF
21 PROPERTY PRESUMED ABANDONED

22 **38-13-501. Notice to apparent owner by holder.** (1) SUBJECT
23 TO SUBSECTION (2) OF THIS SECTION, THE HOLDER OF PROPERTY PRESUMED
24 ABANDONED SHALL SEND TO THE APPARENT OWNER NOTICE THAT
25 COMPLIES WITH SECTION 38-13-502 IN A FORMAT ACCEPTABLE TO THE
26 ADMINISTRATOR, BY FIRST-CLASS UNITED STATES MAIL, NOT MORE THAN
27 ONE HUNDRED EIGHTY DAYS NOR LESS THAN SIXTY DAYS BEFORE FILING

1 THE REPORT UNDER SECTION 38-13-401 IF:

2 (a) THE HOLDER HAS IN ITS RECORDS AN ADDRESS FOR THE
3 APPARENT OWNER THAT THE HOLDER'S RECORDS DO NOT DISCLOSE TO BE
4 INVALID AND THAT IS SUFFICIENT TO DIRECT THE DELIVERY OF
5 FIRST-CLASS UNITED STATES MAIL TO THE APPARENT OWNER; AND

6 (b) THE VALUE OF THE PROPERTY IS [FIFTY DOLLARS] OR MORE.

7 (2) IF AN APPARENT OWNER HAS CONSENTED TO RECEIVE
8 ELECTRONIC-MAIL DELIVERY FROM THE HOLDER, THE HOLDER SHALL SEND
9 THE NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION BOTH BY
10 FIRST-CLASS UNITED STATES MAIL TO THE APPARENT OWNER'S
11 LAST-KNOWN MAILING ADDRESS AND BY ELECTRONIC MAIL, UNLESS THE
12 HOLDER BELIEVES THAT THE APPARENT OWNER'S ELECTRONIC-MAIL
13 ADDRESS IS INVALID.

14 **38-13-502. Contents of notice by holder.** (1) THE NOTICE UNDER
15 SECTION 38-13-501 MUST CONTAIN A HEADING THAT READS
16 SUBSTANTIALLY AS FOLLOWS: "NOTICE. THE STATE OF COLORADO
17 REQUIRES US TO NOTIFY YOU THAT YOUR PROPERTY MAY BE TRANSFERRED
18 TO THE CUSTODY OF THE STATE TREASURER IF YOU DO NOT CONTACT US
19 BEFORE [INSERT DATE THAT IS THIRTY DAYS AFTER THE DATE OF THIS
20 NOTICE].".

21 (2) THE NOTICE UNDER SECTION 38-13-501 MUST:

22 (a) IDENTIFY THE NATURE AND, EXCEPT FOR PROPERTY THAT DOES
23 NOT HAVE A FIXED VALUE, THE VALUE OF THE PROPERTY THAT IS THE
24 SUBJECT OF THE NOTICE;

25 (b) STATE THAT THE PROPERTY WILL BE TURNED OVER TO THE
26 ADMINISTRATOR;

27 (c) STATE THAT AFTER THE PROPERTY IS TURNED OVER TO THE

1 ADMINISTRATOR AN APPARENT OWNER THAT SEEKS RETURN OF THE
2 PROPERTY MUST FILE A CLAIM WITH THE ADMINISTRATOR;

3 (d) STATE THAT PROPERTY THAT IS NOT LEGAL TENDER OF THE
4 UNITED STATES MAY BE SOLD BY THE ADMINISTRATOR; AND

5 (e) PROVIDE INSTRUCTIONS THAT THE APPARENT OWNER MUST
6 FOLLOW TO PREVENT THE HOLDER FROM REPORTING AND PAYING OR
7 DELIVERING THE PROPERTY TO THE ADMINISTRATOR.

8 **38-13-503. Notice by administrator.** (1) THE ADMINISTRATOR
9 SHALL GIVE NOTICE TO AN APPARENT OWNER THAT PROPERTY THAT IS
10 PRESUMED ABANDONED AND APPEARS TO BE OWNED BY THE APPARENT
11 OWNER IS HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE 13.

12 (2) IN PROVIDING NOTICE UNDER SUBSECTION (1) OF THIS SECTION,
13 THE ADMINISTRATOR SHALL:

14 (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF
15 THIS SECTION, SEND WRITTEN NOTICE BY FIRST-CLASS UNITED STATES
16 MAIL TO EACH APPARENT OWNER OF PROPERTY VALUED AT [FIFTY
17 DOLLARS] OR MORE HELD BY THE ADMINISTRATOR, UNLESS THE
18 ADMINISTRATOR DETERMINES THAT A MAILING BY FIRST-CLASS UNITED
19 STATES MAIL WOULD NOT BE RECEIVED BY THE APPARENT OWNER, AND,
20 IN THE CASE OF A SECURITY HELD IN AN ACCOUNT FOR WHICH THE
21 APPARENT OWNER HAD CONSENTED TO RECEIVING ELECTRONIC MAIL FROM
22 THE HOLDER, SEND NOTICE BY ELECTRONIC MAIL IF THE ELECTRONIC-MAIL
23 ADDRESS OF THE APPARENT OWNER IS KNOWN TO THE ADMINISTRATOR
24 INSTEAD OF BY FIRST-CLASS UNITED STATES MAIL; OR

25 (b) SEND THE NOTICE TO THE APPARENT OWNER'S
26 ELECTRONIC-MAIL ADDRESS IF THE ADMINISTRATOR DOES NOT HAVE A
27 VALID UNITED STATES MAIL ADDRESS FOR AN APPARENT OWNER, BUT HAS

1 AN ELECTRONIC-MAIL ADDRESS THAT THE ADMINISTRATOR DOES NOT
2 KNOW TO BE INVALID.

3 (3) IN ADDITION TO THE NOTICE UNDER SUBSECTION (2) OF THIS
4 SECTION, THE ADMINISTRATOR SHALL:

5 (a) PUBLISH EVERY [SIX] MONTHS IN AT LEAST ONE NEWSPAPER OF
6 GENERAL CIRCULATION IN EACH COUNTY IN THIS STATE NOTICE OF
7 PROPERTY HELD BY THE ADMINISTRATOR, WHICH NOTICE MUST INCLUDE:

8 (I) THE TOTAL VALUE OF PROPERTY RECEIVED BY THE
9 ADMINISTRATOR DURING THE PRECEDING [SIX]-MONTH PERIOD, TAKEN
10 FROM THE REPORTS UNDER SECTION 38-13-401;

11 (II) THE TOTAL VALUE OF CLAIMS PAID BY THE ADMINISTRATOR
12 DURING THE PRECEDING [SIX]-MONTH PERIOD;

13 (III) THE INTERNET WEB ADDRESS OF THE UNCLAIMED PROPERTY
14 WEBSITE MAINTAINED BY THE ADMINISTRATOR;

15 (IV) A TELEPHONE NUMBER AND ELECTRONIC-MAIL ADDRESS TO
16 CONTACT THE ADMINISTRATOR TO INQUIRE ABOUT OR CLAIM PROPERTY;
17 AND

18 (V) A STATEMENT THAT A PERSON MAY ACCESS THE INTERNET BY
19 A COMPUTER TO SEARCH FOR UNCLAIMED PROPERTY AND A COMPUTER
20 MAY BE AVAILABLE AS A SERVICE TO THE PUBLIC AT A LOCAL PUBLIC
21 LIBRARY; AND

22 (b) MAINTAIN A WEBSITE OR DATABASE ACCESSIBLE BY THE
23 PUBLIC AND ELECTRONICALLY SEARCHABLE THAT CONTAINS THE NAMES
24 REPORTED TO THE ADMINISTRATOR OF ALL APPARENT OWNERS FOR WHOM
25 PROPERTY IS BEING HELD BY THE ADMINISTRATOR.

26 (4) THE WEBSITE OR DATABASE MAINTAINED UNDER SUBSECTION
27 (3)(b) OF THIS SECTION MUST INCLUDE INSTRUCTIONS FOR FILING WITH THE

1 ADMINISTRATOR A CLAIM TO PROPERTY AND A PRINTABLE CLAIM FORM
2 WITH INSTRUCTIONS FOR ITS USE.

3 (5) IN ADDITION TO GIVING NOTICE UNDER SUBSECTION (2) OF THIS
4 SECTION, PUBLISHING THE INFORMATION UNDER SUBSECTION (3)(a) OF
5 THIS SECTION, AND MAINTAINING THE WEBSITE OR DATABASE UNDER
6 SUBSECTION (3)(b) OF THIS SECTION, THE ADMINISTRATOR MAY USE OTHER
7 PRINTED PUBLICATION, TELECOMMUNICATION, THE INTERNET, OR OTHER
8 MEDIA TO INFORM THE PUBLIC OF THE EXISTENCE OF UNCLAIMED
9 PROPERTY HELD BY THE ADMINISTRATOR.

10 **38-13-504. Cooperation among state officers and agencies to**
11 **locate apparent owner.** UNLESS PROHIBITED BY LAW OF THIS STATE
12 OTHER THAN THIS ARTICLE 13, ON REQUEST OF THE ADMINISTRATOR, EACH
13 OFFICER, AGENCY, BOARD, COMMISSION, DIVISION, AND DEPARTMENT OF
14 THIS STATE, ANY BODY POLITIC AND CORPORATE CREATED BY THIS STATE
15 FOR A PUBLIC PURPOSE, AND EACH POLITICAL SUBDIVISION OF THIS STATE
16 SHALL MAKE ITS BOOKS AND RECORDS AVAILABLE TO THE ADMINISTRATOR
17 AND COOPERATE WITH THE ADMINISTRATOR TO DETERMINE THE CURRENT
18 ADDRESS OF AN APPARENT OWNER OF PROPERTY HELD BY THE
19 ADMINISTRATOR UNDER THIS ARTICLE 13.

20 PART 6

21 TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

22 **38-13-601. Definition of good faith.** (1) IN THIS PART 6,
23 PAYMENT OR DELIVERY OF PROPERTY IS MADE IN GOOD FAITH IF A HOLDER:

24 (a) HAD A REASONABLE BASIS FOR BELIEVING, BASED ON THE
25 FACTS THEN KNOWN, THAT THE PROPERTY WAS REQUIRED OR PERMITTED
26 TO BE PAID OR DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE
27 13; OR

1 (b) MADE PAYMENT OR DELIVERY:

2 (I) IN RESPONSE TO A DEMAND BY THE ADMINISTRATOR OR
3 ADMINISTRATOR'S AGENT; OR

4 (II) UNDER A GUIDANCE OR RULING ISSUED BY THE
5 ADMINISTRATOR THAT THE HOLDER REASONABLY BELIEVED REQUIRED OR
6 PERMITTED THE PROPERTY TO BE PAID OR DELIVERED.

7 **38-13-602. Dormancy charge.** (1) A HOLDER MAY DEDUCT A
8 DORMANCY CHARGE FROM PROPERTY REQUIRED TO BE PAID OR DELIVERED
9 TO THE ADMINISTRATOR IF:

10 (a) A VALID CONTRACT BETWEEN THE HOLDER AND THE APPARENT
11 OWNER AUTHORIZES IMPOSITION OF THE CHARGE FOR THE APPARENT
12 OWNER'S FAILURE TO CLAIM THE PROPERTY WITHIN A SPECIFIED TIME; AND

13 (b) THE HOLDER REGULARLY IMPOSES THE CHARGE AND
14 REGULARLY DOES NOT REVERSE OR OTHERWISE CANCEL THE CHARGE.

15 (2) THE AMOUNT OF THE DEDUCTION UNDER SUBSECTION (1) OF
16 THIS SECTION IS LIMITED TO AN AMOUNT THAT IS NOT UNCONSCIONABLE
17 CONSIDERING ALL RELEVANT FACTORS, INCLUDING THE MARGINAL
18 TRANSACTIONAL COSTS INCURRED BY THE HOLDER IN MAINTAINING THE
19 APPARENT OWNER'S PROPERTY AND ANY SERVICES RECEIVED BY THE
20 APPARENT OWNER.

21 **38-13-603. Payment or delivery of property to administrator.**

22 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ON FILING A
23 REPORT UNDER SECTION 38-13-401, THE HOLDER SHALL PAY OR DELIVER
24 TO THE ADMINISTRATOR THE PROPERTY DESCRIBED IN THE REPORT.

25 (2) IF PROPERTY IN A REPORT UNDER SECTION 38-13-401 IS AN
26 AUTOMATICALLY RENEWABLE DEPOSIT AND A PENALTY OR FORFEITURE IN
27 THE PAYMENT OF INTEREST WOULD RESULT FROM PAYING THE DEPOSIT TO

1 THE ADMINISTRATOR AT THE TIME OF THE REPORT, THE DATE FOR
2 PAYMENT OF THE PROPERTY TO THE ADMINISTRATOR IS EXTENDED UNTIL
3 A PENALTY OR FORFEITURE NO LONGER WOULD RESULT FROM PAYMENT,
4 IF THE HOLDER INFORMS THE ADMINISTRATOR OF THE EXTENDED DATE.

5 (3) TANGIBLE PROPERTY IN A SAFE-DEPOSIT BOX SHALL NOT BE
6 DELIVERED TO THE ADMINISTRATOR UNTIL [ONE HUNDRED TWENTY] DAYS
7 AFTER FILING THE REPORT UNDER SECTION 38-13-401.

8 (4) IF PROPERTY REPORTED TO THE ADMINISTRATOR UNDER
9 SECTION 38-13-401 IS A SECURITY, THE ADMINISTRATOR MAY:

10 (a) MAKE AN ENDORSEMENT, INSTRUCTION, OR ENTITLEMENT
11 ORDER ON BEHALF OF THE APPARENT OWNER TO INVOKE THE DUTY OF THE
12 ISSUER, ITS TRANSFER AGENT, OR THE SECURITIES INTERMEDIARY TO
13 TRANSFER THE SECURITY; OR

14 (b) DISPOSE OF THE SECURITY UNDER SECTION 38-13-702.

15 (5) IF THE HOLDER OF PROPERTY REPORTED TO THE
16 ADMINISTRATOR UNDER SECTION 38-13-401 IS THE ISSUER OF A
17 CERTIFICATED SECURITY, THE ADMINISTRATOR MAY OBTAIN A
18 REPLACEMENT CERTIFICATE IN PHYSICAL OR BOOK-ENTRY FORM UNDER
19 SECTION 4-8-405. AN INDEMNITY BOND IS NOT REQUIRED.

20 (6) THE ADMINISTRATOR SHALL ESTABLISH PROCEDURES FOR THE
21 REGISTRATION, ISSUANCE, METHOD OF DELIVERY, TRANSFER, AND
22 MAINTENANCE OF SECURITIES DELIVERED TO THE ADMINISTRATOR BY A
23 HOLDER.

24 (7) AN ISSUER, HOLDER, AND TRANSFER AGENT OR OTHER PERSON
25 ACTING UNDER THIS SECTION UNDER INSTRUCTIONS OF AND ON BEHALF OF
26 THE ISSUER OR HOLDER IS NOT LIABLE TO THE APPARENT OWNER FOR, AND
27 SHALL BE INDEMNIFIED BY THE STATE AGAINST, A CLAIM ARISING WITH

1 RESPECT TO PROPERTY AFTER THE PROPERTY HAS BEEN DELIVERED TO THE
2 ADMINISTRATOR.

3 (8) A HOLDER IS NOT REQUIRED TO DELIVER TO THE
4 ADMINISTRATOR A SECURITY IDENTIFIED BY THE HOLDER AS A
5 NON-FREELY TRANSFERABLE SECURITY. IF THE ADMINISTRATOR OR
6 HOLDER DETERMINES THAT A SECURITY IS NO LONGER A NON-FREELY
7 TRANSFERABLE SECURITY, THE HOLDER SHALL DELIVER THE SECURITY ON
8 THE NEXT REGULAR DATE PRESCRIBED FOR DELIVERY OF SECURITIES
9 UNDER THIS ARTICLE 13. THE HOLDER SHALL MAKE A DETERMINATION
10 ANNUALLY WHETHER A SECURITY IDENTIFIED IN A REPORT FILED UNDER
11 SECTION 38-13-401 AS A NON-FREELY TRANSFERABLE SECURITY IS NO
12 LONGER A NON-FREELY TRANSFERABLE SECURITY.

13 **38-13-604. Effect of payment or delivery of property to**
14 **administrator.** (1) ON PAYMENT OR DELIVERY OF PROPERTY TO THE
15 ADMINISTRATOR UNDER THIS ARTICLE 13, THE ADMINISTRATOR AS AGENT
16 FOR THE STATE ASSUMES CUSTODY AND RESPONSIBILITY FOR THE
17 SAFEKEEPING OF THE PROPERTY. A HOLDER THAT PAYS OR DELIVERS
18 PROPERTY TO THE ADMINISTRATOR IN GOOD FAITH AND THAT
19 SUBSTANTIALLY COMPLIES WITH SECTIONS 38-13-501 AND 38-13-502 IS
20 RELIEVED OF LIABILITY ARISING THEREAFTER WITH RESPECT TO PAYMENT
21 OR DELIVERY OF THE PROPERTY TO THE ADMINISTRATOR.

22 (2) THIS STATE SHALL DEFEND AND INDEMNIFY A HOLDER AGAINST
23 LIABILITY ON A CLAIM AGAINST THE HOLDER RESULTING FROM THE
24 PAYMENT OR DELIVERY OF PROPERTY TO THE ADMINISTRATOR MADE IN
25 GOOD FAITH AND AFTER THE HOLDER SUBSTANTIALLY COMPLIES WITH
26 SECTIONS 38-13-501 AND 38-13-502.

27 **38-13-605. Recovery of property by holder from**

1 **administrator.** (1) A HOLDER THAT PAYS MONEY TO THE
2 ADMINISTRATOR UNDER THIS ARTICLE 13 MAY FILE A CLAIM FOR
3 REIMBURSEMENT FROM THE ADMINISTRATOR OF THE AMOUNT PAID IF THE
4 HOLDER:

5 (a) PAID THE MONEY IN ERROR; OR

6 (b) AFTER PAYING THE MONEY TO THE ADMINISTRATOR, PAID THE
7 MONEY TO A PERSON THE HOLDER REASONABLY BELIEVED TO BE ENTITLED
8 TO THE MONEY.

