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
Colorado Commission on Uniform State Laws

A BILL FOR AN ACT

Concerning enactment of the "Revised Uniform Law on Notarial Acts" as amended.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://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
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,
SOUND, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC RECORD AND EXECUTED OR ADOPTED BY AN INDIVIDUAL WITH THE INTENT TO SIGN THE ELECTRONIC RECORD.

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

(a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity.

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

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

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

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

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

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

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

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

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

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

(14) "Stamping device" means:

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

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

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

(16) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.
24-21-503. Applicability. This Part 5 applies to a notarial act performed on or after the effective date of this Part 5.

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

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

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

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

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

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

(2) A notarial officer who takes a verification of a
STATEMENT ON OATH OR AFFIRMATION SHALL DETERMINE, FROM PERSONAL KNOWLEDGE OR SATISFACTORY EVIDENCE OF THE IDENTITY OF THE INDIVIDUAL, THAT THE INDIVIDUAL APPEARING BEFORE THE OFFICER AND MAKING THE VERIFICATION HAS THE IDENTITY CLAIMED AND THAT THE SIGNATURE ON THE STATEMENT VERIFIED IS THE SIGNATURE OF THE INDIVIDUAL.

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

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

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

(I) A CLERK AND RECORDER OF PUBLIC DOCUMENTS;

(II) THE SECRETARY OF STATE;

(III) THE STATE ARCHIVES; OR

(IV) AN OFFICE OF VITAL RECORDS.

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

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

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

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

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

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

(a) BY MEANS OF:

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

(II) ANOTHER FORM OF GOVERNMENT IDENTIFICATION ISSUED TO THE INDIVIDUAL THAT IS CURRENT OR EXPIRED NOT MORE THAN ONE YEAR BEFORE PERFORMANCE OF THE NOTARIAL ACT, CONTAINS THE SIGNATURE OR A PHOTOGRAPH OF THE INDIVIDUAL, AND IS SATISFACTORY TO THE OFFICER; OR
(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card that is current or expired not more than one year before performance of the notarial act.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

24-21-508. Authority to refuse to perform notarial act. (1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this part 5.

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

(2) A notary public may use signals or electronic or
MECHANICAL MEANS TO TAKE AN ACKNOWLEDGMENT FROM, ADMINISTER AN OATH OR AFFIRMATION TO, OR OTHERWISE COMMUNICATE WITH ANY INDIVIDUAL IN THE PRESENCE OF THE NOTARY PUBLIC WHEN IT APPEARS THAT THE INDIVIDUAL IS UNABLE TO COMMUNICATE VERBALLY OR IN WRITING.

24-21-510. Notarial act in this state. (1) A notarial act may be performed in this state by:
(a) A notary public of this state;
(b) A judge, clerk, or deputy clerk of a court of this state;
or
(c) Any other individual authorized to perform the specific act by the law of this state.

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

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

24-21-511. Notarial act in another state. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by:
(a) A notary public of that state;
(b) A judge, clerk, or deputy clerk of a court of that state; or
(c) Any other individual authorized by the law of that state to perform the notarial act.

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

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

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

(a) A notary public of the tribe;

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

or

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

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

(3) The signature and title of a notarial officer described
IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION CONCLUSIVELY
ESTABLISH THE AUTHORITY OF THE OFFICER TO PERFORM THE NOTARIAL
ACT.

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

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

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

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

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

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

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

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

(2) If a notarial act is performed under authority and in
the jurisdiction of a foreign state or constituent unit of the
foreign state or is performed under the authority of a
multinational or international governmental organization, the
act has the same effect under the law of this state as if
performed by a notarial officer of this state.

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

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

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

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

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

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

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

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

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

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

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:
(a) is in a short form set forth in section 24-21-516;
(b) is in a form otherwise permitted by the law of this state;
(c) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
(d) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 24-21-505, 24-21-506, and 24-21-507 or law of this state other than this part 5.

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

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

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

24-21-516. Short form certificates. (1) The following short form certificates of notarial acts are sufficient for the
PURPOSES INDICATED, IF COMPLETED WITH THE INFORMATION REQUIRED BY SECTION 24-21-515 (1) AND (2):

(a) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

STATE OF ___________________________

COUNTY OF _________________________

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON 

______ (DATE) ______ BY ____________

____________________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(___________ (TITLE OF OFFICE) __________)

MY COMMISSION EXPIRES: __________

(b) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

STATE OF ___________________________

COUNTY OF _________________________

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON 

______ (DATE) ______ BY ____________

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

(NAME OF PARTY ON BEHALF OF WHOM RECORD WAS EXECUTED).

____________________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(___________ (TITLE OF OFFICE) __________)

MY COMMISSION EXPIRES: __________

(c) FOR A VERIFICATION ON OATH OR AFFIRMATION:

STATE OF __________________________________

_____________________________________

SIGNATURE OF NOTARIAL OFFICER
COUNTY OF ________________________________

SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON

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

MAKING STATEMENT)

____________________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(________ (TITLE OF OFFICE) ______)

MY COMMISSION EXPIRES: ________

(d) FOR WITNESSING OR ATTESTING A SIGNATURE:

STATE OF ________________________________

COUNTY OF ________________________________

SIGNED BEFORE ME ON ___ (DATE) ___ BY __ (NAME(S) OF

INDIVIDUAL(S))

____________________________________

SIGNATURE OF NOTARIAL OFFICER

STAMP

(________ (TITLE OF OFFICE) ______)

MY COMMISSION EXPIRES: ________

(e) FOR CERTIFYING A COPY OF A RECORD:

STATE OF ________________________________

COUNTY OF ________________________________

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

RECORD IN THE POSSESSION OF ____________________________.

DATED ____________________________

____________________________________

SIGNATURE OF NOTARIAL OFFICER
STAMP

(_______ (TITLE OF OFFICE)_______)

MY COMMISSION EXPIRES: _________

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

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

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

   (II) the notary's identification number;

   (III) the notary's commission expiration date;

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

   (V) the words "notary public"; and

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

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

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

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

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

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

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

(a) THE DATE AND TIME OF THE NOTARIAL ACT;
(b) A DESCRIPTION OF THE RECORD, IF ANY, AND TYPE OF
NOTARIAL ACT;
(c) The full name and address of each individual for whom the notarial act is performed;

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

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

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

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

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

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

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

(7) A certified peace officer, as defined in section
16-2.5-102, acting in the course of an official investigation may
inspect a notary public's journal without restriction.

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

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

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

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

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

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

(3) IN EVERY INSTANCE, THE ELECTRONIC SIGNATURE OF A NOTARY 
PUBLIC MUST CONTAIN OR BE ACCOMPANIED BY THE FOLLOWING 
elements, all of which must be immediately perceptible and 
reproducible in the electronic record to which the notary's 
electronic signature is attached: The notary's name, as it 
appears on the notary's certificate of commission; the notary's 
identification number; the words "Notary Public" and "State of 
Colorado"; a document authentication number issued by the 
secretary of state; and the words "My Commission Expires" 
followed by the expiration date of the notary's commission. A 
notary's electronic signature must conform to any standards 
promulgated by the secretary of state.

24-21-521. Commission as notary public - qualifications - no
immunity or benefit. (1) An individual qualified under subsection (3) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the Secretary of State and pay any application fee. In accordance with section 24-21-111 (1), the Secretary of State may require, at the Secretary of State's discretion, the application required by this section, and any renewal of the application, to be made by electronic means designated by the Secretary of State.

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

(3) An applicant for a commission as a notary public must:

(a) Be at least eighteen years of age;

(b) Be a citizen or permanent legal resident of the United States or otherwise lawfully present in the United States;

(c) Be a resident of or have a place of employment or practice in this state;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under section 24-21-523; and

(f) Have passed the examination required under section 24-21-522 (1).
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 (5) Before issuance of a commission as a notary public, an
6 applicant for the commission shall take the following
7 affirmation in the presence of a person qualified to administer
8 an affirmation in this state:
9
10 I, __ (name of applicant) __, solemnly affirm, under
11 the penalty of perjury in the second degree, as
12 defined in section 18-8-503, Colorado Revised
13 Statutes, that I have carefully read the notary
14 law of this state, and, if appointed and commissioned
15 as a notary public, I will faithfully perform, to the
16 best of my ability, all notarial acts in conformance
17 with the law.
18
19 (Signature of applicant)
20 subscribed and affirmed before me this ____________
21 day of ____________________, 20______.
22
23 (Official signature and seal of person qualified to
24 administer affirmation)
25
26 (6) On compliance with this section, the secretary of state
27 shall issue a commission as a notary public to an applicant for
28 a term of four years, unless revoked in accordance with section
29 24-21-523. An applicant who has been denied appointment and
30 commission may appeal the decision in accordance with article
31 4 of this title 24.
32
33 (7) A commission to act as a notary public authorizes the
notary public to perform notarial acts. The commission does not
provide the notary public any immunity or benefit conferred by
law of this state on public officials or employees.

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

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

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

(a) Failure to comply with this part 5;

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

(c) Notwithstanding section 24-5-101, a conviction of the
APPLICANT OR NOTARY PUBLIC OF ANY FELONY OR, IN THE PRIOR FIVE YEARS, A MISDEMEANOR INVOLVING DISHONESTY;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Which indicates whether a notary public has notified
the secretary of state that the notary public will be performing
notarial acts on electronic records.

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

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

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

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

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

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

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

(4) A notary public, other than an attorney licensed to
practice law in this state, shall not advertise or represent that
the notary public may assist persons in drafting legal records,
give legal advice, or otherwise practice law. If a notary public
who is not an attorney licensed to practice law in this state in
any manner advertises or represents that the notary public
offers notarial services, whether orally or in a record,
INCLUDING BROADCAST MEDIA, PRINT MEDIA, AND THE INTERNET, THE
NOTARY PUBLIC SHALL INCLUDE THE FOLLOWING STATEMENT, OR AN
ALTERNATE STATEMENT AUTHORIZED OR REQUIRED BY THE SECRETARY OF
STATE, IN THE ADVERTISEMENT OR REPRESENTATION, PROMINENTLY AND
IN EACH LANGUAGE USED IN THE ADVERTISEMENT OR REPRESENTATION:
"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF
COLORADO AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR
LEGAL ADVICE. I AM NOT AN IMMIGRATION CONSULTANT, NOR AM I AN
EXPERT ON IMMIGRATION MATTERS. IF YOU SUSPECT FRAUD, YOU MAY
CONTACT THE COLORADO ATTORNEY GENERAL'S OFFICE OR THE
COLORADO SUPREME COURT." IF THE FORM OF ADVERTISEMENT OR
REPRESENTATION IS NOT BROADCAST MEDIA, PRINT MEDIA, OR THE
INTERNET AND DOES NOT PERMIT INCLUSION OF THE STATEMENT REQUIRED
BY THIS SUBSECTION BECAUSE OF SIZE, IT MUST BE DISPLAYED
PROMINENTLY OR PROVIDED AT THE PLACE OF PERFORMANCE OF THE
NOTARIAL ACT BEFORE THE NOTARIAL ACT IS PERFORMED.

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

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

(7) A NOTARY PUBLIC SHALL NOT PERFORM ANY NOTARIAL ACT
WITH RESPECT TO A RECORD THAT IS BLANK OR THAT CONTAINS UNFILLED
BLANKS IN ITS TEXT.
24-21-526. Validity of notarial acts. Except as otherwise provided in section 24-21-504 (2), the failure of a notarial officer to perform a duty or meet a requirement specified in this part does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this part does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this part 5 or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

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

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

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

(c) Include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;
(d) Prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public, including rules for use of the electronic filing system;

(e) Include provisions to prevent fraud or mistake in the performance of notarial acts; and

(f) Provide for the administration of the examination under section 24-21-522(1) and the course of study under section 24-21-522(2).

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this part 5:

(a) The most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(b) Standards, practices, and customs of other jurisdictions that substantially enact this part 5; and

(c) The views of governmental officials and entities and other interested persons.

24-21-528. Disposition of fees. (1) The secretary of state shall collect all fees pursuant to this article 21 in the manner required by section 24-21-104(3) and shall transmit them to the state treasurer, who shall credit them to the department of state cash fund created in section 24-21-104(3)(b).

(2) The general assembly shall make annual appropriations from the department of state cash fund for
EXPENDITURES OF THE SECRETARY OF STATE INCURRED IN THE
PERFORMANCE OF THE SECRETARY OF STATE'S DUTIES UNDER THIS PART 5.

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

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

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

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

(2) A notary public and the surety or sureties on his or
HER BOND ARE LIABLE TO THE PERSONS INVOLVED FOR ALL DAMAGES
PROXIMATELY CAUSED BY THE NOTARY'S OFFICIAL MISCONDUCT.

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

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

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

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

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

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

(b) A record:

(I) Regarding allegiance to a government or jurisdiction;

(II) Relating to the relinquishment or renunciation of
citizenship, sovereignty, in itinere status or world service
authority; or
(III) Setting forth or implying for the bearer a claim of immunity from the law of this state or federal law.

24-21-535. Notary public commission in effect. A commission as a notary public in effect on the effective date of this part 5 continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this part 5 is subject to and shall comply with this part 5. A notary public, in performing notarial acts after the effective date of this part 5, shall comply with this part 5.

24-21-536. Savings clause. This part 5 does not affect the validity or effect of a notarial act performed before the effective date of this part 5.

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

24-21-538. Relation to "Electronic Signatures in Global and National Commerce Act". This part 5 modifies, limits, and supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersedes section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

24-21-539. Effective date. This part 5 takes effect on July 1, 2018.

24-21-540. Repeal. This part 5 is repealed, effective September 1, 2022. Before its repeal, this part 5 is scheduled for
SECTION 3. In Colorado Revised Statutes, 24-34-104, amend (14)(a) introductory portion and (23)(a) introductory portion; repeal (14)(a)(VII); and add (23)(a)(VIII) as follows:

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

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

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

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

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

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

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

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

6-1-727. Immigration-related services provided by nonattorneys - deceptive trade practice. (3) Prohibited practices - assistance with immigration matters - permitted practices.
(e) Notwithstanding paragraphs (a) to (d) of this subsection (3), a person other than a person listed in subparagraph (I) or (II) of paragraph (a) of this subsection (3) may:

(III) Offer other immigration-related services that:

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

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

42-1-211. Colorado state titling and registration system. (1.9) (a) In accordance with section 12-55-104 (6), C.R.S. 24-21-521 (2), the department of revenue and the department of state shall allow for the exchange of information on legal names and signatures between the systems used by the department of revenue and the notary public filing system maintained by the department of state for the purpose of electronic filing of notary applications and renewals.

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

38-30-127. Acknowledgments taken pursuant to other laws. (1) In addition to the acknowledgment of instruments as provided by articles 30 to 44 of this title, instruments may be acknowledged by:

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

(2) Any person otherwise authorized by law to take acknowledgments in this state may take and certify acknowledgments either in accordance with articles 30 to 44 of this title or in the same manner and on the same evidence as provided in part 2 of article 55 of
title 12, C.R.S. PART 5 OF ARTICLE 21 OF TITLE 24. Any certificate of acknowledgment that is taken pursuant to such part 2 shall be valid and have the benefits set forth in subsection (3) of this section, whether such certificate is given before or after January 1, 1999.

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

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

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

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.

