AGENDA

Colorado Commission on Uniform State Laws

October 15, 2018, 11:00 a.m.
Committee Room: HCR 0112

1. Updates on ULC acts proposed for the 2019 legislative agenda:
   a. Criminal Records Accuracy Act
   b. Fiduciary Income and Principal Act
   c. Nonparent Custody and Visitation Act
   d. Guardianship, Conservatorship, and Other Protective Arrangements

2. Proposed 2019 legislative agenda bill drafts:
   a. LLS 19-0157: Uniform Voidable Transactions Act
   b. LLS 19-0158: Revised Unclaimed Property Act
   c. LLS 19-0159: Uniform Athlete Agents Act
   d. LLS 19-0160: Uniform Regulation of Virtual Currencies
   e. LLS 19-0161: Remote Notarization – Uniform Law
   f. LLS 19-0162: Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images

3. Next CCUSL meeting

4. Other business
BBILL TOPIC: "Colorado Uniform Voidable Transactions Act"
DEADLINES: Finalize by: JAN 23, 2019 File by: JAN 25, 2019

A BILL FOR AN ACT

101 CONCERNING THE ENACTMENT OF AMENDMENTS TO THE "COLORADO
102 UNIFORM FRAUDULENT TRANSFER ACT" RECOMMENDED BY
103 THE UNIFORM LAW COMMISSION, AND, IN CONNECTION
104 THEREWITH, CHANGING THE NAME OF THE "COLORADO
105 UNIFORM FRAUDULENT TRANSFER ACT" TO THE "COLORADO
106 UNIFORM VOIDABLE TRANSACTIONS 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. In 1984, the
Uniform Law Commission (ULC) adopted the "Uniform Fraudulent Transfer Act" (Act), which Colorado enacted as the "Colorado Uniform Fraudulent Transfer Act" in 1991. In 2014, the ULC approved a set of amendments to the Act, which changed the title of the Act to the "Colorado Uniform Voidable Transactions Act". The bill adopts these amendments.

The amendments address a small number of narrowly defined issues and are not a comprehensive revision. The principal features of the amendments are:

- **Choice of law.** The amendments add a new provision that sets forth a choice-of-law rule applicable to claims for relief of the nature governed by the Act.

- **Evidentiary matters.** New provisions add uniform rules allocating the burden of proof and defining the standard of proof with respect to claims for relief and defenses under the Act.

- **Deletion of the special definition of "insolvency" for partnerships.** The Act as originally written set forth a special definition of "insolvency" applicable to partnerships. The amendments delete the original language with the result that the general definition of insolvency now applies to partnerships. One reason for this change is that the original provision gave a partnership full credit for the net worth of each of its general partners. That makes sense only if each general partner is liable for all debts of the partnership, but such is not necessarily the case under modern partnership statutes. A more fundamental reason is that the general definition of insolvency does not credit a nonpartnership debtor with any part of the net worth of its guarantors. To the extent that a general partner is liable for the debts of the partnership, that liability is analogous to that of a guarantor. There is no good reason to define insolvency differently for a partnership debtor than for a nonpartnership debtor whose debts are guaranteed by contract.

- **Defenses.** The amendments refine in relatively minor respects several provisions relating to defenses available to a transferee or obligee as follows:
  - As originally written, the Act created a complete defense to an action for a fraudulent transfer (which renders voidable a transfer made or obligation incurred with actual intent to hinder, delay, or defraud any creditor of the debtor) if the transferee or obligee takes in good faith and for a reasonably equivalent value. The amendments add to the Act
the requirement that the reasonably equivalent value must be given to the debtor.

- The Act created, in a provision derived from the federal "Bankruptcy Code", a defense for a subsequent transferee (that is, a transferee other than the first transferee) that takes in good faith and for value, and for any subsequent good-faith transferee from a person. The amendments clarify the meaning of the defense by rewording it to follow more closely the wording of the federal "Bankruptcy Code", which is substantially unchanged as of 2014. Among other things, the amendments make clear that the defense applies to recovery of or from the transferred property or its proceeds, by levy or otherwise, as well as to an action for a money judgment.

- The Act as originally written created a defense to an action for a fraudulent transfer or to avoid a transfer if the transfer results from enforcement of a security interest in compliance with the secured transactions provisions of the "Uniform Commercial Code". The amendments exclude from that defense acceptance of collateral in full or partial satisfaction of the obligation it secures (a remedy sometimes referred to as "strict foreclosure").

- **Series organizations.** A new provision of the Act provides that each "protected series" of a "series organization" is to be treated as a person for purposes of the Act only, even if it is not treated as a person for other purposes. This change responds to the emergence of the series organization as a significant form of business organization and the need to recognize this form of business organization only for remedial purposes of the Act.

- **Medium neutrality.** In order to accommodate modern technology, the references in the Act to a "writing" have been replaced with "record" and related changes have been made.

- **Style.** The amendments make a number of stylistic changes that are not intended to change the meaning of the Act. For example, the amended Act consistently uses the word "voidable" to denote a transfer or obligation for which the Act provides a remedy. As originally written, the Act sometimes inconsistently used the word "fraudulent". No change in meaning is intended. Likewise, the retitling of the Act is not intended to change its meaning.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, amend 38-8-101 as follows:

38-8-101. Short title. The short title of this article shall be known and may be cited as 8 is the "Colorado Uniform Fraudulent Transfer Voidable Transactions Act".

SECTION 2. In Colorado Revised Statutes, 38-8-102, amend the introductory portion, (1)(a) introductory portion, (1)(a)(II), (1)(b) introductory portion, (1)(b)(I), (1)(d), (3), (5), (7), (10), and (13); and add (7.5), (9.5), (11.5), and (12.5) as follows:

38-8-102. Definitions. As used in this article 8, unless the context otherwise requires:

(1) "Affiliate" means:

(a) A person who directly or indirectly owns, controls, or holds with power to vote twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(II) Solely to secure a debt, if the person has not IN FACT exercised the power to vote;

(b) A corporation, twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(I) As a fiduciary or agent without sole DISCRETIONARY power to
vote the securities; or

(d) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(3) "Claim", EXCEPT AS USED IN "CLAIM FOR RELIEF", means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(5) "Creditor" means a person who has a claim.

(7) "Debtor" means a person who is liable on a claim.

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

(8.5) "ORGANIZATION" MEANS A PERSON OTHER THAN AN INDIVIDUAL.

(10) "Person" means an individual; ESTATE; partnership; corporation; association; organization; government or governmental subdivision or agency; business trust; trust; or any other BUSINESS OR NONPROFIT ENTITY; PUBLIC CORPORATION; GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; OR OTHER legal or commercial entity.

(11.5) "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.

(12.5) "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) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, LICENSE, and creation of a lien or other encumbrance.

SECTION 3. In Colorado Revised Statutes, 38-8-103, amend (1) and (2); and repeal (3) as follows:

38-8-103. Insolvency. (1) A debtor is insolvent if, AT A FAIR VALUATION, the sum of the debtor's debts is greater than the sum of the debtor's assets, at a fair valuation.

(2) A debtor who is generally not paying his debts as they become due, OTHER THAN AS A RESULT OF A BONA FIDE DISPUTE, is presumed to be insolvent. THE PRESUMPTION IMPOSES ON THE PARTY AGAINST WHICH THE PRESUMPTION IS DIRECTED THE BURDEN OF PROVING THAT THE NONEXISTENCE OF INSOLVENCY IS MORE PROBABLE THAN ITS EXISTENCE.

(3) A partnership is insolvent under subsection (1) of this section if the sum of the partnership's debts is greater than the aggregate of all of the partnership's assets, at a fair valuation, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

SECTION 4. In Colorado Revised Statutes, 38-8-104, amend (2) as follows:

38-8-104. Value. (2) For the purposes of sections 38-8-105 (1)(b) and 38-8-106, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive sale, foreclosing on assets subject
to a lien, or pursuant to the execution of a power of sale for the
acquisition or disposition of the interest of the debtor upon default under
a mortgage, deed of trust, or security agreement.

SECTION 5. In Colorado Revised Statutes, 38-8-105, amend (1)
introductory portion, (1)(b)(II), and (2)(k); and add (3) as follows:

38-8-105. Transfer or obligation voidable as to present or
future creditor. (1) A transfer made or obligation incurred by a debtor
is fraudulent VOIDABLE as to a creditor, whether the creditor's claim arose
before or after the transfer was made or the obligation was incurred, if the
debtor made the transfer or incurred the obligation:

(b) Without receiving a reasonably equivalent value in exchange
for the transfer or obligation, and the debtor:

(II) Intended to incur, or believed or reasonably should have
believed that he THE DEBTOR would incur, debts beyond his THE DEBTOR'S
ability to pay as they became due.

(2) In determining actual intent under paragraph (a) of subsection
SUBSECTION (1)(a) of this section, consideration may be given, among
other factors, to whether:

(k) The debtor transferred the essential assets of the business to
a lienor who THAT transferred the assets to an insider of the debtor.

(3) A CREDITOR MAKING A CLAIM FOR RELIEF UNDER SUBSECTION
(1) OF THIS SECTION HAS THE BURDEN OF PROVING THE ELEMENTS OF THE
CLAIM FOR RELIEF BY A PREPONDERANCE OF THE EVIDENCE.

SECTION 6. In Colorado Revised Statutes, amend 38-8-106 as
follows:

38-8-106. Transfer or obligation voidable as to present
creditor. (1) A transfer made or obligation incurred by a debtor is
fraudulent VOIDABLE as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(2) A transfer made by a debtor is fraudulent VOIDABLE as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

(3) SUBJECT TO SECTION 38-8-103 (2), A CREDITOR MAKING A CLAIM FOR RELIEF UNDER SUBSECTION (1) OR (2) OF THIS SECTION HAS THE BURDEN OF PROVING THE ELEMENTS OF THE CLAIM FOR RELIEF BY A PREPONDERANCE OF THE EVIDENCE.

SECTION 7. In Colorado Revised Statutes, 38-8-107, amend (1) introductory portion, (1)(a)(I), and (5)(b) as follows:

38-8-107. When transfer is made or obligation is incurred.

(1) For the purposes of this article 8:

(a) A transfer is made:

(I) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(5) An obligation is incurred:
If evidenced by a writing record, when the writing executed record signed by the obligor is delivered to or for the benefit of the obligee.

**SECTION 8.** In Colorado Revised Statutes, 38-8-108, amend (1) introductory portion, (1)(b), and (1)(c) as follows:

**38-8-108. Remedies of creditor.** (1) In an action for relief against a transfer or obligation under this article 8, a creditor, subject to the limitations in section 38-8-109, may obtain:

(b) An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by the Colorado rules of civil procedure IF AVAILABLE UNDER APPLICABLE LAW;

(c) With respect to a transfer made or obligation incurred that is fraudulent null and void under section 38-8-105 (1)(a), a judgment for one and one-half the value of the asset transferred or for one and one-half the amount necessary to satisfy the creditor's claim, whichever is less, together with the creditor's actual costs; except that any judgment entered against a person under this paragraph (c) SUBSECTION (1)(c) is in lieu of, not in addition to, a judgment against the same person under section 38-8-109 (2). No judgment may be entered pursuant to this paragraph (c) SUBSECTION (1)(c) against a person other than the debtor unless that person also acts with wrongful intent as defined in section 38-8-105 (1)(a); otherwise, judgment for money damages against a person other than the debtor may be entered only as provided in section 38-8-109. No judgment may be entered under this paragraph (c) SUBSECTION (1)(c) unless a court of competent jurisdiction enters or has entered a judgment or order establishing the validity of the creditor's claim against the debtor.
SECTION 9. In Colorado Revised Statutes, 38-8-109, amend (1), (2), (4) introductory portion, (4)(a), (4)(b), (5)(b), and (6)(a); and add (7) and (8) as follows:

38-8-109. Defenses, liability, and protection of transferee or obligee. (1) A transfer or obligation is not voidable under section 38-8-105 (1)(a) against a person who took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee.

(2) To the extent a transfer is avoidable in an action by a creditor under section 38-8-108 (1)(a), the following rules apply:

(a) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under section 38-8-108 (1)(a), the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (3) of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(1) The first transferee of the asset or the person for whose benefit the transfer was made; or

(b) Any subsequent immediate or mediate transferee of the first transferee, other than:

(A) A good-faith transferee or obligee who took for value; or

(B) An immediate or mediate good-faith transferee of a person described in subsection (2)(a)(II)(A) of this section.

(b) Recovery pursuant to section 38-8-108 (1)(a) or (2) of this section of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described
IN SUBSECTION (2)(a)(I) or (2)(a)(II) OF THIS SECTION.

(4) Notwithstanding voidability of a transfer or an obligation under this article 8, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

(a) A lien on or a right to retain any AN interest in the asset transferred;

(b) Enforcement of any AN obligation incurred; or

(5) A transfer is not voidable under section 38-8-105 (1)(b) or 38-8-106 if the transfer results from:

(b) Enforcement of a security interest in compliance with the provisions of the "Uniform Commercial Code - Secured Transactions", article 9 of title 4, C.R.S., OTHER THAN ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF THE OBLIGATION IT SECURES.

(6) A transfer is not voidable under section 38-8-106 (2):

(a) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made, unless EXCEPT TO THE EXTENT the new value was secured by a valid lien;

(7) THE FOLLOWING RULES DETERMINE THE BURDEN OF PROVING MATTERS REFERRED TO IN THIS SECTION:

(a) A PARTY THAT SEEKS TO INVOKE SUBSECTION (1), (4), (5), OR (6) OF THIS SECTION HAS THE BURDEN OF PROVING THE APPLICABILITY OF THAT SUBSECTION.

(b) EXCEPT AS PROVIDED IN SUBSECTIONS (7)(c) AND (7)(d) OF THIS SECTION, THE CREDITOR HAS THE BURDEN OF PROVING EACH APPLICABLE ELEMENT OF SUBSECTION (2) OR (3) OF THIS SECTION.

(c) THE TRANSFEREE HAS THE BURDEN OF PROVING THE APPLICABILITY TO THE TRANSFEREE OF SUBSECTION (2)(a)(II)(A) OR
(2)(a)(II)(B) OF THIS SECTION.

(d) A PARTY THAT SEEKS ADJUSTMENT UNDER SUBSECTION (3) OF THIS SECTION HAS THE BURDEN OF PROVING THE ADJUSTMENT.

(8) THE STANDARD OF PROOF REQUIRED TO ESTABLISH MATTERS REFERRED TO IN THIS SECTION IS PREPONDERANCE OF THE EVIDENCE.

SECTION 10. In Colorado Revised Statutes, amend 38-8-110 as follows:

38-8-110. Extinguishment of claim for relief. (1) A cause of action CLAIM FOR RELIEF with respect to a fraudulent transfer or obligation under this article 8 is extinguished unless action is brought:

(a) Under section 38-8-105 (1)(a), within NOT LATER THAN four years after the transfer was made or the obligation was incurred or, if later, within NOT LATER THAN one year after the transfer or obligation was or could reasonably have been discovered by the claimant;

(b) Under section 38-8-105 (1)(b) or 38-8-106 (1), within NOT LATER THAN four years after the transfer was made or the obligation was incurred; or

(c) Under section 38-8-106 (2), within NOT LATER THAN one year after the transfer was made. or the obligation was incurred.

SECTION 11. In Colorado Revised Statutes, add 38-8-110.3, 38-8-110.5, and 38-8-113 as follows:

38-8-110.3. Governing law. (1) IN THIS SECTION, THE FOLLOWING RULES DETERMINE A DEBTOR'S LOCATION:

(a) A DEBTOR WHO IS AN INDIVIDUAL IS LOCATED AT THE INDIVIDUAL'S PRINCIPAL RESIDENCE;

(b) A DEBTOR THAT IS AN ORGANIZATION AND HAS ONLY ONE PLACE OF BUSINESS IS LOCATED AT ITS PLACE OF BUSINESS; AND
A debtor that is an organization and has more than one place of business is located at its chief executive office.