9 (2) IF A CLAIM FOR REIMBURSEMENT UNDER SUBSECTION (1) OF
10 THIS SECTION IS MADE FOR A PAYMENT MADE ON A NEGOTIABLE
11 INSTRUMENT, INCLUDING A TRAVELER'S CHECK, MONEY ORDER, OR
12 SIMILAR INSTRUMENT, THE HOLDER MUST SUBMIT PROOF THAT THE
13 INSTRUMENT WAS PRESENTED AND THAT PAYMENT WAS MADE TO A
14 PERSON THE HOLDER REASONABLY BELIEVED TO BE ENTITLED TO
15 PAYMENT. THE HOLDER MAY CLAIM REIMBURSEMENT EVEN IF THE
16 PAYMENT WAS MADE TO A PERSON WHOSE CLAIM WAS MADE AFTER
17 EXPIRATION OF A PERIOD OF LIMITATION ON THE OWNER'S RIGHT TO
18 RECEIVE OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT,
19 STATUTE, OR COURT ORDER.

20 (3) IF A HOLDER IS REIMBURSED BY THE ADMINISTRATOR UNDER
21 SUBSECTION (1)(b) OF THIS SECTION, THE HOLDER MAY ALSO RECOVER
22 FROM THE ADMINISTRATOR INCOME OR GAIN UNDER SECTION 38-13-607
23 THAT WOULD HAVE BEEN PAID TO THE OWNER IF THE MONEY HAD BEEN
24 CLAIMED FROM THE ADMINISTRATOR BY THE OWNER TO THE EXTENT THE
25 INCOME OR GAIN WAS PAID BY THE HOLDER TO THE OWNER.

26 (4) (a) A HOLDER THAT DELIVERS PROPERTY OTHER THAN MONEY
27 TO THE ADMINISTRATOR UNDER THIS ARTICLE 13 MAY FILE A CLAIM FOR

1 RETURN OF THE PROPERTY FROM THE ADMINISTRATOR IF:

2 (I) THE HOLDER DELIVERED THE PROPERTY IN ERROR; OR

3 (II) THE APPARENT OWNER HAS CLAIMED THE PROPERTY FROM THE
4 HOLDER.

5 (b) IF A CLAIM FOR RETURN OF PROPERTY UNDER SUBSECTION
6 (4)(a) OF THIS SECTION IS MADE, THE HOLDER SHALL INCLUDE WITH THE
7 CLAIM EVIDENCE SUFFICIENT TO ESTABLISH THAT THE APPARENT OWNER
8 HAS CLAIMED THE PROPERTY FROM THE HOLDER OR THAT THE PROPERTY
9 WAS DELIVERED BY THE HOLDER TO THE ADMINISTRATOR IN ERROR.

10 (5) THE ADMINISTRATOR MAY DETERMINE THAT AN AFFIDAVIT
11 SUBMITTED BY A HOLDER IS EVIDENCE SUFFICIENT TO ESTABLISH THAT THE
12 HOLDER IS ENTITLED TO REIMBURSEMENT OR TO RECOVER PROPERTY
13 UNDER THIS SECTION.

14 (6) A HOLDER IS NOT REQUIRED TO PAY A FEE OR OTHER CHARGE
15 FOR REIMBURSEMENT OR RETURN OF PROPERTY UNDER THIS SECTION.

16 (7) NOT LATER THAN NINETY DAYS AFTER A CLAIM IS FILED UNDER
17 SUBSECTION (1) OR (4) OF THIS SECTION, THE ADMINISTRATOR SHALL
18 ALLOW OR DENY THE CLAIM AND GIVE THE CLAIMANT NOTICE OF THE
19 DECISION IN A RECORD. IF THE ADMINISTRATOR DOES NOT TAKE ACTION ON
20 A CLAIM DURING THE NINETY-DAY PERIOD, THE CLAIM IS DEEMED DENIED.

21 (8) THE CLAIMANT MAY INITIATE A PROCEEDING UNDER THE
22 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, FOR
23 REVIEW OF THE ADMINISTRATOR'S DECISION OR THE DEEMED DENIAL
24 UNDER SUBSECTION (7) OF THIS SECTION NOT LATER THAN:

25 (a) THIRTY DAYS FOLLOWING RECEIPT OF THE NOTICE OF THE
26 ADMINISTRATOR'S DECISION; OR

27 (b) ONE HUNDRED TWENTY DAYS FOLLOWING THE FILING OF A

1 CLAIM UNDER SUBSECTION (1) OR (4) OF THIS SECTION IN THE CASE OF A
2 DEEMED DENIAL UNDER SUBSECTION (7) OF THIS SECTION.

3 **38-13-606. Property removed from safe-deposit box.** PROPERTY
4 REMOVED FROM A SAFE-DEPOSIT BOX AND DELIVERED TO THE
5 ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO THE HOLDER'S
6 RIGHT TO REIMBURSEMENT FOR THE COST OF OPENING THE BOX AND A
7 LIEN OR CONTRACT PROVIDING REIMBURSEMENT TO THE HOLDER FOR
8 UNPAID RENT CHARGES FOR THE BOX. THE ADMINISTRATOR SHALL
9 REIMBURSE THE HOLDER FROM THE PROCEEDS REMAINING AFTER
10 DEDUCTING THE EXPENSE INCURRED BY THE ADMINISTRATOR IN SELLING
11 THE PROPERTY.

12 **38-13-607. Crediting income or gain to owner's account.** (1) IF
13 PROPERTY OTHER THAN MONEY IS DELIVERED TO THE ADMINISTRATOR,
14 THE OWNER IS ENTITLED TO RECEIVE FROM THE ADMINISTRATOR INCOME
15 OR GAIN REALIZED OR ACCRUED ON THE PROPERTY BEFORE THE PROPERTY
16 IS SOLD. IF THE PROPERTY WAS AN INTEREST-BEARING DEMAND, SAVINGS,
17 OR TIME DEPOSIT, THE ADMINISTRATOR SHALL PAY INTEREST AT THE
18 LESSER OF EIGHT PERCENT PER ANNUM, COMPOUNDED ANNUALLY, OR THE
19 RATE THE PROPERTY EARNED WHILE IN THE POSSESSION OF THE HOLDER.
20 INTEREST BEGINS TO ACCRUE WHEN THE PROPERTY IS DELIVERED TO THE
21 ADMINISTRATOR AND ENDS ON THE EARLIER OF THE EXPIRATION OF TEN
22 YEARS AFTER ITS DELIVERY OR THE DATE ON WHICH PAYMENT IS MADE TO
23 THE OWNER.

24 (2) INTEREST ON INTEREST-BEARING PROPERTY IS NOT PAYABLE
25 UNDER THIS SECTION FOR ANY PERIOD BEFORE THE EFFECTIVE DATE OF
26 THIS ARTICLE 13, AS AMENDED, UNLESS AUTHORIZED BY THIS ARTICLE 13
27 PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED.

1 <{Would a specific effective date, such as Sept. 1, 2017, make this
2 clearer? (DHG)}>

3 **38-13-608. Administrator's options as to custody.** (1) THE
4 ADMINISTRATOR MAY DECLINE TO TAKE CUSTODY OF PROPERTY REPORTED
5 UNDER SECTION 38-13-401 IF THE ADMINISTRATOR DETERMINES THAT:

6 (a) THE PROPERTY HAS A VALUE LESS THAN THE ESTIMATED
7 EXPENSES OF NOTICE AND SALE OF THE PROPERTY; OR

8 (b) TAKING CUSTODY OF THE PROPERTY WOULD BE UNLAWFUL.

9 (2) A HOLDER MAY PAY OR DELIVER PROPERTY TO THE
10 ADMINISTRATOR BEFORE THE PROPERTY IS PRESUMED ABANDONED UNDER
11 THIS ARTICLE 13 IF THE HOLDER:

12 (a) SENDS THE APPARENT OWNER OF THE PROPERTY THE NOTICE OR
13 NOTICES REQUIRED BY SECTION 38-13-501 AND PROVIDES THE
14 ADMINISTRATOR EVIDENCE OF THE HOLDER'S COMPLIANCE WITH THIS
15 SUBSECTION (2)(a);

16 (b) INCLUDES WITH THE PAYMENT OR DELIVERY A REPORT
17 REGARDING THE PROPERTY CONFORMING TO SECTION 38-13-402; AND

18 (c) FIRST OBTAINS THE ADMINISTRATOR'S CONSENT IN A RECORD
19 TO ACCEPT PAYMENT OR DELIVERY.

20 (3) A HOLDER'S REQUEST FOR THE ADMINISTRATOR'S CONSENT
21 UNDER SUBSECTION (2)(c) OF THIS SECTION MUST BE IN A RECORD. IF THE
22 ADMINISTRATOR FAILS TO RESPOND TO THE REQUEST NOT LATER THAN
23 THIRTY DAYS AFTER RECEIPT OF THE REQUEST, THE ADMINISTRATOR IS
24 DEEMED TO CONSENT TO THE PAYMENT OR DELIVERY OF THE PROPERTY
25 AND THE PAYMENT OR DELIVERY IS CONSIDERED TO HAVE BEEN MADE IN
26 GOOD FAITH.

27 (4) ON PAYMENT OR DELIVERY OF PROPERTY UNDER SUBSECTION

1 (2) OF THIS SECTION, THE PROPERTY IS PRESUMED ABANDONED.

2 **38-13-609. Disposition of property having no substantial value**
3 **- immunity from liability.** [(1)] IF THE ADMINISTRATOR TAKES CUSTODY
4 OF PROPERTY DELIVERED UNDER THIS ARTICLE 13 AND LATER DETERMINES
5 THAT THE PROPERTY HAS NO SUBSTANTIAL COMMERCIAL VALUE OR THAT
6 THE COST OF DISPOSING OF THE PROPERTY WILL EXCEED THE VALUE OF
7 THE PROPERTY, THE ADMINISTRATOR MAY RETURN THE PROPERTY TO THE
8 HOLDER OR DESTROY OR OTHERWISE DISPOSE OF THE PROPERTY.

9 [(2) AN ACTION OR PROCEEDING SHALL NOT BE COMMENCED
10 AGAINST THE STATE, AN AGENCY OF THE STATE, THE ADMINISTRATOR,
11 ANOTHER OFFICER, EMPLOYEE, OR AGENT OF THE STATE, OR A HOLDER FOR
12 OR BECAUSE OF AN ACT OF THE ADMINISTRATOR UNDER THIS SECTION,
13 EXCEPT FOR INTENTIONAL MISCONDUCT OR MALFEASANCE.]

14 <{Note from NCCUSL: A state should determine whether
15 subsection (2) is covered by its sovereign immunity tort claims act and
16 decide how to proceed with subsection (2). If it chooses not to include
17 subsection (2), the state should remove it and the brackets from around
18 [(1).}>

19 **38-13-610. Periods of limitation and repose.** (1) EXPIRATION,
20 BEFORE, ON, OR AFTER [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS
21 AMENDED], OF A PERIOD OF LIMITATION ON AN OWNER'S RIGHT TO RECEIVE
22 OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT, STATUTE, OR
23 COURT ORDER DOES NOT PREVENT THE PROPERTY FROM BEING PRESUMED
24 ABANDONED OR AFFECT THE DUTY OF A HOLDER TO FILE A REPORT OR PAY
25 OR DELIVER PROPERTY TO THE ADMINISTRATOR UNDER THIS ARTICLE 13.

26 (2) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION OR
27 PROCEEDING TO ENFORCE THIS ARTICLE 13 WITH RESPECT TO THE

1 REPORTING, PAYMENT, OR DELIVERY OF PROPERTY MORE THAN FIVE YEARS
2 AFTER THE HOLDER FILED A NONFRAUDULENT REPORT WITH THE
3 ADMINISTRATOR UNDER SECTION 38-13-401. THE PARTIES MAY AGREE IN
4 A RECORD TO EXTEND THE LIMITATION IN THIS SUBSECTION (2).

5 (3) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION,
6 PROCEEDING, OR EXAMINATION WITH RESPECT TO A DUTY OF A HOLDER
7 UNDER THIS ARTICLE 13 MORE THAN TEN YEARS AFTER THE DUTY AROSE.

8 PART 7

9 SALE OF PROPERTY BY ADMINISTRATOR

10 **38-13-701. Public sale of property.** (1) SUBJECT TO SECTION
11 38-13-702, NOT EARLIER THAN [THREE] YEARS AFTER RECEIPT OF
12 PROPERTY THAT IS PRESUMED ABANDONED, THE ADMINISTRATOR MAY
13 SELL THE PROPERTY.

14 (2) BEFORE SELLING PROPERTY UNDER SUBSECTION (1) OF THIS
15 SECTION, THE ADMINISTRATOR SHALL GIVE NOTICE TO THE PUBLIC OF:

16 (a) THE DATE OF SALE; AND

17 (b) A REASONABLE DESCRIPTION OF THE PROPERTY.

18 (3) A SALE UNDER SUBSECTION (1) OF THIS SECTION MUST BE TO
19 THE HIGHEST BIDDER:

20 (a) AT PUBLIC SALE AT A LOCATION IN THIS STATE THAT THE
21 ADMINISTRATOR DETERMINES TO BE THE MOST FAVORABLE MARKET FOR
22 THE PROPERTY; OR

23 (b) ON THE INTERNET; OR

24 (c) ON ANOTHER FORUM THE ADMINISTRATOR DETERMINES IS
25 LIKELY TO YIELD THE HIGHEST NET PROCEEDS OF SALE.

26 (4) THE ADMINISTRATOR MAY DECLINE THE HIGHEST BID AT A SALE
27 UNDER SUBSECTION (1) OF THIS SECTION AND REOFFER THE PROPERTY FOR

1 SALE IF THE ADMINISTRATOR DETERMINES THE HIGHEST BID IS
2 INSUFFICIENT.

3 (5) IF A SALE HELD UNDER THIS SECTION IS TO BE CONDUCTED
4 OTHER THAN ON THE INTERNET, THE ADMINISTRATOR MUST PUBLISH AT
5 LEAST ONE NOTICE OF THE SALE AT LEAST [THREE] WEEKS BUT NOT MORE
6 THAN [FIVE] WEEKS BEFORE THE SALE IN A NEWSPAPER OF GENERAL
7 CIRCULATION IN THE [COUNTY] IN WHICH THE PROPERTY IS SOLD.

8 **38-13-702. Disposal of securities.** (1) THE ADMINISTRATOR
9 SHALL NOT SELL OR OTHERWISE LIQUIDATE A SECURITY UNTIL THREE
10 YEARS AFTER THE ADMINISTRATOR RECEIVES THE SECURITY AND GIVES
11 THE APPARENT OWNER NOTICE UNDER SECTION 38-13-503 THAT THE
12 ADMINISTRATOR HOLDS THE SECURITY.

13 (2) THE ADMINISTRATOR SHALL NOT SELL A SECURITY LISTED ON
14 AN ESTABLISHED STOCK EXCHANGE FOR LESS THAN THE PRICE PREVAILING
15 ON THE EXCHANGE AT THE TIME OF SALE. THE ADMINISTRATOR MAY SELL
16 A SECURITY NOT LISTED ON AN ESTABLISHED EXCHANGE BY ANY
17 COMMERCIALY REASONABLE METHOD.

18 **38-13-703. Recovery of securities or value by owner.** (1) IF THE
19 ADMINISTRATOR SELLS A SECURITY BEFORE THE EXPIRATION OF SIX YEARS
20 AFTER DELIVERY OF THE SECURITY TO THE ADMINISTRATOR, AN APPARENT
21 OWNER THAT FILES A VALID CLAIM UNDER THIS ARTICLE 13 OF OWNERSHIP
22 OF THE SECURITY BEFORE THE SIX-YEAR PERIOD EXPIRES IS ENTITLED, AT
23 THE OPTION OF THE ADMINISTRATOR, TO RECEIVE:

24 (a) A REPLACEMENT OF THE SECURITY; OR

25 (b) THE MARKET VALUE OF THE SECURITY AT THE TIME THE CLAIM
26 IS FILED PLUS DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE
27 SECURITY UP TO THE TIME THE CLAIM IS PAID.

1 (2) REPLACEMENT OF THE SECURITY OR CALCULATION OF MARKET
2 VALUE UNDER SUBSECTION (1) OF THIS SECTION MUST TAKE INTO
3 ACCOUNT A STOCK SPLIT, REVERSE STOCK SPLIT, STOCK DIVIDEND, OR
4 SIMILAR CORPORATE ACTION.

5 (3) A PERSON THAT MAKES A VALID CLAIM UNDER THIS ARTICLE 13
6 OF OWNERSHIP OF A SECURITY AFTER EXPIRATION OF SIX YEARS AFTER
7 DELIVERY OF THE SECURITY TO THE ADMINISTRATOR IS ENTITLED TO
8 RECEIVE:

9 (a) THE SECURITY THE HOLDER DELIVERED TO THE
10 ADMINISTRATOR, IF IT IS IN THE CUSTODY OF THE ADMINISTRATOR, PLUS
11 DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO
12 THE TIME THE ADMINISTRATOR DELIVERS THE SECURITY TO THE PERSON;
13 OR

14 (b) THE NET PROCEEDS OF THE SALE OF THE SECURITY, PLUS
15 DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO
16 THE TIME THE SECURITY WAS SOLD.

17 **38-13-704. Purchaser owns property after sale.** A PURCHASER
18 OF PROPERTY AT A SALE CONDUCTED BY THE ADMINISTRATOR UNDER THIS
19 ARTICLE 13 TAKES THE PROPERTY FREE OF ALL CLAIMS OF THE OWNER, A
20 PREVIOUS HOLDER, OR A PERSON CLAIMING THROUGH THE OWNER OR
21 HOLDER. THE ADMINISTRATOR SHALL EXECUTE DOCUMENTS NECESSARY
22 TO COMPLETE THE TRANSFER OF OWNERSHIP TO THE PURCHASER.

23 **38-13-705. Military medal or decoration.** (1) THE
24 ADMINISTRATOR SHALL NOT SELL A MEDAL OR DECORATION AWARDED FOR
25 MILITARY SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

26 (2) THE ADMINISTRATOR, WITH THE CONSENT OF THE RESPECTIVE
27 ORGANIZATION UNDER SUBSECTION (2)(a) OF THIS SECTION, AGENCY

1 UNDER SUBSECTION (2)(b) OF THIS SECTION, OR ENTITY UNDER
2 SUBSECTION (2)(c) OF THIS SECTION, MAY DELIVER A MEDAL OR
3 DECORATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO BE HELD
4 IN CUSTODY FOR THE OWNER, TO:

5 (a) A MILITARY VETERANS' ORGANIZATION QUALIFIED UNDER
6 SECTION 501 (c)(19) OF THE FEDERAL "INTERNAL REVENUE CODE OF
7 1986", AS AMENDED, 26 U.S.C. SEC. 501 (c)(19);

8 (b) THE AGENCY THAT AWARDED THE MEDAL OR DECORATION; OR

9 (c) A GOVERNMENTAL ENTITY.