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

Capital letters indicate new material to be added to existing statute.
Dash lines through the words indicate deletions from existing statute.
SECTION 1. In Colorado Revised Statutes, add article 54.7 to title 13 as follows:

ARTICLE 54.7
Uniform Wage Garnishment Act

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

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

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

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

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

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

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

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

(a) is treated by an employer as an employee for federal employment tax purposes; or
1.3.17

(b) Receives earnings from an employer through periodic payments and is not treated by the employer as an employee for federal employment tax purposes.

(7) "Employer" means a person that owes or will owe earnings to an employee.

(8) "Garnishee" means:

(a) A person served with a writ of continuing garnishment under section 13-54.7-105 (2)(b); or

(b) A person whose registered agent is served with a writ of continuing garnishment under section 13-54.7-105 (2)(a).

(9) "Garnishment" means an ordered deduction for payment to a creditor under a garnishment action.

(10) "Garnishment action" means a court proceeding in which a garnishment is sought.

(11) "Ordered deduction" means a deduction by an employer from the earnings of an employee for payment to another person under a garnishment action, support order, order to recover federal, state, city, or local taxes, or administrative order issued by a federal or state agency. The term does not include a deduction with the consent of the employee or for current tax obligations.

(12) "Payday" means a regularly scheduled day on which an employer pays earnings to an employee for a pay period or, if the day of payment is uncertain or less often than once a month, the day on which the employer pays earnings to the employee.

(13) "Periodic payments" means recurring payments on set
INTERVALS.

(14) "Person" means an individual, estate, business or non-profit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

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

(16) "Send" means to:

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

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

(c) Cause a record to be received in any other way within the time it would have arrived if sent under subsection (16)(a) of this section.

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

(a) Execute or adopt a tangible symbol; or

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

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally
RECOGNIZED INDIAN TRIBE.

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

13-54.7-103. Scope. (1) This article 54.7 applies only to a garnishment action.

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

(3) Except as otherwise provided in section 13-54.7-114, this article 54.7 does not apply to an ordered deduction that is not a garnishment, including an ordered deduction:

(a) Under an order of a bankruptcy court;

(b) For a debt due for a federal, state, city, or local tax;

(c) Under a support order; or

(d) For fraudulently obtained public assistance or fraudulently obtained overpayments collected pursuant to section 26-2-128 (1)(a).

13-54.7-104. Choice of law. (1) Except as otherwise provided in subsection (2) of this section, the court shall dismiss
OR STAY A GARNISHMENT ACTION IF THE DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT IN THIS STATE WHEN THE ACTION IS COMMENCED.

(2) The court is not required to dismiss or stay a garnishment action under subsection (1) of this section if the employer is subject to personal jurisdiction in this state but not in the state of the debtor's principal place of work.

(3) In a garnishment action subject to subsection (2) of this section, this article 54.7 applies; except that the debtor is entitled to the exemptions from and limits on garnishment provided by the law of the jurisdiction of the debtor's principal place of work.

**13-54.7-105. Commencement of garnishment action.** (1) A creditor may commence a garnishment action by filing a writ of garnishment with the court.

(2) The writ of garnishment under subsection (1) of this section must be served:

(a) On the registered agent if the employer against which the garnishment is sought has a registered agent that can be served with reasonable diligence under rule 4 of the Colorado rules of civil procedure; or

(b) If subsection (2)(a) of this section does not apply, on the employer.

(3) The writ of garnishment under subsection (1) of this section must include:

(a) The name of the debtor;

(b) The last-known physical and mailing addresses of the debtor, or a statement that the information is not known;
(c) The amount the creditor claims is owed by the debtor
and information sufficient to identify the judgment on which the
garnishment action is based;

(d) A completed notice that satisfies section 13-54.7-106;

(e) A notice of Colorado rules about garnishment that
satisfies section 13-54.7-111;

(f) The name of and contact information for the creditor's
agent to which the garnishee is required by sections 13-54.7-106
(1)(a) and (1)(b)(I) and 13-54.7-109 (3) to send information; and

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

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

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

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

and

(II) If the debtor's full social security number is not
known, provides other identifying information known to the
creditor or states that no other identifying information is
known; and

(b) An administrative fee of fifteen dollars payable to the
garnishee.

13-54.7-106. Garnishee response to garnishment action.
(1) Not later than twenty-one days after being served with a writ of garnishment in a garnishment action:

(a) If one of the following grounds applies, the garnishee shall send to the agent named under Section 13-54.7-105 (3)(f) a notice stating the applicable ground:

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

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

(III) The garnishment does not contain all information required by Section 13-54.7-105 (3);

(IV) The writ of garnishment is not accompanied by the separate document required by Section 13-54.7-105 (4)(a) or the document does not contain all the required information; or

(V) The writ of garnishment is not accompanied by the fee required by Section 13-54.7-105 (4)(b); or

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

(I) Send to the agent named under Section 13-54.7-105 (3)(f) a notice that includes:

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

(B) The pay frequency of the employee and the date of the next payday;

(C) The name of and contact information for the garnishee's agent to which the creditor must send information if required by Section 13-54.7-108 (4) or (6) or Section 13-54.7-115.
(1)(b); and

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

(II) Send to the employee a copy of the notices provided to
the garnishee under section 13-54.7-105 (3)(d) and (3)(e).

13-54.7-107. Beginning of garnishment. If section 13-54.7-106
(1)(b)(I) applies, the employer shall begin garnishment on the
first payday that occurs at least thirty days after the
employer sends the employee the notices under section
13-54.7-106 (1)(b)(II).

13-54.7-108. Pendency of garnishment. (1) Not later
than five business days after withholding an amount from the
earnings of an employee under a garnishment action, the
employer shall send the amount to the creditor at the mailing
address specified under section 13-54.7-105 (3)(g) or, at the
employer's option, by another means specified by the creditor
under section 13-54.7-105 (3)(g).

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

(3) An employer shall notify an employee of any amount
withheld as a garnishment in the same manner that the employer
notifies the employee of other withholdings from earnings.

(4) Before termination under section 13-54.7-109 (2) of
A GARNISHMENT ACTION, A CREDITOR MAY SEND THE EMPLOYER A NOTICE REQUIRING THE EMPLOYER TO CHANGE ITS RECORDS TO INDICATE AN INCREASE OR DECREASE IN THE AMOUNT OWED. THE CREDITOR SHALL SEND THE NOTICE TO THE AGENT NAMED UNDER SECTION 13-54.7-106 (1)(b)(I)(C).

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

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

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

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

13-54.7-109. Termination of garnishment action. (1) Not later than twenty-one days after receiving notice under section 13-54.7-106 (1)(a), THE CREDITOR SHALL SEEK DISMISSAL OF THE GARNISHMENT ACTION OR A PROMPT HEARING UNDER SECTION 13-54.7-118 TO DETERMINE WHETHER THE GARNISHEE IS REQUIRED TO
PROCEED UNDER SECTION 13-54.7-106 (1)(b).

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

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

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

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

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

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

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

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

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

Notice of Garnishment

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

You are getting this notice because (name of creditor) says you owe them money
1. Why Am I Getting This Notice?

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

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

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

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

(Name or shortened name of creditor) says you currently owe $(state amount). The amount could go up if there are more court costs or additional interest. The amount also could go down if you make payments to (name or shortened name of creditor).
The person who pays you will soon be required to start taking money from your pay. Money will continue to be taken from your pay until the total amount you owe on this debt is paid.

3. How Will The Amount I Owe Be Paid?

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

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

You have three options:

4. What Options Do I Have?

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

(insert name and contact information for legal aid or lawyer referral service)

Contact (insert name or shortened name of creditor). If you can work something out with them, money might not have to be taken from your pay. This is the creditor's contact information:

(Insert creditor's contact information)
Request a court hearing. A hearing could be helpful if there are any disagreements about the garnishment, for example, if you don’t think you owe money. For help in requesting a hearing, contact:

(insert name and address of appropriate entity)

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

Notice of Garnishment

Debtor:

Creditor:

For Earnings Paid on:

**Calculation of Amount Garnished for this Payday**

Disposable Earnings:

1. Gross Earnings Paid to Debtor $_____
2. Amounts Withheld:
   a. Federal social security tax: $_____
   b. Federal Medicare tax: $_____
   c. Federal income tax: $_____
   d. State income tax: $_____
   e. City or local tax: $_____
   f. Railroad retirement tax: $_____
   g. Other: $_____
3. Total Amounts Withheld (Sum of items in line 2) $_____
4. Disposable Earnings (Line 1 minus line 3) $_____

Garnishment Calculation:

5. (___)% of Disposable Earnings (line 4) $_____
6. Exemption Amount $_____
7. Line 4 minus line 6 (if less than $0, enter $0) $_____
8. Enter smaller of line 5 or line 7 $_____
9. Amounts of Other Current Garnishments with Higher
1. Priority (if none, enter $0) $_____

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

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

4. Divide line 10 by line 11 $_____

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

Statement of Amount Due and Paid

6. Total Amount Currently Claimed by Creditor: $_____

7. Amounts Paid Through Garnishment:

8. a. Prior Garnishments $_____

9. b. This Garnishment (Line 12) $_____

10. c. Total Garnishments $_____

11. Net Amount Owed After Garnishments $_____

to Date (Line 13 minus line 14c)

12. 13-54.7-113. Limits on wage garnishment. (1) The maximum amount of earnings subject to garnishment may not exceed the least of:

13. a. Twenty-five percent of disposable earnings for a workweek;

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

15. c. The amount by which disposable earnings for a workweek exceed thirty times the state minimum wage required by section 15 of article XVIII of the state constitution in effect
AT THE TIME THAT THE EARNINGS ARE PAYABLE.

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

13-54.7-114. Multiple ordered deductions. (1) If more than one ordered deduction is in effect against an employee of an employer, the following rules apply:

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

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

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

(2) Priority of ordered deductions is determined under law of this state other than this article 54.7.
13-54.7-115. Compliance process. (1) A garnishee is not liable for a sanction under section 13-54.7-116 unless:

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

(b) If a creditor files the motion under subsection (1)(a) of this section and an agent has been named under section 13-54.7-106 (1)(b)(I)(C), the creditor sends a copy of the motion to the agent; and

(c) The garnishee fails:

(I) To send the information required by section 13-54.7-106 (1)(a) or (1)(b)(I), or (1)(b)(II), as applicable, not later than fourteen business days after receiving the motion under subsection (1)(a) of this section or a copy of the motion under subsection (1)(b) of this section, whichever is earlier;

(II) To begin garnishment under section 13-54.7-107 not later than twenty-one days after receiving the motion or, if no payday occurs between six and twenty-one days after receiving the motion, on the next payday later than twenty-one days after receiving the motion under subsection (1)(a) of this section or a copy of the motion under subsection (1)(b) of this section, whichever is earlier; or

(III) To remit to the creditor, not later than five business days after receiving the motion, the amount that has been withheld from the earnings of the debtor since garnishment began under section 13-54.7-107 but not properly remitted to the creditor under section 13-54.7-108 (1).
1.3.17

1 (2) For good cause, the court may waive all or any part of the amounts otherwise due under section 13-54.7-116.

13-54.7-116. Garnishee sanctions for noncompliance.

(1) Subject to section 13-54.7-115, the following rules apply:

(a) A garnishee that fails to comply with section 13-54.7-106 is liable to the creditor for twenty dollars for each day beginning twenty-two days after service of the writ of garnishment:

(I) until the garnishee sends the information required by section 13-54.7-106 (1)(a); or

(II) until the earlier of the day the garnishee sends the information required by subsection 13-54.7-106 (1)(b) or garnishment is required to begin under section 13-54.7-107;

(b) A garnishee that fails to comply with section 13-54.7-107 is liable to the creditor for the amount that should have been withheld pursuant to that section and sent to the creditor;

(c) A garnishee that fails to comply with section 13-54.7-108 (1) is liable to the creditor for:

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

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

(d) A garnishee that fails under section 13-54.7-108 (5) to
SEND A CALCULATION WORKSHEET OR A COPY OF THE NOTICE RECEIVED FROM THE CREDITOR IS LIABLE TO THE EMPLOYEE FOR FIVE DOLLARS FOR EACH DAY BEGINNING ON THE PAYDAY WHEN THE WORKSHEET OR NOTICE SHOULD HAVE BEEN SENT AND ENDING THE DAY BEFORE THE GARNISHEE SENDS THE WORKSHEET OR NOTICE:

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

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

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

(h) A REDUCTION OF THE AMOUNT OWED BY THE DEBTOR TO THE CREDITOR UNDER SUBSECTION (1)(g) OF THIS SECTION DOES NOT ENTITLE THE GARNISHEE TO ANY RIGHT OF REIMBURSEMENT, INDEMNITY, OR SUBROGATION AGAINST THE DEBTOR. THIS SUBSECTION (1)(h) MAY NOT BE VARIED BY AGREEMENT.
13-54.7-117. **Creditor sanctions.** (1) If a court determines that a creditor acted in bad faith in seeking a garnishment under this article 54.7, the creditor is liable for:

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

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

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

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

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

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

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

(3) A creditor that fails to comply with subsection (2) of this section is liable for fifty dollars per day beginning on the eighth business day after receiving the notice provided for in that subsection and ending the day before the creditor complies with subsection (2)(a) of this section.
(4) A court may allocate amounts awarded under subsection (1) of this section other than attorney's fees between the garnishee and the individual whose earnings the creditor sought to garnish, taking into consideration which person filed the claim alleging bad faith or sent the notice alleging wrongful garnishment, the extent of each person's participation in the proceedings, and the harm suffered by each person.

(5) For good cause, a court may waive all or part of the amounts otherwise due under subsection (1) of this section.

(6) This section does not limit any other remedy available to a garnishee or an individual whose earnings a creditor sought to garnish under law of this state other than this article 54.7.

13-54.7-118. Hearing. (1) A garnishee, creditor, or debtor at any time may request the court to hold a hearing to determine any issue arising under this article 54.7.

(2) A debtor at any time may request the court to hold a hearing to claim an exemption from or limit on garnishment under law of this state other than this article 54.7.

(3) A hearing requested under this section must be held promptly. The court may enjoin a garnishment until the hearing can be held.

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

(1) An employer may not discharge or take other adverse action against an employee because of a garnishment or attempted garnishment.

(2) Subsection (1) of this section is enforceable by the
POWERS, REMEDIES, AND PROCEDURES USED TO ENFORCE ARTICLE 2 OF
TITLE 8.

13-54.7-120. Other laws not limited. This article 54.7 does
not limit any law of this state other than this article 54.7 that
otherwise limits or prohibits garnishment.

13-54.7-121. Uniformity of application and construction. In
applying and construing this uniform act, consideration must be
given to the need to promote uniformity of the law with respect
to its subject matter among states that enact it.

13-54.7-122. Relation to electronic signatures in global and
national commerce act. This article 54.7 modifies, limits, or
supersedes the federal "Electronic Signatures in Global and
National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not
modify, limit, or supersede section 101 (c) of that act, 15 U.S.C.
sec. 7001 (c), or authorize electronic delivery of any of the
notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003
(b).

13-54.7-123. Savings clause. This article 54.7 does not
affect the validity or effect of a garnishment action filed on or
before the effective date of this article 54.7.

13-54.7-124. Severability. If any provision of this article
54.7 or its application to any person or circumstance is held
invalid, the invalidity does not affect other provisions or
applications of this article 54.7 that can be given effect without
the invalid provision or application, and to this end the
provisions of this article 54.7 are severable.
SECTION 2. In Colorado Revised Statutes, 13-54-104, amend (1)(b)(I)(A) as follows:

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

(b) (I) "Earnings" means:

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

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

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

(2) (a) "Earnings" means:

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

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

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

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

(2) This act applies to writs of garnishment filed on or after the
applicable effective date of this act.
A BILL FOR AN ACT

Concerning adoption of the "Revised Uniform Unclaimed Property Act".