(2) A claim for relief in the nature of a claim for relief under this Article 8 is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred.

38-8-110.5. Application to series organizations - definitions.

(1) In this section:

(a) "Protected series" means an arrangement, however denominated, created by a series organization that is not established, formed, organized, or created in this state and that, pursuant to the law under which the series organization is organized, has the characteristics set forth in this section.

(b) "Series organization" means an organization that is not established, formed, organized, or created in this state and that, pursuant to the law under which it is organized, has the following characteristics:

(I) The organic record of the organization provides for creation by the organization of one or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of or associated with the protected series.

(II) Debt incurred or existing with respect to the activities of, property of, or associated with, a particular protected series is enforceable against the property of, or associated with, the protected series only and not against the
PROPERTY OF, OR ASSOCIATED WITH, THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE ORGANIZATION.

(III) Debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only and not against the property of, or associated with a protected series of, the organization. A series organization and each protected series of the organization is a separate person for purposes of this article 8, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

(2) A series organization and each protected series of the organization is a separate person for purposes of this article 8 only, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

(3) This section does not authorize:

(a) The establishment, formation, organization, or creation of a series organization or protected series pursuant to Colorado law; or

(b) The recognition of a series organization or protected series for any purpose other than the remedial purposes of this article 8.

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).

SECTION 12. In Colorado Revised Statutes, 2-5-102, repeal (7) as follows:

2-5-102. Inclusions - nonstatutory. (7) There shall be included in the publication of the "Colorado Uniform Fraudulent Transfer Act", as nonstatutory matter, following each section of the article, the full text of the official comments to that section contained in the official volume containing the 1984 official text of the "Uniform Fraudulent Transfer Act" issued by the national conference of commissioners on uniform state laws with any changes in the official comments or Colorado comments to correspond to Colorado changes in the uniform act. The comments shall be prepared by the revisor of statutes and approved for publication by the committee on legal services.

SECTION 13. 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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 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 the 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. Section 1 of the bill enacts the "Revised Uniform Unclaimed Property Act" (act), as adopted by the National Conference of Commissioners on Uniform State Laws in 2016 with Colorado-specific amendments. The act responds to current transactions and practices, in particular electronic records, and seeks to promote uniformity among state laws regarding the disposition of unclaimed property.

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
of unclaimed property.

The act is subdivided into 15 parts, which are summarized as follows:

- Part 1 establishes general provisions for the act, including definitions for terms used in the act and authority for the administrator, who is the state treasurer, to make rules related to the act;
- Part 2 establishes standards to determine if property is abandoned. Under the act, property is presumed abandoned if it is unclaimed by its apparent owner after a specified period of time known as the dormancy period. Some of the dormancy periods in the act are shorter than current law. This part also includes a number of sections that are included in current law to exempt property from the act.
- Part 3 establishes priority rules for determining when the state may take custody of property that is presumed abandoned;
- Part 4 requires a holder of property presumed to be abandoned to provide a report to the administrator and to retain certain records;
- Part 5 establishes the notice that the administrator must provide to the apparent owner;
- Part 6 establishes how the administrator takes custody of property after it has been abandoned;
- Part 7 permits the administrator to sell property at a public sale after notice;
- Part 8 relates to the administration of property and keeps the requirement that the proceeds of property sold be deposited in the existing unclaimed property trust fund and the unclaimed property tourism promotion trust fund;
- Part 9 addresses claims to recover property from the administrator and includes existing provisions to allow offsets against the claim for child support; judicial restitution, fines, fees, or surcharges; and delinquent taxes and claims of the state;
- Part 10 permits the administrator to request a report from a person and to examine records to determine compliance with the act;
- Part 11 provides a holder with the right to appeal the administrator's determination concerning the holder's liability to deliver property or payment to the state;
- Part 12 establishes penalties for a holder that fails to comply with the act;
- Part 13 governs agreements between an apparent owner and a person commonly known as a "finder" who locates
and recovers abandoned property on behalf of the owner;

- Part 14 addresses the confidentiality and security of information related to the abandoned property; and
- Part 15 includes miscellaneous provisions relating to the uniformity of construction, electronic signatures, and transitional interpretation.

Colorado-specific sections of the prior version of the act, known as the "Unclaimed Property Act", are retained and indicated by their former statutory section numbers.

Sections 2 through 21 make conforming amendments.

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 AN "ENTITY" AS DEFINED IN
SECTION 7-90-102 (20), BUT DOES NOT INCLUDE AN INVESTMENT
COMPANY REGISTERED UNDER THE FEDERAL "INVESTMENT COMPANY ACT
OF 1940", AS AMENDED, 15 U.S.C. SECS. 80a-1 TO 80a-64.

(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.
"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":

(a) Means a stored-value card:

(I) The value of which does not expire;

(II) That may be decreased in value only by redemption for merchandise, goods, or services; and

(III) That, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the
(b) INCLUDES A PREPAID COMMERCIAL MOBILE RADIO SERVICE, AS DEFINED IN 47 CFR 20.3, AS AMENDED.

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

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

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

(15) "MINERAL" MEANS GAS, OIL, COAL, OIL SHALE, OTHER GASEOUS LIQUID OR SOLID HYDROCARBON, CEMENT MATERIAL, SAND AND GRAVEL, ROAD MATERIAL, BUILDING STONE, CHEMICAL RAW MATERIAL, GEMSTONE, FISSIONABLE AND NONFISSIONABLE ORES, COLLOIDAL AND OTHER CLAY, STEAM AND OTHER GEOTHERMAL RESOURCES, AND ANY OTHER SUBSTANCE DEFINED AS A MINERAL UNDER COLORADO LAW 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 indebtedness issued by a municipality or other political subdivision of a state.

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

(20) "NONFREELY 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 OR THE PERSON'S LEGAL REPRESENTATIVE WHEN ACTING ON BEHALF OF THE OWNER. THE TERM INCLUDES:

(a) A DEPOSITOR, FOR A DEPOSIT;

(b) A BENEFICIARY, FOR A TRUST OTHER THAN A DEPOSIT IN TRUST;

(c) A CREDITOR, CLAIMANT, OR PAYEE, FOR OTHER PROPERTY; AND

(d) THE LAWFUL BEARER OF A RECORD THAT MAY BE USED TO OBTAIN MONEY, A REWARD, OR A THING OF VALUE.

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

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

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

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

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

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

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

   (III) A SECURITY EXCEPT FOR:

         (A) A WORTHLESS SECURITY; OR

         (B) A SECURITY THAT IS SUBJECT TO A LIEN, LEGAL HOLD, OR RESTRICTION EVIDENCED ON THE RECORDS OF THE HOLDER OR IMPOSED BY OPERATION OF LAW, 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;
(III) A LOYALTY CARD;
(IV) A PAPER CERTIFICATE THAT IS REDEEMABLE UPON PRESENTATION FOR GOODS OR SERVICES; OR
(V) UNCLAIMED CAPITAL CREDIT PAYMENTS HELD BY COOPERATIVE ELECTRIC ASSOCIATIONS AND TELEPHONE COOPERATIVES.

(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":

(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;

(II) a gift card, except as specified in section 38-13-219; and

(III) a payroll card; and

(c) does not include a loyalty card or game-related digital content.

(31) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:
(a) Transmission of communications or information;
(b) Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
(c) Provision of sewage and septic services or trash, garbage, or recycling disposal.

(32) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or a store of value, but does not have legal tender status as recognized by the United States. The term does not include:
   (a) The software or protocols governing the transfer of the digital representation of value;
   (b) Game-related digital content; or
   (c) A loyalty card.

(33) "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) DEMAND, SAVINGS, OR TIME DEPOSIT, INCLUDING A DEPOSIT THAT IS AUTOMATICALLY RENEWABLE, FIVE 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;

(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) Except as otherwise provided for unclaimed utility
DEPOSITS UNDER SECTION 40-8.5-106, 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 and 38-13-213 to 38-13-220, the
earlier of three years after the owner first has a right to
demand the property or the obligation to pay or distribute the
property arises.

38-13-202. When tax-deferred retirement account presumed
abandoned. (1) 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 a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act 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 section.

(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 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.

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

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

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

(b) If the second communication is made later than thirty
days after the first communication is returned, the date the
first communication is returned undelivered to the holder by
the United States postal service.

(2) If the holder does not send communications to the
apparent owner of a security by first-class United States mail,
the holder shall attempt to confirm the apparent owner’s
interest in the security by sending the apparent owner an
electronic-mail communication not later than two years after
the apparent owner’s last indication of interest in the security.
However, 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.

(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) PRESENTMENT 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 OR FEES
AND CHARGES ASSESSED BY THE HOLDER OR AN AFFILIATED SERVICE
PROVIDER;

(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
(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 matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

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

(b) Due diligence performed as required under Colorado
LAW TO MAINTAIN CONTACT WITH THE INSURED OR ANNUITANT OR 
DETERMINE WHETHER THE INSURED OR ANNUITANT HAS DIED, 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 
anuitant 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 13 DOES NOT AFFECT THE DETERMINATION OF THE EXTENT TO WHICH AN INSURANCE COMPANY, BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 13, 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.

38-13-213. [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.

38-13-214. [Similar to former 38-13-108.2 (2)] Foreclosure sale
- overbid. 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 six months after the date of sale is presumed
abandoned.
38-13-215. [Similar to former 38-13-108.3] Funds held in lawyer COLTAF trust accounts - exemption - definition. (1) This article 13 does not apply to money held in a lawyer COLTAF trust account.

(2) As used in this section, "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.

38-13-216. [Similar to former 38-13-108.5] Money held by the public employees' retirement association - definitions. (1) For 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 (29).
(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.

38-13-217. [Similar to former 38-13-108.7] Gaming chips or tokens - gaming award points - inapplicability. This article 13 does not apply to gaming award points and gaming chips or tokens issued or sold by a licensed gaming establishment before, on, or after August 4, 2004, except to the extent the state has taken custody of any gaming award points or gaming chips or tokens.
ON OR BEFORE JANUARY 1, 2004.

38-13-218. [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 44-32-102 (24).

38-13-219. [Similar to former 38-13-108.9] Unclaimed gift cards - limited exception. This article 13 does not apply to unclaimed gift cards if the holder or issuer is a business association with annual gross receipts from the sales or issuance of all gift cards totaling two hundred thousand dollars or less.


(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.
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
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:

(a) The last-known address of the apparent owner in the records of the holder is in this state; or

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

38-13-303. 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 DOMICILLED 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 subject to the custody of the administrator; and

(c) The last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property; except that, if the property is specifically exempt from custodial taking 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 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 and where it may be inspected by the administrator;

(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 nonfreely transferable security, and explain why it is a nonfreely 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 38-13-1401 about the apparent owner or the apparent owner's property to the extent not
(4) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under section 38-13-401 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

38-13-403. When report to be filed. (1) Except as otherwise provided in subsection (2) of this section and subject to subsection (3) of this section, the report under section 38-13-401 must be filed before November 1 of each year and cover the twelve months preceding July 1 of that year.

(2) Subject to subsection (3) of this section, the report to be filed by an insurance company under section 38-13-401 must be filed before May 1 of each year for the immediately preceding calendar year.

(3) Before the date for filing the report under section 38-13-401, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

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

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

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

(c) The amount or value of the property;

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

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

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

PART 5
NOTICE TO APPARENT OWNER OF
PROPERTY PRESUMED ABANDONED

38-13-501. Notice to apparent owner by holder. (1) Subject
to subsection (2) of this section, the holder of property presumed
ABANDONED SHALL SEND TO THE APPARENT OWNER NOTICE THAT COMPLIES WITH SECTION 38-13-502 IN A FORMAT ACCEPTABLE TO THE ADMINISTRATOR, BY FIRST-CLASS UNITED STATES MAIL, NOT MORE THAN ONE HUNDRED EIGHTY DAYS NOR LESS THAN SIXTY DAYS BEFORE FILING THE REPORT UNDER SECTION 38-13-401 IF:

(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 may send the notice described in subsection (1) of this section by electronic mail and not by first-class United States mail; except that, if the holder has evidence that the electronic mail could not be delivered, then the holder shall send the notice in accordance with subsection (1) of this section.

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 SEND THE NOTICE TO THE APPARENT OWNER'S
ELECTRONIC-MAIL ADDRESS IF THE ADMINISTRATOR 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 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) 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 and maintaining the website or database under subsection (3) of this section, the administrator may use first-class mail, electronic mail, other printed publication, telecommunication, the internet, other media, or public events 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 NONFREELY TRANSFERABLE SECURITY. IF THE ADMINISTRATOR OR HOLDER DETERMINES THAT A SECURITY IS NO LONGER A NONFREELY TRANSFERABLE SECURITY, THE HOLDER SHALL DELIVER THE SECURITY ON THE NEXT REGULAR DATE PRESCRIBED FOR DELIVERY OF SECURITIES UNDER THIS ARTICLE. THE HOLDER SHALL MAKE A DETERMINATION ANNUALLY WHETHER A SECURITY IDENTIFIED IN A REPORT FILED UNDER SECTION 38-13-401 AS A NONFREELY TRANSFERABLE SECURITY IS NO LONGER A NONFREELY TRANSFERABLE SECURITY.


Recovery of property by holder from administrator. (1) A holder that pays money to the administrator under this article 13 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 38-13-606 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 13 MAY FILE A CLAIM FOR RETURN OF THE PROPERTY FROM THE ADMINISTRATOR IF:

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

(2) 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. Crediting income or gain to owner's account. If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold.

38-13-607. 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.

38-13-608. Disposition of property having no substantial value 
- immunity from liability. (1) IF THE ADMINISTRATOR TAKES CUSTODY 
OF PROPERTY DELIVERED UNDER THIS ARTICLE 13 AND LATER DETERMINES 
THAT THE PROPERTY HAS NO SUBSTANTIAL COMMERCIAL VALUE OR THAT 
THE COST OF DISPOSING OF THE PROPERTY WILL EXCEED THE VALUE OF 
THE PROPERTY, THE ADMINISTRATOR MAY RETURN THE PROPERTY TO THE 
HOLDER OR DESTROY OR OTHERWISE DISPOSE OF THE PROPERTY.

(2) An action or proceeding shall not be commenced 
AGAINST THE STATE, AN AGENCY OF THE STATE, THE ADMINISTRATOR, 
ANOTHER OFFICER, EMPLOYEE, OR AGENT OF THE STATE, OR A HOLDER FOR 
OR BECAUSE OF AN ACT OF THE ADMINISTRATOR UNDER THIS SECTION, 
EXCEPT FOR INTENTIONAL MISCONDUCT OR MALFEASANCE.

38-13-609. Periods of limitation and repose. (1) Expiration, 
BEFORE, ON, OR AFTER JULY 1, 2019, 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. THIS SUBSECTION (1) APPLIES TO
ANY SECURITY PRESUMED ABANDONED UNDER SECTION 38-13-208 WITH
A COMMENCEMENT DATE, REPORTED UNDER SECTION 38-13-402, THAT IS
ON OR AFTER JULY 1, 2014.

(2) THE ADMINISTRATOR SHALL NOT SELL A SECURITY LISTED ON
AN ESTABLISHED STOCK EXCHANGE FOR LESS THAN THE PRICE PREVAILING
ON THE EXCHANGE AT THE TIME OF SALE. THE ADMINISTRATOR MAY SELL
A SECURITY NOT LISTED ON AN ESTABLISHED EXCHANGE BY ANY
COMMERCIAL REASONABLE METHOD.