10 (3) ON DELIVERY UNDER SUBSECTION (2) OF THIS SECTION, THE
11 ADMINISTRATOR IS NOT RESPONSIBLE FOR SAFEKEEPING OF THE MEDAL OR
12 DECORATION.

13 PART 8

14 ADMINISTRATION OF PROPERTY

15 **38-13-801. [Similar to former 38-13-116.5] Unclaimed**
16 **property trust fund - creation - payments - interest - appropriations**

17 **- records - rules.** (1) (a) THERE IS HEREBY CREATED IN THE STATE
18 TREASURY THE UNCLAIMED PROPERTY TRUST FUND. THE PRINCIPAL IN THE
19 TRUST FUND CONSISTS OF ALL MONEY RECEIVED BY THE ADMINISTRATOR
20 FROM SALES OF UNCLAIMED PROPERTY PURSUANT TO PART 7 OF THIS
21 ARTICLE 13 OR OTHERWISE COLLECTED BY THE ADMINISTRATOR UNDER
22 THIS ARTICLE 13.

23 (b) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS
24 SECTION, THE PRINCIPAL OF THE TRUST FUND SHALL NOT BE EXPENDED
25 EXCEPT TO PAY CLAIMS MADE PURSUANT TO THIS ARTICLE 13. MONEY
26 CONSTITUTING THE PRINCIPAL OF THE TRUST FUND IS NOT FISCAL YEAR
27 SPENDING OF THE STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF

1 THE STATE CONSTITUTION AND IS NOT SUBJECT TO APPROPRIATION BY THE
2 GENERAL ASSEMBLY.

3 (c) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
4 OF MONEY IN THE TRUST FUND SHALL BE CREDITED TO THE TRUST FUND.

5 (d) THE MONEY IN THE UNCLAIMED PROPERTY TRUST FUND DOES
6 NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

7 (2) (a) FOR THE 2001-02 FISCAL YEAR AND EACH FISCAL YEAR
8 THEREAFTER, THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
9 APPROPRIATIONS OUT OF THE PRINCIPAL OF THE UNCLAIMED PROPERTY
10 TRUST FUND FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS
11 ARTICLE 13, EXCEPT AS PROVIDED FOR THE PAYMENT OF CONTRACT
12 AUDITOR SERVICES IN SUBSECTION (2)(b) OF THIS SECTION.

13 (b) MONEY IN THE UNCLAIMED PROPERTY TRUST FUND IS
14 CONTINUOUSLY APPROPRIATED TO THE STATE TREASURER FOR THE
15 PAYMENT OF CONTRACT AUDITOR SERVICES. ANY MONEY APPROPRIATED
16 FOR THE PAYMENT OF CONTRACT AUDITOR SERVICES SHALL BE PAID FROM
17 REVENUES COLLECTED BY CONTRACT AUDITORS.

18 (c) THE STATE TREASURER SHALL PROMULGATE RULES IN
19 ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS NECESSARY TO ADMINISTER
20 PAYMENT FOR CONTRACT AUDITOR SERVICES, INCLUDING ANY RULES
21 NECESSARY TO:

22 (I) SPECIFY THE REQUIREMENTS OR EXPERTISE OF CONTRACT
23 AUDITORS;

24 (II) ADEQUATELY PROTECT UNCLAIMED PROPERTY WHILE THE
25 PROPERTY IS IN THE POSSESSION OF THE CONTRACT AUDITOR; AND

26 (III) PREVENT IDENTITY THEFT AND THE SALE OR TRANSFER OF
27 PERSONAL IDENTIFYING INFORMATION OBTAINED BY THE CONTRACT

1 AUDITOR DURING THE COURSE OF THE CONTRACT AUDITOR'S DUTIES.

2 (d) THE FOLLOWING AMOUNTS CONSTITUTE FISCAL YEAR SPENDING
3 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION:

4 (I) ANY MONEY THAT IS APPROPRIATED TO THE DEPARTMENT OF
5 THE TREASURY AS REQUIRED BY THIS SUBSECTION (2);

6 (II) ANY MONEY THAT IS CREDITED TO THE ADULT DENTAL FUND
7 CREATED IN SECTION 25.5-5-207 (4) AS REQUIRED BY SUBSECTION (3) OF
8 THIS SECTION.

9 (3) (a) (I) ON AND AFTER APRIL 1, 2014, AFTER RESERVING THE
10 AMOUNTS DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, THE STATE
11 TREASURER SHALL TRANSMIT TO THE ADULT DENTAL FUND CREATED IN
12 SECTION 25.5-5-207 (4) AN AMOUNT OF PRINCIPAL AND INTEREST IN THE
13 TRUST FUND SUFFICIENT TO IMPLEMENT THE ADULT DENTAL BENEFIT
14 PURSUANT TO SECTION 25.5-5-202 (1)(w).

15 (II) ON JUNE 30, 2016, THE STATE TREASURER SHALL DEDUCT
16 THIRTY-FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS FROM THE
17 UNCLAIMED PROPERTY TRUST FUND AND TRANSFER SUCH SUM TO THE
18 ADULT DENTAL FUND CREATED IN SECTION 25.5-5-207 (4) TO IMPLEMENT
19 THE ADULT DENTAL BENEFIT PURSUANT TO SECTION 25.5-5-202 (1)(w) FOR
20 THE FISCAL YEAR 2016-17.

21 (b) THE STATE TREASURER SHALL RESERVE IN THE TRUST FUND
22 AND SHALL NOT TRANSFER ANY MONEY NECESSARY FOR:

23 (I) THE CLAIMS PAID PURSUANT TO THIS ARTICLE 13 FOR EACH
24 FISCAL YEAR;

25 (II) THE RESERVE AMOUNT NECESSARY TO PAY ANTICIPATED
26 CLAIMS; AND

27 (III) PUBLICATIONS AND CORRESPONDENCE EXPENSES PURSUANT

1 TO SECTION 38-13-503.

2 (4) BEFORE CREDITING ANY MONEY TO THE TRUST FUND PURSUANT
3 TO SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL RECORD
4 THE NAME AND LAST-KNOWN ADDRESS OF EACH PERSON APPEARING FROM
5 THE HOLDERS' REPORTS TO BE ENTITLED TO THE PROPERTY. THE RECORD
6 MUST BE AVAILABLE FOR PUBLIC INSPECTION DURING ALL REASONABLE
7 BUSINESS HOURS.

8 <{The following subsection (5) is from RUUPA, section 801(2).
9 It may no longer be needed.}>

10 (5) THE ADMINISTRATOR SHALL MAINTAIN AN ACCOUNT WITH AN
11 AMOUNT OF MONEY THE ADMINISTRATOR REASONABLY ESTIMATES IS
12 SUFFICIENT TO PAY CLAIMS ALLOWED UNDER THIS ARTICLE 13 [IN EACH
13 FISCAL [YEAR] [QUARTER]]. IF THE AGGREGATE AMOUNT OF CLAIMS BY
14 OWNERS ALLOWED AT ANY TIME EXCEEDS THE AMOUNT HELD IN THE
15 ACCOUNT, AN EXCESS CLAIM MUST BE PAID OUT OF THE GENERAL FUND.

16 **38-13-801.5. [Similar to former 38-13-116.7] Unclaimed**
17 **property tourism promotion trust fund - creation - payments -**
18 **interest - transfers. (1) THERE IS HEREBY CREATED IN THE STATE**
19 **TREASURY THE UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND.**
20 **THE PRINCIPAL IN THE TRUST FUND CONSISTS OF ALL PROCEEDS**
21 **COLLECTED BY THE ADMINISTRATOR FROM THE SALE OF SECURITIES UNDER**
22 **THIS ARTICLE 13.**

23 (2) THE PRINCIPAL OF THE UNCLAIMED PROPERTY TOURISM
24 PROMOTION TRUST FUND SHALL NOT BE EXPENDED EXCEPT TO PAY CLAIMS
25 MADE PURSUANT TO THIS ARTICLE 13. MONEY CONSTITUTING THE
26 PRINCIPAL OF THE TRUST FUND THAT IS CREDITED TO OR EXPENDED FROM
27 THE TRUST FUND TO PAY CLAIMS IS NOT FISCAL YEAR SPENDING OF THE

1 STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
2 CONSTITUTION, AND SUCH MONEY IS DEEMED CUSTODIAL FUNDS THAT ARE
3 NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY.

4 (3) (a) BEGINNING WITH THE 2008-09 STATE FISCAL YEAR, THE
5 INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
6 UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND SHALL BE
7 CREDITED TO THE FOLLOWING FUNDS:

8 (I) TWENTY-FIVE PERCENT OF THE INTEREST TO THE COLORADO
9 STATE FAIR AUTHORITY CASH FUND CREATED IN SECTION 35-65-107 (1),
10 SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO
11 SECTION 35-65-107 (3)(b);

12 (II) SIXTY-FIVE PERCENT OF THE INTEREST TO THE AGRICULTURE
13 MANAGEMENT FUND CREATED IN SECTION 35-1-106.9, SUBJECT TO
14 APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO SECTION
15 35-1-106.9; AND

16 (III) (A) TEN PERCENT OF THE INTEREST TO THE COLORADO
17 TRAVEL AND TOURISM PROMOTION FUND CREATED IN SECTION 24-49.7-106
18 (1), SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT
19 TO SECTION 24-49.7-106 (3) FOR USE IN THE PROMOTION OF AGRITOURISM
20 IN THE STATE. FOR THE PURPOSES OF THIS SUBSECTION (3)(a)(III),
21 "AGRITOURISM" MEANS THE PRACTICE OF ENGAGING IN ACTIVITIES,
22 EVENTS, AND SERVICES THAT HAVE BEEN PROVIDED TO CONSUMERS FOR
23 RECREATIONAL, ENTERTAINMENT, OR EDUCATIONAL PURPOSES AT A FARM,
24 RANCH, OR OTHER AGRICULTURAL, HORTICULTURAL, OR AGRIBUSINESS
25 OPERATION IN ORDER TO ALLOW CONSUMERS TO EXPERIENCE, LEARN
26 ABOUT, AND PARTICIPATE IN VARIOUS FACETS OF AGRICULTURAL
27 INDUSTRY, CULINARY PURSUITS, NATURAL RESOURCES, AND HERITAGE.

1 (B) THE BOARD OF DIRECTORS OF THE COLORADO TOURISM OFFICE
2 CREATED IN SECTION 24-49.7-103 SHALL CONSULT ANNUALLY, AND
3 EXECUTE A MEMORANDUM OF UNDERSTANDING, WITH THE COMMISSIONER
4 OF AGRICULTURE REGARDING THE EXPENDITURE OF MONEY CREDITED
5 PURSUANT TO SUBSECTION (3)(a)(III)(A) OF THIS SECTION IN ORDER TO
6 COORDINATE AGRITOURISM PROMOTION EFFORTS.

7 (b) ANY MONEY THAT IS CREDITED TO AND EXPENDED FROM THE
8 COLORADO STATE FAIR AUTHORITY CASH FUND, THE AGRICULTURE
9 MANAGEMENT FUND, OR THE TRAVEL AND TOURISM PROMOTION FUND
10 PURSUANT TO THIS SUBSECTION (3) CONSTITUTES FISCAL YEAR SPENDING
11 OF THE STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
12 CONSTITUTION.

13 (4) THE MONEY IN THE UNCLAIMED PROPERTY TOURISM
14 PROMOTION TRUST FUND DOES NOT REVERT TO THE GENERAL FUND AT THE
15 END OF ANY FISCAL YEAR.

16 **38-13-802. Administrator to retain records of property.**

17 (1) THE ADMINISTRATOR SHALL:

18 (a) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS
19 OF EACH PERSON SHOWN ON A REPORT FILED UNDER SECTION 38-13-401
20 TO BE THE APPARENT OWNER OF THE PROPERTY DELIVERED TO THE
21 ADMINISTRATOR;

22 (b) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS
23 OF EACH INSURED OR ANNUITANT AND BENEFICIARY SHOWN ON THE
24 REPORT;

25 (c) WITH RESPECT TO EACH POLICY OF INSURANCE OR ANNUITY
26 CONTRACT LISTED IN THE REPORT OF AN INSURANCE COMPANY, RECORD
27 AND RETAIN THE POLICY OR ACCOUNT NUMBER, THE NAME OF THE

1 COMPANY, AND THE AMOUNT DUE OR PAID; AND

2 (d) WITH RESPECT TO EACH APPARENT OWNER LISTED IN THE
3 REPORT, RECORD AND RETAIN THE NAME OF THE HOLDER WHO FILED THE
4 REPORT AND THE AMOUNT DUE OR PAID.

5 **38-13-803. Expenses and service charges of administrator.**

6 (1) BEFORE MAKING A DEPOSIT OF MONEY RECEIVED UNDER THIS ARTICLE
7 13 TO THE [GENERAL FUND OF THE STATE], THE ADMINISTRATOR MAY
8 DEDUCT:

9 (a) EXPENSES OF DISPOSITION OF PROPERTY DELIVERED TO THE
10 ADMINISTRATOR UNDER THIS ARTICLE 13;

11 (b) COSTS OF MAILING AND PUBLICATION IN CONNECTION WITH
12 PROPERTY DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE 13;

13 (c) REASONABLE SERVICE CHARGES; AND

14 (d) EXPENSES INCURRED IN EXAMINING RECORDS OF OR
15 COLLECTING PROPERTY FROM A PUTATIVE HOLDER OR HOLDER.

16 **38-13-804. Administrator holds property as custodian for**
17 **owner.** PROPERTY RECEIVED BY THE ADMINISTRATOR UNDER THIS
18 ARTICLE 13 IS HELD IN CUSTODY FOR THE BENEFIT OF THE OWNER AND IS
19 NOT OWNED BY THE STATE.

20 PART 9

21 CLAIM TO RECOVER PROPERTY

22 FROM ADMINISTRATOR

23 **38-13-901. Claim of another state to recover property.** (1) IF
24 THE ADMINISTRATOR KNOWS THAT PROPERTY HELD BY THE
25 ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO A SUPERIOR CLAIM
26 OF ANOTHER STATE, THE ADMINISTRATOR SHALL:

27 (a) REPORT AND PAY OR DELIVER THE PROPERTY TO THE OTHER

1 STATE; OR

2 (b) RETURN THE PROPERTY TO THE HOLDER SO THAT THE HOLDER
3 MAY PAY OR DELIVER THE PROPERTY TO THE OTHER STATE.

4 (2) THE ADMINISTRATOR IS NOT REQUIRED TO ENTER INTO AN
5 AGREEMENT TO TRANSFER PROPERTY TO THE OTHER STATE UNDER
6 SUBSECTION (1) OF THIS SECTION.

7 **38-13-902. When property subject to recovery by another**
8 **state.** (1) PROPERTY HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE
9 13 IS SUBJECT TO THE RIGHT OF ANOTHER STATE TO TAKE CUSTODY OF THE
10 PROPERTY IF:

11 (a) THE PROPERTY WAS PAID OR DELIVERED TO THE
12 ADMINISTRATOR BECAUSE THE RECORDS OF THE HOLDER DID NOT REFLECT
13 A LAST-KNOWN ADDRESS IN THE OTHER STATE OF THE APPARENT OWNER
14 AND:

15 (I) THE OTHER STATE ESTABLISHES THAT THE LAST-KNOWN
16 ADDRESS OF THE APPARENT OWNER OR OTHER PERSON ENTITLED TO THE
17 PROPERTY WAS IN THE OTHER STATE; OR

18 (II) UNDER THE LAW OF THE OTHER STATE, THE PROPERTY HAS
19 BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE OTHER STATE;

20 (b) THE RECORDS OF THE HOLDER DID NOT ACCURATELY IDENTIFY
21 THE OWNER OF THE PROPERTY, THE LAST-KNOWN ADDRESS OF THE OWNER
22 WAS IN ANOTHER STATE, AND, UNDER THE LAW OF THE OTHER STATE, THE
23 PROPERTY HAS BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE
24 OTHER STATE;

25 (c) THE PROPERTY WAS SUBJECT TO THE CUSTODY OF THE
26 ADMINISTRATOR OF THIS STATE UNDER SECTION 38-13-305 AND, UNDER
27 THE LAW OF THE STATE OF DOMICILE OF THE HOLDER, THE PROPERTY HAS

1 BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE STATE OF
2 DOMICILE OF THE HOLDER; OR

3 (d) THE PROPERTY:

4 (I) IS A SUM PAYABLE ON A TRAVELER'S CHECK, MONEY ORDER, OR
5 SIMILAR INSTRUMENT THAT WAS PURCHASED IN THE OTHER STATE AND
6 DELIVERED TO THE ADMINISTRATOR UNDER SECTION 38-13-306; AND

7 (II) UNDER THE LAW OF THE OTHER STATE, HAS BECOME SUBJECT
8 TO A CLAIM OF ABANDONMENT BY THE OTHER STATE.

9 (2) A CLAIM BY ANOTHER STATE TO RECOVER PROPERTY UNDER
10 THIS SECTION MUST BE PRESENTED IN A FORM PRESCRIBED BY THE
11 ADMINISTRATOR UNLESS THE ADMINISTRATOR WAIVES PRESENTATION OF
12 THE FORM.

13 (3) THE ADMINISTRATOR SHALL DECIDE A CLAIM UNDER THIS
14 SECTION NOT LATER THAN [NINETY] DAYS AFTER IT IS PRESENTED. IF THE
15 ADMINISTRATOR DETERMINES THAT THE OTHER STATE IS ENTITLED UNDER
16 SUBSECTION (1) OF THIS SECTION TO CUSTODY OF THE PROPERTY, THE
17 ADMINISTRATOR SHALL ALLOW THE CLAIM AND PAY OR DELIVER THE
18 PROPERTY TO THE OTHER STATE.

19 (4) THE ADMINISTRATOR MAY REQUIRE ANOTHER STATE, BEFORE
20 RECOVERING PROPERTY UNDER THIS SECTION, TO AGREE TO INDEMNIFY
21 THIS STATE AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LIABILITY ON
22 A CLAIM TO THE PROPERTY.