Bill Summary

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

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

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

ARTICLE 13

Revised Uniform Unclaimed Property Act

PART 1

IN GENERAL

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

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

(1) "Administrator" means the state treasurer.

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

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

(4) "Business association" means a for-profit or nonprofit
CORPORATION; JOINT STOCK COMPANY; INVESTMENT COMPANY OTHER THAN AN INVESTMENT COMPANY REGISTERED UNDER THE FEDERAL "INVESTMENT COMPANY ACT OF 1940", AS AMENDED, 15 U.S.C. SECS. 80a-1 TO 80a-64; PARTNERSHIP; UNINCORPORATED ASSOCIATION; JOINT VENTURE; LIMITED LIABILITY COMPANY; BUSINESS TRUST; TRUST COMPANY; LAND BANK; SAFE DEPOSIT COMPANY; SAFEKEEPING DEPOSITORY; FINANCIAL ORGANIZATION; INSURANCE COMPANY; FEDERALLY CHARTERED ENTITY; UTILITY; SOLE PROPRIETORSHIP; OR OTHER BUSINESS ENTITY.

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

(6) "DOMICILE" MEANS:

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

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

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

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

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

(8) "ELECTRONIC MAIL" MEANS ANY COMMUNICATION OF INFORMATION BY ELECTRONIC MEANS THAT IS AUTOMATICALLY RETAINED
AND STORED AND MAY BE READILY ACCESSED OR RETRIEVED.

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

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

(a) INCLUDES:

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

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

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

(B) DIGITAL CODES; AND

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

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

(A) MONEY; OR

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

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

(11) "GIFT CARD" MEANS:

(a) A STORED-VALUE CARD:

(I) THE VALUE OF WHICH DOES NOT EXPIRE; \(<\text{See note, p. 9}\>\)
II) THAT MAY BE DECREASED IN VALUE ONLY BY REDEMPTION FOR MERCHANDISE, GOODS, OR SERVICES; AND

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

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

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

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

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

(14) "LOYALTY CARD" MEANS A RECORD GIVEN WITHOUT DIRECT MONETARY CONSIDERATION, UNDER AN AWARD, REWARD, BENEFIT, LOYALTY, INCENTIVE, REBATE, OR PROMOTIONAL PROGRAM, THAT MAY BE
USED OR REDEEMED ONLY TO OBTAIN GOODS OR SERVICES OR A DISCOUNT ON GOODS OR SERVICES. THE TERM DOES NOT INCLUDE A RECORD THAT MAY BE REDEEMED FOR MONEY OR OTHERWISE MONETIZED BY THE ISSUER.

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

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

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

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

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

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

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

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

   (20) "Non-freely transferable security" means a security
that cannot be delivered to the administrator by the Depository
Trust Clearing Corporation or a similar custodian of securities
providing post-trade clearing and settlement services to
financial markets or cannot be delivered because there is no
agent to effect transfer. The term includes a worthless
security.

   (21) "Owner" means a person that has a legal, beneficial,
or equitable interest in property subject to this Article 13 or the
person's legal representative when acting on behalf of the
owner. The term includes:

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

   (22) "Payroll Card" means a record that evidences a
payroll-card account as defined in Regulation E, 12 CFR Part
1005, as amended.

   (23) "Person" means an individual; estate; business
association; public corporation; government or governmental
12.6.16

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

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

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

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

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

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

(III) A SECURITY EXCEPT FOR:

(A) A WORTHLESS SECURITY; OR

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

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

(V) MONEY DEPOSITED TO REDEEM A SECURITY, MAKE A
DISTRIBUTION, OR PAY A DIVIDEND;
(VI) An amount due and payable under the terms of an annuity contract or insurance policy; and

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

(c) Does not include:

(I) Property held in a plan described in section 529A of the federal "Internal Revenue Code of 1986", as amended, 26 U.S.C. sec. 529A;

(II) Game-related digital content; [or]

(III) A loyalty card.;[;] [or]

[(IV) An in-store credit for returned merchandise][;] [or]

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

(25) "Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this Article 13 or the
ADMINISTRATOR OR A COURT MAKES A FINAL DETERMINATION THAT THE PERSON IS OR IS NOT A HOLDER.

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

(27) "Security" means:

(a) A security as defined in section 4-8-102 (15); or

(b) A security entitlement as defined in section 4-8-102 (17), including a customer security account held by a registered broker-dealer to the extent that the financial assets held in the security account are not:

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

(II) Payable to the order of the person; or

(III) Specifically indorsed to the person; or

(c) An equity interest in a business association not included in subsection (27)(a) or (27)(b) of this section.

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

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

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

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

(30) "Stored-value card": <Note from NCCUSL: The
The definition of a stored-value card includes a payroll card and a gift card.

A state that exempts gift cards may continue to do so by deleting "a gift card" in (30)(a)(II) below. A state that does not exempt gift cards will need to remove the brackets around the words "a gift card" in paragraph (30)(a)(II) and retain the words, and delete the words "gift card" in brackets in (30)(b).

(a) Means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record to the value or amount shown in the record;

(b) Includes:

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

(II) [A gift card and] a payroll card; and

(c) Does not include a loyalty card[, gift card,] or game-related digital content.

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

(a) Transmission of communications or information;

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

(c) Provision of sewage and septic services or trash, garbage, or recycling disposal.
"Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or a store of value, but does not have legal tender status as recognized by the United States. The term does not include:

(a) The software or protocols governing the transfer of the digital representation of value;
(b) Game-related digital content; or
(c) A loyalty card [or gift card].

"Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this article 13.

38-13-103. Inapplicability to wholly foreign transaction. This article 13 does not apply to property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction.

38-13-104. Rule-making. The administrator may adopt under the "State Administrative Procedure Act", article 4 of title 24, rules to implement and administer this article 13.

PART 2

PRESUMPTION OF ABANDONMENT

38-13-201. When property presumed abandoned. (1) Subject to section 38-13-210, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified in this section:

(a) A traveler's check, fifteen years after issuance;
(b) A money order, seven years after issuance;
(c) A state or municipal bond, a bearer bond, or an original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;

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

(e) A payroll card or demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the maturity of the deposit; except that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

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

(See note at end of section.)

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

(I) With respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:
(A) The insurance company has knowledge of the death of the insured; or

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

(II) With respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant.

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

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

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

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

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

(m) All other property not specified in this section or sections 38-13-202 to 38-13-208 [*207*], the earlier of three
YEARS AFTER THE OWNER FIRST HAS A RIGHT TO DEMAND THE PROPERTY OR THE OBLIGATION TO PAY OR DISTRIBUTE THE PROPERTY ARISES.

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

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

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

(a) The following dates:

(I) Except as otherwise provided in subsection (1)(b)(II) of this section, the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or

(II) If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or
(b) The earlier of the following dates:

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

   (II) If the federal "Internal Revenue Code of 1986", as amended, 26 U.S.C. sec. 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:

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

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

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

(3) If the holder does not send communications to the apparent owner of an account described in subsection (1) of this section by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property; except that the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:

   (a) The holder does not have information needed to send the apparent owner an electronic-mail communication or the
HOLDER BELIEVES THAT THE APPARENT OWNER’S ELECTRONIC-MAIL ADDRESS IN THE HOLDER’S RECORDS IS NOT VALID;

(b) The holder receives notification that the electronic-mail communication was not received; or

(c) The apparent owner does not respond to the electronic-mail communication not later than thirty days after the communication was sent.

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

(a) Except as otherwise provided in subsection (4)(b) of this section, the date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;

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

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

38-13-203. When other tax-deferred account presumed abandoned. (1) Subject to section 38-13-210 and except for property described in section 38-13-202 and property held in a plan described in section 529A of the federal "INTERNAL REVENUE CODE OF 1986", as amended, 26 U.S.C. sec. 529A, property held in an account or plan, including a health savings account, that
QUALIFIES FOR TAX DEFERRAL UNDER THE INCOME TAX LAWS OF THE
UNITED STATES IS PRESUMED ABANDONED IF IT IS UNCLAIMED BY THE
OWNER THREE YEARS AFTER THE EARLIER OF:

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

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

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

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

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

(c) THE DATE ON WHICH THE CUSTODIAN IS REQUIRED TO
TRANSFER THE PROPERTY TO THE MINOR OR THE MINOR'S ESTATE IN
ACCORDANCE WITH THE "COLORADO UNIFORM TRANSFERS TO MINORS
ACT", ARTICLE 50 OF TITLE 11.
(2) If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection (1) of this section was opened by first-class United States mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic-mail communication not later than two years after the custodian's last indication of interest in the property; except that the holder promptly shall attempt to contact the custodian by first-class United States mail if:

   (a) The holder does not have information needed to send the custodian an electronic-mail communication or the holder believes that the custodian's electronic-mail address in the holder's records is not valid;

   (b) The holder receives notification that the electronic-mail communication was not received; or

   (c) The custodian does not respond to the electronic-mail communication not later than thirty days after the communication was sent.

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

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

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

38-13-205. When contents of safe-deposit box presumed abandoned. (1) Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this Article 13 are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

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

(b) Earliest date when the lessor of the box is authorized by law of this state other than this Article 13 to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

38-13-206. When stored-value card presumed abandoned. (1) Subject to section 38-13-210, the net value of a stored-value card other than a payroll card [or a gift card] is presumed abandoned on the latest of three years after:

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

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

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

(2) The amount presumed abandoned in a stored-value
CARD IS THE NET CARD VALUE AT THE TIME IT IS PRESUMED ABANDONED.

(Note from NCCUSL: A state that wants to exclude gift cards from unclaimed property should delete the bracketed reference to gift cards in subsection (I). A state that wants to include gift card balances as unclaimed property should delete the brackets and retain the reference to gift cards in subsection (I) to exclude them from the three-year dormancy provided in this section for stored value cards generally. Gift cards would then be reportable based on the five-year dormancy period provided in section 38-13-207.)

[38-13-207. When gift card presumed abandoned. Subject to section 38-13-210, a gift card is presumed abandoned if it is unclaimed by the apparent owner five years after the later of the date of purchase or its most recent use.]

(Note from NCCUSL: A state that wants to exclude gift cards from unclaimed property should delete this section and renumber the succeeding sections in part 2. If gift cards are to be included, the brackets should be removed and the language retained.)

38-13-208. When security presumed abandoned. (1) Subject to section 38-13-210, a security is presumed abandoned three years after:

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

(b) If the second communication is made later than thirty days after the first communication is returned, the date the first communication is returned undelivered to the holder by
THE UNITED STATES POSTAL SERVICE.

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

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

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

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

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

38-13-209. When related property interest presumed abandoned. At and after the time property is presumed abandoned under this part 2, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.
38-13-210. Indication of apparent owner interest in property.

(1) The period after which property is presumed abandoned is measured from the later of:

(a) The date the property is presumed abandoned under this part 2; or

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

(2) Under this article 13, an indication of an apparent owner's interest in property includes:

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

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

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

(d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
(e) Making a deposit into or withdrawal from an account
at a financial organization, including an automatic deposit or
withdrawal previously authorized by the apparent owner other
than an automatic reinvestment of dividends or interest;
(f) Subject to subsection (5) of this section, payment of a
premium on an insurance policy; and
(g) Any other action by the apparent owner that
reasonably demonstrates to the holder that the apparent
owner is aware that the property exists.

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

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

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

38-13-211. Knowledge of death of insured or annuitant -
definition. (1) In this section, "death master file" means the
United States social security administration's death master file
OR OTHER DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE
AS THE UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH
MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS
DIED.

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

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

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

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

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

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

(II) Validates the death of the insured or annuitant.

(3) The following rules apply under this section:

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

(I) A law of this state other than this article 13;

(II) A rule or policy adopted by the commissioner of insurance; or

(III) Absent a law, rule, or policy, under subsection (3)(a)(I) or (3)(a)(II) of this section, standards in the [National Conference of Insurance Legislators' "Model Unclaimed Life Insurance Benefits Act" as published in 2014].

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

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

(d) If no provision in Title 10 or rules of the commissioner of insurance establishes a time for the validation of a death of an insured or annuitant, the insurance company shall make a good-faith effort using other available records and information to validate the death and document the effort taken not later than ninety days after the insurance company has notice of the death.

(4) This article does not affect the determination of the extent to which an insurance company, before the effective date of this article, as amended, had knowledge of the death of an insured or annuitant or was required to conduct a death-master-file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed.

38-13-212. Deposit account for insurance policy or annuity contract. If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check- or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account.

The following 8 sections import Colorado-specific provisions from the prior "Unclaimed Property Act". Not included, because they appear to be subsumed by the new material, are sections 38-13-107.5
("Stock and other intangible interest in business associations"), 38-13-107.9 ("Property of business associations held in the course of dissolution"), 38-13-108.4 ("Gift certificates and credit memos"), 38-13-108.7 (exempting "Gaming chips or tokens"), 38-13-108.9 ("Unclaimed gift cards"), and 38-13-109.5 ("Funds owing under life insurance policies").}

38-13-213. [Similar to former 38-13-107.1] Deposits held by utilities. Except as otherwise provided for unclaimed utility deposits under section 40-8.5-106, a deposit, including any interest thereon, made after January 1, 1992, by a subscriber with a utility to secure payment or any sum paid in advance after January 1, 1992, for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

38-13-214. [Similar to former 38-13-107.3] Refunds held by business associations. Except to the extent otherwise ordered by a court or administrative agency, any sum that a business association has been ordered to refund by a court or administrative agency that remains unclaimed by the owner for more than one year after it became payable in accordance with the final determination or order providing for the refund, whether or not the final determination or order requires any person entitled to a refund to make a claim for it, is presumed abandoned.

38-13-215. [Similar to former 38-13-108.2] Property held by
courts and public agencies. (1) Except as set forth in subsection (2) of this section, intangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation, or public authority that remains unclaimed by the owner for more than one year after becoming payable or distributable is presumed abandoned.

(2) Any overbid, as defined in section 38-38-100.3, that is equal to or greater than twenty-five dollars and that remains unclaimed for five years after the date of sale is presumed abandoned.

38-13-216. [Similar to former 38-13-108.3] Funds held in lawyer COLTAF trust accounts - exemption. This article does not apply to money held in a lawyer COLTAF trust account.

38-13-217. [Similar to former 38-13-108.5] Money held by the public employees' retirement association - definitions. (1) For the purposes of this section, unless the context otherwise requires:

(a) "Account left inactive" means the contributions of any nonvested member who has terminated employment with an employer if the member's member contribution account with the association has been left inactive.

(b) "Association" means the public employees' retirement association created pursuant to section 24-51-201.

(c) "Benefit" has the same meaning as set forth in section 24-51-101 (7).

(d) "Benefit recipient" has the same meaning as set forth in section 24-51-101 (8).

(e) "Employer" has the same meaning as set forth in
SECTION 24-51-101 (20).

(f) "Member" has the same meaning as set forth in Section 24-51-101 (20).

(g) "Unclaimed benefit" means a benefit owed to any benefit recipient if the benefit remains unpaid.

(h) "Unclaimed member refund" means the contributions of a member who has terminated employment with an employer and who has requested a refund of the contributions if the refund remains unpaid.

(2) Any money and any accrued interest held by the association for accounts left inactive, unclaimed benefits, or unclaimed member refunds are presumed abandoned if the money, benefit, or refund remains unclaimed for more than five years after the money, benefit, or refund becomes payable or distributable pursuant to Article 51 of Title 24 unless the owner of the money, within five years, has:

(a) Communicated in writing with the association concerning the money; or

(b) Otherwise indicated an interest in the money as evidenced by a memorandum or other record on file prepared by an employee of the association.