38-13-703. Recovery of securities or value by owner. (1) IF THE
ADMINISTRATOR SELLS A SECURITY BEFORE THE EXPIRATION OF SIX YEARS
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)(c) of this section, or entity under subsection (2)(d) 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 Colorado veterans community living center at Homelake;

(c) The agency that awarded the medal or decoration; or

(d) 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 OTHER THAN FROM THE SALE OF SECURITIES AS
CONTEMPLATED BY SECTION 38-13-801.5.

(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) 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 administrator for the payment
of contract auditor services and for fees of security custodians
for properties that are securities. Any money appropriated for
the payment of contract auditor services shall be paid from
revenues collected by contract auditors.

(c) The administrator 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); AND

(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) 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).

(b) THE ADMINISTRATOR 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
 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.


(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) AFTER RESERVING THE AMOUNTS DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, 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:

-55-
(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 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) The administrator shall reserve in the unclaimed
PROPERTY TOURISM PROMOTION TRUST FUND AND SHALL NOT TRANSFER ANY MONEY NECESSARY FOR:

(I) THE CLAIMS PAID PURSUANT TO THIS ARTICLE 13 FOR EACH FISCAL YEAR; AND

(II) THE RESERVE AMOUNT NECESSARY TO PAY ANTICIPATED CLAIMS.

(c) 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.

38-13-803. 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
13 is subject to the right of another state to take custody of the
property if:

(a) The property was paid or delivered to the

-58-
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
come subject to a claim of abandonment by the other state;

(b) The records of the holder did not accurately identify
the owner of the property, the last-known address of the owner
was in another state, and, under the law of the other state, the
property has become subject to a claim of abandonment by the
other state;

(c) The property was subject to the custody of the
administrator of this state under section 38-13-305 and, under
the law of the state of domicile of the holder, the property has
become subject to a claim of abandonment by the state of
domicile of the holder; or

(d) The property:

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

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

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

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

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

38-13-902.1. [Similar to former 38-13-117.3] Claims offset for child support. (1) Before paying a claim pursuant to section 38-13-905 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 38-13-905 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 38-13-905 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,

(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 13, 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 13 may file a claim for the property on a form prescribed by the administrator.

(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; and

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

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.

(3) 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) or, in the case of a security, not later than forty-five days after the claim is allowed under section 39-13-904 (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 38-13-606.

(2) 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 in accordance with sections 38-13-902.2 to 38-13-902.4. The administrator shall pay the amount to the appropriate state agency and notify the owner of the payment.

(3) The administrator may make periodic inquiries of state 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 sections 38-13-902.2 to 38-13-902.4. The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under
SECTIONS 38-13-902.2 TO 38-13-902.4 OF AN APPARENT OWNER THAT APPEARS IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE AMOUNT TO THE APPROPRIATE STATE 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 district court for the city and county of Denver to establish a claim that has been denied or deemed denied under section 38-13-904. On final determination of the action, the court may, on application, award to the plaintiff their reasonable attorney's fees, costs, and expenses of litigation.

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;
(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 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.

38-13-1003. Rules for conducting examination. (1) THE ADMINISTRATOR SHALL ADOPT RULES GOVERNING PROCEDURES AND STANDARDS FOR AN EXAMINATION UNDER SECTION 38-13-1002, INCLUDING RULES FOR USE OF AN ESTIMATION, EXTRAPOLATION, AND STATISTICAL SAMPLING IN CONDUCTING AN EXAMINATION.

(2) AN EXAMINATION UNDER SECTION 38-13-1002 MUST BE PERFORMED 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; AND

(c) THE PERSON CONDUCTING THE EXAMINATION SHALL CONSIDER THE EVIDENCE PRESENTED IN GOOD FAITH BY THE PERSON IN PREPARING THE FINDINGS OF THE EXAMINATION UNDER SECTION 38-13-1007.

38-13-1004. Records obtained in examination. (1) RECORDS OBTAINED AND RECORDS, INCLUDING WORK PAPERS, COMPILED BY THE ADMINISTRATOR IN THE COURSE OF CONDUCTING AN EXAMINATION UNDER SECTION 38-13-1002:

(a) ARE SUBJECT TO THE CONFIDENTIALITY AND SECURITY PROVISIONS OF PART 14 OF THIS ARTICLE 13 AND ARE NOT PUBLIC RECORDS;

(b) MAY BE USED BY THE ADMINISTRATOR IN AN ACTION TO COLLECT PROPERTY OR OTHERWISE ENFORCE THIS ARTICLE 13;

(c) MAY BE USED IN A JOINT EXAMINATION CONDUCTED WITH ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER GOVERNMENTAL ENTITY IF THE 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 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;
(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.

38-13-1010. Limit on future employment. The administrator
OR AN INDIVIDUAL EMPLOYED BY THE ADMINISTRATOR WHO PARTICIPATES
IN, RECOMMENDS, OR APPROVES THE AWARD OF A CONTRACT UNDER
SECTION 38-13-1009 (2) ON OR AFTER JULY 1, 2019, MUST NOT BE
EMPLOYED BY, CONTRACTED WITH, OR COMPENSATED IN ANY CAPACITY
BY THE CONTRACTOR OR AN 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. 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 38-13-1011, 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 38-13-1011 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 38-13-1011; 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 38-13-1011 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 38-13-1011 IF NO REVIEW WAS INITIATED UNDER SECTION 38-13-1103 AND NO ACTION WAS FILED 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 38-13-1011 OR 38-13-1205 BY:

(a) ADMINISTRATIVE REVIEW UNDER SECTION 38-13-1103; OR

(b) JUDICIAL REVIEW UNDER SECTION 38-13-1104.


(2) A FINAL DECISION IN AN ADMINISTRATIVE PROCEEDING INITIATED UNDER SUBSECTION (1) OF THIS SECTION IS SUBJECT TO JUDICIAL REVIEW BY THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER.

38-13-1104. Judicial remedy. (1) NOT LATER THAN NINETY DAYS AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S DETERMINATION UNDER SECTION 38-13-1011 OR THAT A CIVIL PENALTY HAS BEEN IMPOSED UNDER SECTION 38-13-1205, A PUTATIVE HOLDER OR A HOLDER MAY:

(a) FILE AN ACTION AGAINST THE ADMINISTRATOR IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER, CHALLENGING ALL OR PART OF THE ADMINISTRATOR'S DETERMINATION OF LIABILITY OR IMPOSITION OF A CIVIL PENALTY AND SEEKING A DECLARATION THAT THE DETERMINATION OR IMPOSITION IS UNENFORCEABLE, IN WHOLE OR IN PART; OR

(b) PAY THE CIVIL PENALTY OR 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 DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER FOR A REFUND OF ALL OR PART OF THE AMOUNT PAID OR RETURN OF ALL OR PART OF THE PROPERTY DELIVERED.

(2) IF A HOLDER PAYS A CIVIL PENALTY OR A PUTATIVE HOLDER PAYS OR DELIVERS PROPERTY DETERMINED BY THE ADMINISTRATOR TO BE PAID OR DELIVERED TO THE ADMINISTRATOR AT ANY TIME AFTER THE HOLDER OR PUTATIVE HOLDER FILES AN ACTION UNDER SUBSECTION (1)(a) OF THIS SECTION, THE COURT SHALL CONTINUE THE ACTION AS IF IT HAD BEEN FILED ORIGINALY 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, ON APPLICATION, AWARD TO THE PLAINTIFF THEIR REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.

(4) A HOLDER OR 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 38-13-1011 BECOMES FINAL AND IS NOT
SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW, THE ADMINISTRATOR
MAY COMMENCE AN ACTION IN THE DISTRICT COURT FOR THE CITY AND
COUNTY OF DENVER 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.

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.

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 THE ANNUAL RATE SPECIFIED IN
SECTION 39-21-110.5 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 AMOUNT 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. THE
ADMINISTRATOR 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 - rules.

(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) The administrator shall adopt rules governing the maximum compensation in an agreement under subsection (1) of this section. An agreement that provides for compensation in an amount that exceeds the maximum amount established by rule is unenforceable except by the apparent owner. An apparent owner or the administrator, acting on behalf of an apparent owner or the administrator, acting on behalf of an apparent owner or the administrator, acting on behalf of an apparent owner.
OWNER, OR BOTH, MAY FILE AN ACTION IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER TO REDUCE THE COMPENSATION TO THE MAXIMUM AMOUNT. ON THE FINAL DETERMINATION OF AN ACTION FILED UNDER THIS SUBSECTION (3), THE COURT MAY, ON APPLICATION, AWARD THE PLAINTIFF ITS REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF LITIGATION.

(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) 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 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 insureds, 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.

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 13 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 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).

38-13-1503. Transitional provision. (1) An initial report
Filed under this Article 13 for property that was not required to
be reported before July 1, 2019, 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 July 1, 2019, as if this Article 13 had
been in effect during that period.

(2) This Article 13 does not relieve a holder of a duty that
arose before July 1, 2019, to report, pay, or deliver property.

Subject to section 38-13-609, a holder that did not comply with
the law governing unclaimed property before July 1, 2019, is
subject to applicable provisions for enforcement and penalties
in effect before July 1, 2019.

SECTION 2. In Colorado Revised Statutes, 6-1-105, amend
(1)(iii)(II) 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:

(iii) Knowingly enters into, or attempts to enforce, an agreement
regarding the recovery of an overbid on foreclosed property if the
agreement concerns the recovery of funds in the possession of:

(II) The state treasurer and does not meet the requirements for
such an agreement as specified in section 38-13-128.5, C.R.S.
SECTION 3. In Colorado Revised Statutes, 8-45-118, amend (3)(b) as follows:

8-45-118. Treasurer custodian of fund - disbursements.

(3) (b) For warrants issued on or after August 6, 2003, the funds transferred pursuant to paragraph (a) of this subsection (3) of this section shall be subject to the provisions of the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38, C.R.S., and for purposes of this paragraph (b), Pinnacol Assurance shall be considered an insurance company as defined in section 38-13-102 (6.5), C.R.S. SECTION 38-13-102 (13).

SECTION 4. In Colorado Revised Statutes, 16-11-101.6, amend (6)(a) and (6)(c) as follows:

16-11-101.6. Collection of fines and fees - methods - charges - judicial collection enhancement fund - definition. (6) (a) The judicial department may enter into a memorandum of understanding with the state treasurer, acting as the administrator of unclaimed property under the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38, C.R.S., for the purpose of offsetting against a claim for unclaimed property the amount of outstanding fines, fees, costs, or surcharges owed pursuant to law or an order entered by a court of this state by the person claiming unclaimed property. When an offset is to be made, the judicial department or the court to which the fines, fees, costs, or surcharges are owed shall notify the defendant in writing that the state intends to offset the defendant's outstanding fines, fees, costs, or surcharges against his or her claim for unclaimed property.

(c) For purposes of this subsection (6), "claim for unclaimed property" means a cash claim filed in accordance with section 38-13-117;
SECTION 5. In Colorado Revised Statutes, 16-18.5-106.7, amend (1) and (3) as follows:

16-18.5-106.7. Unclaimed property offset - definition. (1) The judicial department may enter into a memorandum of understanding with the state treasurer, acting as the administrator of unclaimed property under the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38, C.R.S., for the purpose of offsetting against a claim for unclaimed property the unpaid amount of restitution the person making the claim has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918. C.R.S. When an offset is to be made, the judicial department or the court in which the person's restitution obligation is pending shall notify the person in writing that the state intends to offset the amount of the person's unpaid restitution obligation against his or her claim for unclaimed property.

(3) For purposes of this section, "claim for unclaimed property" means a cash claim filed in accordance with section 38-13-117, C.R.S.

SECTION 6. In Colorado Revised Statutes, 24-30-202, amend (9)(c) introductory portion as follows:

24-30-202. Procedures - vouchers, warrants, and checks - rules - penalties. (9) (c) In the event of any conflict between this subsection (9) and any provision of the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38, C.R.S.; the provisions of the "REVISED UNIFORM Unclaimed Property Act" shall control; except that this subsection (9) shall control with regard to:

SECTION 7. In Colorado Revised Statutes, 24-49.7-106, amend (1)(a) as follows:
24-49.7-106. Colorado travel and tourism promotion fund -
Colorado travel and tourism additional source fund - creation -
nature of funds. (1) There is hereby created a fund in the state treasury
to be known as the Colorado travel and tourism promotion fund, which
shall be administered by the board and which shall consist of:

(a) All money transferred thereto in accordance with sections

38-13-116.7 (3) SECTIONS 38-13-801.5 (3) and 44-30-701 (2); and

SECTION 8. In Colorado Revised Statutes, 24-51-205, amend
(2) as follows:

24-51-205. General authority of the board. (2) The board is
authorized to accept on behalf of the association any moneys or properties
received in the form of donations, gifts, appropriations, bequests,
forfeitures, or otherwise, or income derived therefrom. The provisions of
This subsection (2) shall not be interpreted to DOES NOT allow the board
to accept or retain moneys MONEY held by the association that are
presumed to be abandoned pursuant to the provisions of section

SECTION 9. In Colorado Revised Statutes, amend 24-51-218 as
follows:

24-51-218. Unclaimed money. Notwithstanding any other
provision of this article ARTICLE 51 to the contrary, any moneys MONEY
that are presumed to be abandoned pursuant to the provisions of section
38-13-108.5, C.R.S., shall be SECTION 38-13-216 ARE subject to the
provisions of the "REVISED UNIFORM Unclaimed Property Act", article 13
of title 38. C.R.S:

SECTION 10. In Colorado Revised Statutes, 25.5-5-207, amend
(4)(a) as follows:
25.5-5-207. Adult dental benefit - adult dental fund - creation - legislative declaration. (4) (a) There is hereby created in the state treasury the adult dental fund, referred to in this section as the "fund", consisting of moneys transferred to the fund from the unclaimed property trust fund pursuant to section 38-13-801 (3) and any moneys that may be appropriated to the fund by the general assembly. The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with implementing the adult dental benefit pursuant to section 25.5-5-202 (1)(w).

SECTION 11. In Colorado Revised Statutes, 26-13-115.5, amend (1) as follows:

26-13-115.5. Family support registry fund created. (1) There is hereby created in the state treasury a fund to be known as the family support registry fund, which shall consist of any credited thereto from the investment earnings on deposited with the state treasurer, accruing from collections for child support received by the family support registry, any undeliverable child support payments, and any fees collected pursuant to section 26-13-114 (13). Moneys in the family support registry fund shall be continuously appropriated to the state department to reimburse the family support registry for unfunded payments by obligors or for other incidental expenditures associated with the operation of the family support registry. At the end of any fiscal year, all unexpended and unencumbered in the family support registry fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund of the state; except that any non-IV-D child support payments that are
undeliverable after two years shall be considered unclaimed property for purposes of the "REVISED UNIFORM Unclaimed Property Act", ARTICLE 13 OF TITLE 38, and shall be reported to the administrator of the "REVISED UNIFORM Unclaimed Property Act" for purposes of locating the payee. Consistent with the requirements for confidentiality of information regarding child support, the state department shall specify the amount of money that is unclaimed and provide sufficient identifying information, if available, to allow the administrator to locate the payee.

SECTION 12. In Colorado Revised Statutes, 26-13-118.5, amend (1) and (3) as follows:

26-13-118.5. Unclaimed property offset - definitions. (1) The state department may enter into a memorandum of understanding with the state treasurer, acting as the administrator of unclaimed property under the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38, C.R.S., for the purpose of offsetting against a claim for unclaimed property the amount of current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance owed by the person claiming the unclaimed property.

(3) For purposes of this section, "claim for unclaimed property" means a cash claim submitted in accordance with section 38-13-117, C.R.S. SECTION 38-13-903.