23 **38-13-902.1. [Similar to former 38-13-117.3] Claims offset for**
24 **child support.** (1) BEFORE PAYING A CLAIM PURSUANT TO SECTION
25 38-13-903 (1) IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS, THE
26 ADMINISTRATOR SHALL OFFSET AGAINST THE AMOUNT OF THE CLAIM THE
27 CLAIMANT'S OBLIGATIONS TO PAY CURRENT CHILD SUPPORT, CHILD

1 SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT
2 ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED
3 WITH MAINTENANCE. THE ADMINISTRATOR MAY ENTER INTO A
4 MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF HUMAN
5 SERVICES TO IMPLEMENT THIS SECTION AND SECTION 26-13-118.5.

6 (2) (a) IF A CLAIMANT OWES CURRENT CHILD SUPPORT, CHILD
7 SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT
8 ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED
9 WITH MAINTENANCE, AND ALSO OWES RESTITUTION OR FINES, FEES, COSTS,
10 OR SURCHARGES AS DESCRIBED IN SECTION 38-13-902.2, DELINQUENT
11 STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN SECTION
12 38-13-902.3, OR BOTH, THE UNCLAIMED PROPERTY OFFSET AGAINST THE
13 CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD
14 SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD
15 SUPPORT WHEN COMBINED WITH MAINTENANCE TAKES PRIORITY AND
16 SHALL BE APPLIED FIRST.

17 (b) IF A CLAIMANT OWES BOTH RESTITUTION OR FINES, FEES,
18 COSTS, OR SURCHARGES AND DELINQUENT STATE TAXES, PENALTIES, OR
19 INTEREST, AFTER PAYMENT IN ACCORDANCE WITH SUBSECTION (2)(a) OF
20 THIS SECTION, IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY
21 SHALL BE APPLIED FIRST TOWARD THE PAYMENT OF THE OUTSTANDING
22 RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN
23 ACCORDANCE WITH SECTION 38-13-902.2 AND THEN APPLIED TO THE
24 PAYMENT OF DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AND
25 PROCESSED IN ACCORDANCE WITH SECTION 38-13-902.3.

26 (c) IF A CLAIMANT OWES RESTITUTION OR FINES, FEES, COSTS, OR
27 SURCHARGES OR DELINQUENT STATE TAXES, PENALTIES, OR INTEREST,

1 AFTER PAYMENT IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS
2 SECTION, IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY SHALL BE
3 APPLIED TOWARD THE PAYMENT OF THE OUTSTANDING RESTITUTION OR
4 FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN ACCORDANCE
5 WITH SECTION 38-13-902.2 OR TOWARD THE DELINQUENT STATE TAXES,
6 PENALTIES, OR INTEREST AND PROCESSED IN ACCORDANCE WITH SECTION
7 38-13-902.3, WHICHEVER IS APPLICABLE.

8 **38-13-902.2. [Similar to former 38-13-117.5] Claims offset for**
9 **judicial restitution, fines, fees, costs, or surcharges.** (1) BEFORE
10 PAYING A CLAIM PURSUANT TO SECTION 38-13-903 (1) IN AN AMOUNT
11 EXCEEDING SIX HUNDRED DOLLARS, THE ADMINISTRATOR SHALL OFFSET
12 AGAINST THE AMOUNT OF THE CLAIM THE CLAIMANT'S OUTSTANDING
13 COURT FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION. THE
14 ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING
15 WITH THE JUDICIAL DEPARTMENT TO IMPLEMENT THIS SECTION AND
16 SECTIONS 16-11-101.6 (6) AND 16-18.5-106.7.

17 (2) IF A CLAIMANT OWES FINES, FEES, COSTS, OR SURCHARGES OR
18 RESTITUTION AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT
19 CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT,
20 CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT
21 WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION
22 38-13-902.1, DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS
23 DESCRIBED IN SECTION 38-13-902.3, OR BOTH, THE UNCLAIMED PROPERTY
24 OFFSETS SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET
25 FORTH IN SECTION 38-13-902.1 (2).

26 **38-13-902.3. [Similar to former 38-13-117.7] Claims offset for**
27 **state tax delinquencies.** (1) BEFORE PAYING A CLAIM PURSUANT TO

1 SECTION 38-13-903 (1) IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS,
2 THE ADMINISTRATOR SHALL COMPARE THE SOCIAL SECURITY NUMBER OR
3 FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE CLAIMANT WITH THE
4 NUMBERS CERTIFIED BY THE DEPARTMENT OF REVENUE FOR THE PURPOSE
5 OF THE UNCLAIMED PROPERTY OFFSET AS PROVIDED IN SECTION
6 39-21-121.

7 (2) IF THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
8 IDENTIFICATION NUMBER OF A CLAIMANT APPEARS AMONG THE NUMBERS
9 CERTIFIED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION
10 39-21-121, THE ADMINISTRATOR SHALL SUSPEND THE PAYMENT OF THE
11 CLAIM UNTIL THE REQUIREMENTS OF SECTION 39-21-121 ARE MET. IF,
12 AFTER CONSULTING WITH THE DEPARTMENT, THE ADMINISTRATOR
13 DETERMINES THAT THE CLAIMANT IS OBLIGATED TO PAY THE AMOUNTS
14 CERTIFIED UNDER SECTION 39-21-121, THE ADMINISTRATOR SHALL
15 WITHHOLD FROM THE AMOUNT OF THE UNCLAIMED PROPERTY PAID TO THE
16 CLAIMANT AN AMOUNT EQUAL TO THE AMOUNT OF DELINQUENT STATE
17 TAXES, PENALTIES, OR INTEREST. IF THE AMOUNT OF THE UNCLAIMED
18 PROPERTY IS LESS THAN OR EQUAL TO THE AMOUNT OF DELINQUENT STATE
19 TAXES, PENALTIES, OR INTEREST, THE ADMINISTRATOR SHALL WITHHOLD
20 THE ENTIRE AMOUNT OF THE UNCLAIMED PROPERTY. THE ADMINISTRATOR
21 SHALL TRANSMIT ANY UNCLAIMED PROPERTY SO WITHHELD TO THE
22 DEPARTMENT FOR DISBURSEMENT AS DIRECTED IN SECTION 39-21-121.

23 (3) IF A CLAIMANT OWES DELINQUENT STATE TAXES, PENALTIES,
24 OR INTEREST AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT
25 CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT,
26 CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT
27 WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION

1 38-13-902.1, RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AS
2 DESCRIBED IN SECTION 38-13-902.2, OR BOTH, THE UNCLAIMED PROPERTY
3 OFFSET SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET FORTH
4 IN SECTION 38-13-902.1 (2).

5 **38-13-902.4. [Similar to former 38-13-118.5] Claim of the state**
6 **or governmental agency.** AT ANY TIME AFTER PROPERTY HAS BEEN PAID
7 OR DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE 13, IF THE
8 ADMINISTRATOR DETERMINES THAT THE STATE OR A STATE
9 GOVERNMENTAL AGENCY OWNS THE PROPERTY, THE ADMINISTRATOR MAY
10 TRANSFER THE PROPERTY TO AN OPERATING ACCOUNT OF THE STATE OR
11 THE AGENCY.

12 **38-13-903. Claim for property by person claiming to be**
13 **owner.** (1) A PERSON CLAIMING TO BE THE OWNER OF PROPERTY HELD BY
14 THE ADMINISTRATOR UNDER THIS ARTICLE 13 MAY FILE A CLAIM FOR THE
15 PROPERTY ON A FORM PRESCRIBED BY THE ADMINISTRATOR. THE
16 CLAIMANT MUST VERIFY THE CLAIM AS TO ITS COMPLETENESS AND
17 ACCURACY.

18 (2) THE ADMINISTRATOR MAY WAIVE THE REQUIREMENT IN
19 SUBSECTION (1) OF THIS SECTION AND MAY PAY OR DELIVER PROPERTY
20 DIRECTLY TO A PERSON IF:

21 (a) THE PERSON RECEIVING THE PROPERTY OR PAYMENT IS SHOWN
22 TO BE THE APPARENT OWNER INCLUDED ON A REPORT FILED UNDER
23 SECTION 38-13-401;

24 (b) THE ADMINISTRATOR REASONABLY BELIEVES THE PERSON IS
25 ENTITLED TO RECEIVE THE PROPERTY OR PAYMENT; AND

26 (c) THE PROPERTY HAS A VALUE OF LESS THAN [TWO HUNDRED
27 FIFTY DOLLARS].

1 **38-13-904. When administrator must honor claim for**
2 **property.** (1) THE ADMINISTRATOR SHALL PAY OR DELIVER PROPERTY TO
3 A CLAIMANT UNDER SECTION 38-13-903 IF THE ADMINISTRATOR RECEIVES
4 EVIDENCE SUFFICIENT TO ESTABLISH TO THE SATISFACTION OF THE
5 ADMINISTRATOR THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY.

6 (2) NOT LATER THAN [NINETY] DAYS AFTER A CLAIM IS FILED
7 UNDER SECTION 38-13-903, THE ADMINISTRATOR SHALL ALLOW OR DENY
8 THE CLAIM AND GIVE THE CLAIMANT NOTICE OF THE DECISION IN A
9 RECORD. IF THE CLAIM IS DENIED:

10 (a) THE ADMINISTRATOR SHALL INFORM THE CLAIMANT OF THE
11 REASON FOR THE DENIAL AND SPECIFY WHAT ADDITIONAL EVIDENCE, IF
12 ANY, IS REQUIRED FOR THE CLAIM TO BE ALLOWED;

13 (b) THE CLAIMANT MAY FILE AN AMENDED CLAIM WITH THE
14 ADMINISTRATOR OR COMMENCE AN ACTION UNDER SECTION 38-13-906;
15 AND

16 (c) THE ADMINISTRATOR SHALL CONSIDER AN AMENDED CLAIM
17 FILED UNDER SUBSECTION (2)(b) OF THIS SECTION AS AN INITIAL CLAIM.

18 (4) IF THE ADMINISTRATOR DOES NOT TAKE ACTION ON A CLAIM
19 DURING THE NINETY-DAY PERIOD FOLLOWING THE FILING OF A CLAIM
20 UNDER SECTION 38-13-903 (1), THE CLAIM IS DEEMED DENIED.

21 **38-13-905. Allowance of claim for property.** (1) NOT LATER
22 THAN [THIRTY] DAYS AFTER A CLAIM IS ALLOWED UNDER SECTION
23 38-13-904 (2), THE ADMINISTRATOR SHALL PAY OR DELIVER TO THE
24 OWNER THE PROPERTY OR PAY TO THE OWNER THE NET PROCEEDS OF A
25 SALE OF THE PROPERTY, TOGETHER WITH INCOME OR GAIN TO WHICH THE
26 OWNER IS ENTITLED UNDER SECTION 38-13-607. ON REQUEST OF THE
27 OWNER, THE ADMINISTRATOR MAY SELL OR LIQUIDATE A SECURITY AND

1 PAY THE NET PROCEEDS TO THE OWNER, EVEN IF THE SECURITY HAD BEEN
2 HELD BY THE ADMINISTRATOR FOR LESS THAN THREE YEARS OR THE
3 ADMINISTRATOR HAS NOT COMPLIED WITH THE NOTICE REQUIREMENTS
4 UNDER SECTION 38-13-702.

5 (2) PROPERTY HELD BY THE ADMINISTRATOR IS SUBJECT TO A
6 CLAIM FOR THE PAYMENT OF AN ENFORCEABLE DEBT THAT THE OWNER
7 OWES IN THIS STATE FOR:

8 (a) CHILD-SUPPORT ARREARAGES, INCLUDING CHILD-SUPPORT
9 COLLECTION COSTS AND CHILD-SUPPORT ARREARAGES THAT ARE
10 COMBINED WITH MAINTENANCE;

11 (b) A CIVIL OR CRIMINAL FINE OR PENALTY, COURT COSTS, A
12 SURCHARGE, OR RESTITUTION IMPOSED BY A FINAL ORDER OF AN
13 ADMINISTRATIVE AGENCY OR A FINAL COURT JUDGMENT; OR

14 (c) STATE [OR LOCAL] TAXES, PENALTIES, AND INTEREST THAT
15 HAVE BEEN DETERMINED TO BE DELINQUENT OR AS TO WHICH NOTICE HAS
16 BEEN RECORDED WITH THE [SECRETARY OF STATE] [OR LOCAL TAXING
17 AUTHORITY].

18 <*Note from NCCUSL: A state that wants to include payment*
19 *for local taxes in subsection (2)(c) should delete the brackets around*
20 *"local" and "local taxing authority" wherever they appear in the*
21 *section. However, a state with many different local taxing authorities*
22 *might not want to include local taxes. If so, the state should delete the*
23 *bracketed language.*

24 *The words "and local" are bracketed in subsection (4) to allow*
25 *a state to choose whether to include local agencies as those of which*
26 *inquiry may be made concerning debts owed by the owner.*>

27 (3) BEFORE DELIVERY OR PAYMENT TO AN OWNER UNDER

1 SUBSECTION (1) OF THIS SECTION OF PROPERTY OR PAYMENT TO THE
2 OWNER OF NET PROCEEDS OF A SALE OF THE PROPERTY, THE
3 ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS TO
4 A DEBT UNDER SUBSECTION (2) OF THIS SECTION THAT THE
5 ADMINISTRATOR DETERMINES IS OWED BY THE OWNER. THE
6 ADMINISTRATOR SHALL PAY THE AMOUNT TO THE APPROPRIATE STATE [OR
7 LOCAL] AGENCY AND NOTIFY THE OWNER OF THE PAYMENT.

8 (4) THE ADMINISTRATOR MAY MAKE PERIODIC INQUIRIES OF STATE
9 [AND LOCAL] AGENCIES IN THE ABSENCE OF A CLAIM FILED UNDER SECTION
10 38-13-903 TO DETERMINE WHETHER AN APPARENT OWNER INCLUDED IN
11 THE UNCLAIMED-PROPERTY RECORDS OF THIS STATE HAS AN ENFORCEABLE
12 DEBT DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE
13 ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS OF
14 A SALE OF PROPERTY HELD BY THE ADMINISTRATOR TO A DEBT UNDER
15 SUBSECTION (2) OF THIS SECTION OF AN APPARENT OWNER THAT APPEARS
16 IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE AMOUNT TO
17 THE APPROPRIATE STATE [OR LOCAL] AGENCY. THE ADMINISTRATOR
18 SHALL NOTIFY THE APPARENT OWNER OF THE PAYMENT.

19 **38-13-906. Action by person whose claim is denied.** NOT LATER
20 THAN ONE YEAR AFTER FILING A CLAIM WITH THE ADMINISTRATOR UNDER
21 SECTION 38-13-903, THE CLAIMANT MAY COMMENCE AN ACTION AGAINST
22 THE ADMINISTRATOR IN THE [APPROPRIATE COURT] TO ESTABLISH A CLAIM
23 THAT HAS BEEN DENIED OR DEEMED DENIED UNDER SECTION 38-13-903
24 (4). [ON FINAL DETERMINATION OF THE ACTION, THE COURT MAY, ON
25 APPLICATION, AWARD TO THE [PLAINTIFF] [PREVAILING PARTY] ITS
26 REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

27 <{Note from NCCUSL: The bracketed language at the end of

1 *this section may be included or deleted according to the public policy of*
2 *the state concerning statutory awards of attorney fees. If the state elects*
3 *to include attorney fees, the state must decide whether to restrict the*
4 *award of attorney fees to the plaintiff regardless which side prevails or*
5 *only to the prevailing party.*>

6 PART 10

7 VERIFIED REPORT OF PROPERTY;

8 EXAMINATION OF RECORDS

9 **38-13-1001. Verified report of property.** (1) IF A PERSON DOES
10 NOT FILE A REPORT REQUIRED BY SECTION 38-13-401 OR THE
11 ADMINISTRATOR BELIEVES THAT A PERSON MAY HAVE FILED AN
12 INACCURATE, INCOMPLETE, OR FALSE REPORT, THE ADMINISTRATOR MAY
13 REQUIRE THE PERSON TO FILE A VERIFIED REPORT IN A FORM PRESCRIBED
14 BY THE ADMINISTRATOR. THE REPORT MUST:

15 (a) STATE WHETHER THE PERSON IS HOLDING PROPERTY
16 REPORTABLE UNDER THIS ARTICLE 13;

17 (b) DESCRIBE PROPERTY NOT PREVIOUSLY REPORTED OR ABOUT
18 WHICH THE ADMINISTRATOR HAS INQUIRED; AND

19 (c) SPECIFICALLY IDENTIFY PROPERTY DESCRIBED UNDER
20 SUBSECTION (1)(b) OF THIS SECTION ABOUT WHICH THERE IS A DISPUTE
21 WHETHER IT IS REPORTABLE UNDER THIS ARTICLE 13; AND

22 (d) STATE THE AMOUNT OR VALUE OF THE PROPERTY.

23 **38-13-1002. Examination of records to determine compliance.**

24 (1) THE ADMINISTRATOR, AT REASONABLE TIMES AND ON REASONABLE
25 NOTICE, MAY:

26 (a) EXAMINE THE RECORDS OF A PERSON, INCLUDING
27 EXAMINATION OF APPROPRIATE RECORDS IN THE POSSESSION OF AN AGENT

1 OF THE PERSON UNDER EXAMINATION, IF SUCH RECORDS ARE REASONABLY
2 NECESSARY TO DETERMINE WHETHER THE PERSON HAS COMPLIED WITH
3 THIS ARTICLE 13;

4 (b) ISSUE AN ADMINISTRATIVE SUBPOENA REQUIRING THE PERSON
5 OR AN AGENT OF THE PERSON TO MAKE RECORDS AVAILABLE FOR
6 EXAMINATION; AND

7 (c) BRING AN ACTION SEEKING JUDICIAL ENFORCEMENT OF THE
8 SUBPOENA.

9 **38-13-1003. Rules for conducting examination.** (1) THE
10 ADMINISTRATOR SHALL ADOPT RULES GOVERNING PROCEDURES AND
11 STANDARDS FOR AN EXAMINATION UNDER SECTION 38-13-1002,
12 INCLUDING RULES FOR USE OF AN ESTIMATION, EXTRAPOLATION, AND
13 STATISTICAL SAMPLING IN CONDUCTING AN EXAMINATION.

14 (2) AN EXAMINATION UNDER SECTION 38-13-1002 MUST BE
15 PERFORMED UNDER RULES ADOPTED UNDER SUBSECTION (1) OF THIS
16 SECTION AND WITH GENERALLY ACCEPTED EXAMINATION PRACTICES AND
17 STANDARDS APPLICABLE TO AN UNCLAIMED-PROPERTY EXAMINATION.