(3) Property that is presumed abandoned pursuant to this section is the only property held by the association that is subject to this Article 13.

38-13-218. [Similar to former 38-13-108.6] Wages. Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder's business
THAT REMAIN UNCLAIMED BY THE OWNER FOR MORE THAN ONE YEAR AFTER BECOMING PAYABLE ARE PRESUMED ABANDONED.

38-13-219. [Similar to former 38-13-108.8] Property held by racetracks - inapplicability. This article 13 does not apply to any intangible unclaimed property held by a racetrack, as defined in section 12-60-102 (26).


(1) On and after October 1, 2002, any amount due and payable as a refund of Colorado income tax or grant for property taxes, rent, or heat or fuel expenses assistance represented by a warrant that has not been presented for payment within six months after the date of issuance of the warrant and that has been forwarded by the department of revenue to the administrator pursuant to section 39-21-108 (5) is presumed abandoned.

(2) On and after October 1, 2010, any amount due and payable as a refund of a tax imposed or assessed by the department of revenue that is not addressed in subsection (1) of this section, that is represented by a warrant that has not been presented for payment within six months after the date of issuance of the warrant, and that has been forwarded by the department to the administrator pursuant to section 39-21-108 (7) is presumed abandoned.

PART 3
RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED

38-13-301. Address of apparent owner to establish priority.
(1) In this part 3, the following rules apply:

(a) The last-known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner;

(b) If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last-known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state;

(c) If the address under subsection (1)(b) of this section is in another state, the other state is deemed to be the state of the last-known address of the apparent owner; and

(d) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under section 38-13-302.

38-13-302. Address of apparent owner in this state. (1) The administrator may take custody of property that is presumed abandoned, whether located in this state, another state, or a 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
4 (b) The records of the holder do not reflect the identity
5 or last-known address of the apparent owner, but the
6 administrator has determined that the last-known address of
7 the apparent owner is in this state.

38-13-303. If records show multiple addresses of apparent
owner. (1) Except as otherwise provided in subsection (2) of this
section, if records of a holder reflect multiple addresses for an
apparent owner and if this state is the state of the most
recently recorded address, this state may take custody of
property presumed abandoned, whether located in this state or
another state.

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

38-13-304. Holder domiciled in this state. (1) Except as
otherwise provided in subsection (2) of this section or in section
38-13-302 or 38-13-303, the administrator may take custody of
property presumed abandoned, whether located in this state,
another state, or a foreign country, if the holder is domiciled in
this state or is this state or a governmental subdivision, agency,
or instrumentality of this state, and:

(a) Another state or foreign country is not entitled to
THE PROPERTY BECAUSE THERE IS NO LAST-KNOWN ADDRESS IN THE
RECORDS OF THE HOLDER OF THE APPARENT OWNER OR OTHER PERSON
ENTITLED TO THE PROPERTY; OR

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

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

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

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

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

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

(b) THE HOLDER IS DOMICILED IN A STATE THAT DOES NOT PROVIDE
FOR THE CUSTODIAL TAKING OF THE PROPERTY; EXCEPT THAT, IF THE
PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL TAKING UNDER THE
LAW OF THE STATE OF THE HOLDER'S DOMICILE, THE PROPERTY IS NOT
1. SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR; AND

2. (c) The last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property; except that, if the property is specifically exempt from custodial taking under the law of the state of the last-known address, the property is not subject to the custody of the administrator.

38-13-306. Traveler's check, money order, or similar instrument. The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under [12 U.S.C. secs. 2501 to 2503, as amended] [federal law].

38-13-307. Burden of proof to establish administrator's right to custody. (1) If the administrator asserts a right to custody of unclaimed property, the administrator has the burden to prove:

(a) The existence and amount of the property;

(b) That the property is presumed abandoned; and

(c) That the property is subject to the custody of the administrator.

PART 4

REPORT BY HOLDER

38-13-401. Report required by holder. (1) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property. The administrator shall not require a holder to file a paper report.

(2) A holder may contract with a third party to make the
REPORT REQUIRED UNDER SUBSECTION (1) OF THIS SECTION.

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

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

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

38-13-402. Content of report. (1) The report required under section 38-13-401 must:

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

(b) If filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner in the same manner as required of the administrator and the administrator’s agent under part 14 of this article 13;

(c) Describe the property;

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

(e) For an amount held or owing under a life or endowment insurance policy or annuity contract, contain the full name and last-known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;
(f) For property held in or removed from a safe-deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under section 38-13-606;

(g) Contain the commencement date for determining abandonment under part 2 of this article 13;

(h) State that the holder has complied with the notice requirements of section 38-13-501;

(i) Identify property that is a non-freely transferable security, and explain why it is a non-freely transferable security; and

(j) Contain other information the administrator prescribes by rules necessary for the administrator.

(2) A report under section 38-13-401 may include in the aggregate items valued under [fifty dollars] each. If the report includes items in the aggregate valued under [fifty dollars] each, the administrator shall not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(3) A report under section 38-13-401 may include personal information as defined in section 38-13-1402 (1)(c) about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(4) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent

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

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


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

(a) The information required to be included in the report;

(b) The date, place, and nature of the circumstances that gave rise to the property right;

(c) The amount or value of the property;

(d) The last address of the apparent owner, if known to the holder; and

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

38-13-405. When property reportable and payable or deliverable. Property is reportable and payable or deliverable under this article 13 even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

PART 5

NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED

38-13-501. Notice to apparent owner by holder. (1) Subject to subsection (2) of this section, the holder of property presumed abandoned shall send to the apparent owner notice that complies with section 38-13-502 in a format acceptable to the administrator, by first-class United States mail, not more than one hundred eighty days nor less than sixty days before filing
THE REPORT UNDER SECTION 38-13-401 IF:

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

(b) The value of the property is [fifty dollars] or more.

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

38-13-502. Contents of notice by holder. (1) The notice under section 38-13-501 must contain a heading that reads substantially as follows: "Notice. The State of Colorado requires us to notify you that your property may be transferred to the custody of the state treasurer if you do not contact us before [insert date that is thirty days after the date of this notice].".

(2) The notice under section 38-13-501 must:

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

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

(c) State that after the property is turned over to the
ADMINISTRATOR AN APPARENT OWNER THAT SEEKS RETURN OF THE
PROPERTY MUST FILE A CLAIM WITH THE ADMINISTRATOR;

(d) STATE THAT PROPERTY THAT IS NOT LEGAL TENDER OF THE
United States may be sold by the administrator; and

(e) PROVIDE INSTRUCTIONS THAT THE APPARENT OWNER MUST
follow to prevent the holder from reporting and paying or
delivering the property to the administrator.

38-13-503. Notice by administrator. (1) The administrator
shall give notice to an apparent owner that property that is
presumed abandoned and appears to be owned by the apparent
owner is held by the administrator under this article 13.

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

(a) Except as otherwise provided in subsection (2)(b) of
this section, send written notice by first-class United States
mail to each apparent owner of property valued at [fifty
dollars] or more held by the administrator, unless the
administrator determines that a mailing by first-class United
States mail would not be received by the apparent owner, and,
in the case of a security held in an account for which the
apparent owner had consented to receiving electronic mail from
the holder, send notice by electronic mail if the electronic-mail
address of the apparent owner is known to the administrator
instead of by first-class United States mail; or

(b) Send the notice to the apparent owner's
electronic-mail address if the administrator does not have a
valid United States mail address for an apparent owner, but has
AN ELECTRONIC-MAIL ADDRESS THAT THE ADMINISTRATOR DOES NOT KNOW TO BE INVALID.

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

(a) Publish every [SIX] months in at least one newspaper of general circulation in each county in this state notice of property held by the administrator, which notice must include:

(I) The total value of property received by the administrator during the preceding [SIX]-month period, taken from the reports under section 38-13-401;

(II) The total value of claims paid by the administrator during the preceding [SIX]-month period;

(III) The internet web address of the unclaimed property website maintained by the administrator;

(IV) A telephone number and electronic-mail address to contact the administrator to inquire about or claim property; and

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

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

(4) The website or database maintained under subsection (3)(b) of this section must include instructions for filing with the
ADMINISTRATOR A CLAIM TO PROPERTY AND A PRINTABLE CLAIM FORM WITH INSTRUCTIONS FOR ITS USE.

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

38-13-504. Cooperation among state officers and agencies to locate apparent owner. Unless prohibited by law of this state other than this article 13, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this article 13.

PART 6

TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

38-13-601. Definition of good faith. (1) In this Part 6, payment or delivery of property is made in good faith if a holder:

(a) Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this Article 13; or
(b) Made payment or delivery:

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

(II) Under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

38-13-602. Dormancy charge. (1) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

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

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

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

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

(1) Except as otherwise provided in this section, on filing a report under section 38-13-401, the holder shall pay or deliver to the administrator the property described in the report.

(2) If property in a report under section 38-13-401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to
THE ADMINISTRATOR AT THE TIME OF THE REPORT, THE DATE FOR
PAYMENT OF THE PROPERTY TO THE ADMINISTRATOR IS EXTENDED UNTIL
A PENALTY OR FORFEITURE NO LONGER WOULD RESULT FROM PAYMENT,
IF THE HOLDER INFORMS THE ADMINISTRATOR OF THE EXTENDED DATE.

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

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

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

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

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

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

(7) AN ISSUER, HOLDER, AND TRANSFER AGENT OR OTHER PERSON
ACTING UNDER THIS SECTION UNDER INSTRUCTIONS OF AND ON BEHALF OF
THE ISSUER OR HOLDER IS NOT LIABLE TO THE APPARENT OWNER FOR, AND
SHALL BE INDEMNIFIED BY THE STATE AGAINST, A CLAIM ARISING WITH
RESPECT TO PROPERTY AFTER THE PROPERTY HAS BEEN DELIVERED TO THE
ADMINISTRATOR.

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

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

(2) THIS STATE SHALL DEFEND AND INDEMNIFY A HOLDER AGAINST
LIABILITY ON A CLAIM AGAINST THE HOLDER RESULTING FROM THE
PAYMENT OR DELIVERY OF PROPERTY TO THE ADMINISTRATOR MADE IN
GOOD FAITH AND AFTER THE HOLDER SUBSTANTIALLY COMPLIES WITH

38-13-605. Recovery of property by holder from
administrator. (1) A holder that pays money to the administrator under this article may file a claim for reimbursement from the administrator of the amount paid if the holder:

(a) paid the money in error; or

(b) after paying the money to the administrator, paid the money to a person the holder reasonably believed to be entitled to the money.

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

(3) If a holder is reimbursed by the administrator under subsection (1)(b) of this section, the holder may also recover from the administrator income or gain under section 38-13-607 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.

(4)(a) A holder that delivers property other than money to the administrator under this article may file a claim for
RETURN OF THE PROPERTY FROM THE ADMINISTRATOR IF:

(I) The holder delivered the property in error; or

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

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

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

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

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

(8) The claimant may initiate a proceeding under the "State Administrative Procedure Act", article 4 of title 24, for review of the administrator's decision or the deemed denial under subsection (7) of this section not later than:

(a) Thirty days following receipt of the notice of the administrator's decision; or

(b) One hundred twenty days following the filing of a
CLAIM UNDER SUBSECTION (1) OR (4) OF THIS SECTION IN THE CASE OF A
DEEMED DENIAL UNDER SUBSECTION (7) OF THIS SECTION.

38-13-606. Property removed from safe-deposit box. PROPERTY
REMOVED FROM A SAFE-DEPOSIT BOX AND DELIVERED TO THE
ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO THE HOLDER’S
RIGHT TO REIMBURSEMENT FOR THE COST OF OPENING THE BOX AND A
LIEN OR CONTRACT PROVIDING REIMBURSEMENT TO THE HOLDER FOR
UNPAID RENT CHARGES FOR THE BOX. THE ADMINISTRATOR SHALL
REIMBURSE THE HOLDER FROM THE PROCEEDS REMAINING AFTER
DEDUCTING THE EXPENSE INCURRED BY THE ADMINISTRATOR IN SELLING
THE PROPERTY.

38-13-607. Crediting income or gain to owner's account. (1) If
PROPERTY OTHER THAN MONEY IS DELIVERED TO THE ADMINISTRATOR,
THE OWNER IS ENTITLED TO RECEIVE FROM THE ADMINISTRATOR INCOME
OR GAIN REALIZED OR ACCRUED ON THE PROPERTY BEFORE THE PROPERTY
IS SOLD. IF THE PROPERTY WAS AN INTEREST-BEARING DEMAND, SAVINGS,
OR TIME DEPOSIT, THE ADMINISTRATOR SHALL PAY INTEREST AT THE
LESSER OF EIGHT PERCENT PER ANNUM, COMPOUNDED ANNUALLY, OR THE
RATE THE PROPERTY EARNED WHILE IN THE POSSESSION OF THE HOLDER.
INTEREST BEGINS TO ACCRUE WHEN THE PROPERTY IS DELIVERED TO THE
ADMINISTRATOR AND ENDS ON THE EARLIER OF THE EXPIRATION OF TEN
YEARS AFTER ITS DELIVERY OR THE DATE ON WHICH PAYMENT IS MADE TO
THE OWNER.

(2) INTEREST ON INTEREST-BEARING PROPERTY IS NOT PAYABLE
UNDER THIS SECTION FOR ANY PERIOD BEFORE THE EFFECTIVE DATE OF
THIS ARTICLE 13, AS AMENDED, UNLESS AUTHORIZED BY THIS ARTICLE 13
PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED.
Would a specific effective date, such as Sept. 1, 2017, make this clearer? (DHG)>

38-13-608. Administrator's options as to custody. (1) The administrator may decline to take custody of property reported under section 38-13-401 if the administrator determines that:

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

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

(2) A holder may pay or deliver property to the administrator before the property is presumed abandoned under this article 13 if the holder:

(a) Sends the apparent owner of the property the notice or notices required by section 38-13-501 and provides the administrator evidence of the holder's compliance with this subsection (2)(a);

(b) Includes with the payment or delivery a report regarding the property conforming to section 38-13-402; and

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

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

(4) On payment or delivery of property under subsection
(2) OF THIS SECTION, THE PROPERTY IS PRESUMED ABANDONED.


[(2) AN ACTION OR PROCEEDING SHALL NOT BE COMMENCED AGAINST THE STATE, AN AGENCY OF THE STATE, THE ADMINISTRATOR, ANOTHER OFFICER, EMPLOYEE, OR AGENT OF THE STATE, OR A HOLDER FOR OR BECAUSE OF AN ACT OF THE ADMINISTRATOR UNDER THIS SECTION, EXCEPT FOR INTENTIONAL MISCONDUCT OR MALFEASANCE.]

Note from NCCUSL: A state should determine whether subsection (2) is covered by its sovereign immunity tort claims act and decide how to proceed with subsection (2). If it chooses not to include subsection (2), the state should remove it and the brackets from around [III].

38-13-610. Periods of limitation and repose. (1) Expiration, before, on, or after [THE EFFECTIVE DATE OF THIS ARTICLE 13, AS AMENDED], OF A PERIOD OF LIMITATION ON AN OWNER'S RIGHT TO RECEIVE OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT, STATUTE, OR COURT ORDER DOES NOT PREVENT THE PROPERTY FROM BEING PRESUMED ABANDONED OR AFFECT THE DUTY OF A HOLDER TO FILE A REPORT OR PAY OR DELIVER PROPERTY TO THE ADMINISTRATOR UNDER THIS ARTICLE 13.