SECTION 13. In Colorado Revised Statutes, amend 35-1-106.9 as follows:

35-1-106.9. Agriculture management fund - creation. There is hereby created in the state treasury the agriculture management fund. The fund shall consist of moneys transferred pursuant to section
38-13-116.7 (3), C.R.S. SECTION 38-13-801.5 (3), any moneys MONEY realized from the sale of the inspection and consumer services division facility and other real property associated with that facility that are all located in the Highlands neighborhood of Denver, Colorado, and any moneys MONEY realized from the sale of the warehouse and storage facility located at 5000 Packing House Road, Denver, Colorado. The department shall use such moneys MONEY to fund agricultural efforts approved by the commissioner, including, but not limited to, funding additional department employees necessary to implement and manage approved programs. Moneys MONEY may be used for direct assistance or grant assistance for conservation districts created pursuant to article 70 of this title. Moneys TITLE 35. Money in the fund may be used for expenses related to the department's office consolidation as authorized by House Bill 13-1234, enacted in 2013, and as authorized by House Bill 16-1460, enacted in 2016. Moneys MONEY in the fund are subject to annual appropriation to the department. Any moneys MONEY not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation. All interest derived from the deposit and investment of moneys MONEY in the fund shall be credited to the fund and shall not be transferred or credited to the general fund or any other fund.

SECTION 14. In Colorado Revised Statutes, 38-38-111, amend (3)(a) and (3)(b) as follows:

38-38-111. Treatment of an overbid - agreements to assist in recovery of overbid prohibited - penalty - definition. (3) (a) (i) When the property is sold by the sheriff, all of the sale proceeds must be deposited into the registry of the court.
(II) When the property is sold by the public trustee, any unclaimed remaining overbid from a foreclosure sale shall be held by the public trustee in escrow. The remaining overbid shall be held for six months from the date of the sale. The public trustee is answerable for the funds without interest at any time within the six-month period to any person legally entitled to the funds. Any interest earned on the escrowed funds must be paid to the county at least annually. Unclaimed remaining overbids that are less than twenty-five dollars and that are not claimed within six months from the date of sale must be paid to the general fund of the county, and such money paid to the general fund of the county becomes the property of the county. Unclaimed remaining overbids that are equal to or greater than twenty-five dollars and that are not claimed within six months from the date of the sale are unclaimed property for purposes of the "REVISED UNIFORM Unclaimed Property Act", article 13 of this title 38, and must be transferred to the administrator in accordance with article 13. After the unclaimed remaining overbids are transferred to the administrator or to the general fund of the county, the public trustee is discharged from any further liability or responsibility for the money.

(b) If the unclaimed remaining overbids exceed five hundred dollars and have not been claimed by any person entitled thereto within sixty calendar days after the expiration of all redemption periods as provided by section 38-38-302, the public trustee shall, within ninety calendar days after the expiration of all redemption periods, commence publication of a notice for four weeks, which means publication once each week for five successive weeks, in a newspaper of general circulation in the county where the subject property is located. The notice must contain the name of the owner, the owner's address as given in the
recorded instrument evidencing the owner's interest, and the legal
description and street address, if any, of the property sold at the sale and
must state that an overbid was realized from the sale and that, unless the
funds are claimed by the owner or other person entitled thereto within six
months after the date of sale, the funds shall be transferred to the state
treasurer as part of FOR DISPOSITION IN ACCORDANCE WITH the "REVISED
Uniform Unclaimed Property Act", ARTICLE 13 OF THIS TITLE 38. The
public trustee shall also mail a copy of the notice to the owner at the best
available address.

SECTION 15. In Colorado Revised Statutes, 35-65-107, amend
(3)(a)(III) as follows:

(3) (a) The Colorado state fair authority cash fund shall consist of:
(III) All moneys MONEY credited to the fund in accordance with
section 38-13-116.7 (3), C.R.S. SECTION 38-13-801.5 (3).

SECTION 16. In Colorado Revised Statutes, amend 38-38-114
as follows:

38-38-114. Unclaimed refunds - disposition under "Revised
Uniform Unclaimed Property Act". Moneys MONEY payable as a
refund for overpayment of a cure of default pursuant to section 38-38-104
or for overpayment of a redemption pursuant to part 3 of this article
ARTICLE 38 that remain REMAINS unclaimed by the owner one year after
the moneys MONEY became payable are IS presumed abandoned and shall
be reported and paid to the state treasurer in accordance with sections

SECTION 17. In Colorado Revised Statutes, 39-21-108, amend
(5)(a) and (7)(a) as follows:
39-21-108. Refunds. (5) (a) On and after October 1, 2002, any warrant representing a refund of income tax imposed by article 22 of this title or a grant for property taxes, rent, or heat or fuel expenses assistance allowed by article 31 of this title that is not presented for payment within six months from its date of issuance shall be void. On and after October 1, 2002, upon the cancellation of a warrant in accordance with the standard operating procedures of the department or the state controller, the department shall forward to the state treasurer the name of the taxpayer as it appears on the warrant, the taxpayer identification number, the taxpayer's last-known address, the amount of the cancelled warrant, and an amount of money equal to the amount specified in the warrant so that the state treasurer may make the refund pursuant to the provisions of the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38. C.R.S.

(7) (a) On and after October 1, 2010, any warrant representing a refund issued by the department, excluding refunds addressed by subsection (5) of this section, that is not presented for payment within six months from its date of issuance shall be void. On and after October 1, 2010, upon the cancellation of a warrant in accordance with the standard operating procedures of the department or the state controller, the department shall forward to the state treasurer the name of the taxpayer as it appears on the warrant, the taxpayer identification number, the taxpayer's last-known address, the amount of the canceled warrant, and an amount of money equal to the amount specified in the warrant so that the state treasurer may make the refund pursuant to the provisions of the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38. C.R.S.
SECTION 18. In Colorado Revised Statutes, 39-21-113, amend (12)(a) as follows:

39-21-113. Reports and returns - rule. (12) (a) Notwithstanding the provisions of this section TO THE CONTRARY, on and after October 1, 2002, for the purpose of enabling the state treasurer to make income tax refunds pursuant to the provisions of the "REvised UnInform Unclaimed Property Act", article 13 of title 38, C.R.S., the department shall supply the state treasurer with information as required by section 39-21-108 (5).

SECTION 19. In Colorado Revised Statutes, 39-21-121, amend (1)(a), (2), (3), and (5) as follows:

39-21-121. Unclaimed property offset - definition. (1) (a) The department shall periodically certify to the state treasurer, acting as the administrator of unclaimed property under the "REvised Uniform Unclaimed Property Act", article 13 of title 38, C.R.S., information regarding persons who are liable for the payment of taxes, penalties, or interest imposed pursuant to articles 22 to 33 of this title that are delinquent and in distraint.

(2) (a) Prior to the payment of a claim for unclaimed property pursuant to section 38-13-117, C.R.S., the state treasurer shall compare the social security number or federal employer identification number, whichever is applicable, of the claimant with those certified by the department pursuant to subsection (1) of this section. If the name and associated social security number or federal employer identification number of a claimant appears among those certified, the state treasurer shall obtain the current address of the claimant, suspend the payment of the claim, and notify the department.
The notification shall include the name, home address, and social security number or federal employer identification number of the claimant.

(b) After receipt of the notification from the state treasurer that a person claiming unclaimed property pursuant to section 38-13-117, C.R.S., SECTION 38-13-903 appears among those certified by the department pursuant to subsection (1) of this section, the department shall notify the person, in writing, that the state intends to offset the person's delinquent state taxes, penalties, or interest liability against the person's claim for unclaimed property.

(3) Except as otherwise provided in section 38-13-117.3 (2), C.R.S: SECTION 38-13-902.1 (2), upon notification by the state treasurer of the amounts of unclaimed property held pursuant to section 38-13-117.7, C.R.S: SECTION 38-13-902.3, the department shall apply such amounts to the person's delinquent state tax liability.

(5) For purposes of this section, "claim for unclaimed property" means a cash claim submitted in accordance with section 38-13-117, C.R.S: SECTION 38-13-903.

SECTION 20. In Colorado Revised Statutes, 39-22-604, amend (12)(a)(II) as follows:

39-22-604. Withholding tax - requirement to withhold - tax lien - exemption from lien - definitions. (12) (a) (II) On and after October 1, 2002, if the department of revenue has cancelled a warrant pursuant to section 39-21-108 that has not been presented and has forwarded to the state treasurer information and an amount of money equal to the amount of the warrant as required by section 39-21-108 (5), the taxpayer must file the claim for the amount of the refund with the state treasurer pursuant to the "REVISED UNIFORM Unclaimed Property
Act", article 13 of title 38. C.R.S. The department and the state treasurer shall cooperate to ensure that any taxpayer who contacts the department of revenue to claim the amount of a refund represented by a cancelled warrant is provided with the information or assistance necessary to obtain the refund from the state treasurer.

SECTION 21. 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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 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 the "Revised Uniform Athlete Agents Act (2015)."

Bill Summary

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

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

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
The bill enacts the "Revised Uniform Athlete Agents Act (2015)", drafted by the National Conference of Commissioners on Uniform State Laws. The revised act establishes new provisions for registration and renewal of registration for athlete agents, to be administered by the secretary of state. The revised act is subject to sunset review in 2026 and repeal in 2027 if not continued by bill.

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

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

PART 2

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

23-16-201. Short title. The short title of this part 2 is the "Revised Uniform Athlete Agents Act (2015)."

23-16-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional-sports-services contract or an endorsement contract.

(2) "Athlete agent":

(a) means an individual, whether or not registered under this part 2, who:

(I) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

-2-
(II) For compensation or in anticipation of compensation related to a student athlete’s participation in athletics:

(A) Serves the student athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution and is acting exclusively as an employee of the institution for the benefit of the institution; or

(B) Manages the business affairs of the student athlete by providing assistance with bills, payments, contracts, or taxes; or

(III) In anticipation of representing a student athlete for a purpose related to the student athlete’s participation in athletics:

(A) Gives consideration to the student athlete or another person;

(B) Serves the student athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(C) Manages the business affairs of the student athlete by providing assistance with bills, payments, contracts, or taxes; but

(b) Does not include an individual who:

(I) Acts solely on behalf of a professional sports team or organization; or

(II) Is a licensed, registered, or certified professional and offers or provides services to a student athlete that are customarily provided by members of the profession, unless the
(A) Also recruits or solicits the student athlete to enter into an agency contract;

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

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

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

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

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

(6) "Enrolled" means registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning.
(7) "INTERCOLLEGIATE SPORT" MEANS A SPORT PLAYED AT THE COLLEGIATE LEVEL FOR WHICH ELIGIBILITY REQUIREMENTS FOR PARTICIPATION BY A STUDENT ATHLETE ARE ESTABLISHED BY A NATIONAL ASSOCIATION THAT PROMOTES OR REGULATES COLLEGIATE ATHLETICS.

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

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

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

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

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

(13) "Recruit or solicit" means to attempt to influence the choice of an athlete agent by a student athlete or, if the student athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular athlete agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the athlete agent.

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

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

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

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

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

(17) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. "Student athlete" does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for purposes of that sport.
23-16-203. Authority - procedure - rules. The "State Administrative Procedure Act", article 4 of title 24, applies to this part 2. The secretary of state may adopt rules pursuant to the requirements of the "State Administrative Procedure Act" to implement this part 2.

23-16-204. Athlete agent - registration required - void contract. (1) Except as otherwise provided for in subsection (2) of this section, effective January 1, 2020, an individual shall not act as an athlete agent in this state without holding a valid certificate of registration under this part 2.

(2) Before being issued a certificate of registration under this part 2, an individual may act as an athlete agent in this state for all purposes, except signing an agency contract, if:

(a) A student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and

(b) Not later than seven days after an initial action that requires the individual to register as an athlete agent and that occurs on or after January 1, 2020, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract that results from conduct in violation of this section is void, and the athlete agent or individual shall return any consideration received under the contract.

23-16-205. Registration as athlete agent - application - requirements - reciprocal registration. (1) An applicant for registration as an athlete agent must submit an application for...
REGISTRATION TO THE SECRETARY OF STATE IN A FORM PRESCRIBED BY
THE SECRETARY OF STATE. THE APPLICANT MUST BE AN INDIVIDUAL, AND
THE APPLICANT SHALL SIGN THE APPLICATION UNDER PENALTY OF
PERJURY. THE APPLICATION MUST CONTAIN AT LEAST THE FOLLOWING
INFORMATION:

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

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

(II) WORK AND MOBILE TELEPHONE NUMBERS; AND

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

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

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

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

(e) A DESCRIPTION OF THE APPLICANT'S:

(I) FORMAL TRAINING AS AN ATHLETE AGENT;

(II) PRACTICAL EXPERIENCE AS AN ATHLETE AGENT; AND
(III) Educational background relating to the applicant's activities as an athlete agent;

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

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

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

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

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

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

(II) The law enforcement agency involved; and

(III) If applicable, the date of the conviction and the fine or penalty imposed;

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

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

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

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

(n) Each instance in which conduct of the applicant, or any person named pursuant to subsection (1)(g) of this section, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic,
INTERCOLLEGIATE, OR PROFESSIONAL ATHLETIC EVENT ON A STUDENT
ATHLETE OR A SANCTION ON AN EDUCATIONAL INSTITUTION;

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

(p) WHETHER THERE HAS BEEN A DENIAL OF AN APPLICATION FOR,
suspension or revocation of, refusal to renew, or abandonment
of, the registration of the applicant, or any person named
pursuant to subsection (1)(g) of this section, as an athlete agent
in any state;

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

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

(I) THE NAME OF THE LEAGUE OR ASSOCIATION;

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

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

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

(2) INSTEAD OF PROCEEDING AS PROVIDED IN SUBSECTION (1) OF
THIS SECTION, AN INDIVIDUAL REGISTERED AS AN ATHLETE AGENT IN ANOTHER STATE MAY APPLY FOR REGISTRATION AS AN ATHLETE AGENT IN THIS STATE BY SUBMITTING THE FOLLOWING INFORMATION TO THE SECRETARY OF STATE:

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

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

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

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

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

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

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

(a) COOPERATE WITH NATIONAL ORGANIZATIONS CONCERNED WITH ATHLETE AGENT ISSUES AND AGENCIES IN OTHER STATES THAT
REGISTER ATHLETE AGENTS TO DEVELOP A COMMON REGISTRATION FORM AND DETERMINE WHICH STATES HAVE LAWS THAT ARE SUBSTANTIALLY SIMILAR TO OR MORE RESTRICTIVE THAN THOSE OF THIS PART 2; AND

(b) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies specified in subsection (4)(a) of this section.

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

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

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

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

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
(d) *Engaged in conduct prohibited by section 23-16-214;*

(e) *Had a registration as an athlete agent suspended, revoked, or denied in any state;*

(f) *Been refused renewal of registration as an athlete agent in any state;*

(g) *Engaged in conduct resulting in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or*

(h) *Engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.*

(3) In making a determination pursuant to subsection (2) of this section, the secretary of state shall consider:

(a) *How recently the conduct occurred;*

(b) *The nature of the conduct and the context in which it occurred; and*

(c) *Other relevant conduct of the applicant.*

(4) An athlete agent registered under subsection (1) of this section may apply to renew the registration by submitting an application for renewal in a form prescribed by the secretary of state. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(5) An athlete agent registered pursuant to section 23-16-205(3) may renew the registration by proceeding pursuant to subsection (4) of this section or, if the registration in the
OTHER STATE HAS BEEN RENEWED, BY SUBMITTING TO THE SECRETARY OF
STATE COPIES OF THE APPLICATION FOR RENEWAL IN THE OTHER STATE
AND THE RENEWED REGISTRATION FROM THE OTHER STATE. THE
SECRETARY OF STATE SHALL RENEW THE REGISTRATION IF THE SECRETARY
OF STATE DETERMINES THAT:

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

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

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

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

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

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

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

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

(2) An agency contract must contain:

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

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

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

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

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

(g) the date of execution.