18 (3) IF A PERSON SUBJECT TO EXAMINATION UNDER SECTION
19 38-13-1002 HAS FILED THE REPORTS REQUIRED BY SECTIONS 38-13-401
20 AND 38-13-1001 AND HAS RETAINED THE RECORDS REQUIRED BY SECTION
21 38-13-404, THE FOLLOWING RULES APPLY:

22 (a) THE EXAMINATION MUST INCLUDE A REVIEW OF THE PERSON'S
23 RECORDS.

24 (b) THE EXAMINATION MUST NOT BE BASED ON AN ESTIMATE
25 UNLESS THE PERSON EXPRESSLY CONSENTS IN A RECORD TO THE USE OF AN
26 ESTIMATE.

27 (c) THE PERSON CONDUCTING THE EXAMINATION SHALL CONSIDER

1 THE EVIDENCE PRESENTED IN GOOD FAITH BY THE PERSON IN PREPARING
2 THE FINDINGS OF THE EXAMINATION UNDER SECTION 38-13-1007.

3 **38-13-1004. Records obtained in examination.** (1) RECORDS
4 OBTAINED AND RECORDS, INCLUDING WORK PAPERS, COMPILED BY THE
5 ADMINISTRATOR IN THE COURSE OF CONDUCTING AN EXAMINATION UNDER
6 SECTION 38-13-1002:

7 (a) ARE SUBJECT TO THE CONFIDENTIALITY AND SECURITY
8 PROVISIONS OF PART 14 OF THIS ARTICLE 13 AND ARE NOT PUBLIC
9 RECORDS;

10 (b) MAY BE USED BY THE ADMINISTRATOR IN AN ACTION TO
11 COLLECT PROPERTY OR OTHERWISE ENFORCE THIS ARTICLE 13;

12 (c) MAY BE USED IN A JOINT EXAMINATION CONDUCTED WITH
13 ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR
14 SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER
15 GOVERNMENTAL ENTITY IF THE GOVERNMENTAL ENTITY CONDUCTING THE
16 EXAMINATION IS LEGALLY BOUND TO MAINTAIN THE CONFIDENTIALITY
17 AND SECURITY OF INFORMATION OBTAINED FROM A PERSON SUBJECT TO
18 EXAMINATION IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF
19 THIS ARTICLE 13;

20 (d) MUST BE DISCLOSED, ON REQUEST, TO THE PERSON THAT
21 ADMINISTERS THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE FOR
22 THAT STATE'S USE IN CIRCUMSTANCES EQUIVALENT TO CIRCUMSTANCES
23 DESCRIBED IN THIS PART 10, IF THE OTHER STATE IS REQUIRED TO
24 MAINTAIN THE CONFIDENTIALITY AND SECURITY OF INFORMATION
25 OBTAINED IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS
26 ARTICLE 13;

27 (e) SHALL BE PRODUCED BY THE ADMINISTRATOR UNDER AN

1 ADMINISTRATIVE OR JUDICIAL SUBPOENA OR ADMINISTRATIVE OR COURT
2 ORDER; AND

3 (f) SHALL BE PRODUCED BY THE ADMINISTRATOR ON REQUEST OF
4 THE PERSON SUBJECT TO THE EXAMINATION IN AN ADMINISTRATIVE OR
5 JUDICIAL PROCEEDING RELATING TO THE PROPERTY.

6 **38-13-1005. Evidence of unpaid debt or undischarged**
7 **obligation.** (1) A RECORD OF A PUTATIVE HOLDER SHOWING AN UNPAID
8 DEBT OR UNDISCHARGED OBLIGATION IS PRIMA FACIE EVIDENCE OF THE
9 DEBT OR OBLIGATION.

10 (2) A PUTATIVE HOLDER MAY ESTABLISH BY A PREPONDERANCE OF
11 THE EVIDENCE THAT THERE IS NO UNPAID DEBT OR UNDISCHARGED
12 OBLIGATION FOR A DEBT OR OBLIGATION DESCRIBED IN SUBSECTION (1) OF
13 THIS SECTION OR THAT THE DEBT OR OBLIGATION WAS NOT, OR NO LONGER
14 IS, A FIXED AND CERTAIN OBLIGATION OF THE PUTATIVE HOLDER.

15 (3) A PUTATIVE HOLDER MAY OVERCOME PRIMA FACIE EVIDENCE
16 UNDER SUBSECTION (1) OF THIS SECTION BY ESTABLISHING BY A
17 PREPONDERANCE OF THE EVIDENCE THAT A CHECK, DRAFT, OR SIMILAR
18 INSTRUMENT WAS:

19 (a) ISSUED AS AN UNACCEPTED OFFER IN SETTLEMENT OF AN
20 UNLIQUIDATED AMOUNT;

21 (b) ISSUED BUT LATER WAS REPLACED WITH ANOTHER
22 INSTRUMENT BECAUSE THE EARLIER INSTRUMENT WAS LOST OR
23 CONTAINED AN ERROR THAT WAS CORRECTED;

24 (c) ISSUED TO A PARTY AFFILIATED WITH THE ISSUER;

25 (d) PAID, SATISFIED, OR DISCHARGED;

26 (e) ISSUED IN ERROR;

27 (f) ISSUED WITHOUT CONSIDERATION;

1 (g) ISSUED BUT THERE WAS A FAILURE OF CONSIDERATION;

2 (h) VOIDED [NOT LATER THAN NINETY DAYS] [WITHIN A
3 REASONABLE TIME] AFTER ISSUANCE FOR A VALID BUSINESS REASON SET
4 FORTH IN A CONTEMPORANEOUS RECORD; OR

5 (i) ISSUED BUT NOT DELIVERED TO THE THIRD-PARTY PAYEE FOR
6 A SUFFICIENT REASON RECORDED WITHIN A REASONABLE TIME AFTER
7 ISSUANCE.

8 (4) IN ASSERTING A DEFENSE UNDER THIS SECTION, A PUTATIVE
9 HOLDER MAY PRESENT EVIDENCE OF A COURSE OF DEALING BETWEEN THE
10 PUTATIVE HOLDER AND THE APPARENT OWNER OR OF CUSTOM AND
11 PRACTICE.

12 **38-13-1006. Failure of person examined to retain records.** IF
13 A PERSON SUBJECT TO EXAMINATION UNDER SECTION 38-13-1002 DOES
14 NOT RETAIN THE RECORDS REQUIRED BY SECTION 38-13-404, THE
15 ADMINISTRATOR MAY DETERMINE THE VALUE OF PROPERTY DUE USING A
16 REASONABLE METHOD OF ESTIMATION BASED ON ALL INFORMATION
17 AVAILABLE TO THE ADMINISTRATOR, INCLUDING EXTRAPOLATION AND USE
18 OF STATISTICAL SAMPLING WHEN APPROPRIATE AND NECESSARY,
19 CONSISTENT WITH EXAMINATION PROCEDURES AND STANDARDS ADOPTED
20 UNDER SECTION 38-13-1003 (1) AND IN ACCORDANCE WITH SECTION
21 38-13-1003 (2).

22 **38-13-1007. Report to person whose records were examined.**

23 (1) AT THE CONCLUSION OF AN EXAMINATION UNDER SECTION
24 38-13-1002, THE ADMINISTRATOR SHALL PROVIDE TO THE PERSON WHOSE
25 RECORDS WERE EXAMINED A COMPLETE AND UNREDACTED EXAMINATION
26 REPORT THAT SPECIFIES:

27 (a) THE WORK PERFORMED;

1 (b) THE PROPERTY TYPES REVIEWED;

2 (c) THE METHODOLOGY OF ANY ESTIMATION TECHNIQUE,
3 EXTRAPOLATION, OR STATISTICAL SAMPLING USED IN CONDUCTING THE
4 EXAMINATION;

5 (d) EACH CALCULATION SHOWING THE VALUE OF PROPERTY
6 DETERMINED TO BE DUE; AND

7 (e) THE FINDINGS OF THE PERSON CONDUCTING THE EXAMINATION.

8 **38-13-1008. Complaint to administrator about conduct of**

9 **person conducting examination.** (1) IF A PERSON SUBJECT TO
10 EXAMINATION UNDER SECTION 38-13-1002 BELIEVES THE PERSON
11 CONDUCTING THE EXAMINATION HAS MADE AN UNREASONABLE OR
12 UNAUTHORIZED REQUEST OR IS NOT PROCEEDING EXPEDITIOUSLY TO
13 COMPLETE THE EXAMINATION, THE PERSON IN A RECORD MAY ASK THE
14 ADMINISTRATOR TO INTERVENE AND TAKE APPROPRIATE REMEDIAL
15 ACTION, INCLUDING COUNTERMANDING THE REQUEST OF THE PERSON
16 CONDUCTING THE EXAMINATION, IMPOSING A TIME LIMIT FOR COMPLETION
17 OF THE EXAMINATION, OR REASSIGNING THE EXAMINATION TO ANOTHER
18 PERSON.

19 (2) IF A PERSON IN A RECORD REQUESTS A CONFERENCE WITH THE
20 ADMINISTRATOR TO PRESENT MATTERS THAT ARE THE BASIS OF A REQUEST
21 UNDER SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL
22 HOLD THE CONFERENCE NOT LATER THAN [THIRTY] DAYS AFTER
23 RECEIVING THE REQUEST. THE ADMINISTRATOR MAY HOLD THE
24 CONFERENCE IN PERSON, BY TELEPHONE, OR BY ELECTRONIC MEANS.

25 (3) IF A CONFERENCE IS HELD UNDER SUBSECTION (2) OF THIS
26 SECTION, NOT LATER THAN THIRTY DAYS AFTER THE CONFERENCE ENDS,
27 THE ADMINISTRATOR SHALL PROVIDE A REPORT IN A RECORD OF THE

1 CONFERENCE TO THE PERSON THAT REQUESTED THE CONFERENCE.

2 **38-13-1009. Administrator's contract with another to conduct**
3 **examination - definition.** (1) IN THIS SECTION, "RELATED TO THE

4 ADMINISTRATOR" REFERS TO AN INDIVIDUAL WHO IS:

5 (a) THE ADMINISTRATOR'S SPOUSE, PARTNER IN A CIVIL UNION,
6 DOMESTIC PARTNER, OR RECIPROCAL BENEFICIARY;

7 (b) THE ADMINISTRATOR'S CHILD, STEPCHILD, GRANDCHILD,
8 PARENT, STEPPARENT, SIBLING, STEPSIBLING, HALF-SIBLING, AUNT, UNCLE,
9 NIECE, OR NEPHEW;

10 (c) A SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC PARTNER, OR
11 RECIPROCAL BENEFICIARY OF AN INDIVIDUAL LISTED IN SUBSECTION (1)(b)
12 OF THIS SECTION; OR

13 (d) ANY INDIVIDUAL RESIDING IN THE ADMINISTRATOR'S
14 HOUSEHOLD.

15 (2) THE ADMINISTRATOR MAY CONTRACT WITH A PERSON TO
16 CONDUCT AN EXAMINATION UNDER THIS PART 10. THE CONTRACT MAY BE
17 AWARDED ONLY UNDER THE "PROCUREMENT CODE", ARTICLES 101 TO 112
18 OF TITLE 24.

19 (3) IF THE PERSON WITH WHICH THE ADMINISTRATOR CONTRACTS
20 UNDER SUBSECTION (2) OF THIS SECTION IS:

21 (a) AN INDIVIDUAL, THE INDIVIDUAL MUST NOT BE RELATED TO
22 THE ADMINISTRATOR; OR

23 (b) A BUSINESS ENTITY, THE ENTITY MUST NOT BE OWNED IN
24 WHOLE OR IN PART BY THE ADMINISTRATOR OR AN INDIVIDUAL RELATED
25 TO THE ADMINISTRATOR.

26 (4) AT LEAST SIXTY DAYS BEFORE ASSIGNING A PERSON UNDER
27 CONTRACT WITH THE ADMINISTRATOR UNDER SUBSECTION (2) OF THIS

1 SECTION TO CONDUCT AN EXAMINATION, THE ADMINISTRATOR SHALL
2 DEMAND IN A RECORD THAT THE PERSON TO BE EXAMINED SUBMIT A
3 REPORT AND DELIVER PROPERTY THAT IS PREVIOUSLY UNREPORTED.

4 (5) IF THE ADMINISTRATOR CONTRACTS WITH A PERSON UNDER
5 SUBSECTION (2) OF THIS SECTION:

6 (a) THE CONTRACT MAY PROVIDE FOR COMPENSATION OF THE
7 PERSON BASED ON A FIXED FEE, HOURLY FEE, OR CONTINGENT FEE;

8 (b) A CONTINGENT FEE ARRANGEMENT MUST NOT PROVIDE FOR A
9 PAYMENT THAT EXCEEDS TEN PERCENT OF THE AMOUNT OR VALUE OF
10 PROPERTY PAID OR DELIVERED AS A RESULT OF THE EXAMINATION; AND

11 (c) ON REQUEST BY A PERSON SUBJECT TO EXAMINATION BY A
12 CONTRACTOR, THE ADMINISTRATOR SHALL DELIVER TO THE PERSON A
13 COMPLETE AND UNREDACTED COPY OF THE CONTRACT AND ANY
14 CONTRACT BETWEEN THE CONTRACTOR AND A PERSON EMPLOYED OR
15 ENGAGED BY THE CONTRACTOR TO CONDUCT THE EXAMINATION.

16 (6) A CONTRACT UNDER SUBSECTION (2) OF THIS SECTION IS
17 SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION UNDER THE
18 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

19 <{Note from NCCUSL: If a state does not allow use of
20 contingent fee examiners, subsection (5)(a) should be revised to delete
21 the words "contingent fee" and subsection (5)(b) should be deleted.}>

22 **38-13-1010. Limit on future employment.** THE ADMINISTRATOR
23 OR AN INDIVIDUAL EMPLOYED BY THE ADMINISTRATOR WHO PARTICIPATES
24 IN, RECOMMENDS, OR APPROVES THE AWARD OF A CONTRACT UNDER
25 SECTION 38-13-1009 (2) ON OR AFTER [THE EFFECTIVE DATE OF THIS
26 ARTICLE 13, AS AMENDED,] MUST NOT BE EMPLOYED BY, CONTRACTED
27 WITH, OR COMPENSATED IN ANY CAPACITY BY THE CONTRACTOR OR AN

1 AFFILIATE OF THE CONTRACTOR FOR [TWO] YEARS AFTER THE LATEST OF
2 PARTICIPATION IN, RECOMMENDATION OF, OR APPROVAL OF THE AWARD
3 OR CONCLUSION OF THE CONTRACT.

4 **38-13-1011. Report by administrator to state official.** (1) NOT
5 LATER THAN THREE MONTHS AFTER THE END OF THE STATE FISCAL YEAR,
6 THE ADMINISTRATOR SHALL COMPILE AND SUBMIT A REPORT TO THE
7 [GOVERNOR,][TREASURER,][COMPTROLLER,][PRESIDENT OF THE SENATE,]
8 [AND] [SPEAKER OF THE HOUSE]. THE REPORT MUST CONTAIN THE
9 FOLLOWING INFORMATION ABOUT PROPERTY PRESUMED ABANDONED FOR
10 THE PRECEDING STATE FISCAL YEAR:

11 (a) THE TOTAL AMOUNT AND VALUE OF ALL PROPERTY PAID OR
12 DELIVERED UNDER THIS ARTICLE 13 TO THE ADMINISTRATOR, SEPARATED
13 INTO:

14 (I) THE PART VOLUNTARILY PAID OR DELIVERED; AND

15 (II) THE PART PAID OR DELIVERED AS A RESULT OF AN
16 EXAMINATION UNDER SECTION 38-13-1002, SEPARATED INTO THE PART
17 RECOVERED AS A RESULT OF AN EXAMINATION CONDUCTED BY:

18 (A) A STATE EMPLOYEE; AND

19 (B) A CONTRACTOR UNDER SECTION 38-13-1009;

20 (b) THE NAME AND AMOUNT PAID TO EACH CONTRACTOR UNDER
21 SECTION 38-13-1009 AND THE PERCENTAGE THE TOTAL COMPENSATION
22 PAID TO ALL CONTRACTORS UNDER SECTION 38-13-1009 BEARS TO THE
23 TOTAL AMOUNT PAID OR DELIVERED TO THE ADMINISTRATOR AS A RESULT
24 OF ALL EXAMINATIONS PERFORMED UNDER SECTION 38-13-1009;

25 (c) THE TOTAL AMOUNT AND VALUE OF ALL PROPERTY PAID OR
26 DELIVERED BY THE ADMINISTRATOR TO PERSONS THAT MADE CLAIMS FOR
27 PROPERTY HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE 13 AND THE

1 PERCENTAGE THE TOTAL PAYMENTS MADE AND VALUE OF PROPERTY
2 DELIVERED TO CLAIMANTS BEARS TO THE TOTAL AMOUNTS PAID AND
3 VALUE DELIVERED TO THE ADMINISTRATOR; AND

4 (d) THE TOTAL AMOUNT OF CLAIMS MADE BY PERSONS CLAIMING
5 TO BE OWNERS THAT:

6 (I) WERE DENIED;

7 (II) WERE ALLOWED; AND

8 (III) ARE PENDING.

9 (2) THE REPORT UNDER SUBSECTION (1) OF THIS SECTION IS A
10 PUBLIC RECORD SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION
11 UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF
12 TITLE 24.

13 **38-13-1012. Determination of liability for unreported**
14 **reportable property.** IF THE ADMINISTRATOR DETERMINES FROM AN
15 EXAMINATION CONDUCTED UNDER SECTION 38-13-1002 THAT A PUTATIVE
16 HOLDER HAS FAILED OR REFUSED TO PAY OR DELIVER PROPERTY TO THE
17 ADMINISTRATOR THAT IS REPORTABLE UNDER THIS ARTICLE 13, THE
18 ADMINISTRATOR SHALL ISSUE A DETERMINATION OF THE PUTATIVE
19 HOLDER'S LIABILITY TO PAY OR DELIVER AND PROVIDE TO THE PUTATIVE
20 HOLDER NOTICE IN A RECORD OF THE DETERMINATION.