(2) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION OR PROCEEDING TO ENFORCE THIS ARTICLE 13 WITH RESPECT TO THE
REPORTING, PAYMENT, OR DELIVERY OF PROPERTY MORE THAN FIVE YEARS
AFTER THE HOLDER FILED A NONFRAUDULENT REPORT WITH THE
ADMINISTRATOR UNDER SECTION 38-13-401. THE PARTIES MAY AGREE IN
A RECORD TO EXTEND THE LIMITATION IN THIS SUBSECTION (2).

(3) THE ADMINISTRATOR SHALL NOT COMMENCE AN ACTION,
PROCEEDING, OR EXAMINATION WITH RESPECT TO A DUTY OF A HOLDER
UNDER THIS ARTICLE 13 MORE THAN TEN YEARS AFTER THE DUTY AROSE.

PART 7
SALE OF PROPERTY BY ADMINISTRATOR

38-13-701. Public sale of property. (1) SUBJECT TO SECTION
38-13-702, NOT EARLIER THAN [THREE] YEARS AFTER RECEIPT OF
PROPERTY THAT IS PRESUMED ABANDONED, THE ADMINISTRATOR MAY
SELL THE PROPERTY.

(2) BEFORE SELLING PROPERTY UNDER SUBSECTION (1) OF THIS
SECTION, THE ADMINISTRATOR SHALL GIVE NOTICE TO THE PUBLIC OF:

(a) THE DATE OF SALE; AND

(b) A REASONABLE DESCRIPTION OF THE PROPERTY.

(3) A SALE UNDER SUBSECTION (1) OF THIS SECTION MUST BE TO
THE HIGHEST BIDDER:

(a) AT PUBLIC SALE AT A LOCATION IN THIS STATE THAT THE
ADMINISTRATOR DETERMINES TO BE THE MOST FAVORABLE MARKET FOR
THE PROPERTY; OR

(b) ON THE INTERNET; OR

(c) ON ANOTHER FORUM THE ADMINISTRATOR DETERMINES IS
LIKELY TO YIELD THE HIGHEST NET PROCEEDS OF SALE.

(4) THE ADMINISTRATOR MAY DECLINE THE HIGHEST BID AT A SALE
UNDER SUBSECTION (1) OF THIS SECTION AND REOFFER THE PROPERTY FOR
SALE IF THE ADMINISTRATOR DETERMINES THE HIGHEST BID IS INSUFFICIENT.

(5) If a sale held under this section is to be conducted other than on the Internet, the administrator must publish at least one notice of the sale at least [three] weeks but not more than [five] weeks before the sale in a newspaper of general circulation in the [county] in which the property is sold.

38-13-702. Disposal of securities. (1) The administrator shall not sell or otherwise liquidate a security until three years after the administrator receives the security and gives the apparent owner notice under section 38-13-503 that the administrator holds the security.

(2) The administrator shall not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

38-13-703. Recovery of securities or value by owner. (1) If the administrator sells a security before the expiration of six years after delivery of the security to the administrator, an apparent owner that files a valid claim under this article 13 of ownership of the security before the six-year period expires is entitled, at the option of the administrator, to receive:

(a) A replacement of the security; or

(b) The market value of the security at the time the claim is filed plus dividends, interest, and other increments on the security up to the time the claim is paid.
(2) Replacement of the security or calculation of market value under subsection (1) of this section must take into account a stock split, reverse stock split, stock dividend, or similar corporate action.

(3) A person that makes a valid claim under this article of ownership of a security after expiration of six years after delivery of the security to the administrator is entitled to receive:

(a) The security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the administrator delivers the security to the person; or

(b) The net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security was sold.

38-13-704. Purchaser owns property after sale. A purchaser of property at a sale conducted by the administrator under this article takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

38-13-705. Military medal or decoration. (1) The administrator shall not sell a medal or decoration awarded for military service in the armed forces of the United States.

(2) The administrator, with the consent of the respective organization under subsection (2)(a) of this section, agency
UNDER SUBSECTION (2)(b) OF THIS SECTION, OR ENTITY UNDER
SUBSECTION (2)(c) OF THIS SECTION, MAY DELIVER A MEDAL OR
DECORATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO BE HELD
IN CUSTODY FOR THE OWNER, TO:

(a) A MILITARY VETERANS’ ORGANIZATION QUALIFIED UNDER
SECTION 501 (c)(19) OF THE FEDERAL "INTERNAL REVENUE CODE OF
1986", AS AMENDED, 26 U.S.C. SEC. 501 (c)(19);
(b) THE AGENCY THAT AWARDED THE MEDAL OR DECORATION; OR
(c) A GOVERNMENTAL ENTITY.

(3) ON DELIVERY UNDER SUBSECTION (2) OF THIS SECTION, THE
ADMINISTRATOR IS NOT RESPONSIBLE FOR SAFEKEEPING OF THE MEDAL OR
DECORATION.

PART 8
ADMINISTRATION OF PROPERTY

38-13-801. [Similar to former 38-13-116.5] Unclaimed
property trust fund - creation - payments - interest - appropriations
- records - rules. (1) (a) THERE IS HEREBY CREATED IN THE STATE
TREASURY THE UNCLAIMED PROPERTY TRUST FUND. THE PRINCIPAL IN THE
TRUST FUND CONSISTS OF ALL MONEY RECEIVED BY THE ADMINISTRATOR
FROM SALES OF UNCLAIMED PROPERTY PURSUANT TO PART 7 OF THIS
ARTICLE 13 OR OTHERWISE COLLECTED BY THE ADMINISTRATOR UNDER
THIS ARTICLE 13.
(b) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS
SECTION, THE PRINCIPAL OF THE TRUST FUND SHALL NOT BE EXPENDED
EXCEPT TO PAY CLAIMS MADE PURSUANT TO THIS ARTICLE 13. MONEY
CONSTITUTING THE PRINCIPAL OF THE TRUST FUND IS NOT FISCAL YEAR
SPENDING OF THE STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF
THE STATE CONSTITUTION AND IS NOT SUBJECT TO APPROPRIATION BY THE
GENERAL ASSEMBLY.

(c) All interest derived from the deposit and investment
of money in the trust fund shall be credited to the trust fund.

(d) The money in the unclaimed property trust fund does
not revert to the general fund at the end of any fiscal year.

(2) (a) For the 2001-02 fiscal year and each fiscal year
thereafter, the general assembly shall make annual
appropriations out of the principal of the unclaimed property
trust fund for the direct and indirect costs of administering this
article 13, except as provided for the payment of contract
auditor services in subsection (2)(b) of this section.

(b) Money in the unclaimed property trust fund is
continuously appropriated to the state treasurer for the
payment of contract auditor services. Any money appropriated
for the payment of contract auditor services shall be paid from
revenues collected by contract auditors.

(c) The state treasurer shall promulgate rules in
accordance with article 4 of title 24 as necessary to administer
payment for contract auditor services, including any rules
necessary to:

(I) Specify the requirements or expertise of contract
auditors;

(II) Adequately protect unclaimed property while the
property is in the possession of the contract auditor; and

(III) Prevent identity theft and the sale or transfer of
personal identifying information obtained by the contract
AUDITOR DURING THE COURSE OF THE CONTRACT AUDITOR'S DUTIES.

(d) The following amounts constitute fiscal year spending for purposes of section 20 of article X of the state constitution:

(I) Any money that is appropriated to the department of the treasury as required by this subsection (2);

(II) Any money that is credited to the adult dental fund created in section 25.5-5-207 (4) as required by subsection (3) of this section.

(3) (a) (I) On and after April 1, 2014, after reserving the amounts described in subsection (3)(b) of this section, the state treasurer shall transmit to the adult dental fund created in section 25.5-5-207 (4) an amount of principal and interest in the trust fund sufficient to implement the adult dental benefit pursuant to section 25.5-5-202 (1)(w).

(II) On June 30, 2016, the state treasurer shall deduct thirty-four million eight hundred thousand dollars from the unclaimed property trust fund and transfer such sum to the adult dental fund created in section 25.5-5-207 (4) to implement the adult dental benefit pursuant to section 25.5-5-202 (1)(w) for the fiscal year 2016-17.

(b) The state treasurer shall reserve in the trust fund and shall not transfer any money necessary for:

(I) The claims paid pursuant to this article 13 for each fiscal year;

(II) The reserve amount necessary to pay anticipated claims; and

(III) Publications and correspondence expenses pursuant
(4) **Before crediting any money to the trust fund pursuant to subsection (1) of this section, the administrator shall record the name and last-known address of each person appearing from the holders’ reports to be entitled to the property. The record must be available for public inspection during all reasonable business hours.**

(The following subsection (5) is from RUUPA, section 801(2).

*It may no longer be needed.*}

(5) **The administrator shall maintain an account with an amount of money the administrator reasonably estimates is sufficient to pay claims allowed under this article 13 [in each fiscal [year] [quarter]]. If the aggregate amount of claims by owners allowed at any time exceeds the amount held in the account, an excess claim must be paid out of the general fund.**

38-13-801.5. **[Similar to former 38-13-116.7] Unclaimed property tourism promotion trust fund - creation - payments - interest - transfers.** (1) **There is hereby created in the state treasury the unclaimed property tourism promotion trust fund. The principal in the trust fund consists of all proceeds collected by the administrator from the sale of securities under this article 13.**

(2) **The principal of the unclaimed property tourism promotion trust fund shall not be expended except to pay claims made pursuant to this article 13. Money constituting the principal of the trust fund that is credited to or expended from the trust fund to pay claims is not fiscal year spending of the**
STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
CONSTITUTION, AND SUCH MONEY IS DEEMED CUSTODIAL FUNDS THAT ARE
NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY.

(3) (a) BEGINNING WITH THE 2008-09 STATE FISCAL YEAR, THE
INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND SHALL BE
CREDITED TO THE FOLLOWING FUNDS:

(I) TWENTY-FIVE PERCENT OF THE INTEREST TO THE COLORADO
STATE FAIR AUTHORITY CASH FUND CREATED IN SECTION 35-65-107 (1),
SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO
SECTION 35-65-107 (3)(b);

(II) SIXTY-FIVE PERCENT OF THE INTEREST TO THE AGRICULTURE
MANAGEMENT FUND CREATED IN SECTION 35-1-106.9, SUBJECT TO
APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO SECTION
35-1-106.9; AND

(III) (A) TEN PERCENT OF THE INTEREST TO THE COLORADO
TRAVEL AND TOURISM PROMOTION FUND CREATED IN SECTION 24-49.7-106
(1), SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT
TO SECTION 24-49.7-106 (3) FOR USE IN THE PROMOTION OF AGRITOURISM
IN THE STATE. FOR THE PURPOSES OF THIS SUBSECTION (3)(a)(III),
"AGRITOURISM" MEANS THE PRACTICE OF ENGAGING IN ACTIVITIES,
EVENTS, AND SERVICES THAT HAVE BEEN PROVIDED TO CONSUMERS FOR
RECREATIONAL, ENTERTAINMENT, OR EDUCATIONAL PURPOSES AT A FARM,
RANCH, OR OTHER AGRICULTURAL, HORTICULTURAL, OR AGRIBUSINESS
OPERATION IN ORDER TO ALLOW CONSUMERS TO EXPERIENCE, LEARN
ABOUT, AND PARTICIPATE IN VARIOUS FACETS OF AGRICULTURAL
INDUSTRY, CULINARY PURSUITS, NATURAL RESOURCES, AND HERITAGE.
(B) THE BOARD OF DIRECTORS OF THE COLORADO TOURISM OFFICE CREATED IN SECTION 24-49.7-103 SHALL CONSULT ANNUALLY, AND EXECUTE A MEMORANDUM OF UNDERSTANDING, WITH THE COMMISSIONER OF AGRICULTURE REGARDING THE EXPENDITURE OF MONEY CREDITED PURSUANT TO SUBSECTION (3)(a)(III)(A) OF THIS SECTION IN ORDER TO COORDINATE AGRITOURISM PROMOTION EFFORTS.

(b) ANY MONEY THAT IS CREDITED TO AND EXPENDED FROM THE COLORADO STATE FAIR AUTHORITY CASH FUND, THE AGRICULTURE MANAGEMENT FUND, OR THE TRAVEL AND TOURISM PROMOTION FUND PURSUANT TO THIS SUBSECTION (3) CONSTITUTES FISCAL YEAR SPENDING OF THE STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(4) THE MONEY IN THE UNCLAIMED PROPERTY TOURISM PROMOTION TRUST FUND DOES NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

38-13-802. Administrator to retain records of property.

(1) The administrator shall:

(a) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS OF EACH PERSON SHOWN ON A REPORT FILED UNDER SECTION 38-13-401 TO BE THE APPARENT OWNER OF THE PROPERTY DELIVERED TO THE ADMINISTRATOR;

(b) RECORD AND RETAIN THE NAME AND LAST-KNOWN ADDRESS OF EACH INSURED OR ANNUITANT AND BENEFICIARY SHOWN ON THE REPORT;

(c) WITH RESPECT TO EACH POLICY OF INSURANCE OR ANNUITY CONTRACT LISTED IN THE REPORT OF AN INSURANCE COMPANY, RECORD AND RETAIN THE POLICY OR ACCOUNT NUMBER, THE NAME OF THE
COMPANY, AND THE AMOUNT DUE OR PAID; AND

(d) With respect to each apparent owner listed in the report, record and retain the name of the holder who filed the report and the amount due or paid.


(1) Before making a deposit of money received under this article 13 to the [general fund of the state], the administrator may deduct:

(a) Expenses of disposition of property delivered to the administrator under this article 13;

(b) Costs of mailing and publication in connection with property delivered to the administrator under this article 13;

(c) Reasonable service charges; and

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

38-13-804. Administrator holds property as custodian for owner. Property received by the administrator under this article 13 is held in custody for the benefit of the owner and is not owned by the state.

PART 9

CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR

38-13-901. Claim of another state to recover property. (1) If the administrator knows that property held by the administrator under this article 13 is subject to a superior claim of another state, the administrator shall:

(a) Report and pay or deliver the property to the other
STATE; OR

(b) RETURN THE PROPERTY TO THE HOLDER SO THAT THE HOLDER MAY PAY OR DELIVER THE PROPERTY TO THE OTHER STATE.

(2) THE ADMINISTRATOR IS NOT REQUIRED TO ENTER INTO AN AGREEMENT TO TRANSFER PROPERTY TO THE OTHER STATE UNDER SUBSECTION (1) OF THIS SECTION.

38-13-902. When property subject to recovery by another state. (1) PROPERTY HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE IS SUBJECT TO THE RIGHT OF ANOTHER STATE TO TAKE CUSTODY OF THE PROPERTY IF:

(a) THE PROPERTY WAS PAID OR DELIVERED TO THE ADMINISTRATOR BECAUSE THE RECORDS OF THE HOLDER DID NOT REFLECT A LAST-KNOWN ADDRESS IN THE OTHER STATE OF THE APPARENT OWNER AND:

(I) THE OTHER STATE ESTABLISHES THAT THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER OR OTHER PERSON ENTITLED TO THE PROPERTY WAS IN THE OTHER STATE; OR

(II) UNDER THE LAW OF THE OTHER STATE, THE PROPERTY HAS BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE OTHER STATE;


(c) THE PROPERTY WAS SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR OF THIS STATE UNDER SECTION 38-13-305 AND, UNDER THE LAW OF THE STATE OF DOMICILE OF THE HOLDER, THE PROPERTY HAS...
become subject to a claim of abandonment by the state of domicile of the holder; or

(d) The property:

(I) is a sum payable on a traveler’s check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under section 38-13-306; and

(II) under the law of the other state, has become subject to a claim of abandonment by the other state.