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

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

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

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

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

(4) An agency contract must be accompanied by a separate record signed by the student athlete or, if the student
ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, ACKNOWLEDGING
THAT SIGNING THE CONTRACT MAY RESULT IN THE LOSS OF THE STUDENT
ATHLETE'S ELIGIBILITY TO PARTICIPATE IN THE STUDENT ATHLETE'S SPORT.

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

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

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

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

(2) WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO AN
AGENCY CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN
WHICH THE STUDENT ATHLETE MAY PARTICIPATE, WHICHEVER OCCURS
FIRST, THE ATHLETE AGENT SHALL GIVE NOTICE, IN A RECORD, OF THE
EXISTENCE OF THE CONTRACT TO THE ATHLETIC DIRECTOR OF THE
EDUCATIONAL INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED
OR AT WHICH THE ATHLETE AGENT HAS REASONABLE GROUNDS TO
BELIEVE THE ATHLETE INTENDS TO ENROLL.

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

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

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

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

(b) The athlete agent directly or indirectly recruited or solicited the student athlete to enter into an agency contract before the enrollment.

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

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

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

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

(8) An educational institution that becomes aware of a violation of this part 2 by an athlete agent shall provide notice of the violation to the secretary of state and any professional
LEAGUE OR PLAYERS ASSOCIATION WITH WHICH THE EDUCATIONAL
INSTITUTION IS AWARE THE ATHLETE AGENT IS LICENSED OR REGISTERED.

23-16-212. Student athlete's right to cancel. (1) A student
athlete or, if the student athlete is a minor, his or her parent or
guardian may:

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

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

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

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

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

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

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

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

23-16-214. Prohibited conduct. (1) An athlete agent, with the intent to influence a student athlete or, if the student athlete is a minor, his or her parent or guardian to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the athlete agent:

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

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

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

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

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

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

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

(d) Provide materially false or misleading information in an application for registration or renewal of registration;
(e) Predate or postdate an agency contract; or

(f) Fail to notify a student athlete or, if the student athlete is a minor, his or her parent or guardian before the student athlete or his or her parent or guardian signs an agency contract for a particular sport that the signing may make the student athlete ineligible to participate as a student athlete in that sport.

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

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

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

(b) SUFFERS FINANCIAL DAMAGE.

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

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

23-16-217. Civil penalty. On motion of the attorney general or the district attorney, the court may impose a civil penalty of not less than twenty-five thousand dollars but not more than fifty thousand dollars for a violation of this part 2. Money collected under this section shall be transmitted to the state treasurer and credited to the general fund.

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

23-16-220. Athlete agents registration fund - gifts, grants, donations - software. (1) (a) The athlete agents registration fund, referred to in this section as the "fund", is hereby created in the state treasury. The secretary of state shall transfer all fees collected pursuant to this part 2 to the state treasurer, who shall credit them to the fund. The fund consists of all fees credited to the fund pursuant to this section and any other money that the general assembly may appropriate or transfer to the fund.

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

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

(2) The secretary of state may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 2.

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

23-16-221. Repeal of part. This part 2 is repealed, effective September 1, 2027. Before its repeal, this part 2 is scheduled for
SECTION 2. In Colorado Revised Statutes, 23-16-104, amend (1) introductory portion and (1)(d) as follows:

23-16-104. Agent contracts - contents - notice - termination.
(1) In addition to the requirements specified in section 23-16-209 for contracts with athlete agents, any agent contract entered into between an athlete agent and a student athlete shall include:

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

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

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

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

(III) The registration of athlete agents who represent student athletes pursuant to the "Revised Uniform Athlete Agents Act (2015)", Part 2 of Article 16 of Title 23.

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

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

(kkk) Violates Part 2 of Article 16 of Title 23.

**SECTION 5.** Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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

Concerning the regulation of virtual-currency business activity, and, in connection therewith, adopting the "Colorado Uniform Regulation of Virtual-Currency Businesses Act" and the "Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act" as recommended by the Uniform Law Commission.

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/.)

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
Colorado Commission on Uniform State Laws. The bill adopts the "Uniform Regulation of Virtual-Currency Businesses Act" (URVCBA) as recommended by the National Conference of Commissioners on Uniform State Laws, together with a companion act that amends key provisions regarding the rights of creditors and holders of virtual currency in case of competing claims on a company's assets.

URVCBA provides a statutory framework for the regulation of companies engaging in virtual-currency business activity, which is defined as:

- Exchanging, transferring, or storing virtual currency;
- Holding electronic precious metals or certificates of electronic precious metals; or
- Exchanging digital representations of value within online games for virtual currency or legal tender.

Under the URVCBA, "virtual currency" is a digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not legal tender. This technology-neutral definition encompasses as many types of virtual currency as possible, but it excludes merchants' rewards programs or equivalent types of values on online game platforms.

The regulatory structure of the URVCBA consists of 3 categories or tiers, based on a business's annual activity measured in U.S. dollar equivalents. Tier 1 represents persons that are exempt from regulation due to a de minimis level of activity. Tier 2 requires registration, but not full licensure, of businesses with virtual-currency business activity levels between $5,000 and $35,000 annually. A business may operate as a registrant for up to 2 years, so long as it remains under the $35,000 threshold. Tier 3, the full licensure tier, is for companies with virtual-currency business activity levels greater than $35,000 annually.

An application for a license must include detailed information concerning the applicant's current and prior business operations during the immediately preceding 5 years; its owners and managers; a list of the money transmission licenses it holds in other states; and the lawsuit and bankruptcy history of the applicant and its executive officers. Reciprocal licensure is authorized [through the Nationwide Multistate Licensing System and Registry] [on a bilateral or multilateral basis through agreements with other states]. Exemptions are granted to some forms of businesses already regulated by the federal government or by other states.

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

2
SECTION 1. In Colorado Revised Statutes, add article 111 to

-2-
title 11 as follows:

ARTICLE 111

Uniform Regulation of Virtual-Currency Businesses Act

PART 1

GENERAL PROVISIONS

11-111-101. Short title. The short title of this Article 111 is the "COLORADO UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESSES ACT".

11-111-102. Definitions. As used in this Article 111, unless the context otherwise requires:

(1) "Applicant" means a person that applies for a license under this Article 111.

(2) "Bank" means a federally chartered or state-chartered depository institution or holder of a charter granted by the federal office of the Comptroller of the Currency to a person engaged in the business of banking other than deposit-taking. The term does not include:

(a) an industrial loan company, state-chartered trust company, or limited-purpose trust company unless the department has authorized the company to engage in virtual-currency business activity; or

(b) a trust company or limited-purpose trust company chartered by a state with which this state does not have a reciprocity agreement governing trust-company activities.

(3) "Control" means:

(a) when used in reference to a transaction or relationship involving virtual currency, power to execute
UNILATERALLY OR PREVENT INDEFINITELY A VIRTUAL-CURRENCY TRANSACTION; AND

(b) WHEN USED IN REFERENCE TO A PERSON, THE DIRECT OR INDIRECT POWER TO DIRECT THE MANAGEMENT, OPERATIONS, OR POLICIES OF THE PERSON THROUGH LEGAL OR BENEFICIAL OWNERSHIP OF VOTING POWER IN THE PERSON OR UNDER A CONTRACT, ARRANGEMENT, OR UNDERSTANDING.

(4) "DEPARTMENT" MEANS THE [name of state agency implementing this article 111].< Should this be the commissioner of securities, the banking board, or some other agency? Colorado currently regulates money transmitters through the banking board, with delegation of some functions to the state bank commissioner. The term "department" as used in the bill, and in this definitions section, will need to change to reflect whatever regulatory authority is chosen.>

(5) "EXCHANGE", USED AS A VERB, MEANS TO_ASSUME CONTROL OF VIRTUAL CURRENCY FROM OR ON BEHALF OF A RESIDENT, AT LEAST MOMENTARILY, TO SELL, TRADE, OR CONVERT:

(a) VIRTUAL CURRENCY FOR LEGAL TENDER, BANK CREDIT, OR ONE OR MORE FORMS OF VIRTUAL CURRENCY; OR

(b) LEGAL TENDER OR BANK CREDIT FOR ONE OR MORE FORMS OF VIRTUAL CURRENCY.

(6) "EXECUTIVE OFFICER" MEANS AN INDIVIDUAL WHO IS A DIRECTOR, OFFICER, MANAGER, MANAGING MEMBER, PARTNER, OR TRUSTEE OF A PERSON THAT IS NOT AN INDIVIDUAL.

(7) "INSOLVENT" MEANS:

(a) HAVING GENERALLY CEASED TO PAY DEBTS IN THE ORDINARY COURSE OF BUSINESS OTHER THAN AS A RESULT OF A BONA FIDE DISPUTE;
(b) BEING UNABLE TO PAY DEBTS AS THEY BECOME DUE; OR

(c) BEING INSOLVENT WITHIN THE MEANING OF FEDERAL BANKRUPTCY LAW.

(8) "LEGAL TENDER" MEANS A MEDIUM OF EXCHANGE OR UNIT OF VALUE, INCLUDING THE COIN OR PAPER MONEY OF THE UNITED STATES, ISSUED BY THE UNITED STATES OR BY ANOTHER GOVERNMENT.

(9) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE 111.

(10) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ESTATE, BUSINESS OR NONPROFIT ENTITY, [PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY,] OR OTHER LEGAL ENTITY. [THE TERM DOES NOT INCLUDE A PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY.]

(11) "RECIROCITY AGREEMENT" MEANS AN ARRANGEMENT BETWEEN THE DEPARTMENT AND THE APPROPRIATE LICENSING AGENCY OF ANOTHER STATE THAT PERMITS A LICENSEE OPERATING UNDER A LICENSE GRANTED BY THE OTHER STATE TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT.

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

(13) "REGISTRANT" MEANS A PERSON THAT HAS REGISTERED WITH THIS STATE UNDER SECTION 11-111-207 TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY.

(14) "REGISTRATION" MEANS THE ABILITY UNDER SECTION
11-111-207 TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY.

(15) "Registry" means the Nationwide Multistate Licensing System and Registry.

(16) "Resident":

(a) means a person that:

(I) is domiciled in this state;

(II) is physically located in this state for more than one hundred eighty-three days of the previous three hundred sixty-five days; or

(III) has a place of business in this state; and

(b) includes a legal representative of a person that satisfies subsection (16)(a) of this section.

(17) "Responsible individual" means an individual who has managerial authority with respect to a licensee's or registrant's virtual-currency business activity with or on behalf of a resident.

(18) "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.

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

(20) "Store", except in the phrase "store of value", means to maintain control of virtual currency on behalf of a resident.
BY A PERSON OTHER THAN THE RESIDENT. "STORAGE" AND "STORING"
HAVE CORRESPONDING MEANINGS.

(21) "Transfer" means to assume control of virtual
currency from or on behalf of a resident and to:

(a) CREDIT THE VIRTUAL CURRENCY TO THE ACCOUNT OF ANOTHER
PERSON;

(b) MOVE THE VIRTUAL CURRENCY FROM ONE ACCOUNT OF A
RESIDENT TO ANOTHER ACCOUNT OF THE SAME RESIDENT; OR

(c) RELINQUISH CONTROL OF VIRTUAL CURRENCY TO ANOTHER
PERSON.

(22) "U.S. DOLLAR EQUIVALENT OF VIRTUAL CURRENCY" MEANS
THE EQUIVALENT VALUE OF A PARTICULAR VIRTUAL CURRENCY IN UNITED
STATES DOLLARS SHOWN ON A VIRTUAL-CURRENCY EXCHANGE BASED IN
THE UNITED STATES FOR A PARTICULAR DATE OR PERIOD SPECIFIED IN THIS
ARTICLE 111.

(23) "VIRTUAL CURRENCY":

(a) MEANS A DIGITAL REPRESENTATION OF VALUE THAT:

(I) IS USED AS A MEDIUM OF EXCHANGE, UNIT OF ACCOUNT, OR
STORE OF VALUE; AND

(II) IS NOT LEGAL TENDER, WHETHER OR NOT DENOMINATED IN
LEGAL TENDER; AND

(b) DOES NOT INCLUDE:

(I) A TRANSACTION IN WHICH A MERCHANT GRANTS, AS PART OF
AN AFFINITY OR REWARDS PROGRAM, VALUE THAT CANNOT BE TAKEN
FROM OR EXCHANGED WITH THE MERCHANT FOR LEGAL TENDER, BANK
CREDIT, OR VIRTUAL CURRENCY; OR

(II) A DIGITAL REPRESENTATION OF VALUE ISSUED BY OR ON
BEHALF OF A PUBLISHER AND USED SOLELY WITHIN AN ONLINE GAME, GAME PLATFORM, OR FAMILY OF GAMES SOLD BY THE SAME PUBLISHER OR OFFERED ON THE SAME GAME PLATFORM.

(24) "VIRTUAL-CURRENCY ADMINISTRATION" MEANS ISSUING VIRTUAL CURRENCY WITH THE AUTHORITY TO REDEEM THE CURRENCY FOR LEGAL TENDER, BANK CREDIT, OR OTHER VIRTUAL CURRENCY.

(25) "VIRTUAL-CURRENCY BUSINESS ACTIVITY" MEANS:

(a) EXCHANGING, TRANSFERRING, OR STORING VIRTUAL CURRENCY OR ENGAGING IN VIRTUAL-CURRENCY ADMINISTRATION, WHETHER DIRECTLY OR THROUGH AN AGREEMENT WITH A VIRTUAL-CURRENCY CONTROL-SERVICES VENDOR;

(b) HOLDING ELECTRONIC PRECIOUS METALS OR ELECTRONIC CERTIFICATES REPRESENTING INTERESTS IN PRECIOUS METALS ON BEHALF OF ANOTHER PERSON OR ISSUING SHARES OR ELECTRONIC CERTIFICATES REPRESENTING INTERESTS IN PRECIOUS METALS; OR

(c) EXCHANGING ONE OR MORE DIGITAL REPRESENTATIONS OF VALUE USED WITHIN ONE OR MORE ONLINE GAMES, GAME PLATFORMS, OR FAMILY OF GAMES FOR:

(I) VIRTUAL CURRENCY OFFERED BY OR ON BEHALF OF THE SAME PUBLISHER FROM WHICH THE ORIGINAL DIGITAL REPRESENTATION OF VALUE WAS RECEIVED; OR

(II) LEGAL TENDER OR BANK CREDIT OUTSIDE THE ONLINE GAME, GAME PLATFORM, OR FAMILY OF GAMES OFFERED BY OR ON BEHALF OF THE SAME PUBLISHER FROM WHICH THE ORIGINAL DIGITAL REPRESENTATION OF VALUE WAS RECEIVED.

(26) "VIRTUAL-CURRENCY CONTROL-SERVICES VENDOR" MEANS A PERSON THAT HAS CONTROL OF VIRTUAL CURRENCY SOLELY UNDER AN
AGREEMENT WITH A PERSON THAT, ON BEHALF OF ANOTHER PERSON,
ASSUMES CONTROL OF VIRTUAL CURRENCY.

11-111-103. Scope. (1) Except as otherwise provided in
subsection (2) or (3) of this section, this article 111 governs the
virtual-currency business activity of a person, wherever
located, that engages in or holds itself out as engaging in the
activity with or on behalf of a resident.