21 PART 11

22 DETERMINATION OF LIABILITY;

23 PUTATIVE HOLDER REMEDIES

24 **38-13-1101. Informal conference.** (1) NOT LATER THAN THIRTY
25 DAYS AFTER RECEIPT OF A NOTICE UNDER SECTION 38-13-1012, A
26 PUTATIVE HOLDER MAY REQUEST AN INFORMAL CONFERENCE WITH THE
27 ADMINISTRATOR TO REVIEW THE DETERMINATION. EXCEPT AS OTHERWISE

1 PROVIDED IN THIS SECTION, THE ADMINISTRATOR MAY DESIGNATE AN
2 EMPLOYEE TO ACT ON BEHALF OF THE ADMINISTRATOR.

3 (2) IF A PUTATIVE HOLDER MAKES A TIMELY REQUEST UNDER
4 SUBSECTION (1) OF THIS SECTION FOR AN INFORMAL CONFERENCE:

5 (a) NOT LATER THAN [TWENTY] DAYS AFTER THE DATE OF THE
6 REQUEST, THE ADMINISTRATOR SHALL SET THE TIME AND PLACE OF THE
7 CONFERENCE;

8 (b) THE ADMINISTRATOR SHALL GIVE THE PUTATIVE HOLDER
9 NOTICE IN A RECORD OF THE TIME AND PLACE OF THE CONFERENCE;

10 (c) THE CONFERENCE MAY BE HELD IN PERSON, BY TELEPHONE, OR
11 BY ELECTRONIC MEANS, AS DETERMINED BY THE ADMINISTRATOR;

12 (d) THE REQUEST TOLLS THE NINETY-DAY PERIOD UNDER SECTIONS
13 38-13-1103 AND 38-13-1104 UNTIL NOTICE OF A DECISION UNDER
14 SUBSECTION (2)(g) OF THIS SECTION HAS BEEN GIVEN TO THE PUTATIVE
15 HOLDER OR THE PUTATIVE HOLDER WITHDRAWS THE REQUEST FOR THE
16 CONFERENCE;

17 (e) THE CONFERENCE MAY BE POSTPONED, ADJOURNED, AND
18 RECONVENED AS THE ADMINISTRATOR DETERMINES APPROPRIATE;

19 (f) THE ADMINISTRATOR OR ADMINISTRATOR'S DESIGNEE, WITH
20 THE APPROVAL OF THE ADMINISTRATOR, MAY MODIFY A DETERMINATION
21 MADE UNDER SECTION 38-13-1012 OR WITHDRAW IT; AND

22 (g) THE ADMINISTRATOR SHALL ISSUE A DECISION IN A RECORD
23 AND PROVIDE A COPY OF THE RECORD TO THE PUTATIVE HOLDER AND
24 EXAMINER NOT LATER THAN [TWENTY] DAYS AFTER THE CONFERENCE
25 ENDS.

26 (3) A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION IS NOT
27 AN ADMINISTRATIVE REMEDY AND IS NOT A CONTESTED CASE SUBJECT TO

1 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.
2 AN OATH IS NOT REQUIRED AND THE RULES OF EVIDENCE DO NOT APPLY IN
3 THE CONFERENCE.

4 (4) AT A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION,
5 THE PUTATIVE HOLDER SHALL BE GIVEN AN OPPORTUNITY TO CONFER
6 INFORMALLY WITH THE ADMINISTRATOR AND THE PERSON THAT EXAMINED
7 THE RECORDS OF THE PUTATIVE HOLDER TO:

8 (a) DISCUSS THE DETERMINATION MADE UNDER SECTION
9 38-13-1012; AND

10 (b) PRESENT ANY ISSUE CONCERNING THE VALIDITY OF THE
11 DETERMINATION.

12 (5) IF THE ADMINISTRATOR FAILS TO ACT WITHIN THE PERIOD
13 PRESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE FAILURE DOES NOT
14 AFFECT A RIGHT OF THE ADMINISTRATOR; EXCEPT THAT INTEREST DOES
15 NOT ACCRUE ON THE AMOUNT FOR WHICH THE PUTATIVE HOLDER WAS
16 DETERMINED TO BE LIABLE UNDER SECTION 38-13-1012 DURING THE
17 PERIOD IN WHICH THE ADMINISTRATOR FAILED TO ACT UNTIL THE EARLIER
18 OF:

19 (a) THE DATE UNDER SECTION 38-13-1103 WHEN THE PUTATIVE
20 HOLDER INITIATES ADMINISTRATIVE REVIEW OR FILES AN ACTION UNDER
21 SECTION 38-13-1104; OR

22 (b) NINETY DAYS AFTER THE PUTATIVE HOLDER RECEIVED NOTICE
23 OF THE ADMINISTRATOR'S DETERMINATION UNDER SECTION 38-13-1012 IF
24 NO REVIEW WAS INITIATED UNDER SECTION 38-13-1103 AND NO ACTION
25 WAS FILED UNDER SECTION 38-13-1104.

26 (6) THE ADMINISTRATOR MAY HOLD AN INFORMAL CONFERENCE
27 WITH A PUTATIVE HOLDER ABOUT A DETERMINATION UNDER SECTION

1 38-13-1012 WITHOUT A REQUEST AT ANY TIME BEFORE THE PUTATIVE
2 HOLDER INITIATES ADMINISTRATIVE REVIEW UNDER SECTION 38-13-1103
3 OR FILES AN ACTION UNDER SECTION 38-13-1104.

4 (7) INTEREST AND PENALTIES UNDER SECTION 38-13-1204
5 CONTINUE TO ACCRUE ON PROPERTY NOT REPORTED, PAID, OR DELIVERED
6 AS REQUIRED BY THIS ARTICLE 13 AFTER THE INITIATION, AND DURING THE
7 PENDENCY, OF AN INFORMAL CONFERENCE UNDER THIS SECTION.

8 **38-13-1102. Review of administrator's determination.** (1) A
9 PUTATIVE HOLDER MAY SEEK RELIEF FROM A DETERMINATION UNDER
10 SECTION 38-13-1012 BY:

11 (a) ADMINISTRATIVE REVIEW UNDER SECTION 38-13-1103; OR

12 (b) JUDICIAL REVIEW UNDER SECTION 38-13-1104.

13 **38-13-1103. Administrative review.** (1) NOT LATER THAN
14 NINETY DAYS AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S
15 DETERMINATION UNDER SECTION 38-13-1012, A PUTATIVE HOLDER MAY
16 INITIATE A PROCEEDING UNDER THE "STATE ADMINISTRATIVE PROCEDURE
17 ACT", ARTICLE 4 OF TITLE 24, FOR REVIEW OF THE ADMINISTRATOR'S
18 DETERMINATION.

19 (2) A FINAL DECISION IN AN ADMINISTRATIVE PROCEEDING
20 INITIATED UNDER SUBSECTION (1) OF THIS SECTION IS SUBJECT TO JUDICIAL
21 REVIEW BY THE [COURT] [AS A MATTER OF RIGHT IN A DE NOVO
22 PROCEEDING ON THE RECORD IN WHICH EITHER PARTY IS ENTITLED TO
23 INTRODUCE EVIDENCE AS A SUPPLEMENT TO THE RECORD].

24 **38-13-1104. Judicial remedy.** (1) NOT LATER THAN NINETY DAYS
25 AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S DETERMINATION
26 UNDER SECTION 38-13-1012, THE PUTATIVE HOLDER MAY:

27 (a) FILE AN ACTION AGAINST THE ADMINISTRATOR IN THE [COURT]

1 CHALLENGING ALL OR PART OF THE ADMINISTRATOR'S DETERMINATION OF
2 LIABILITY AND SEEKING A DECLARATION THAT THE DETERMINATION IS
3 UNENFORCEABLE, IN WHOLE OR IN PART; OR

4 (b) PAY THE AMOUNT OR DELIVER THE PROPERTY THE
5 ADMINISTRATOR DETERMINED MUST BE PAID OR DELIVERED TO THE
6 ADMINISTRATOR AND, NOT LATER THAN SIX MONTHS AFTER PAYMENT OR
7 DELIVERY, FILE AN ACTION AGAINST THE ADMINISTRATOR IN THE
8 [APPROPRIATE COURT] FOR A REFUND OF ALL OR PART OF THE AMOUNT
9 PAID OR RETURN OF ALL OR PART OF THE PROPERTY DELIVERED.

10 (2) IF A PUTATIVE HOLDER PAYS OR DELIVERS PROPERTY
11 DETERMINED BY THE ADMINISTRATOR TO BE PAID OR DELIVERED TO THE
12 ADMINISTRATOR AT ANY TIME AFTER THE PUTATIVE HOLDER FILES AN
13 ACTION UNDER SUBSECTION (1)(a) OF THIS SECTION, THE COURT SHALL
14 CONTINUE THE ACTION AS IF IT HAD BEEN FILED ORIGINALLY AS AN ACTION
15 FOR A REFUND OR RETURN OF PROPERTY UNDER SUBSECTION (1)(b) OF
16 THIS SECTION.

17 [(3) ON THE FINAL DETERMINATION OF AN ACTION FILED UNDER
18 SUBSECTION (1) OF THIS SECTION, THE COURT [MAY] [SHALL], ON
19 APPLICATION, AWARD TO THE [PLAINTIFF] [PREVAILING PARTY] ITS
20 REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

21 <{Note from NCCUSL: This subsection may be included or
22 deleted according to the public policy of the state concerning statutory
23 awards of attorney fees. If the state elects to include attorney fees, the
24 state must decide whether to restrict the award of attorney fees to the
25 plaintiff regardless which side prevails or only to the prevailing party.>

26 [(3)][(4)] A PUTATIVE HOLDER THAT IS THE PREVAILING PARTY IN
27 AN ACTION UNDER SUBSECTION (1) OF THIS SECTION FOR REFUND OF

1 MONEY PAID TO THE ADMINISTRATOR IS ENTITLED TO INTEREST ON THE
2 AMOUNT REFUNDED, AT THE SAME RATE A HOLDER IS REQUIRED TO PAY TO
3 THE ADMINISTRATOR UNDER SECTION 38-13-1204 (1), FROM THE DATE
4 PAID TO THE ADMINISTRATOR UNTIL THE DATE OF THE REFUND.

5 PART 12

6 ENFORCEMENT BY ADMINISTRATOR

7 **38-13-1201. Judicial action to enforce liability.** (1) IF A
8 DETERMINATION UNDER SECTION 38-13-1012 BECOMES FINAL AND IS NOT
9 SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW, THE ADMINISTRATOR
10 MAY COMMENCE AN ACTION IN THE [COURT] OR IN AN APPROPRIATE COURT
11 OF ANOTHER STATE TO ENFORCE THE DETERMINATION AND SECURE
12 PAYMENT OR DELIVERY OF PAST DUE, UNPAID, OR UNDELIVERED
13 PROPERTY. THE ACTION MUST BE BROUGHT NOT LATER THAN [ONE] YEAR
14 AFTER THE DETERMINATION BECOMES FINAL.

15 (2) IN AN ACTION UNDER SUBSECTION (1) OF THIS SECTION, IF NO
16 COURT IN THIS STATE HAS JURISDICTION OVER THE DEFENDANT, THE
17 ADMINISTRATOR MAY COMMENCE AN ACTION IN ANY COURT HAVING
18 JURISDICTION OVER THE DEFENDANT.

19 <{Note from NCCUSL: A state that requires approval of its
20 attorney general for action to be taken by an administrator under this
21 section should include language that requires approval to be obtained
22 before to proceeding with the desired action.}>

23 **38-13-1202. Interstate and international agreement -**
24 **cooperation.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE
25 ADMINISTRATOR MAY:

26 (a) EXCHANGE INFORMATION WITH ANOTHER STATE OR FOREIGN
27 COUNTRY RELATING TO PROPERTY PRESUMED ABANDONED OR RELATING

1 TO THE POSSIBLE EXISTENCE OF PROPERTY PRESUMED ABANDONED; AND

2 (b) AUTHORIZE IN A RECORD ANOTHER STATE OR FOREIGN
3 COUNTRY OR A PERSON ACTING ON BEHALF OF THE OTHER STATE OR
4 COUNTRY TO EXAMINE ITS RECORDS OF A PUTATIVE HOLDER AS PROVIDED
5 IN PART 10 OF THIS ARTICLE 13.

6 (2) AN EXCHANGE OR EXAMINATION UNDER SUBSECTION (1) OF
7 THIS SECTION MAY BE DONE ONLY IF THE STATE OR FOREIGN COUNTRY HAS
8 CONFIDENTIALITY AND SECURITY REQUIREMENTS SUBSTANTIALLY
9 EQUIVALENT TO THOSE IN PART 14 OF THIS ARTICLE 13 OR AGREES IN A
10 RECORD TO BE BOUND BY THIS STATE'S CONFIDENTIALITY AND SECURITY
11 REQUIREMENTS.

12 **38-13-1203. Action involving another state or foreign country.**

13 (1) THE ADMINISTRATOR MAY JOIN ANOTHER STATE OR FOREIGN
14 COUNTRY TO EXAMINE AND SEEK ENFORCEMENT OF THIS ARTICLE 13
15 AGAINST A PUTATIVE HOLDER.

16 (2) ON REQUEST OF ANOTHER STATE OR FOREIGN COUNTRY, THE
17 ATTORNEY GENERAL MAY COMMENCE AN ACTION ON BEHALF OF THE
18 OTHER STATE OR COUNTRY TO ENFORCE, IN THIS STATE, THE LAW OF THE
19 OTHER STATE OR COUNTRY AGAINST A PUTATIVE HOLDER SUBJECT TO A
20 CLAIM BY THE OTHER STATE OR COUNTRY, IF THE OTHER STATE OR
21 COUNTRY AGREES TO PAY COSTS INCURRED BY THE ATTORNEY GENERAL
22 IN THE ACTION.

23 (3) THE ADMINISTRATOR MAY REQUEST THE OFFICIAL AUTHORIZED
24 TO ENFORCE THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE OR
25 FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY IN
26 THE OTHER STATE OR COUNTRY ON BEHALF OF THE ADMINISTRATOR. THIS
27 STATE SHALL PAY THE COSTS, INCLUDING REASONABLE ATTORNEY FEES

1 AND EXPENSES, INCURRED BY THE OTHER STATE OR FOREIGN COUNTRY IN
2 AN ACTION UNDER THIS SUBSECTION (3).

3 (4) THE ADMINISTRATOR MAY PURSUE AN ACTION ON BEHALF OF
4 THIS STATE TO RECOVER PROPERTY SUBJECT TO THIS ARTICLE 13 BUT
5 DELIVERED TO THE CUSTODY OF ANOTHER STATE IF THE ADMINISTRATOR
6 BELIEVES THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE
7 ADMINISTRATOR.

8 (5) THE ADMINISTRATOR MAY RETAIN AN ATTORNEY IN THIS
9 STATE, ANOTHER STATE, OR A FOREIGN COUNTRY TO COMMENCE AN
10 ACTION TO RECOVER PROPERTY ON BEHALF OF THE ADMINISTRATOR AND
11 MAY AGREE TO PAY ATTORNEY FEES BASED IN WHOLE OR IN PART ON A
12 FIXED FEE, HOURLY FEE, OR PERCENTAGE OF THE AMOUNT OR VALUE OF
13 PROPERTY RECOVERED IN THE ACTION.

14 (6) EXPENSES INCURRED BY THIS STATE IN AN ACTION UNDER THIS
15 SECTION MAY BE PAID FROM PROPERTY RECEIVED UNDER THIS ARTICLE 13
16 OR THE NET PROCEEDS OF THE PROPERTY. EXPENSES PAID TO RECOVER
17 PROPERTY SHALL NOT BE DEDUCTED FROM THE AMOUNT THAT IS SUBJECT
18 TO A CLAIM UNDER THIS ARTICLE 13 BY THE OWNER.

19 <*Note from NCCUSL: A state that requires approval of its*
20 *attorney general of the actions to be taken by an administrator under*
21 *this section should include language that requires approval to be*
22 *obtained before to proceeding with the desired action.*>

23 **38-13-1204. Interest and penalty for failure to act in timely**
24 **manner.** (1) A HOLDER THAT FAILS TO REPORT, PAY, OR DELIVER
25 PROPERTY WITHIN THE TIME PRESCRIBED BY THIS ARTICLE 13 SHALL PAY
26 TO THE ADMINISTRATOR INTEREST AT AN ANNUAL RATE OF [[] PERCENT]
27 [THE RATE OF INTEREST PAYABLE TO THE DEPARTMENT OF REVENUE OF

1 THIS STATE ON DELINQUENT TAXES <{Which kind of taxes? In Colorado,
2 at least, there are several choices. NCCUSL suggests if a variable rate
3 is chosen, the rate should be pegged to some ascertainable standard
4 such as LIBOR. (DHG)}>] ON THE PROPERTY OR VALUE OF THE
5 PROPERTY FROM THE DATE THE PROPERTY SHOULD HAVE BEEN REPORTED,
6 PAID, OR DELIVERED TO THE ADMINISTRATOR UNTIL THE DATE REPORTED,
7 PAID, OR DELIVERED.

8 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1205 OR
9 38-13-1206, THE ADMINISTRATOR MAY REQUIRE A HOLDER THAT FAILS TO
10 REPORT, PAY, OR DELIVER PROPERTY WITHIN THE TIME PRESCRIBED BY
11 THIS ARTICLE 13 TO PAY TO THE ADMINISTRATOR, IN ADDITION TO
12 INTEREST INCLUDED UNDER SUBSECTION (1) OF THIS SECTION, A CIVIL
13 PENALTY OF [TWO HUNDRED DOLLARS] FOR EACH DAY THE DUTY IS NOT
14 PERFORMED, UP TO A CUMULATIVE MAXIMUM AMOUNT OF [FIVE
15 THOUSAND DOLLARS].

16 **38-13-1205. Other civil penalties.** (1) IF A HOLDER ENTERS INTO
17 A CONTRACT OR OTHER ARRANGEMENT FOR THE PURPOSE OF EVADING AN
18 OBLIGATION UNDER THIS ARTICLE 13 OR OTHERWISE WILLFULLY FAILS TO
19 PERFORM A DUTY IMPOSED ON THE HOLDER UNDER THIS ARTICLE 13, THE
20 ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY THE ADMINISTRATOR,
21 IN ADDITION TO INTEREST AS PROVIDED IN SECTION 38-13-1204 (1), A
22 CIVIL PENALTY OF [ONE THOUSAND DOLLARS] FOR EACH DAY THE
23 OBLIGATION IS EVADED OR THE DUTY IS NOT PERFORMED, UP TO A
24 CUMULATIVE MAXIMUM AMOUNT OF [TWENTY-FIVE THOUSAND DOLLARS],
25 PLUS [TWENTY-FIVE] PERCENT OF THE AMOUNT OR VALUE OF PROPERTY
26 THAT SHOULD HAVE BEEN BUT WAS NOT REPORTED, PAID, OR DELIVERED
27 AS A RESULT OF THE EVASION OR FAILURE TO PERFORM.