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

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

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

38-13-902.1. [Similar to former 38-13-117.3] Claims offset for child support. (1) Before paying a claim pursuant to section 38-13-903 (1) in an amount exceeding six hundred dollars, the administrator shall offset against the amount of the claim the claimant’s obligations to pay current child support, child
SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE. THE ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF HUMAN SERVICES TO IMPLEMENT THIS SECTION AND SECTION 26-13-118.5.

(2) (a) If a claimant owes current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance, and also owes restitution or fines, fees, costs, or surcharges as described in section 38-13-902.2, delinquent state taxes, penalties, or interest as described in section 38-13-902.3, or both, the unclaimed property offset against the current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance takes priority and shall be applied first.

(b) If a claimant owes both restitution or fines, fees, costs, or surcharges and delinquent state taxes, penalties, or interest, after payment in accordance with subsection (2)(a) of this section, if applicable, any remaining unclaimed property shall be applied first toward the payment of the outstanding restitution or fines, fees, costs, or surcharges and processed in accordance with section 38-13-902.2 and then applied to the payment of delinquent state taxes, penalties, or interest and processed in accordance with section 38-13-902.3.

(c) If a claimant owes restitution or fines, fees, costs, or surcharges or delinquent state taxes, penalties, or interest,
AFTER PAYMENT IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION, IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY SHALL BE APPLIED TOWARD THE PAYMENT OF THE OUTSTANDING RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-902.2 OR TOWARD THE DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-902.3, WHICHEVER IS APPLICABLE.

38-13-902.2. [Similar to former 38-13-117.5] Claims offset for judicial restitution, fines, fees, costs, or surcharges. (1) BEFORE PAYING A CLAIM PURSUANT TO SECTION 38-13-903 (1) IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS, THE ADMINISTRATOR SHALL OFFSET AGAINST THE AMOUNT OF THE CLAIM THE CLAIMANT'S OUTSTANDING COURT FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION. THE ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE JUDICIAL DEPARTMENT TO IMPLEMENT THIS SECTION AND SECTIONS 16-11-101.6 (6) AND 16-18.5-106.7.

(2) IF A CLAIMANT OWES FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION 38-13-902.1, DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN SECTION 38-13-902.3, OR BOTH, THE UNCLAIMED PROPERTY OFFSETS SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET FORTH IN SECTION 38-13-902.1 (2).

38-13-902.3. [Similar to former 38-13-117.7] Claims offset for state tax delinquencies. (1) BEFORE PAYING A CLAIM PURSUANT TO
SECTION 38-13-903 (1) IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS,
the administrator shall compare the social security number or
federal employer identification number of the claimant with the
numbers certified by the department of revenue for the purpose
of the unclaimed property offset as provided in section
39-21-121.

(2) If the social security number or federal employer
identification number of a claimant appears among the numbers
certified by the department of revenue pursuant to section
39-21-121, the administrator shall suspend the payment of the
claim until the requirements of section 39-21-121 are met. If,
after consulting with the department, the administrator
determines that the claimant is obligated to pay the amounts
certified under section 39-21-121, the administrator shall
withhold from the amount of the unclaimed property paid to the
claimant an amount equal to the amount of delinquent state
taxes, penalties, or interest. If the amount of the unclaimed
property is less than or equal to the amount of delinquent state
taxes, penalties, or interest, the administrator shall withhold
the entire amount of the unclaimed property. The administrator
shall transmit any unclaimed property so withheld to the
department for disbursement as directed in section 39-21-121.

(3) If a claimant owes delinquent state taxes, penalties,
or interest as described in this section and also owes current
child support, child support debt, retroactive child support,
child support arrearages, child support costs, or child support
when combined with maintenance as described in section
38-13-902.1, restitution or fines, fees, costs, or surcharges as described in section 38-13-902.2, or both, the unclaimed property offset shall be applied in accordance with the priority set forth in section 38-13-902.1 (2).

38-13-902.4. [Similar to former 38-13-118.5] Claim of the state or governmental agency. At any time after property has been paid or delivered to the administrator under this article, if the administrator determines that the state or a state governmental agency owns the property, the administrator may transfer the property to an operating account of the state or the agency.

38-13-903. Claim for property by person claiming to be owner. (1) A person claiming to be the owner of property held by the administrator under this article may file a claim for the property on a form prescribed by the administrator. The claimant must verify the claim as to its completeness and accuracy.

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

(a) The person receiving the property or payment is shown to be the apparent owner included on a report filed under section 38-13-401;

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

(c) The property has a value of less than [two hundred fifty dollars].
38-13-904. When administrator must honor claim for property. (1) The administrator shall pay or deliver property to a claimant under section 38-13-903 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.

(2) Not later than ninety days after a claim is filed under section 38-13-903, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the claim is denied:

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

(b) The claimant may file an amended claim with the administrator or commence an action under section 38-13-906;

and

(c) The administrator shall consider an amended claim filed under subsection (2)(b) of this section as an initial claim.

(4) If the administrator does not take action on a claim during the ninety-day period following the filing of a claim under section 38-13-903 (1), the claim is deemed denied.

38-13-905. Allowance of claim for property. (1) Not later than thirty days after a claim is allowed under section 38-13-904 (2), the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 38-13-607. On request of the owner, the administrator may sell or liquidate a security and
PAY THE NET PROCEEDS TO THE OWNER, EVEN IF THE SECURITY HAD BEEN
HELD BY THE ADMINISTRATOR FOR LESS THAN THREE YEARS OR THE
ADMINISTRATOR HAS NOT COMPLIED WITH THE NOTICE REQUIREMENTS
UNDER SECTION 38-13-702.

(2) PROPERTY HELD BY THE ADMINISTRATOR IS SUBJECT TO A
CLAIM FOR THE PAYMENT OF AN ENFORCEABLE DEBT THAT THE OWNER
OWES IN THIS STATE FOR:

(a) CHILD-SUPPORT ARREARAGES, INCLUDING CHILD-SUPPORT
COLLECTION COSTS AND CHILD-SUPPORT ARREARAGES THAT ARE
COMBINED WITH MAINTENANCE;

(b) A CIVIL OR CRIMINAL FINE OR PENALTY, COURT COSTS, A
SURCHARGE, OR RESTITUTION IMPOSED BY A FINAL ORDER OF AN
ADMINISTRATIVE AGENCY OR A FINAL COURT JUDGMENT; OR

(c) STATE [OR LOCAL] TAXES, PENALTIES, AND INTEREST THAT
HAVE BEEN DETERMINED TO BE DELINQUENT OR AS TO WHICH NOTICE HAS
BEEN RECORDED WITH THE [SECRETARY OF STATE] [OR LOCAL TAXING
AUTHORITY].

Note from NCCUSL: A state that wants to include payment
for local taxes in subsection (2)(c) should delete the brackets around
"local" and "local taxing authority" wherever they appear in the
section. However, a state with many different local taxing authorities
might not want to include local taxes. If so, the state should delete the
bracketed language.

The words "and local" are bracketed in subsection (4) to allow
a state to choose whether to include local agencies as those of which
inquiry may be made concerning debts owed by the owner.}

(3) BEFORE DELIVERY OR PAYMENT TO AN OWNER UNDER
SUBSECTION (1) OF THIS SECTION OF PROPERTY OR PAYMENT TO THE
OWNER OF NET PROCEEDS OF A SALE OF THE PROPERTY, THE
ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS TO
A DEBT UNDER SUBSECTION (2) OF THIS SECTION THAT THE
ADMINISTRATOR DETERMINES IS OWED BY THE OWNER. THE
ADMINISTRATOR SHALL PAY THE AMOUNT TO THE APPROPRIATE STATE [OR
LOCAL] AGENCY AND NOTIFY THE OWNER OF THE PAYMENT.

(4) THE ADMINISTRATOR MAY MAKE PERIODIC INQUIRIES OF STATE
[AND LOCAL] AGENCIES IN THE ABSENCE OF A CLAIM FILED UNDER SECTION
38-13-903 TO DETERMINE WHETHER AN APPARENT OWNER INCLUDED IN
THE UNCLAIMED-PROPERTY RECORDS OF THIS STATE HAS AN ENFORCEABLE
DEBT DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE
ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS OF
A SALE OF PROPERTY HELD BY THE ADMINISTRATOR TO A DEBT UNDER
SUBSECTION (2) OF THIS SECTION OF AN APPARENT OWNER THAT APPEARS
IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE AMOUNT TO
THE APPROPRIATE STATE [OR LOCAL] AGENCY. THE ADMINISTRATOR
SHALL NOTIFY THE APPARENT OWNER OF THE PAYMENT.

38-13-906. Action by person whose claim is denied. NOT LATER
THAN ONE YEAR AFTER FILING A CLAIM WITH THE ADMINISTRATOR UNDER
SECTION 38-13-903, THE CLAIMANT MAY COMMENCE AN ACTION AGAINST
THE ADMINISTRATOR IN THE [APPROPRIATE COURT] TO ESTABLISH A CLAIM
THAT HAS BEEN DENIED OR DEEMED DENIED UNDER SECTION 38-13-903
(4). [ON FINAL DETERMINATION OF THE ACTION, THE COURT MAY, ON
APPLICATION, AWARD TO THE [PLAINTIFF] [PREVAILING PARTY] ITS
REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

<Note from NCCUSL: The bracketed language at the end of
this section may be included or deleted according to the public policy of
the state concerning statutory awards of attorney fees. If the state elects
to include attorney fees, the state must decide whether to restrict the
award of attorney fees to the plaintiff regardless which sideprevails or
only to the prevailing party.}

PART 10
VERIFIED REPORT OF PROPERTY;
EXAMINATION OF RECORDS

38-13-1001. Verified report of property. (1) If a person does
not file a report required by section 38-13-401 or the
administrator believes that a person may have filed an
inaccurate, incomplete, or false report, the administrator may
require the person to file a verified report in a form prescribed
by the administrator. The report must:
(a) State whether the person is holding property
reportable under this article 13;
(b) Describe property not previously reported or about
which the administrator has inquired; and
(c) Specifically identify property described under
subsection (1)(b) of this section about which there is a dispute
whether it is reportable under this article 13; and
(d) State the amount or value of the property.

38-13-1002. Examination of records to determine compliance.
(1) The administrator, at reasonable times and on reasonable
notice, may:
(a) Examine the records of a person, including
examination of appropriate records in the possession of an agent

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of the person under examination, if such records are reasonably necessary to determine whether the person has complied with this article 13;

(b) issue an administrative subpoena requiring the person or an agent of the person to make records available for examination; and

(c) bring an action seeking judicial enforcement of the subpoena.


(2) An examination under section 38-13-1002 must be performed under rules adopted under subsection (1) of this section and with generally accepted examination practices and standards applicable to an unclaimed-property examination.

(3) If a person subject to examination under section 38-13-1002 has filed the reports required by sections 38-13-401 and 38-13-1001 and has retained the records required by section 38-13-404, the following rules apply:

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

(b) The examination must not be based on an estimate unless the person expressly consents in a record to the use of an estimate.

(c) The person conducting the examination shall consider
THE EVIDENCE PRESENTED IN GOOD FAITH BY THE PERSON IN PREPARING

38-13-1004. Records obtained in examination. (1) RECORDS
OBTAINED AND RECORDS, INCLUDING WORK PAPERS, COMPILED BY THE
ADMINISTRATOR IN THE COURSE OF CONDUCTING AN EXAMINATION UNDER
SECTION 38-13-1002:

(a) ARE SUBJECT TO THE CONFIDENTIALITY AND SECURITY
PROVISIONS OF PART 14 OF THIS ARTICLE 13 AND ARE NOT PUBLIC
RECORDS;

(b) MAY BE USED BY THE ADMINISTRATOR IN AN ACTION TO
COLLECT PROPERTY OR OTHERWISE ENFORCE THIS ARTICLE 13;

(c) MAY BE USED IN A JOINT EXAMINATION CONDUCTED WITH
ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR
SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER
GOVERNMENTAL ENTITY IF THE GOVERNMENTAL ENTITY CONDUCTING THE
EXAMINATION IS LEGALLY BOUND TO MAINTAIN THE CONFIDENTIALITY
AND SECURITY OF INFORMATION OBTAINED FROM A PERSON SUBJECT TO
EXAMINATION IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF
THIS ARTICLE 13;

(d) MUST BE DISCLOSED, ON REQUEST, TO THE PERSON THAT
ADMINISTERS THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE FOR
THAT STATE’S USE IN CIRCUMSTANCES EQUIVALENT TO CIRCUMSTANCES
DESCRIBED IN THIS PART 10, IF THE OTHER STATE IS REQUIRED TO
MAINTAIN THE CONFIDENTIALITY AND SECURITY OF INFORMATION
OBTAINED IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS
ARTICLE 13;

(e) SHALL BE PRODUCED BY THE ADMINISTRATOR UNDER AN
ADMINISTRATIVE OR JUDICIAL SUBPOENA OR ADMINISTRATIVE OR COURT
ORDER; AND

(f) SHALL BE PRODUCED BY THE ADMINISTRATOR ON REQUEST OF
THE PERSON SUBJECT TO THE EXAMINATION IN AN ADMINISTRATIVE OR
JUDICIAL PROCEEDING RELATING TO THE PROPERTY.

38-13-1005. Evidence of unpaid debt or undischarged
obligation. (1) A RECORD OF A PUTATIVE HOLDER SHOWING AN UNPAID
DEBT OR UNDISCHARGED OBLIGATION IS PRIMA FACIE EVIDENCE OF THE
DEBT OR OBLIGATION.

(2) A PUTATIVE HOLDER MAY ESTABLISH BY A PREPONDERANCE OF
THE EVIDENCE THAT THERE IS NO UNPAID DEBT OR UNDISCHARGED
OBLIGATION FOR A DEBT OR OBLIGATION DESCRIBED IN SUBSECTION (1) OF
THIS SECTION OR THAT THE DEBT OR OBLIGATION WAS NOT, OR NO LONGER
IS, A FIXED AND CERTAIN OBLIGATION OF THE PUTATIVE HOLDER.

(3) A PUTATIVE HOLDER MAY OVERCOME PRIMA FACIE EVIDENCE
UNDER SUBSECTION (1) OF THIS SECTION BY ESTABLISHING BY A
PREPONDERANCE OF THE EVIDENCE THAT A CHECK, DRAFT, OR SIMILAR
INSTRUMENT WAS:

(a) ISSUED AS AN UNACCEPTED OFFER IN SETTLEMENT OF AN
UNLIQUIDATED AMOUNT;

(b) ISSUED BUT LATER WAS REPLACED WITH ANOTHER
INSTRUMENT BECAUSE THE EARLIER INSTRUMENT WAS LOST OR
CONTAINED AN ERROR THAT WAS CORRECTED;

(c) ISSUED TO A PARTY AFFILIATED WITH THE ISSUER;

(d) PAID, SATISFIED, OR DISCHARGED;

(e) ISSUED IN ERROR;

(f) ISSUED WITHOUT CONSIDERATION;
(g) Issued but there was a failure of consideration;

(h) Voided [not later than ninety days] [within a reasonable time] after issuance for a valid business reason set forth in a contemporaneous record; or

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

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

38-13-1006. Failure of person examined to retain records. If a person subject to examination under section 38-13-1002 does not retain the records required by section 38-13-404, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under section 38-13-1003 (1) and in accordance with section 38-13-1003 (2).