(2) This article 111 does not apply to the exchange,
transfer, or storage of virtual currency or to
virtual-currency administration to the extent the federal
1693r, as amended; the federal "Securities Exchange Act of
1934", 15 U.S.C. secs. 78a to 78oo, as amended; the federal
"Commodities Exchange Act of 1936", 7 U.S.C. secs. 1 to 27f, as
amended; or article 51 of this title 11 govern the activity. This
article 111 does not apply to activity by:

(a) The United States, a state, a political subdivision of a
state, an agency or instrumentality of federal, state, or local
government, or a foreign government or a subdivision,
department, agency, or instrumentality of a foreign
government;

(b) A bank;

(c) A person engaged in money transmission that:

(I) Holds a license under article 110 of this title 11;

(II) Is authorized by the department to engage in
virtual-currency business activity; and

(III) Complies with parts 2, 3, 5, and 6 of this article 111;
(d) A person whose participation in a payment system is limited to providing "providing processing or clearing services, or performing settlement services for ...".

PROCESSING, CLEARING, OR PERFORMING SETTLEMENT SERVICES SOLELY FOR TRANSACTIONS BETWEEN OR AMONG PERSONS THAT ARE EXEMPT FROM THE LICENSING OR REGISTRATION REQUIREMENTS OF THIS ARTICLE 111;

(e) A person engaged in the business of dealing in foreign exchange to the extent the person's activity meets the definition in 31 CFR 1010.605(f)(1)(iv), as amended;

(f) A person that:
   (I) contributes only connectivity software or computing power to a decentralized virtual currency, or to a protocol governing transfer of the digital representation of value;
   (II) provides only data storage or security services for a business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or
   (III) provides only to a person otherwise exempt from this article 111 virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a resident that is an end-user of virtual currency;

(g) A person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:
   (I) on its own behalf;
(II) For personal, family, or household purposes; or

(III) For academic purposes;

(h) A person whose virtual-currency business activity

with or on behalf of residents is reasonably expected to be

valued, in the aggregate, on an annual basis at five thousand

dollars or less, measured by the U.S. dollar equivalent of

virtual currency;

(i) An attorney to the extent of providing escrow services

to a resident;

(j) A title insurance company to the extent of providing

escrow services to a resident;

(k) A securities intermediary, as defined in section 4-8-102

(14), or a commodity intermediary, as defined in section 4-9-102

(17), that:

(I) Does not engage in the ordinary course of business in

virtual-currency business activity with or on behalf of a

resident in addition to maintaining securities accounts or

commodities accounts and is regulated as a securities

intermediary or commodity intermediary under federal law,

law of this state other than this article 111, or law of another

state; and

(II) Affords a resident protections comparable to those

set forth in section 11-111-502;

(l) A secured creditor under article 9 of title 4 or a

creditor with a judicial lien or lien arising by operation of law

on collateral that is virtual currency, if the virtual-currency

business activity of the creditor is limited to enforcement of the
SECURITY INTEREST IN COMPLIANCE WITH ARTICLE 9 OF TITLE 4 OR OF THE LIEN IN COMPLIANCE WITH THE LAW APPLICABLE TO THE LIEN;

(m) A VIRTUAL-CURRENCY CONTROL-SERVICES VENDOR; OR

(n) A PERSON THAT:

(I) DOES NOT RECEIVE COMPENSATION FROM A RESIDENT FOR:

(A) PROVIDING VIRTUAL-CURRENCY PRODUCTS OR SERVICES; OR

(B) CONDUCTING VIRTUAL-CURRENCY BUSINESS ACTIVITY; OR

(II) IS ENGAGED IN TESTING PRODUCTS OR SERVICES WITH THE PERSON'S OWN FUNDS.

(3) THE DEPARTMENT MAY DETERMINE THAT A PERSON OR CLASS OF PERSONS, GIVEN FACTS PARTICULAR TO THE PERSON OR CLASS, SHOULD BE EXEMPT FROM THIS ARTICLE 111, WHETHER THE PERSON OR CLASS IS COVERED BY REQUIREMENTS IMPOSED UNDER FEDERAL LAW ON A MONEY SERVICE BUSINESS.

Legislative Note [from NCCUSL]: If a state adjusts the U.S. dollar Equivalent for the exemption provided in this act under subsection (2)(h) to a figure higher than $5,000, the state should consider adding to the obligations of the person compliance with section 11-111-502.

11-111-104. Supplementary law. Unless displaced by the particular provisions of this Article 111, the principles of law and equity supplement its provisions.

PART 2

LICENSURE

11-111-201. Conditions precedent to engaging in virtual-currency business activity. (1) A PERSON MAY NOT ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY, OR HOLD ITSELF OUT AS BEING
ABLE TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY, WITH OR ON BEHALF OF A RESIDENT, UNLESS THE PERSON IS:

(a) LICENSED IN THIS STATE BY THE DEPARTMENT UNDER SECTION 11-111-202;

(b) LICENSED IN ANOTHER STATE TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY BY A STATE WITH WHICH THIS STATE HAS A RECIPROCITY AGREEMENT AND HAS QUALIFIED UNDER SECTION 11-111-203;

(c) REGISTERED WITH THE DEPARTMENT AND OPERATING IN COMPLIANCE WITH SECTION 11-111-207; OR

(d) EXEMPT FROM LICENSURE OR REGISTRATION UNDER THIS ARTICLE 111 BY SECTION 11-111-103 (2) OR (3).

11-111-202. License by application. (1) Except as otherwise provided in section 11-111-203, an application for a license under this article 111:

(a) MUST BE MADE IN A FORM AND MEDIUM PRESCRIBED BY THE DEPARTMENT OR THE REGISTRY;

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, MUST PROVIDE THE FOLLOWING INFORMATION RELEVANT TO THE APPLICANT'S PROPOSED VIRTUAL-CURRENCY BUSINESS ACTIVITY:

(I) THE LEGAL NAME OF THE APPLICANT, EACH CURRENT OR PROPOSED BUSINESS UNITED STATES POSTAL SERVICE ADDRESS OF THE APPLICANT, AND ANY FICTITIOUS OR TRADE NAME THE APPLICANT USES OR PLANS TO USE IN CONDUCTING ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT;

(II) THE LEGAL NAME, ANY FORMER OR FICTITIOUS NAME, AND THE
RESIDENTIAL AND BUSINESS UNITED STATES POSTAL SERVICE ADDRESS OF
EACH EXECUTIVE OFFICER AND RESPONSIBLE INDIVIDUAL OF THE
APPLICANT, AND EACH PERSON THAT HAS CONTROL OF THE APPLICANT;

(III) A DESCRIPTION OF THE CURRENT AND FORMER BUSINESS OF
THE APPLICANT FOR THE FIVE YEARS BEFORE THE APPLICATION IS
SUBMITTED OR, IF THE BUSINESS HAS OPERATED FOR LESS THAN FIVE
YEARS, FOR THE TIME THE BUSINESS HAS OPERATED, INCLUDING ITS
PRODUCTS AND SERVICES, ASSOCIATED WEBSITE ADDRESSES AND SOCIAL
MEDIA PAGES, PRINCIPAL PLACE OF BUSINESS, PROJECTED USER BASE, AND
SPECIFIC MARKETING TARGETS;

(IV) THE NAME, UNITED STATES POSTAL SERVICE ADDRESS, AND
TELEPHONE NUMBER OF A PERSON THAT MANAGES EACH SERVER THE
APPLICANT EXPECTS TO USE IN CONDUCTING ITS VIRTUAL-CURRENCY
BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT AND A COPY OF
ANY AGREEMENT WITH THAT PERSON;

(V) A LIST OF:

(A) EACH MONEY SERVICE OR MONEY TRANSMITTER LICENSE THE
APPLICANT HOLDS IN ANOTHER STATE;

(B) THE DATE THE LICENSE EXPIRES; AND

(C) ANY LICENSE REVOCATION, LICENSE SUSPENSION, OR OTHER
DISCIPLINARY ACTION TAKEN AGAINST THE LICENSEE IN ANOTHER STATE
AND ANY LICENSE APPLICATIONS REJECTED BY ANOTHER STATE;

(VI) A LIST OF ANY CRIMINAL CONVICTION, DEFERRED
PROSECUTION AGREEMENT, AND PENDING CRIMINAL PROCEEDING IN ANY
JURISDICTION AGAINST:

(A) THE APPLICANT;

(B) EACH EXECUTIVE OFFICER OF THE APPLICANT;
(C) Each responsible individual of the applicant;  

(D) Each person that has control over the applicant; and  

(E) Each person over which the applicant has control;  

(VII) A list of any litigation, arbitration, or administrative proceeding in any jurisdiction in which the applicant, or an executive officer or a responsible individual of the applicant, has been a party for the five years before the application is submitted, determined to be material in accordance with generally accepted accounting principles and, to the extent the applicant would be required to disclose the litigation, arbitration, or administrative proceeding in the applicant's audited financial statements, reports to equity owners, and similar statements or reports;  

(VIII) A list of any bankruptcy or receivership proceeding in any jurisdiction for the ten years before the application is submitted in which any of the following was a debtor:  

(A) The applicant;  

(B) Each executive officer of the applicant;  

(C) Each responsible individual of the applicant;  

(D) Each person that has control over the applicant; and  

(E) Each person over which the applicant has control;  

(IX) The name and United States postal service address of each bank in which the applicant plans to deposit funds obtained by its virtual-currency business activity;  

(X) The source of funds and credit to be used by the applicant to conduct virtual-currency business activity with or on behalf of a resident and documentation demonstrating that
THE APPLICANT HAS THE NET WORTH AND RESERVES REQUIRED BY
SECTION 11-111-204;

(XI) THE UNITED STATES POSTAL SERVICE ADDRESS AND
ELECTRONIC MAIL ADDRESS TO WHICH COMMUNICATIONS FROM THE
DEPARTMENT MAY BE SENT;

(XII) THE NAME, UNITED STATES POSTAL SERVICE ADDRESS, AND
ELECTRONIC MAIL ADDRESS OF THE REGISTERED AGENT OF THE APPLICANT
IN THIS STATE;

(XIII) A COPY OF THE CERTIFICATE, OR A DETAILED SUMMARY
ACCEPTABLE TO THE DEPARTMENT, OF COVERAGE FOR EACH LIABILITY,
CASUALTY, BUSINESS-INTERRUPTION OR CYBER-SECURITY INSURANCE
POLICY MAINTAINED BY THE APPLICANT FOR ITSELF, AN EXECUTIVE
OFFICER, A RESPONSIBLE INDIVIDUAL, OR THE APPLICANT'S USERS;

(XIV) IF APPLICABLE, THE DATE ON WHICH AND THE STATE WHERE
THE APPLICANT IS FORMED AND A COPY OF A CURRENT CERTIFICATE OF
GOOD STANDING ISSUED BY THAT STATE;

(XV) IF A PERSON HAS CONTROL OF THE APPLICANT AND THE
PERSON'S EQUITY INTERESTS ARE PUBLICLY TRADED IN THE UNITED
STATES, A COPY OF THE AUDITED FINANCIAL STATEMENT OF THE PERSON
FOR THE MOST RECENT FISCAL YEAR OR MOST RECENT REPORT OF THE
PERSON FILED UNDER SECTION 13 OF THE FEDERAL "SECURITIES
EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78m, AS AMENDED;

(XVI) IF A PERSON HAS CONTROL OF THE APPLICANT AND THE
PERSON'S EQUITY INTERESTS ARE PUBLICLY TRADED OUTSIDE THE UNITED
STATES, A COPY OF THE AUDITED FINANCIAL STATEMENT OF THE PERSON
FOR THE MOST RECENT FISCAL YEAR OF THE PERSON OR A COPY OF THE
MOST RECENT DOCUMENTATION SIMILAR TO THAT REQUIRED IN
SUBSECTION (1)(b)(XV) OF THIS SECTION FILED WITH THE FOREIGN REGULATOR IN THE DOMICILE OF THE PERSON;

(XVII) IF THE APPLICANT IS A PARTNERSHIP OR A MEMBER-MANAGED LIMITED-LIABILITY COMPANY, THE NAMES AND UNITED STATES POSTAL SERVICE ADDRESSES OF GENERAL PARTNERS OR MEMBERS;

(XVIII) IF THE APPLICANT IS REQUIRED TO REGISTER WITH THE FINANCIAL CRIMES ENFORCEMENT NETWORK OF THE UNITED STATES DEPARTMENT OF THE TREASURY AS A MONEY SERVICE BUSINESS, EVIDENCE OF THE REGISTRATION;

(XIX) A SET OF FINGERPRINTS FOR EACH EXECUTIVE OFFICER AND RESPONSIBLE INDIVIDUAL OF THE APPLICANT;

(XX) IF AVAILABLE, FOR EACH EXECUTIVE OFFICER AND RESPONSIBLE INDIVIDUAL OF THE APPLICANT, FOR THE FIVE YEARS BEFORE THE APPLICATION IS SUBMITTED:

(A) EMPLOYMENT HISTORY; AND

(B) HISTORY OF ANY INVESTIGATION OF THE INDIVIDUAL OR LEGAL PROCEEDING TO WHICH THE INDIVIDUAL WAS A PARTY;

(XXI) THE PLANS THROUGH WHICH THE APPLICANT WILL MEET ITS OBLIGATIONS UNDER PART 6 OF THIS ARTICLE 111; AND

(XXII) OTHER INFORMATION THE DEPARTMENT REASONABLY REQUIRES BY RULE; AND

(c) MUST BE ACCOMPANIED BY A NONREFUNDABLE FEE IN THE AMOUNT SPECIFIED BY THE DEPARTMENT BY RULE.

(2) FOR GOOD CAUSE, THE DEPARTMENT MAY WAIVE A REQUIREMENT OF SUBSECTION (1) OF THIS SECTION OR PERMIT THE APPLICANT TO SUBMIT OTHER INFORMATION INSTEAD OF THE REQUIRED
INFORMATION.

(3) An application for a license under this section is not complete until the department receives all information required by this article 111 and completes its investigation under subsection (4) of this section.

(4) On receipt of a completed application:

(a) The department shall investigate:

(I) The financial condition and responsibility of the applicant;

(II) The relevant financial and business experience, character, and general fitness of the applicant; and

(III) The competence, experience, character, and general fitness of each executive officer, each responsible individual, and any person that has control of the applicant; and

(b) The department may conduct an investigation of the business premises of an applicant.

(5) Not later than thirty days after an application is complete, the department shall send the applicant notice of its decision to approve, conditionally approve, or deny the application. If the department does not send the applicant notice of its decision within thirty-one days following completion of the application, the application is deemed denied. If the department does not receive notice from the applicant that the applicant accepts conditions specified by the department within thirty-one days following the department's notice of the conditions, the application is deemed denied.

(6) A license takes effect on the later of:
(a) The date on which the department issues the license; or
(b) The date the licensee provides the security required by section 11-111-204.

(7) An applicant shall pay the reasonable costs of the department’s investigation under this section.

Legislative Note [from NCCUSL, regarding section 11-111-203 below (licensure by reciprocity)]: Alternative A is applicable only if the department has agreed to participate in the registry operated by a subsidiary of the Conference of State Bank Supervisors. If the state already participates in the registry, Alternative A would be enacted and Alternative B should be deleted. If the state elects not to participate in the registry, then Alternative B should be enacted.

An enacting state should not waive any requirement that the applicant have sufficient reserves or security to cover expenses sufficient to wind up its business with a resident and to complete any transaction a resident has instructed the licensee to complete.

Alternative A

11-111-203. License by reciprocity. (1) Instead of an application required by section 11-111-202, a person licensed by another state to conduct virtual-currency business activity in that state may file with the registry an application under this section.