1 (2) IF A HOLDER MAKES A FRAUDULENT REPORT UNDER THIS
2 ARTICLE 13, THE ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY TO
3 THE ADMINISTRATOR, IN ADDITION TO INTEREST UNDER SECTION
4 38-13-1204 (1), A CIVIL PENALTY OF [ONE THOUSAND DOLLARS] FOR EACH
5 DAY FROM THE DATE THE REPORT WAS MADE UNTIL CORRECTED, UP TO A
6 CUMULATIVE MAXIMUM OF [TWENTY-FIVE THOUSAND DOLLARS], PLUS
7 [TWENTY-FIVE] PERCENT OF THE AMOUNT OR VALUE OF ANY PROPERTY
8 THAT SHOULD HAVE BEEN REPORTED BUT WAS NOT INCLUDED IN THE
9 REPORT OR WAS UNDERREPORTED.

10 **38-13-1206. Waiver of interest and penalty.** (1) THE
11 ADMINISTRATOR:

12 (a) MAY WAIVE, IN WHOLE OR IN PART, [INTEREST UNDER SECTION
13 38-13-1204 (1) AND] PENALTIES UNDER SECTION 38-13-1204 (2) OR
14 38-13-1205; AND

15 (b) SHALL WAIVE A PENALTY UNDER SECTION 38-13-1204 (2) IF
16 THE ADMINISTRATOR DETERMINES THAT THE HOLDER ACTED IN GOOD
17 FAITH AND WITHOUT NEGLIGENCE.

18 PART 13

19 AGREEMENT TO LOCATE PROPERTY OF

20 APPARENT OWNER HELD BY ADMINISTRATOR

21 **38-13-1301. When agreement to locate property enforceable.**

22 (1) AN AGREEMENT BY AN APPARENT OWNER AND ANOTHER PERSON, THE
23 PRIMARY PURPOSE OF WHICH IS TO LOCATE, DELIVER, RECOVER, OR ASSIST
24 IN THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY HELD BY THE
25 ADMINISTRATOR, IS ENFORCEABLE ONLY IF THE AGREEMENT:

26 (a) IS IN A RECORD THAT CLEARLY STATES THE NATURE OF THE
27 PROPERTY AND THE SERVICES TO BE PROVIDED;

- 1 (b) IS SIGNED BY OR ON BEHALF OF THE APPARENT OWNER; AND
2 (c) STATES THE AMOUNT OR VALUE OF THE PROPERTY
3 REASONABLY EXPECTED TO BE RECOVERED, COMPUTED BEFORE AND
4 AFTER A FEE OR OTHER COMPENSATION TO BE PAID TO THE PERSON HAS
5 BEEN DEDUCTED.

6 **38-13-1302. When agreement to locate property void.**

7 (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, AN AGREEMENT UNDER
8 SECTION 38-13-1301 IS VOID IF IT IS ENTERED INTO DURING THE PERIOD
9 BEGINNING ON THE DATE THE PROPERTY WAS PAID OR DELIVERED BY A
10 HOLDER TO THE ADMINISTRATOR AND ENDING TWENTY-FOUR MONTHS
11 AFTER THE PAYMENT OR DELIVERY.

12 (2) IF A PROVISION IN AN AGREEMENT DESCRIBED IN SUBSECTION
13 (1) OF THIS SECTION APPLIES TO MINERAL PROCEEDS FOR WHICH
14 COMPENSATION IS TO BE PAID TO THE OTHER PERSON BASED IN WHOLE OR
15 IN PART ON A PART OF THE UNDERLYING MINERALS OR MINERAL PROCEEDS
16 NOT THEN PRESUMED ABANDONED, THE PROVISION IS VOID REGARDLESS
17 OF WHEN THE AGREEMENT WAS ENTERED INTO.

18 (3) AN AGREEMENT UNDER SUBSECTION (1) OF THIS SECTION THAT
19 PROVIDES FOR COMPENSATION IN AN AMOUNT THAT IS UNCONSCIONABLE
20 IS UNENFORCEABLE EXCEPT BY THE APPARENT OWNER. AN APPARENT
21 OWNER THAT BELIEVES THE COMPENSATION THE APPARENT OWNER HAS
22 AGREED TO PAY IS UNCONSCIONABLE OR THE ADMINISTRATOR, ACTING ON
23 BEHALF OF AN APPARENT OWNER, OR BOTH, MAY FILE AN ACTION IN [THE
24 APPROPRIATE COURT] TO REDUCE THE COMPENSATION TO THE MAXIMUM
25 AMOUNT THAT IS NOT UNCONSCIONABLE. [ON THE FINAL DETERMINATION
26 OF AN ACTION FILED UNDER THIS SUBSECTION (3), THE [COURT] MAY, ON
27 APPLICATION, AWARD THE [PLAINTIFF] [PREVAILING PARTY] ITS

1 REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

2 <{Note from NCCUSL: The last sentence of this subsection may
3 be included or deleted according to the public policy of the state
4 concerning statutory awards of attorney fees. If the state elects to
5 include attorney fees, the state must decide whether to restrict the award
6 of attorney fees to the plaintiff regardless which side prevails or only to
7 the prevailing party.}>

8 (4) AN APPARENT OWNER OR THE ADMINISTRATOR MAY ASSERT
9 THAT AN AGREEMENT DESCRIBED IN THIS SECTION IS VOID ON A GROUND
10 OTHER THAN IT PROVIDES FOR PAYMENT OF UNCONSCIONABLE
11 COMPENSATION.

12 (5) THIS SECTION DOES NOT APPLY TO AN APPARENT OWNER'S
13 AGREEMENT WITH AN ATTORNEY TO PURSUE A CLAIM FOR RECOVERY OF
14 SPECIFICALLY IDENTIFIED PROPERTY HELD BY THE ADMINISTRATOR OR TO
15 CONTEST THE ADMINISTRATOR'S DENIAL OF A CLAIM FOR RECOVERY OF
16 THE PROPERTY.

17 **38-13-1303. Right of agent of apparent owner to recover**
18 **property held by administrator.** (1) AN APPARENT OWNER THAT
19 CONTRACTS WITH A PERSON TO LOCATE, DELIVER, RECOVER, OR ASSIST IN
20 THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY OF THE APPARENT
21 OWNER THAT IS HELD BY THE ADMINISTRATOR MAY DESIGNATE THE
22 PERSON AS THE AGENT OF THE APPARENT OWNER. THE DESIGNATION MUST
23 BE IN A RECORD SIGNED BY THE APPARENT OWNER.

24 (2) THE ADMINISTRATOR SHALL GIVE THE AGENT OF THE APPARENT
25 OWNER ALL INFORMATION CONCERNING THE PROPERTY THAT THE
26 APPARENT OWNER IS ENTITLED TO RECEIVE, INCLUDING INFORMATION
27 THAT OTHERWISE IS CONFIDENTIAL INFORMATION UNDER SECTION

1 38-13-1402.

2 (3) IF AUTHORIZED BY THE APPARENT OWNER, THE AGENT OF THE
3 APPARENT OWNER MAY BRING AN ACTION AGAINST THE ADMINISTRATOR
4 ON BEHALF OF AND IN THE NAME OF THE APPARENT OWNER.

5 **38-13-1304. [Similar to former 38-13-128.5] Agreements to**
6 **locate reported property - overbids from foreclosure sales.**

7 (1) NOTWITHSTANDING ANY PROVISION OF SECTION 38-13-1303 TO THE
8 CONTRARY, AN AGREEMENT TO PAY COMPENSATION TO RECOVER OR
9 ASSIST IN RECOVERING AN UNCLAIMED OVERBID TRANSFERRED TO THE
10 ADMINISTRATOR UNDER SECTION 38-38-111 IS:

11 (a) NOT ENFORCEABLE UNLESS ENTERED INTO AT LEAST TWO
12 YEARS AFTER THE DATE OF THE TRANSFER;

13 (b) ENFORCEABLE IF:

14 (I) THE AGREEMENT IS IN WRITING AND SIGNED BY THE OWNER, AS
15 DEFINED IN SECTION 38-38-111 (5);

16 (II) THE AGREEMENT DESCRIBES THE PROPERTY AND THE DATE OF
17 THE FORECLOSURE SALE FROM WHICH THE OVERBID WAS DERIVED;

18 (III) THE AGREEMENT SETS FORTH THE NATURE OF THE SERVICES
19 TO BE PROVIDED; AND

20 (IV) THE COMPENSATION TO BE PAID UNDER THE TERMS OF THE
21 AGREEMENT DOES NOT EXCEED:

22 (A) TWENTY PERCENT OF THE AMOUNT OF THE OVERBID IF
23 ENTERED INTO AT LEAST TWO YEARS, BUT NOT MORE THAN THREE YEARS,
24 AFTER THE DATE OF THE TRANSFER; OR

25 (B) THIRTY PERCENT OF THE AMOUNT OF THE OVERBID IF ENTERED
26 INTO MORE THAN THREE YEARS AFTER THE DATE OF THE TRANSFER.

27 (2) A PERSON WHO INDUCES OR ATTEMPTS TO INDUCE ANOTHER

1 PERSON TO ENTER INTO AN AGREEMENT DESCRIBED IN THIS SECTION THAT
2 DOES NOT COMPLY WITH ALL REQUIREMENTS OF SUBSECTION (1) OF THIS
3 SECTION IS GUILTY OF A MISDEMEANOR, AS DEFINED IN SECTION
4 18-1.3-504, AND, UPON CONVICTION, SHALL BE PUNISHED BY
5 IMPRISONMENT IN THE COUNTY JAIL FOR UP TO SIX MONTHS, A FINE OF UP
6 TO TEN THOUSAND DOLLARS, OR BOTH.

7 (3) NOTHING IN SUBSECTION (1) OF THIS SECTION PROHIBITS AN
8 OWNER FROM ASSERTING, AT ANY TIME, THAT A WRITTEN, SIGNED
9 AGREEMENT TO RECOVER OR ASSIST IN RECOVERING AN OVERBID IS BASED
10 ON EXCESSIVE OR UNJUST CONSIDERATION.

11 (4) THE RESTRICTIONS SET FORTH IN THIS SECTION DO NOT APPLY
12 TO AN AGREEMENT TO PAY COMPENSATION TO RECOVER OR ASSIST IN
13 RECOVERING AN OVERBID OF LESS THAN ONE THOUSAND DOLLARS.

14 PART 14

15 CONFIDENTIALITY AND SECURITY OF INFORMATION

16 **38-13-1401. Definitions - applicability.** (1) IN THIS PART 14,
17 "PERSONAL INFORMATION" MEANS:

18 (a) INFORMATION THAT IDENTIFIES OR REASONABLY CAN BE USED
19 TO IDENTIFY AN INDIVIDUAL, SUCH AS FIRST AND LAST NAME IN
20 COMBINATION WITH THE INDIVIDUAL'S:

21 (I) SOCIAL SECURITY NUMBER OR OTHER GOVERNMENT-ISSUED
22 NUMBER OR IDENTIFIER;

23 (II) DATE OF BIRTH;

24 (III) HOME OR PHYSICAL ADDRESS;

25 (IV) ELECTRONIC-MAIL ADDRESS OR OTHER ONLINE CONTACT
26 INFORMATION OR INTERNET PROVIDER ADDRESS;

27 (V) FINANCIAL ACCOUNT NUMBER OR CREDIT OR DEBIT CARD

1 NUMBER;

2 (VI) BIOMETRIC DATA, HEALTH OR MEDICAL DATA, OR INSURANCE
3 INFORMATION; OR

4 (VII) PASSWORDS OR OTHER CREDENTIALS THAT PERMIT ACCESS
5 TO AN ONLINE OR OTHER ACCOUNT;

6 (b) PERSONALLY IDENTIFIABLE FINANCIAL OR INSURANCE
7 INFORMATION, INCLUDING NONPUBLIC PERSONAL INFORMATION DEFINED
8 BY APPLICABLE FEDERAL LAW; AND

9 (c) ANY COMBINATION OF DATA THAT, IF ACCESSED, DISCLOSED,
10 MODIFIED, OR DESTROYED WITHOUT AUTHORIZATION OF THE OWNER OF
11 THE DATA OR IS LOST OR MISUSED, WOULD REQUIRE NOTICE OR REPORTING
12 UNDER APPLICABLE FEDERAL AND STATE PRIVACY AND DATA SECURITY
13 LAW, WHETHER OR NOT THE ADMINISTRATOR OR THE ADMINISTRATOR'S
14 AGENT IS SUBJECT TO THE LAW.

15 (2) PROVISIONS OF THIS PART 14 APPLICABLE TO THE
16 ADMINISTRATOR OR THE ADMINISTRATOR'S RECORDS APPLY TO AN
17 ADMINISTRATOR'S AGENT.

18 **38-13-1402. Confidential information.** (1) EXCEPT AS
19 OTHERWISE PROVIDED IN THIS ARTICLE 13, THE FOLLOWING ARE
20 CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION OR DISCLOSURE:

21 (a) RECORDS OF THE ADMINISTRATOR AND THE ADMINISTRATOR'S
22 AGENT RELATED TO THE ADMINISTRATION OF THIS ARTICLE 13;

23 (b) REPORTS AND RECORDS OF A HOLDER IN POSSESSION OF THE
24 ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT; AND

25 (c) PERSONAL INFORMATION AND OTHER INFORMATION DERIVED
26 OR OTHERWISE OBTAINED BY OR COMMUNICATED TO THE ADMINISTRATOR
27 OR THE ADMINISTRATOR'S AGENT FROM AN EXAMINATION UNDER THIS

1 ARTICLE 13 OF THE RECORDS OF A PERSON.

2 (2) A RECORD OR OTHER INFORMATION THAT IS CONFIDENTIAL
3 UNDER THE LAW OF THIS STATE OTHER THAN THIS ARTICLE 13, ANOTHER
4 STATE, OR THE UNITED STATES CONTINUES TO BE CONFIDENTIAL WHEN
5 DISCLOSED OR DELIVERED UNDER THIS ARTICLE 13 TO THE
6 ADMINISTRATOR OR ADMINISTRATOR'S AGENT.

7 **38-13-1403. When confidential information may be disclosed.**

8 (1) WHEN REASONABLY NECESSARY TO ENFORCE OR IMPLEMENT THIS
9 ARTICLE 13, THE ADMINISTRATOR MAY DISCLOSE CONFIDENTIAL
10 INFORMATION CONCERNING PROPERTY HELD BY THE ADMINISTRATOR OR
11 THE ADMINISTRATOR'S AGENT ONLY TO:

12 (a) AN APPARENT OWNER OR THE APPARENT OWNER'S PERSONAL
13 REPRESENTATIVE, NEXT OF KIN, RELATIVE, ATTORNEY-AT-LAW, OTHER
14 LEGAL REPRESENTATIVE, OR AGENT DESIGNATED UNDER SECTION
15 38-13-1303 TO HAVE THE INFORMATION;

16 (b) THE PERSONAL REPRESENTATIVE, EXECUTOR, NEXT OF KIN, OR
17 RELATIVE OF A DECEASED APPARENT OWNER OR THE ATTORNEY-AT-LAW,
18 OTHER LEGAL REPRESENTATIVE, OR AGENT DESIGNATED UNDER SECTION
19 38-13-1303 BY THE DECEASED APPARENT OWNER OR A PERSON ENTITLED
20 TO INHERIT FROM THE DECEASED APPARENT OWNER;

21 (c) ANOTHER DEPARTMENT OR AGENCY OF THIS STATE OR THE
22 UNITED STATES;

23 (d) THE PERSON THAT ADMINISTERS THE UNCLAIMED PROPERTY
24 LAW OF ANOTHER STATE, IF THE OTHER STATE ACCORDS SUBSTANTIALLY
25 RECIPROCAL PRIVILEGES TO THE ADMINISTRATOR OF THIS STATE AND IF
26 THE OTHER STATE IS REQUIRED TO MAINTAIN THE CONFIDENTIALITY AND
27 SECURITY OF INFORMATION OBTAINED IN A MANNER SUBSTANTIALLY

1 EQUIVALENT TO THE REQUIREMENTS OF THIS PART 14; AND

2 (e) A PERSON SUBJECT TO AN EXAMINATION AS REQUIRED BY
3 SECTION 38-13-1004 (1)(f).

4 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1402 (1),
5 THE ADMINISTRATOR SHALL INCLUDE IN PUBLISHED NOTICES AND ON A
6 WEBSITE OR DATABASE REQUIRED BY SECTION 38-13-503 (3)(b) THE NAME
7 OF EACH APPARENT OWNER OF PROPERTY HELD BY THE ADMINISTRATOR.
8 THE ADMINISTRATOR MAY INCLUDE IN PUBLISHED NOTICES, PRINTED
9 PUBLICATIONS, TELECOMMUNICATIONS, THE INTERNET, OR OTHER MEDIA
10 AND ON THE WEBSITE OR IN THE DATABASE ADDITIONAL INFORMATION
11 CONCERNING THE APPARENT OWNER'S PROPERTY IF THE ADMINISTRATOR
12 BELIEVES THE INFORMATION WILL ASSIST IN IDENTIFYING AND RETURNING
13 PROPERTY TO THE OWNER AND DOES NOT DISCLOSE PERSONAL
14 INFORMATION EXCEPT THE HOME OR PHYSICAL ADDRESS OF AN APPARENT
15 OWNER.

16 (3) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
17 NOT USE CONFIDENTIAL INFORMATION PROVIDED TO THEM OR IN THEIR
18 POSSESSION EXCEPT AS EXPRESSLY AUTHORIZED BY THIS ARTICLE 13 OR
19 REQUIRED BY LAW OTHER THAN THIS ARTICLE 13.

20 **38-13-1404. Confidentiality agreement.** (1) A PERSON TO BE
21 EXAMINED UNDER SECTION 38-13-1002 MAY REQUIRE, AS A CONDITION OF
22 DISCLOSURE OF THE RECORDS OF THE PERSON TO BE EXAMINED, THAT
23 EACH PERSON HAVING ACCESS TO THE RECORDS DISCLOSED IN THE
24 EXAMINATION EXECUTE AND DELIVER TO THE PERSON TO BE EXAMINED A
25 CONFIDENTIALITY AGREEMENT THAT:

26 (a) IS IN A FORM THAT IS REASONABLY SATISFACTORY TO THE
27 ADMINISTRATOR; AND

1 (b) REQUIRES THE PERSON HAVING ACCESS TO RECORDS TO
2 COMPLY WITH THE PROVISIONS OF THIS PART 14 APPLICABLE TO THE
3 PERSON.