38-13-1007. Report to person whose records were examined.

(1) At the conclusion of an examination under section 38-13-1002, the administrator shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

(a) The work performed;
12.6.16

(b) The property types reviewed;

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

(d) Each calculation showing the value of property determined to be due; and

(e) The findings of the person conducting the examination.

38-13-1008. Complaint to administrator about conduct of person conducting examination. (1) If a person subject to examination under section 38-13-1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the administrator to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.

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

(3) If a conference is held under subsection (2) of this section, not later than thirty days after the conference ends, the administrator shall provide a report in a record of the
CONFERENCE TO THE PERSON THAT REQUESTED THE CONFERENCE.

38-13-1009. Administrator's contract with another to conduct examination - definition. (1) In this section, "RELATED TO THE ADMINISTRATOR" refers to an individual who is:

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

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

(c) A spouse, partner in a civil union, domestic partner, or reciprocal beneficiary of an individual listed in subsection (1)(b) of this section; or

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

(2) The administrator may contract with a person to conduct an examination under this part 10. The contract may be awarded only under the "PROCUREMENT CODE", articles 101 to 112 of title 24.

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

(a) An individual, the individual must not be related to the administrator; or

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

(4) At least sixty days before assigning a person under contract with the administrator under subsection (2) of this
SECTION TO CONDUCT AN EXAMINATION, THE ADMINISTRATOR SHALL DEMAND IN A RECORD THAT THE PERSON TO BE EXAMINED SUBMIT A REPORT AND DELIVER PROPERTY THAT IS PREVIOUSLY UNREPORTED.

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

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

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

(c) On request by a person subject to examination by a contractor, the administrator shall deliver to the person a complete and unredacted copy of the contract and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(6) A contract under subsection (2) of this section is subject to public disclosure without redaction under the "Colorado Open Records Act", part 2 of article 72 of title 24.

<Note from NCCUSL: If a state does not allow use of contingent fee examiners, subsection (5)(a) should be revised to delete the words "contingent fee" and subsection (5)(b) should be deleted.>
AFFILIATE OF THE CONTRACTOR FOR [TWO] YEARS AFTER THE LATEST OF
PARTICIPATION IN, RECOMMENDATION OF, OR APPROVAL OF THE AWARD
OR CONCLUSION OF THE CONTRACT.

38-13-1011. Report by administrator to state official. (1) Not
later than three months after the end of the state fiscal year,
the administrator shall compile and submit a report to the
[GOVERNOR,][TREASURER,][COMPTROLLER,][PRESIDENT OF THE SENATE,]
[AND] [SPEAKER OF THE HOUSE]. The report must contain the
following information about property presumed abandoned for
the preceding state fiscal year:

(a) The total amount and value of all property paid or
delivered under this article 13 to the administrator, separated
into:

(I) The part voluntarily paid or delivered; and
(II) The part paid or delivered as a result of an
examination under section 38-13-1002, separated into the part
recovered as a result of an examination conducted by:

(A) A state employee; and
(B) A contractor under section 38-13-1009;

(b) The name and amount paid to each contractor under
section 38-13-1009 and the percentage the total compensation
paid to all contractors under section 38-13-1009 bears to the
total amount paid or delivered to the administrator as a result
of all examinations performed under section 38-13-1009;

(c) The total amount and value of all property paid or
delivered by the administrator to persons that made claims for
property held by the administrator under this article 13 and the
PERCENTAGE THE TOTAL PAYMENTS MADE AND VALUE OF PROPERTY
DELIVERED TO CLAIMANTS BEARS TO THE TOTAL AMOUNTS PAID AND
VALUE DELIVERED TO THE ADMINISTRATOR; AND
(d) The total amount of claims made by persons claiming
to be owners that:
(I) Were denied;
(II) Were allowed; and
(III) Are pending.
(2) The report under subsection (1) of this section is a
public record subject to public disclosure without redaction
under the "Colorado Open Records Act", part 2 of article 72 of
title 24.

38-13-1012. Determination of liability for unreported
reportable property. If the Administrator determines from an
examination conducted under section 38-13-1002 that a putative
holder has failed or refused to pay or deliver property to the
administrator that is reportable under this article 13, the
administrator shall issue a determination of the putative
holder's liability to pay or deliver and provide to the putative
holder notice in a record of the determination.

PART 11
DETERMINATION OF LIABILITY;
PUTATIVE HOLDER REMEDIES

38-13-1101. Informal conference. (1) Not later than thirty
days after receipt of a notice under section 38-13-1012, a
putative holder may request an informal conference with the
administrator to review the determination. Except as otherwise
PROVIDED IN THIS SECTION, THE ADMINISTRATOR MAY DESIGNATE AN
EMPLOYEE TO ACT ON BEHALF OF THE ADMINISTRATOR.

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

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

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

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

(d) The request tolls the ninety-day period under sections
38-13-1103 and 38-13-1104 until notice of a decision under
subsection (2)(g) of this section has been given to the putative
holder or the putative holder withdraws the request for the
conference;

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

(f) The administrator or administrator's designee, with
the approval of the administrator, may modify a determination
made under section 38-13-1012 or withdraw it; and

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

(3) A conference under subsection (2) of this section is not
an administrative remedy and is not a contested case subject to
the "State Administrative Procedure Act", Article 4 of Title 24.

An oath is not required and the rules of evidence do not apply in the conference.

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

(a) Discuss the determination made under Section 38-13-1012; and

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

(5) If the administrator fails to act within the period prescribed in subsection (2) of this section, the failure does not affect a right of the administrator; except that interest does not accrue on the amount for which the putative holder was determined to be liable under Section 38-13-1012 during the period in which the administrator failed to act until the earlier of:

(a) The date under Section 38-13-1103 when the putative holder initiates administrative review or files an action under Section 38-13-1104; or

(b) Ninety days after the putative holder received notice of the administrator’s determination under Section 38-13-1012 if no review was initiated under Section 38-13-1103 and no action was filed under Section 38-13-1104.

(6) The administrator may hold an informal conference with a putative holder about a determination under section
38-13-1012 without a request at any time before the putative holder initiates administrative review under section 38-13-1103 or files an action under section 38-13-1104.

(7) Interest and penalties under section 38-13-1204 continue to accrue on property not reported, paid, or delivered as required by this article 13 after the initiation, and during the pendency, of an informal conference under this section.

38-13-1102. Review of administrator's determination. (1) A putative holder may seek relief from a determination under section 38-13-1012 by:

(a) Administrative review under section 38-13-1103; or

(b) Judicial review under section 38-13-1104.

38-13-1103. Administrative review. (1) Not later than ninety days after receiving notice of the administrator's determination under section 38-13-1012, a putative holder may initiate a proceeding under the "State Administrative Procedure Act", article 4 of title 24, for review of the administrator's determination.

(2) A final decision in an administrative proceeding initiated under subsection (1) of this section is subject to judicial review by the [court] [as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record].

38-13-1104. Judicial remedy. (1) Not later than ninety days after receiving notice of the administrator's determination under section 38-13-1012, the putative holder may:

(a) File an action against the administrator in the [court]
CHALLENGING ALL OR PART OF THE ADMINISTRATOR’S DETERMINATION OF LIABILITY AND SEEKING A DECLARATION THAT THE DETERMINATION IS UNENFORCEABLE, IN WHOLE OR IN PART; OR

(b) PAY THE AMOUNT OR DELIVER THE PROPERTY THE ADMINISTRATOR DETERMINED MUST BE PAID OR DELIVERED TO THE ADMINISTRATOR AND, NOT LATER THAN SIX MONTHS AFTER PAYMENT OR DELIVERY, FILE AN ACTION AGAINST THE ADMINISTRATOR IN THE [APPROPRIATE COURT] FOR A REFUND OF ALL OR PART OF THE AMOUNT PAID OR RETURN OF ALL OR PART OF THE PROPERTY DELIVERED.

(2) IF A PUTATIVE HOLDER PAYS OR DELIVERS PROPERTY DETERMINED BY THE ADMINISTRATOR TO BE PAID OR DELIVERED TO THE ADMINISTRATOR AT ANY TIME AFTER THE PUTATIVE HOLDER FILES AN ACTION UNDER SUBSECTION (1)(a) OF THIS SECTION, THE COURT SHALL CONTINUE THE ACTION AS IF IT HAD BEEN FILED ORIGINALLY AS AN ACTION FOR A REFUND OR RETURN OF PROPERTY UNDER SUBSECTION (1)(b) OF THIS SECTION.

[(3) ON THE FINAL DETERMINATION OF AN ACTION FILED UNDER SUBSECTION (1) OF THIS SECTION, THE COURT [MAY] [SHALL], ON APPLICATION, AWARD TO THE [PLAINTIFF] [PREVAILING PARTY] ITS REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

<\{Note from NCCUSL: This subsection may be included or deleted according to the public policy of the state concerning statutory awards of attorney fees. If the state elects to include attorney fees, the state must decide whether to restrict the award of attorney fees to the plaintiff regardless which side prevails or only to the prevailing party.\}>

[(3)][(4)] A PUTATIVE HOLDER THAT IS THE PREVAILING PARTY IN AN ACTION UNDER SUBSECTION (1) OF THIS SECTION FOR REFUND OF
MONEY PAID TO THE ADMINISTRATOR IS ENTITLED TO INTEREST ON THE
AMOUNT REFUNDED, AT THE SAME RATE A HOLDER IS REQUIRED TO PAY TO
THE ADMINISTRATOR UNDER SECTION 38-13-1204 (1), FROM THE DATE
PAID TO THE ADMINISTRATOR UNTIL THE DATE OF THE REFUND.

PART 12

ENFORCEMENT BY ADMINISTRATOR

38-13-1201. Judicial action to enforce liability. (1) If a
determination under section 38-13-1012 becomes final and is not
subject to administrative or judicial review, the administrator
may commence an action in the [court] or in an appropriate court
of another state to enforce the determination and secure
payment or delivery of past due, unpaid, or undelivered
property. The action must be brought not later than [one] year
after the determination becomes final.

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

<{Note from NCCUSL: A state that requires approval of its
tax attorney general for action to be taken by an administrator under this
section should include language that requires approval to be obtained
before to proceeding with the desired action.}>}

38-13-1202. Interstate and international agreement -
cooperation. (1) Subject to subsection (2) of this section, the
administrator may:

(a) Exchange information with another state or foreign
country relating to property presumed abandoned or relating
TO THE POSSIBLE EXISTENCE OF PROPERTY PRESUMED ABANDONED; AND

(b) AUTHORIZE IN A RECORD ANOTHER STATE OR FOREIGN COUNTRY OR A PERSON ACTING ON BEHALF OF THE OTHER STATE OR COUNTRY TO EXAMINE ITS RECORDS OF A PUTATIVE HOLDER AS PROVIDED IN PART 10 OF THIS ARTICLE 13.

(2) AN EXCHANGE OR EXAMINATION UNDER SUBSECTION (1) OF THIS SECTION MAY BE DONE ONLY IF THE STATE OR FOREIGN COUNTRY HAS CONFIDENTIALITY AND SECURITY REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THOSE IN PART 14 OF THIS ARTICLE 13 OR AGREES IN A RECORD TO BE BOUND BY THIS STATE'S CONFIDENTIALITY AND SECURITY REQUIREMENTS.

38-13-1203. Action involving another state or foreign country.

(1) THE ADMINISTRATOR MAY JOIN ANOTHER STATE OR FOREIGN COUNTRY TO EXAMINE AND SEEK ENFORCEMENT OF THIS ARTICLE 13 AGAINST A PUTATIVE HOLDER.

(2) ON REQUEST OF ANOTHER STATE OR FOREIGN COUNTRY, THE ATTORNEY GENERAL MAY COMMENCE AN ACTION ON BEHALF OF THE OTHER STATE OR COUNTRY TO ENFORCE, IN THIS STATE, THE LAW OF THE OTHER STATE OR COUNTRY AGAINST A PUTATIVE HOLDER SUBJECT TO A CLAIM BY THE OTHER STATE OR COUNTRY, IF THE OTHER STATE OR COUNTRY AGREES TO PAY COSTS INCURRED BY THE ATTORNEY GENERAL IN THE ACTION.

(3) THE ADMINISTRATOR MAY REQUEST THE OFFICIAL AUTHORIZED TO ENFORCE THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE OR FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY IN THE OTHER STATE OR COUNTRY ON BEHALF OF THE ADMINISTRATOR. THIS STATE SHALL PAY THE COSTS, INCLUDING REASONABLE ATTORNEY FEES
AND EXPENSES, INCURRED BY THE OTHER STATE OR FOREIGN COUNTRY IN AN ACTION UNDER THIS SUBSECTION (3).

(4) THE ADMINISTRATOR MAY PURSUE AN ACTION ON BEHALF OF THIS STATE TO RECOVER PROPERTY SUBJECT TO THIS ARTICLE 13 BUT DELIVERED TO THE CUSTODY OF ANOTHER STATE IF THE ADMINISTRATOR BELIEVES THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR.

(5) THE ADMINISTRATOR MAY RETAIN AN ATTORNEY IN THIS STATE, ANOTHER STATE, OR A FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY ON BEHALF OF THE ADMINISTRATOR AND MAY AGREE TO PAY ATTORNEY FEES BASED IN WHOLE OR IN PART ON A FIXED FEE, HOURLY FEE, OR PERCENTAGE OF THE AMOUNT OR VALUE OF PROPERTY RECOVERED IN THE ACTION.

(6) EXPENSES INCURRED BY THIS STATE IN AN ACTION UNDER THIS SECTION MAY BE PAID FROM PROPERTY RECEIVED UNDER THIS ARTICLE 13 OR THE NET PROCEEDS OF THE PROPERTY. EXPENSES PAID TO RECOVER PROPERTY SHALL NOT BE DEDUCTED FROM THE AMOUNT THAT IS SUBJECT TO A CLAIM UNDER THIS ARTICLE 13 BY THE OWNER.

Note from NCCUSL: A state that requires approval of its attorney general of the actions to be taken by an administrator under this section should include language that requires approval to be obtained before to proceeding with the desired action.

38-13-1204. Interest and penalty for failure to act in timely manner. (1) A HOLDER THAT FAILS TO REPORT, PAY, OR DELIVER PROPERTY WITHIN THE TIME PRESCRIBED BY THIS ARTICLE 13 SHALL PAY TO THE ADMINISTRATOR INTEREST AT AN ANNUAL RATE OF [___ PERCENT] [THE RATE OF INTEREST PAYABLE TO THE DEPARTMENT OF REVENUE OF]
THIS STATE ON DELINQUENT TAXES

Which kind of taxes? In Colorado, at least, there are several choices. NCCUSL suggests if a variable rate is chosen, the rate should be pegged to some ascertainable standard such as LIBOR. (DHG) ] ON THE PROPERTY OR VALUE OF THE PROPERTY FROM THE DATE THE PROPERTY SHOULD HAVE BEEN REPORTED, PAID, OR DELIVERED TO THE ADMINISTRATOR UNTIL THE DATE REPORTED, PAID, OR DELIVERED.

(2) Except as otherwise provided in section 38-13-1205 or 38-13-1206, the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this article 13 to pay to the administrator, in addition to interest included under subsection (1) of this section, a civil penalty of [two hundred dollars] for each day the duty is not performed, up to a cumulative maximum amount of [five thousand dollars].