(2) When an application under this section is filed with the registry, the applicant shall notify the department in a record
THAT THE APPLICANT HAS SUBMITTED THE APPLICATION TO THE REGISTRY AND SHALL SUBMIT TO THE DEPARTMENT:

(a) A CERTIFICATION OF LICENSE HISTORY FROM THE AGENCY RESPONSIBLE FOR ISSUING A LICENSE IN EACH STATE IN WHICH THE APPLICANT HAS BEEN LICENSED TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY;

(b) A NONREFUNDABLE RECIPROCAL LICENSING APPLICATION FEE IN THE AMOUNT SPECIFIED BY THE DEPARTMENT BY RULE;

(c) DOCUMENTATION DEMONSTRATING THAT THE APPLICANT COMPLIES WITH THE SECURITY AND NET WORTH RESERVE REQUIREMENTS OF SECTION 11-111-204; AND

(d) A CERTIFICATION SIGNED BY AN EXECUTIVE OFFICER OF THE APPLICANT AFFIRMING THAT THE APPLICANT WILL CONDUCT ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT IN COMPLIANCE WITH THIS ARTICLE 111.

(3) THE DEPARTMENT MAY PERMIT CONDUCT OF VIRTUAL-CURRENCY BUSINESS ACTIVITY BY AN APPLICANT THAT COMPLIES WITH THIS SECTION.

**Alternative B**

11-111-203. License by reciprocity. (1) A PERSON LICENSED BY ANOTHER STATE TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY IN THAT STATE MAY ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT TO THE SAME EXTENT AS A LICENSEE IF:

(a) THE DEPARTMENT DETERMINES THAT THE STATE IN WHICH THE PERSON IS LICENSED HAS IN FORCE LAWS REGULATING VIRTUAL-CURRENCY BUSINESS ACTIVITY THAT ARE SUBSTANTIALLY SIMILAR TO, OR MORE
PROTECTIVE OF RIGHTS OF USERS THAN, THIS ARTICLE 111;

(b) AT LEAST THIRTY DAYS BEFORE THE PERSON COMMENCES VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT, THE PERSON SUBMITS TO THE DEPARTMENT:

(I) NOTICE CONTAINING:

(A) A STATEMENT THAT THE PERSON WILL RELY ON RECIPROCAL LICENSING;

(B) A COPY OF THE LICENSE TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY ISSUED BY THE OTHER STATE; AND

(C) A CERTIFICATION OF LICENSE HISTORY FROM THE AGENCY RESPONSIBLE FOR ISSUING THE LICENSE TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY IN THE OTHER STATE;

(II) A NONREFUNDABLE RECIPROCAL LICENSE FEE IN THE AMOUNT SPECIFIED BY THE DEPARTMENT BY RULE;

(III) DOCUMENTATION DEMONSTRATING THAT THE APPLICANT COMPLIES WITH THE SECURITY AND NET WORTH RESERVE REQUIREMENTS OF SECTION 11-111-204; AND

(IV) A CERTIFICATION SIGNED BY AN EXECUTIVE OFFICER OF THE APPLICANT AFFIRMING THAT THE APPLICANT WILL CONDUCT ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT IN COMPLIANCE WITH THIS ARTICLE 111;

(c) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT DOES NOT DENY THE APPLICATION NOT LATER THAN [FIFTEEN] DAYS AFTER RECEIPT OF THE ITEMS SUBMITTED UNDER SUBSECTION (1)(b) OF THIS SECTION; AND

(d) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE APPLICANT DOES NOT COMMENCE VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR
ON BEHALF OF A RESIDENT UNTIL AT LEAST THIRTY-ONE DAYS AFTER
COMPLYING WITH SUBSECTION (1)(b) OF THIS SECTION.

(2) FOR GOOD CAUSE, THE DEPARTMENT MAY MODIFY A PERIOD IN
THIS SECTION.

[End of Alternatives]

11-111-204. Security, net worth, and reserves. (1) BEFORE A
LICENSE IS ISSUED UNDER THIS ARTICLE 111:

(a) AN APPLICANT MUST DEPOSIT WITH THE DEPARTMENT FUNDS
OR INVESTMENT PROPERTY, A LETTER OF CREDIT, A SURETY BOND, OR
OTHER SECURITY SATISFACTORY TO THE DEPARTMENT THAT:

(I) SECURES THE APPLICANT’S FAITHFUL PERFORMANCE OF ITS
DUTIES UNDER THIS ARTICLE 111; AND

(II) IS IN AN AMOUNT THE DEPARTMENT SPECIFIES BASED ON THE
NATURE AND EXTENT OF RISKS IN THE APPLICANT’S VIRTUAL-CURRENCY
BUSINESS MODEL;

(b) THE DEPARTMENT MAY NOT REQUIRE A SURETY BOND AS
SECURITY UNDER THIS ARTICLE 111 UNLESS A SURETY BOND IS GENERALLY
AVAILABLE IN THE STATE AT A COMMERCIALLY REASONABLE COST;

(c) SECURITY DEPOSITED UNDER THIS SECTION MUST BE PAYABLE
TO THIS STATE FOR THE BENEFIT OF A CLAIM AGAINST THE LICENSEE ON
ACCOUNT OF THE LICENSEE’S VIRTUAL-CURRENCY BUSINESS ACTIVITY
WITH OR ON BEHALF OF A RESIDENT;

(d) SECURITY DEPOSITED UNDER THIS SECTION MUST COVER
CLAIMS FOR THE PERIOD THE DEPARTMENT SPECIFIES BY RULE AND FOR AN
ADDITIONAL PERIOD THE DEPARTMENT SPECIFIES AFTER THE LICENSEE
CEASES TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR
ON BEHALF OF A RESIDENT;
(e) For good cause, the Department may require the licensee to increase the amount of security deposited under this section, and the licensee shall deposit the additional security not later than [FIFTEEN] days after the licensee receives notice in a record of the required increase;

(f) For good cause, the Department may permit a licensee to substitute or deposit an alternate form of security satisfactory to the Department if the licensee at all times complies with this section;

(g) A claimant does not have a direct right to recover against security deposited under this section; and

(h) Only the Department may recover against the security, and the Department may retain the recovery for no longer than [FIVE] years and may process claims and distribute recoveries to claimants in accordance with rules adopted by the [Department] under Article 110 of this Title 11.

(2) In addition to the security required under subsection (1) of this section, a licensee and a registrant, at the time of the application for a license under this Article 111 or filing of registration, shall submit to the Department evidence of and maintain:

(a) A minimum net worth of [TWENTY-FIVE THOUSAND DOLLARS]; and

(b) Sufficient unencumbered reserves for winding down the licensee's or registrant's operations as agreed to by the Department considering the nature and size of expected virtual-currency business activity with or on behalf of
RESIDENTS.


(4) FOR GOOD CAUSE, THE DEPARTMENT MAY REQUIRE A LICENSEE OR REGISTRANT TO INCREASE THE NET WORTH OR RESERVES REQUIRED UNDER THIS SECTION. THE LICENSEE OR REGISTRANT SHALL SUBMIT TO THE DEPARTMENT EVIDENCE THAT IT HAS THE ADDITIONAL NET WORTH OR RESERVES NOT LATER THAN [FIFTEEN] DAYS AFTER THE LICENSEE OR REGISTRANT RECEIVES NOTICE IN A RECORD OF THE REQUIRED INCREASE.

Legislative Note [from NCCUSL]: In subsection (1)(h), the state should specify the period it believes represents a reasonable period for an aggrieved party to discover the party's claim and file it with the department and for the department to determine whether the claim is valid and process the claim.


(2) AN APPLICANT MAY APPEAL, UNDER ARTICLE 4 OF TITLE 24, A DENIAL OF ITS APPLICATION UNDER SECTION 11-111-202 OR 11-111-203 NOT LATER THAN THIRTY DAYS AFTER:
11-111-206. Renewal of license. (1) Subject to subsection (7) of this section, not later than fifteen days before the anniversary date of issuance of its license under this Article 111, a licensee may apply for renewal of the license by:

(a) Paying a renewal fee in an amount specified by the department by rule; and

(b) Submitting to the department a renewal report under subsection (2) of this section.

(2) A renewal report required by subsection (1)(b) of this section must be submitted in a form and medium prescribed by the department. The report must contain:

(a) A copy of the licensee’s most recent:

(I) Reviewed annual financial statement if the licensee’s virtual-currency business activity in this state was [insert amount state uses for corporate activity auditing purposes] or less for the fiscal year ending before the anniversary date of issuance of its license under this Article 111; or

(II) Audited annual financial statement if the licensee’s virtual-currency business activity in this state amounted to more than [insert the figure state uses for corporate activity auditing purposes] for the fiscal year ending before the anniversary date;

(b) If a person other than an individual has control of the licensee, a copy of the person’s most recent:

(I) Reviewed annual financial statement if the person’s
GROSS REVENUE WAS \textbf{[INSERT AMOUNT STATE USES FOR CORPORATE ACTIVITY AUDITING PURPOSES]} OR LESS IN THE PREVIOUS FISCAL YEAR, MEASURED AS OF THE ANNIVERSARY DATE OF ISSUANCE OF ITS LICENSE UNDER THIS ARTICLE 111; OR

\textbf{(II) Audited consolidated annual financial statement if the person's gross revenue was more than \textbf{[INSERT AMOUNT STATE USES FOR CORPORATE ACTIVITY AUDITING PURPOSES]} in the previous fiscal year, measured as of the anniversary date of issuance of its license under this Article 111;}

\textbf{(c) A description of any:}

\textbf{(I) Material change in the financial condition of the licensee;}

\textbf{(II) Material litigation involving the licensee or an executive officer, or responsible individual of the licensee;}

\textbf{(III) License suspension or revocation proceeding commenced, or other action taken, involving a license to conduct virtual-currency business activity issued by another state on which reciprocal licensing is based;}

\textbf{(IV) Federal or state investigation involving the licensee;}

\textbf{AND}

\textbf{(V) Data security breach involving the licensee;}

\textbf{(d) Information or records required by Section 11-111-305 the licensee has not reported to the department;}

\textbf{(e) The number of virtual-currency business activity transactions with or on behalf of residents for the period since, subject to subsection (7) of this section, the later of the date the license was issued or the date the last renewal report was

-26-
(f) (I) The amount of U.S. dollar equivalent of virtual
currency in the control of the licensee at, subject to subsection
(7) of this section, the end of the last month that ends not later
than thirty days before the date of the renewal report; and

(II) The total number of residents for whom the licensee
had control of U.S. dollar equivalent of virtual currency on
that date;

(g) Evidence that the licensee continues to satisfy section
11-111-502;

(h) Evidence that the licensee continues to satisfy section
11-111-204;

(i) A list of each location where the licensee operates its
virtual-currency business activity; and

(j) The name, United States postal service address, and
telephone number of each person that manages a server used by
the licensee in conducting its virtual-currency business activity
with or on behalf of a resident.

(3) If a licensee does not timely comply with subsection (1)
of this section, the department may use enforcement measures
provided under part 4 of this article 111. Notice or hearing is not
required for a suspension or revocation of a license under this
article 111 for failure to pay a renewal fee or file a renewal
report.

(4) If the department suspends or revokes a license under
this article 111 for noncompliance with subsection (1) of this
section, the department may end the suspension or rescind the
REVOCATION AND NOTIFY THE LICENSEE OF THE ACTION IF, SUBJECT TO
SUBSECTION (7) OF THIS SECTION, NOT LATER THAN TWENTY DAYS AFTER
THE LICENSE WAS SUSPENDED OR REVOKED, THE LICENSEE:

(a) FILES A RENEWAL REPORT AND PAYS A RENEWAL FEE; AND
(b) PAYS ANY PENALTY ASSESSED UNDER SECTION 11-111-403.

(5) THE DEPARTMENT SHALL GIVE PROMPT NOTICE TO A LICENSEE
OF THE LIFTING OF A SUSPENSION OR RESCISSION OF A REVOCATION AFTER
THE LICENSEE COMPLIES WITH SUBSECTION (4) OF THIS SECTION.

(6) SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS
SECTION DOES NOT INVALIDATE A TRANSFER OR EXCHANGE OF VIRTUAL
CURRENCY FOR OR ON BEHALF OF A RESIDENT MADE DURING THE
SUSPENSION OR REVOCATION AND DOES NOT INSULATE THE LICENSEE
FROM LIABILITY UNDER THIS ARTICLE 111.

(7) FOR GOOD CAUSE, THE DEPARTMENT MAY EXTEND A PERIOD
UNDER THIS SECTION.

(8) THE DEPARTMENT SHALL REVIEW THE RENEWAL OF A LICENSE
ISSUED UNDER SECTION 11-111-203 TO ENSURE THAT THE STATE THAT
ISSUED THE ORIGINAL LICENSE HAS NOT SUSPENDED, REVOKED, OR
LIMITED THE LICENSE.

(9) A LICENSEE THAT DOES NOT COMPLY WITH THIS SECTION SHALL
CEASE OPERATIONS WITH OR ON BEHALF OF A RESIDENT ON OR BEFORE THE
ANNIVERSARY DATE OF ISSUANCE OF ITS LICENSE UNDER THIS ARTICLE
111.

(10) A LICENSEE SHALL PAY THE REASONABLE AND NECESSARY
COSTS OF THE DEPARTMENT'S INVESTIGATION UNDER THIS SECTION.

11-111-207. Registration in lieu of license. (1) A PERSON WHOSE
VOLUME OF VIRTUAL-CURRENCY BUSINESS ACTIVITY IN U.S. DOLLAR
EQUIVALENT OF VIRTUAL CURRENCY WILL NOT EXCEED THIRTY-FIVE THOUSAND DOLLARS ANNUALLY MAY ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT UNDER A REGISTRATION WITHOUT FIRST OBTAINING A LICENSE UNDER THIS ARTICLE 111 IF THE PERSON:

(a) Files with the department a notice in the form and medium prescribed by the department of its intention to engage in virtual-currency business activity with or on behalf of a resident;

(b) Provides the information for an investigation under section 11-111-202;

(c) States the anticipated virtual-currency business activity for its next fiscal quarter;

(d) Pays the department a registration fee in the amount specified by the department by rule;

(e) If required to register with the financial crimes enforcement network of the United States department of the treasury as a money service business, provides the department evidence of the registration;

(f) Provides evidence that the person has policies and procedures to comply with the federal "Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970", 31 U.S.C. sec. 5311 et seq., as amended, and other applicable laws;

(g) Describes the source of funds and credit to be used by the person to conduct virtual-currency business activity with or on behalf of a resident and provides evidence of and agrees
TO MAINTAIN THE MINIMUM NET WORTH AND RESERVES REQUIRED BY
SECTION 11-111-204 AND SUFFICIENT UNENCUMBERED RESERVES FOR
WINDING DOWN OPERATIONS;

(h) PROVIDES THE DEPARTMENT WITH EVIDENCE THAT THE PERSON
HAS IN PLACE POLICIES AND PROCEDURES TO COMPLY WITH PARTS 3, 5,
AND 6 OF THIS ARTICLE 111 AND OTHER PROVISIONS OF THIS ARTICLE 111
DESIGNATED BY THE DEPARTMENT; AND

(i) PROVIDES THE DEPARTMENT WITH A COPY OF ITS MOST RECENT
FINANCIAL STATEMENT, WHETHER REVIEWED OR AUDITED.