4 **38-13-1405. No confidential information in notice.** EXCEPT AS
5 OTHERWISE PROVIDED IN SECTIONS 38-13-501 AND 38-13-502, A HOLDER
6 IS NOT REQUIRED UNDER THIS ARTICLE 13 TO INCLUDE CONFIDENTIAL
7 INFORMATION IN A NOTICE THE HOLDER IS REQUIRED TO PROVIDE TO AN
8 APPARENT OWNER UNDER THIS ARTICLE 13.

9 **38-13-1406. Security of information.** (1) IF A HOLDER IS
10 REQUIRED TO INCLUDE CONFIDENTIAL INFORMATION IN A REPORT TO THE
11 ADMINISTRATOR, THE INFORMATION MUST BE PROVIDED BY A SECURE
12 MEANS.

13 (2) IF CONFIDENTIAL INFORMATION IN A RECORD IS PROVIDED TO
14 AND MAINTAINED BY THE ADMINISTRATOR OR ADMINISTRATOR'S AGENT
15 AS REQUIRED BY THIS ARTICLE 13, THE ADMINISTRATOR OR
16 ADMINISTRATOR'S AGENT SHALL:

17 (a) IMPLEMENT ADMINISTRATIVE, TECHNICAL, AND PHYSICAL
18 SAFEGUARDS DESIGNED TO PROTECT THE SECURITY, CONFIDENTIALITY,
19 AND INTEGRITY OF THE INFORMATION AS REQUIRED BY THE LAW OF THIS
20 STATE AND FEDERAL LAW WHETHER OR NOT THE ADMINISTRATOR OR THE
21 ADMINISTRATOR'S AGENT IS SUBJECT TO THE LAW;

22 (b) PROTECT AGAINST REASONABLY ANTICIPATED THREATS OR
23 HAZARDS TO THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE
24 INFORMATION; AND

25 (c) PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE
26 INFORMATION THAT COULD RESULT IN SUBSTANTIAL HARM OR
27 INCONVENIENCE TO A HOLDER OR THE HOLDER'S CUSTOMERS, INCLUDING

1 INSUREDS, ANNUITANTS, AND POLICY OR CONTRACT OWNERS AND THEIR
2 BENEFICIARIES.

3 (3) THE ADMINISTRATOR:

4 (a) AFTER NOTICE AND COMMENT, SHALL ADOPT AND IMPLEMENT
5 A SECURITY PLAN THAT IDENTIFIES AND ASSESSES REASONABLY
6 FORESEEABLE INTERNAL AND EXTERNAL RISKS TO CONFIDENTIAL
7 INFORMATION IN THE ADMINISTRATOR'S POSSESSION AND SEEKS TO
8 MITIGATE THE RISKS; AND

9 (b) SHALL ENSURE THAT AN ADMINISTRATOR'S AGENT ADOPTS AND
10 IMPLEMENTS A SIMILAR PLAN WITH RESPECT TO CONFIDENTIAL
11 INFORMATION IN THE AGENT'S POSSESSION.

12 (4) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
13 EDUCATE AND TRAIN THEIR EMPLOYEES REGARDING THE PLAN ADOPTED
14 UNDER SUBSECTION (3) OF THIS SECTION.

15 (5) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
16 IN A SECURE MANNER RETURN OR DESTROY ALL CONFIDENTIAL
17 INFORMATION NO LONGER REASONABLY NEEDED UNDER THIS ARTICLE 13.

18 **38-13-1407. Security breach.** (1) EXCEPT TO THE EXTENT
19 PROHIBITED BY LAW OTHER THAN THIS ARTICLE 13, THE ADMINISTRATOR
20 OR ADMINISTRATOR'S AGENT SHALL NOTIFY A HOLDER AS SOON AS
21 PRACTICABLE OF:

22 (a) SUSPECTED LOSS, MISUSE, OR UNAUTHORIZED ACCESS,
23 DISCLOSURE, MODIFICATION, OR DESTRUCTION OF CONFIDENTIAL
24 INFORMATION OBTAINED FROM THE HOLDER IN THE POSSESSION OF THE
25 ADMINISTRATOR OR AN ADMINISTRATOR'S AGENT; AND

26 (b) ANY INTERFERENCE WITH OPERATIONS IN ANY SYSTEM
27 HOSTING OR HOUSING CONFIDENTIAL INFORMATION THAT:

1 (I) COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY
2 OF THE INFORMATION; OR

3 (II) CREATES A SUBSTANTIAL RISK OF IDENTITY FRAUD OR THEFT.

4 (2) EXCEPT AS NECESSARY TO INFORM AN INSURER, ATTORNEY,
5 INVESTIGATOR, OR OTHERS AS REQUIRED BY LAW, THE ADMINISTRATOR
6 AND AN ADMINISTRATOR'S AGENT SHALL NOT DISCLOSE, WITHOUT THE
7 EXPRESS CONSENT IN A RECORD OF THE HOLDER, AN EVENT DESCRIBED IN
8 SUBSECTION (1) OF THIS SECTION TO A PERSON WHOSE CONFIDENTIAL
9 INFORMATION WAS SUPPLIED BY THE HOLDER.

10 (3) IF AN EVENT DESCRIBED IN SUBSECTION (1) OF THIS SECTION
11 OCCURS, THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL:

12 (a) TAKE ACTION NECESSARY FOR THE HOLDER TO UNDERSTAND
13 AND MINIMIZE THE EFFECTS OF THE EVENT AND DETERMINE ITS SCOPE;
14 AND

15 (b) COOPERATE WITH THE HOLDER WITH RESPECT TO:

16 (I) ANY NOTIFICATION REQUIRED BY LAW CONCERNING A DATA OR
17 OTHER SECURITY BREACH; AND

18 (II) A REGULATORY INQUIRY, LITIGATION, OR SIMILAR ACTION.

19 **38-13-1408. Indemnification for breach.** [(1) IF A CLAIM IS
20 MADE OR ACTION COMMENCED ARISING OUT OF AN EVENT DESCRIBED IN
21 SECTION 38-13-1407 (1) RELATING TO CONFIDENTIAL INFORMATION
22 POSSESSED BY THE ADMINISTRATOR, THIS STATE SHALL INDEMNIFY,
23 DEFEND, AND HOLD HARMLESS A HOLDER AND THE HOLDER'S AFFILIATES,
24 OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AS TO:

25 (a) ANY THIRD-PARTY CLAIM OR ACTION; AND

26 (b) A LIABILITY, OBLIGATION, LOSS, DAMAGE, COST, FEE, PENALTY,
27 FINE, SETTLEMENT, CHARGE, OR OTHER EXPENSE, INCLUDING REASONABLE

1 ATTORNEY FEES AND COSTS, ESTABLISHED BY THE CLAIM OR ACTION.]

2 [(1)][(2)] IF A CLAIM IS MADE OR ACTION COMMENCED ARISING
3 OUT OF AN EVENT DESCRIBED IN SECTION 38-13-1407 (1) RELATING TO
4 CONFIDENTIAL INFORMATION POSSESSED BY AN ADMINISTRATOR'S AGENT,
5 THE ADMINISTRATOR'S AGENT SHALL INDEMNIFY, DEFEND, AND HOLD
6 HARMLESS A HOLDER AND THE HOLDER'S AFFILIATES, OFFICERS,
7 DIRECTORS, EMPLOYEES, AND AGENTS AS TO:

8 (a) ANY THIRD-PARTY CLAIM OR ACTION; AND

9 (b) A LIABILITY, OBLIGATION, LOSS, DAMAGE, COST, FEE, PENALTY,
10 FINE, SETTLEMENT, CHARGE, OR OTHER EXPENSE, INCLUDING REASONABLE
11 ATTORNEY FEES AND COSTS, ESTABLISHED BY THE CLAIM OR ACTION.

12 [(2)][(3)] THE ADMINISTRATOR SHALL REQUIRE AN
13 ADMINISTRATOR'S AGENT THAT WILL RECEIVE CONFIDENTIAL
14 INFORMATION REQUIRED UNDER THIS ARTICLE 13 TO MAINTAIN ADEQUATE
15 INSURANCE FOR INDEMNIFICATION OBLIGATIONS OF THE ADMINISTRATOR'S
16 AGENT UNDER SUBSECTION (2) [(1)] OF THIS SECTION. THE AGENT
17 REQUIRED TO MAINTAIN THE INSURANCE SHALL PROVIDE EVIDENCE OF THE
18 INSURANCE TO:

19 (a) THE ADMINISTRATOR NOT LESS FREQUENTLY THAN ANNUALLY;
20 AND

21 (b) THE HOLDER ON COMMENCEMENT OF AN EXAMINATION AND
22 ANNUALLY THEREAFTER UNTIL ALL CONFIDENTIAL INFORMATION IS
23 RETURNED OR DESTROYED UNDER SECTION 38-13-1406 (5).

24 <*Note from NCCUSL (paraphrased): This section may be*
25 *amended or deleted depending on the state's policies regarding blanket*
26 *indemnification.*>

27

PART 15

MISCELLANEOUS PROVISIONS

1
2 **38-13-1501. Uniformity of application and construction.** IN
3 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
4 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
5 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

6 **38-13-1502. Relation to electronic signatures in global and**
7 **national commerce act.** THIS ARTICLE 13 MODIFIES, LIMITS, OR
8 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
9 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,
10 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001
11 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
12 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

13 **38-13-1503. Transitional provision.** (1) AN INITIAL REPORT
14 FILED UNDER THIS ARTICLE 13 FOR PROPERTY THAT WAS NOT REQUIRED TO
15 BE REPORTED BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS
16 AMENDED], BUT THAT IS REQUIRED TO BE REPORTED UNDER THIS ARTICLE
17 13, MUST INCLUDE ALL ITEMS OF PROPERTY THAT WOULD HAVE BEEN
18 PRESUMED ABANDONED DURING THE TEN-YEAR PERIOD PRECEDING [THE
19 EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,] AS IF THIS ARTICLE 13
20 HAD BEEN IN EFFECT DURING THAT PERIOD.

21 (2) THIS ARTICLE 13 DOES NOT RELIEVE A HOLDER OF A DUTY THAT
22 AROSE BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED,]
23 TO REPORT, PAY, OR DELIVER PROPERTY. SUBJECT TO SECTION 38-13-610,
24 A HOLDER THAT DID NOT COMPLY WITH THE LAW GOVERNING UNCLAIMED
25 PROPERTY BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS
26 AMENDED,] IS SUBJECT TO APPLICABLE PROVISIONS FOR ENFORCEMENT
27 AND PENALTIES IN EFFECT BEFORE [THE EFFECTIVE DATE OF THIS ARTICLE

1 13, AS AMENDED].

2 <{Space reserved for conforming amendments to existing
3 Colorado law other than this article.}>

4 **SECTION 2. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
11.9.16

DRAFT

LLS NO. 17-0188.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

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

A BILL FOR AN ACT

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

Bill Summary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 WRITING.

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

ULC Costs - Budget Planning Worksheet

(travel, meals, dues, registration, etc.)

For FY: 17-18

San Diego, CA = 2017

Louisville, KY = 2018

DRAFT

Participation		Applicable Location
Enter the number of commissioners who will attend this year's meeting. (Assumes attendance for entire meeting)	10	San Diego, CA
Enter the number of travel days that are necessary to attend this year's meeting.	7	San Diego, CA
Enter the number of commissioners who will attend next year's meeting. (Assumes attendance for entire meeting)	10	Louisville, KY

Travel: Flights and related costs (per attendee)		Applicable Location
Enter the price you want to use as the estimate for flight cost.	\$600	Louisville, KY
Enter the total estimated cost for any additional flight related fees (e.g., seat assignment fees).	\$60	San Diego, CA
Enter the estimated cost for baggage fees (round trip).	\$50	San Diego, CA
Enter the estimated cost of mileage, airport parking, toll charges, or other ground transportation in Colorado (round trip).	\$200	San Diego, CA
<i>Estimated flight-related costs (this year) total per commissioner:</i>		\$310
<i>Estimated flight & related (this year) Commission total:</i>		\$3,100
<i>Estimated advance flight purchase (next year) total per commissioner:</i>		\$600
<i>Estimated advance flight purchase (next year) Commission total:</i>		\$6,000

Travel: Transportation costs in destination city		Applicable Location
Enter the total estimated cost for all ground transportation (taxi, hotel shuttle, Uber, etc.).	\$150	San Diego, CA
If applicable, enter the estimated cost of a car rental & fuel (for entire trip).	\$0	San Diego, CA
<i>Estimated destination transp. total per commissioner:</i>		\$150
<i>Estimated destination transp. Commission total:</i>		\$1,500

Travel: Meals & Incidentals		Applicable Location
Meals only - Enter daily maximum allowable under fiscal rules.	\$66	San Diego, CA
Incidentals (e.g., housekeeping and bellhop tips) - Enter daily maximum allowable under fiscal rules.	\$5	San Diego, CA
<i>Estimated M&I total per commissioner:</i>		\$497
<i>Estimated M&I Commission total:</i>		\$4,970

Travel: Lodging and related costs		Applicable Location
Enter the number of nights of lodging are necessary for the meeting.	6	San Diego, CA
If applicable/allowable, enter the estimated cost of any on-site hotel parking charges (for entire trip).	\$0	San Diego, CA
Enter the estimated cost for each night's lodging (base costs + additional charges + estimated 15% tax)	\$250	San Diego, CA
<i>Estimated lodging total per commissioner:</i>		\$1,500
<i>Estimated lodging Commission total:</i>		\$15,000

Registration		Applicable Location
Enter the estimated registration fee for each commissioner		Louisville, KY \$600

Dues for cycle that aligns with this fiscal year	
Enter the anticipated amount of dues that will be paid in this fiscal year:	\$58,800

Food (at meetings in Denver)	
Enter the amount needed for meals for entire 12-month period:	\$300

Misc. fees (e.g. CLE accreditation fees)	
Enter the amount needed for any misc. fees (total for entire 12-month period):	\$50

Overview of Amounts to Include in CUSL Budget Lines

Travel costs ---> Amount to request as travel budget:	\$30,570
Registration costs (next year's meeting) ---> Amount to request as Registration budget	\$6,000
Dues ---> Amount to request as Dues budget:	\$58,800
Food (at meetings) ---> Amount to request as Food budget:	\$300
Misc. fees ---> Amount to request as Fees budget:	\$50

Uniform Act Legislation in Colorado

Cumulative List of Outcomes

(Last updated 1/18/2017)

Bill No.	Bill Topic	Final Status
2016		
SB16-071	Revised Uniform Athlete Agents Act	Postponed Indefinitely
SB16-084	Uniform Recognition Of Substitute Decision-Making Documents Act	Postponed Indefinitely
SB16-085	Uniform Trust Decanting Act	Signed into Law
SB16-088	Uniform Fiduciary Access To Digital Assets	Signed into Law
SB16-103	Uniform Recognition And Enforcement Of Canadian Domestic Violence Protection Orders Act	Postponed Indefinitely
2015		
SB15-174	Uniform Substitute Decision-Making Docs Act	Postponed Indefinitely
HB15-1189	Uniform Fiduciary Access To Digital Assets Act	Postponed Indefinitely
HB15-1198	Uniform Interstate Family Support Act	Signed into Law
HB15-1253	Uniform Voidable Transactions Act	Postponed Indefinitely
2014		
HB14-1353	Uniform Powers Of Appointment Act	Signed into Law
2013		
HB13-1157	Uniform State Law Governs Remittance Transfers	Signed into Law
HB13-1200	Uniform Deployed Parents Custody Visitation Act	Signed into Law
HB13-1204	Uniform Premarital And Marital Agreements Act	Signed into Law
HB13-1213	Uniform Asset-freezing Orders Act	Postponed Indefinitely
2012		
HB12-1209	Uniform Electronic Legal Material Act	Signed into Law
HB12-1262	Amend Uniform Commercial Code Secured Transactions	Signed into Law
2011		
HB11-1219	Uniform Military And Overseas Voters Act	Signed into Law
SB11-165	CO Uniform Estate Tax Apportionment Act	Signed into Law
SB11-166	Uniform Disclaimer Property Interest Act	Signed into Law
SB11-175	Uniform Trust Code Insurable Interests	Signed into Law
SB11-191	Uniform Limited Cooperative Assn Act	Signed into Law
2010		
<i>No commission-approved bills introduced in 2010</i>		

Bill No.	Bill Topic	Final Status
2009		
HB09-1190	Uniform Unsworn Foreign Declarations Act	Signed into Law
HB09-1198	Uniform Power Of Attorney Act	Signed into Law
HB09-1286	Repeal And Reenact Uniform Parentage Act	Postponed Indefinitely
HB09-1287	Enact Changes To Colorado Probate Code	Signed into Law
SB09-139	Uniform Principal And Income Act Amends	Signed into Law
2008		
HB08-1058	Uniform Athlete Agents Act	Signed into Law
HB08-1173	Prudent Management Institutional Funds	Signed into Law
HB08-1174	Unif Interstate Depositions & Discovery	Signed into Law
HB08-1202	Unif Foreign Money Jdgmts Recognition	Signed into Law
SB08-100	Uniform Adult Guardianship Protect Act	Signed into Law
2007		
HB07-1199	Unif Emerg Volunteer Hlth Practioners	Signed into Law
HB07-1214	Unif Commercial Code Doc Title Final	Signed into Law
HB07-1215*	Uniform Debt-Management Services Act	Postponed Indefinitely
HB07-1255	Uniform Child Abduction Prevention Act	Signed into Law
HB07-1266	Uniform Anatomical Gift Act	Signed into Law
SB07-057*	Regulate Debt Settlement Services (<i>in place of CCUSL bill</i>)	Signed into Law
2006		
HB06-1247	Unif Commercial Code Doc Title General	Signed into Law
HB06-1258	Uniform Trust Code	Postponed Indefinitely
HB06-1280	Uniform Debt-Management Services Act	Postponed Indefinitely
HB06-1336	Uniform Athlete Agents Act	Vetoed
2005		
SB05-246	Uniform Environment Covenants Act	Postponed Indefinitely
2004		
HB04-1080	Uniform Arbitration Act	Signed into Law
2003		
SB03-335	Uniform Trust Code	Postponed Indefinitely
2002		
HB02-1326	Uniform Electronic Transactions Act	Signed into Law
HB02-1397	Unif Code Secured Transactions UCC Art 9	Signed into Law