38-13-1205. Other civil penalties. (1) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this article 13 or otherwise willfully fails to perform a duty imposed on the holder under this article 13, the administrator may require the holder to pay the administrator, in addition to interest as provided in section 38-13-1204 (1), a civil penalty of [one thousand dollars] for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of [twenty-five thousand dollars], plus [twenty-five] percent of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.
(2) If a holder makes a fraudulent report under this article 13, the administrator may require the holder to pay to the administrator, in addition to interest under section 38-13-1204 (1), a civil penalty of [one thousand dollars] for each day from the date the report was made until corrected, up to a cumulative maximum of [twenty-five thousand dollars], plus [twenty-five] percent of the amount or value of any property that should have been reported but was not included in the report or was underreported.

38-13-1206. Waiver of interest and penalty. (1) The administrator:

(a) May waive, in whole or in part, [interest under section 38-13-1204 (1) and] penalties under section 38-13-1204 (2) or 38-13-1205; and

(b) Shall waive a penalty under section 38-13-1204 (2) if the administrator determines that the holder acted in good faith and without negligence.

PART 13

AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR

38-13-1301. When agreement to locate property enforceable.

(1) An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the administrator, is enforceable only if the agreement:

(a) Is in a record that clearly states the nature of the property and the services to be provided;
(b) Is signed by or on behalf of the apparent owner; and

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

38-13-1302. When agreement to locate property void.

(1) Subject to subsection (2) of this section, an agreement under section 38-13-1301 is void if it is entered into during the period beginning on the date the property was paid or delivered by a holder to the administrator and ending twenty-four months after the payment or delivery.

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

(3) An agreement under subsection (1) of this section that provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner. An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may file an action in [the appropriate court] to reduce the compensation to the maximum amount that is not unconscionable. [On the final determination of an action filed under this subsection (3), the [court] may, on application, award the [plaintiff] [prevailing party] its
REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.]

{Note from NCCUSL: The last sentence of this subsection may be included or deleted according to the public policy of the state concerning statutory awards of attorney fees. If the state elects to include attorney fees, the state must decide whether to restrict the award of attorney fees to the plaintiff regardless which side prevails or only to the prevailing party.}>

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

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

38-13-1303. Right of agent of apparent owner to recover property held by administrator. (1) An apparent owner that contracts with a person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the administrator may designate the person as the agent of the apparent owner. The designation must be in a record signed by the apparent owner.

(2) The administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information under section
38-13-1402.

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

38-13-1304. [Similar to former 38-13-128.5] Agreements to locate reported property - overbids from foreclosure sales.

(1) Notwithstanding any provision of section 38-13-1303 to the contrary, an agreement to pay compensation to recover or assist in recovering an unclaimed overbid transferred to the administrator under section 38-38-111 is:

(a) Not enforceable unless entered into at least two years after the date of the transfer;

(b) Enforceable if:

(I) The agreement is in writing and signed by the owner, as defined in section 38-38-111 (5);

(II) The agreement describes the property and the date of the foreclosure sale from which the overbid was derived;

(III) The agreement sets forth the nature of the services to be provided; and

(IV) The compensation to be paid under the terms of the agreement does not exceed:

(A) Twenty percent of the amount of the overbid if entered into at least two years, but not more than three years, after the date of the transfer; or

(B) Thirty percent of the amount of the overbid if entered into more than three years after the date of the transfer.

(2) A person who induces or attempts to induce another
PERSON TO ENTER INTO AN AGREEMENT DESCRIBED IN THIS SECTION THAT
DOES NOT COMPLY WITH ALL REQUIREMENTS OF SUBSECTION (1) OF THIS
SECTION IS GUILTY OF A MISDEMEANOR, AS DEFINED IN SECTION
18-1.3-504, AND, UPON CONVICTION, SHALL BE PUNISHED BY
IMPRISONMENT IN THE COUNTY JAIL FOR UP TO SIX MONTHS, A FINE OF UP
TO TEN THOUSAND DOLLARS, OR BOTH.

(3) NOTHING IN SUBSECTION (1) OF THIS SECTION PROHIBITS AN
OWNER FROM ASSERTING, AT ANY TIME, THAT A WRITTEN, SIGNED
AGREEMENT TO RECOVER OR ASSIST IN RECOVERING AN OVERBID IS BASED
ON EXCESSIVE OR UNJUST CONSIDERATION.

(4) THE RESTRICTIONS SET FORTH IN THIS SECTION DO NOT APPLY
TO AN AGREEMENT TO PAY COMPENSATION TO RECOVER OR ASSIST IN
RECOVERING AN OVERBID OF LESS THAN ONE THOUSAND DOLLARS.

PART 14

CONFIDENTIALITY AND SECURITY OF INFORMATION

38-13-1401. Definitions - applicability. (1) IN THIS PART 14,
"PERSONAL INFORMATION" MEANS:

(a) INFORMATION THAT IDENTIFIES OR REASONABLY CAN BE USED
TO IDENTIFY AN INDIVIDUAL, SUCH AS FIRST AND LAST NAME IN
COMBINATION WITH THE INDIVIDUAL'S:

(I) SOCIAL SECURITY NUMBER OR OTHER GOVERNMENT-ISSUED
NUMBER OR IDENTIFIER;

(II) DATE OF BIRTH;

(III) HOME OR PHYSICAL ADDRESS;

(IV) ELECTRONIC-MAIL ADDRESS OR OTHER ONLINE CONTACT
INFORMATION OR INTERNET PROVIDER ADDRESS;

(V) FINANCIAL ACCOUNT NUMBER OR CREDIT OR DEBIT CARD
NUMBER;

(VI) BIOMETRIC DATA, HEALTH OR MEDICAL DATA, OR INSURANCE
INFORMATION; OR

(VII) PASSWORDS OR OTHER CREDENTIALS THAT PERMIT ACCESS
TO AN ONLINE OR OTHER ACCOUNT;

(b) PERSONALLY IDENTIFIABLE FINANCIAL OR INSURANCE
INFORMATION, INCLUDING NONPUBLIC PERSONAL INFORMATION DEFINED
BY APPLICABLE FEDERAL LAW; AND

(c) ANY COMBINATION OF DATA THAT, IF ACCESSED, DISCLOSED,
MODIFIED, OR DESTROYED WITHOUT AUTHORIZATION OF THE OWNER OF
THE DATA OR IS LOST OR MISUSED, WOULD REQUIRE NOTICE OR REPORTING
UNDER APPLICABLE FEDERAL AND STATE PRIVACY AND DATA SECURITY
LAW, WHETHER OR NOT THE ADMINISTRATOR OR THE ADMINISTRATOR'S
AGENT IS SUBJECT TO THE LAW.

(2) PROVISIONS OF THIS PART 14 APPLICABLE TO THE
ADMINISTRATOR OR THE ADMINISTRATOR'S RECORDS APPLY TO AN
ADMINISTRATOR'S AGENT.

38-13-1402. Confidential information. (1) Except as
otherwise provided in this article 13, the following are
CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION OR DISCLOSURE:

(a) RECORDS OF THE ADMINISTRATOR AND THE ADMINISTRATOR'S
AGENT RELATED TO THE ADMINISTRATION OF THIS ARTICLE 13;

(b) REPORTS AND RECORDS OF A HOLDER IN POSSESSION OF THE
ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT; AND

(c) PERSONAL INFORMATION AND OTHER INFORMATION DERIVED
OR OTHERWISE OBTAINED BY OR COMMUNICATED TO THE ADMINISTRATOR
OR THE ADMINISTRATOR'S AGENT FROM AN EXAMINATION UNDER THIS
ARTICLE 13 OF THE RECORDS OF A PERSON.

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

38-13-1403. When confidential information may be disclosed.

(1) When reasonably necessary to enforce or implement this Article 13, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

(a) An apparent owner or the apparent owner's personal representative, next of kin, relative, attorney-at-law, other legal representative, or agent designated under Section 38-13-1303 to have the information;

(b) The personal representative, executor, next of kin, or relative of a deceased apparent owner or the attorney-at-law, other legal representative, or agent designated under Section 38-13-1303 by the deceased apparent owner or a person entitled to inherit from the deceased apparent owner;

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

(d) The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state and if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially
EQUIVALENT TO THE REQUIREMENTS OF THIS PART 14; AND

(e) A PERSON SUBJECT TO AN EXAMINATION AS REQUIRED BY
SECTION 38-13-1004 (1)(f).

(2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1402 (1),
THE ADMINISTRATOR SHALL INCLUDE IN PUBLISHED NOTICES AND ON A
WEBSITE OR DATABASE REQUIRED BY SECTION 38-13-503 (3)(b) THE NAME
OF EACH APPARENT OWNER OF PROPERTY HELD BY THE ADMINISTRATOR.
THE ADMINISTRATOR MAY INCLUDE IN PUBLISHED NOTICES, PRINTED
PUBLICATIONS, TELECOMMUNICATIONS, THE INTERNET, OR OTHER MEDIA
AND ON THE WEBSITE OR IN THE DATABASE ADDITIONAL INFORMATION
CONCERNING THE APPARENT OWNER'S PROPERTY IF THE ADMINISTRATOR
BELIEVES THE INFORMATION WILL ASSIST IN IDENTIFYING AND RETURNING
PROPERTY TO THE OWNER AND DOES NOT DISCLOSE PERSONAL
INFORMATION EXCEPT THE HOME OR PHYSICAL ADDRESS OF AN APPARENT
OWNER.

(3) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
NOT USE CONFIDENTIAL INFORMATION PROVIDED TO THEM OR IN THEIR
POSSESSION EXCEPT AS EXPRESSLY AUTHORIZED BY THIS ARTICLE 13 OR
REQUIRED BY LAW OTHER THAN THIS ARTICLE 13.

38-13-1404. Confidentiality agreement. (1) A PERSON TO BE
EXAMINED UNDER SECTION 38-13-1002 MAY REQUIRE, AS A CONDITION OF
DISCLOSURE OF THE RECORDS OF THE PERSON TO BE EXAMINED, THAT
EACH PERSON HAVING ACCESS TO THE RECORDS DISCLOSED IN THE
EXAMINATION EXECUTE AND DELIVER TO THE PERSON TO BE EXAMINED A
CONFIDENTIALITY AGREEMENT THAT:

(a) IS IN A FORM THAT IS REASONABLY SATISFACTORY TO THE
ADMINISTRATOR; AND
(b) Requires the person having access to records to comply with the provisions of this Part 14 applicable to the person.

38-13-1405. No confidential information in notice. Except as otherwise provided in Sections 38-13-501 and 38-13-502, a holder is not required under this Article 13 to include confidential information in a notice the holder is required to provide to an apparent owner under this Article 13.

38-13-1406. Security of information. (1) If a holder is required to include confidential information in a report to the administrator, the information must be provided by a secure means.

(2) If confidential information in a record is provided to and maintained by the administrator or administrator's agent as required by this Article 13, the administrator or administrator's agent shall:

(a) Implement administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of the information as required by the law of this state and federal law whether or not the administrator or the administrator's agent is subject to the law;

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

(c) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to a holder or the holder's customers, including
INSURED, ANNUITANTS, AND POLICY OR CONTRACT OWNERS AND THEIR BENEFICIARIES.

(3) The Administrator:
   
   (a) After notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the Administrator's possession and seeks to mitigate the risks; and
   
   (b) Shall ensure that an Administrator's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.

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

(5) The Administrator and the Administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this Article 13.

38-13-1407. Security breach. (1) Except to the extent prohibited by law other than this Article 13, the Administrator or Administrator's agent shall notify a holder as soon as practicable of:

   (a) Suspected loss, misuse, or unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the Administrator or an Administrator's agent; and
   
   (b) Any interference with operations in any system hosting or housing confidential information that:
(I) Compromises the security, confidentiality, or integrity of the information; or

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

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

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

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

(b) Cooperate with the holder with respect to:

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

(II) A regulatory inquiry, litigation, or similar action.

38-13-1408. Indemnification for breach. [(1) If a claim is made or action commenced arising out of an event described in section 38-13-1407 (1) relating to confidential information possessed by the administrator, this state shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(a) Any third-party claim or action; and

(b) Liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable
ATTORNEY FEES AND COSTS, ESTABLISHED BY THE CLAIM OR ACTION.]

[(1)][(2)] If a claim is made or action commenced arising out of an event described in Section 38-13-1407 (1) relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(a) Any third-party claim or action; and

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

[(2)][(3)] The administrator shall require an administrator's agent that will receive confidential information required under this article 13 to maintain adequate insurance for indemnification obligations of the administrator's agent under subsection (2) [(1)] of this section. The agent required to maintain the insurance shall provide evidence of the insurance to:

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

(b) The holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under Section 38-13-1406 (5).

<Note from NCCUSL (paraphrased): This section may be amended or deleted depending on the state's policies regarding blanket indemnification.>

PART 15
MISCELLANEOUS PROVISIONS

38-13-1501. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

38-13-1502. Relation to electronic signatures in global and national commerce act. This article modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersedes section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

38-13-1503. Transitional provision. (1) An initial report filed under this article for property that was not required to be reported before [the effective date of this article, as amended], but that is required to be reported under this article 13, must include all items of property that would have been presumed abandoned during the ten-year period preceding [the effective date of this article, as amended], as if this article 13 had been in effect during that period.

(2) This article does not relieve a holder of a duty that arose before [the effective date of this article, as amended] to report, pay, or deliver property. Subject to section 38-13-610, a holder that did not comply with the law governing unclaimed property before [the effective date of this article, as amended] is subject to applicable provisions for enforcement and penalties in effect before [the effective date of this article]
SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.
A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://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
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 publishColorado comments if they have been approved by the Colorado commission on uniform state laws.

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

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

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

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

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

(II) A Colorado comment, if any, that explains any nonuniform changes to a section of the statutes that is part of a uniform act approved by the National Conference of Commissioners on Uniform State Laws, but only if the Colorado commission on uniform state laws has approved the Colorado comment and notified the revisor of statutes of its approval in
SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
### ULC Costs - Budget Planning Worksheet

**For FY: 17-18**

**San Diego, CA = 2017**

**Louisville, KY = 2018**

#### Participation

| Enter the number of commissioners who will attend this year's 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. | 10 | Louisville, KY |

#### Travel: Flights and related costs (per attendee)

| 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). | $80 | 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 |

- **Estimated flight-related costs (this year) total per commissioner:** $310
- **Estimated flight & related (this year) Commission total:** $3,100
- **Estimated advance flight purchase (next year) total per commissioner:** $600
- **Estimated advance flight purchase (next year) Commission total:** $6,000

#### Travel: Transportation costs in destination city

| 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 |

- **Estimated destination transp. total per commissioner:** $150
- **Estimated destination transp. Commission total:** $1,500

#### Travel: Meals & Incidentals

| Meals only - Enter daily maximum allowable under fiscal rules. | $66 | San Diego, CA |
| Incidents (e.g., houskeeping and bellhop tips) - Enter daily maximum allowable under fiscal rules. | $3 | San Diego, CA |

- **Estimated M&I total per commissioner:** $497
- **Estimated M&I Commission total:** $4,970

#### Travel: Lodging and related costs

| 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 |

- **Estimated lodging total per commissioner:** $1,500
- **Estimated lodging Commission total:** $15,000

#### Registration

| Enter the estimated registration fee for each commissioner | | | $600 | Louisville, KY |

**Dues for cycle that aligns with this fiscal year**

Enter the anticipated amount of dues that will 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

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<td>SB07-057*</td>
<td>Regulate Debt Settlement Services <em>(in place of CCUSL bill)</em></td>
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