(2) BEFORE THE VIRTUAL-CURRENCY BUSINESS ACTIVITY OF A
REGISTRANT WITH OR ON BEHALF OF RESIDENTS EXCEEDS THIRTY-FIVE
THOUSAND DOLLARS ANNUALLY IN U.S. DOLLAR EQUIVALENT OF VIRTUAL
CURRENCY, THE REGISTRANT SHALL FILE AN APPLICATION FOR A LICENSE
UNDER THIS ARTICLE 111 AND MAY CONTINUE TO OPERATE AFTER THE
ACTIVITY EXCEEDS THIRTY-FIVE THOUSAND DOLLARS ANNUALLY WHILE
ITS APPLICATION FOR LICENSE IS PENDING.

(3) FOR GOOD CAUSE, THE DEPARTMENT MAY SUSPEND OR REVOKE
A REGISTRATION WITHOUT A PRIOR HEARING OR OPPORTUNITY TO BE
HEARD.

(4) A REGISTRANT SHALL CEASE ALL VIRTUAL-CURRENCY
BUSINESS ACTIVITY WITH OR ON BEHALF OF RESIDENTS:

(a) IF THE DEPARTMENT DENIES THE REGISTRANT’S APPLICATION
FOR A LICENSE UNDER THIS ARTICLE 111, ONE DAY AFTER THE REGISTRANT
RECEIVES NOTICE IN A RECORD THAT THE DEPARTMENT HAS DENIED THE
APPLICATION;

(b) IF THE DEPARTMENT SUSPENDS OR REVOCKES THE
REGISTRATION, ONE DAY AFTER THE DEPARTMENT SENDS NOTICE OF THE
SUSPENSION OR REVOCATION TO THE REGISTRANT IN A RECORD BY A MEANS REASONABLY SELECTED FOR THE NOTICE TO BE RECEIVED BY THE RECIPIENT IN ONE DAY, TO THE ADDRESS PROVIDED FOR RECEIVING COMMUNICATIONS FROM THE DEPARTMENT;

(c) IF THE VIRTUAL-CURRENCY BUSINESS ACTIVITY OF THE REGISTRANT WITH OR ON BEHALF OF RESIDENTS EXCEEDS THIRTY-FIVE THOUSAND DOLLARS ANNUALLY IN U.S. DOLLAR EQUIVALENT OF VIRTUAL CURRENCY AND THE REGISTRANT HAS NOT FILED AN APPLICATION FOR A LICENSE UNDER THIS ARTICLE 111; OR

(d) ON THE SECOND ANNIVERSARY DATE OF THE REGISTRATION.

11-111-208. License or registration not assignable or transferable. A LICENSE OR REGISTRATION UNDER THIS ARTICLE 111 IS NOT TRANSFERABLE OR ASSIGNABLE.

11-111-209. Rules and guidance. The department may adopt rules to implement this article 111 and issue guidance as appropriate.

PART 3

EXAMINATION, EXAMINATION FEES, AND DISCLOSURE OF INFORMATION OBTAINED DURING EXAMINATION

11-111-301. Authority to conduct examination. (1) THE DEPARTMENT MAY CONDUCT AN ANNUAL EXAMINATION OF A LICENSEE OR REGISTRANT. FOR GOOD CAUSE, THE DEPARTMENT MAY CONDUCT AN ADDITIONAL EXAMINATION. THE DEPARTMENT MAY EXAMINE A LICENSEE OR REGISTRANT WITHOUT PRIOR NOTICE TO THE LICENSEE OR REGISTRANT.

(2) A LICENSEE OR REGISTRANT SHALL PAY THE REASONABLE AND NECESSARY COSTS OF AN EXAMINATION UNDER THIS SECTION.

(3) INFORMATION OBTAINED DURING AN EXAMINATION UNDER
THIS PART 3 MAY BE DISCLOSED ONLY AS PROVIDED IN SECTION 11-111-304.

11-111-302. Records. (1) A LICENSEE OR Registrant shall maintain, for all virtual-currency business activity with or on behalf of a resident five years after the date of the activity, a record of:

(a) Each transaction of the licensee or registrant with or on behalf of the resident or for the licensee's or registrant's account in this state, including:
   (I) The identity of the resident;
   (II) The form of the transaction;
   (III) The amount, date, and payment instructions given by the resident; and
   (IV) The account number, name, and United States postal service address of the resident, and, to the extent feasible, other parties to the transaction;

(b) The aggregate number of transactions and aggregate value of transactions by the licensee or registrant with or on behalf of the resident and for the licensee's or registrant's account in this state, expressed in U.S. dollar equivalent of virtual currency for the previous twelve calendar months;

(c) Each transaction in which the licensee or registrant exchanges one form of virtual currency for legal tender or another form of virtual currency with or on behalf of the resident;

(d) A general ledger posted at least monthly that lists all assets, liabilities, capital, income, and expenses of the
(e) Each business-call report the licensee or registrant is required to create or provide to the department or registry;

(f) Bank statements and bank reconciliation records for the licensee or registrant and the name, account number, and United States postal service address of each bank the licensee or registrant uses in the conduct of its virtual-currency business activity with or on behalf of the resident;

(g) A report of any dispute with the resident; and

(h) A report of any virtual-currency business activity transaction with or on behalf of a resident that the licensee or registrant was unable to complete.

(2) A licensee or registrant shall maintain records required by subsection (1) of this section in a form that enables the department to determine whether the licensee or registrant is in compliance with this article 111, any court order, and any law of this state other than this article 111.

(3) If a licensee or registrant maintains records outside this state that pertain to transactions with or on behalf of a resident, the licensee or registrant shall make the records available to the department not later than three days after request, or, on a determination of good cause by the department, at a later time.

(4) All records maintained by a licensee or registrant are subject to inspection by the department.


(1) Subject to section 11-111-304 and the law of this state other
THAN THIS ARTICLE 111 CONCERNING PRIVACY, CONSUMER FINANCIAL
PRIVACY, DATA PROTECTION, PRIVILEGE, AND CONFIDENTIALITY, THE
DEPARTMENT MAY COOPERATE, COORDINATE, JOINTLY EXAMINE,
CONSULT, AND SHARE RECORDS AND OTHER INFORMATION WITH THE
APPROPRIATE REGULATORY AGENCY OF ANOTHER STATE, A
SELF-REGULATORY ORGANIZATION, FEDERAL OR STATE REGULATOR OF
BANKING OR NONDEPOSITORY PROVIDERS, OR A REGULATOR OF A
JURISDICTION OUTSIDE THE UNITED STATES, CONCERNING THE AFFAIRS
AND CONDUCT OF A LICENSEE OR REGISTRANT IN THIS STATE.

(2) THE DEPARTMENT SHALL:

(a) ESTABLISH OR PARTICIPATE IN, WITH ANOTHER STATE THAT
ENACTS A LAW SUBSTANTIALLY SIMILAR TO THIS ARTICLE 111, A CENTRAL
DEPOSITORY FOR FILINGS REQUIRED BY LAW OF THIS STATE OTHER THAN
THIS ARTICLE 111;

(b) COOPERATE IN DEVELOPING AND IMPLEMENTING UNIFORM
FORMS FOR APPLICATIONS AND RENEWAL REPORTS AND THE CONDUCT OF
JOINT ADMINISTRATIVE PROCEEDINGS AND CIVIL ACTIONS;

(c) FORMULATE JOINT RULES, FORMS, STATEMENTS OF POLICY, AND
GUIDANCE AND INTERPRETATIVE OPINIONS AND RELEASES; AND

(d) DEVELOP COMMON SYSTEMS AND PROCEDURES.

(3) THE DEPARTMENT MAY NOT ESTABLISH OR PARTICIPATE IN A
CENTRAL COMMERCIAL DEPOSITORY THAT CONTAINS NONPUBLIC
PERSONALLY IDENTIFIABLE INFORMATION THAT DOES NOT COMPLY WITH
SECTION 502(e)(5) OR (8) OF THE FEDERAL "GRAMM-LEACH-BLILEY ACT",
15 U.S.C. SEC. 6802(e)(5) OR (8), AS AMENDED, OR WITH THE FEDERAL
"RIGHT TO FINANCIAL PRIVACY ACT", 18 U.S.C. SEC. 3401 ET SEQ., AS
AMENDED.
(4) IN DECIDING WHETHER AND HOW TO COOPERATE, COORDINATE, JOINTLY EXAMINE, CONSULT, OR SHARE RECORDS AND OTHER INFORMATION UNDER SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER:

(a) MAXIMIZING EFFECTIVENESS AND UNIFORMITY OF REGULATION, EXAMINATION, IMPLEMENTATION, AND ENFORCEMENT FOR THE BENEFIT OF RESIDENTS AND LICENSEES AND REGISTRANTS; AND

(b) MINIMIZING BURDENS ON LICENSEES AND REGISTRANTS WITHOUT ADVERSELY AFFECTING PROTECTION FOR RESIDENTS.

11-111-304. Confidentiality. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OR (3) OF THIS SECTION, INFORMATION NOT CONTAINED IN A REPORT OTHERWISE AVAILABLE TO THE PUBLIC OR REPORTS OBTAINED BY THE DEPARTMENT FROM AN APPLICANT, LICENSEE, OR REGISTRANT, INFORMATION CONTAINED IN OR RELATED TO AN EXAMINATION, INVESTIGATION, OR OPERATING OR CONDITION REPORT PREPARED BY, ON BEHALF OF, OR FOR THE USE OF THE DEPARTMENT, AND OTHER FINANCIAL AND OPERATING INFORMATION, IS NOT SUBJECT TO DISCLOSURE UNDER THE COLORADO OPEN RECORDS LAW, ARTICLE 72 OF TITLE 24. IF THE DEPARTMENT DETERMINES THE INFORMATION OR RECORDS ARE CONFIDENTIAL UNDER THE OPEN RECORDS LAW OF A RECIPROCAL-LICENSING STATE, THE INFORMATION OR RECORDS MAY NOT BE DISCLOSED.

(2) A TRADE SECRET OF AN APPLICANT, A LICENSEE, OR A REGISTRANT IS CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE UNDER THE COLORADO OPEN RECORDS LAW, ARTICLE 72 OF TITLE 24. IF THE DEPARTMENT DETERMINES A TRADE SECRET IS CONFIDENTIAL UNDER THE OPEN RECORDS LAW OF A RECIPROCAL-LICENSING STATE, THE TRADE SECRET IS CONFIDENTIAL.
SECRET MAY NOT BE DISCLOSED.

(3) Subsection (1) of this section does not prohibit disclosure of:

(a) General information about a licensee's or registrant's virtual-currency business activity with or on behalf of a resident;

(b) A list of persons licensed or registered under this article 111; or

(c) Aggregated financial data concerning licensees or registrants in this state.

11-111-305. Interim report. (1) Each licensee and registrant shall file with the department a report of:

(a) A material change in information in the application for a license under this article 111 or a registration or the most recent renewal report of the licensee under this article 111 or for the registrant;

(b) A material change in the licensee's or registrant's business for the conduct of its virtual-currency business activity with or on behalf of a resident; and

(c) A change of an executive officer, responsible individual, or person in control of the licensee or registrant.

(2) Absent good cause, a report required by subsection (1) of this section must be filed not later than fifteen days after the change.

11-111-306. Change in control of licensee or registrant - definition. (1) As used in this section, "proposed person to be in control" means the person that would control a licensee or
REGISTRANT AFTER A PROPOSED TRANSACTION THAT WOULD RESULT IN A
CHANGE IN CONTROL OF THE LICENSEE OR REGISTRANT.

(2) THE FOLLOWING RULES APPLY IN DETERMINING WHETHER A
PERSON HAS CONTROL OVER A LICENSEE OR REGISTRANT:

(a) THERE IS A REBUTTABLE PRESUMPTION OF CONTROL IF THE
PERSON'S VOTING POWER IN THE LICENSEE OR REGISTRANT CONSTITUTES
OR WILL CONSTITUTE AT LEAST TWENTY-FIVE PERCENT OF THE TOTAL
VOTING POWER OF THE LICENSEE OR REGISTRANT.

(b) THERE IS A REBUTTABLE PRESUMPTION OF CONTROL IF:

(I) THE PERSON'S VOTING POWER IN ANOTHER PERSON
CONSTITUTES OR WILL CONSTITUTE AT LEAST TEN PERCENT OF THE TOTAL
VOTING POWER OF THE OTHER PERSON; AND

(II) THE OTHER PERSON'S VOTING POWER IN THE LICENSEE OR
REGISTRANT CONSTITUTES AT LEAST TWENTY-FIVE PERCENT OF THE TOTAL
VOTING POWER OF THE LICENSEE OR REGISTRANT.

(c) THERE IS NO PRESUMPTION OF CONTROL SOLELY BECAUSE AN
INDIVIDUAL IS AN EXECUTIVE OFFICER OF THE LICENSEE OR REGISTRANT.

(3) AT LEAST THIRTY DAYS BEFORE A PROPOSED CHANGE IN
CONTROL OF A LICENSEE OR REGISTRANT, THE PROPOSED PERSON TO BE IN
CONTROL SHALL SUBMIT TO THE DEPARTMENT IN A RECORD:

(a) AN APPLICATION IN A FORM AND MEDIUM PRESCRIBED BY THE
DEPARTMENT;

(b) THE INFORMATION AND RECORDS THAT SECTION 11-111-202
WOULD REQUIRE IF THE PROPOSED PERSON TO BE IN CONTROL ALREADY
HAD CONTROL OF THE LICENSEE;

(c) A LICENSE APPLICATION UNDER SECTION 11-111-202 BY THE
PROPOSED PERSON TO BE IN CONTROL;
(d) In the case of a registrant, the information that Section 11-111-207 would require if the proposed person to be in control already had control of the registrant; and

(e) In the case of a registration, a registration under Section 11-111-207 by the proposed person to be in control.

(4) The department, in accordance with Section 11-111-202, shall approve, approve with conditions, or deny an application for a change in control of a licensee or registrant. The department, in a record, shall send notice of its decision to the licensee or registrant and the person that would be in control if the department had approved the change in control. If the department denies the application, the licensee or registrant shall abandon the proposed change in control or cease virtual-currency business activity with or on behalf of residents.

(5) If the department applies a condition to approval of a change in control of a licensee or registrant and the department does not receive notice of the applicant's acceptance of the condition specified by the department not later than thirty-one days after the department sends notice of the condition, the application is deemed denied. If the application is deemed denied, the licensee or registrant shall abandon the proposed change in control or cease virtual-currency business activity with or on behalf of residents.

(6) Submission in good faith of records required by subsection (3) of this section relieves the proposed person to be in control from any obligation imposed by this section other
THAN SUBSECTIONS (4), (5), AND (8) OF THIS SECTION UNTIL THE DEPARTMENT HAS ACTED ON THE APPLICATION.

(7) THE DEPARTMENT MAY REVOKE OR MODIFY A DETERMINATION UNDER SUBSECTION (4) OF THIS SECTION, AFTER NOTICE AND OPPORTUNITY TO BE HEARD, IF, IN ITS JUDGMENT, REVOCATION OR MODIFICATION IS CONSISTENT WITH THIS ARTICLE 111.

(8) IF A CHANGE IN CONTROL OF A LICENSEE OR REGISTRANT REQUIRES APPROVAL OF AN AGENCY OF THIS STATE OR ANOTHER STATE WITH WHICH THIS STATE HAS A RECIPROCITY AGREEMENT AND THE ACTION OF THE OTHER AGENCY CONFLICTS WITH THAT OF THE DEPARTMENT, THE DEPARTMENT SHALL CONFER WITH THE OTHER AGENCY. IF THE PROPOSED CHANGE IN CONTROL CANNOT BE COMPLETED BECAUSE THE CONFLICT CANNOT BE RESOLVED, THE LICENSEE OR REGISTRANT SHALL ABANDON THE CHANGE IN CONTROL OR CEASE VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

11-111-307. Merger or consolidation by licensee or registrant.

(1) AT LEAST THIRTY DAYS BEFORE A PROPOSED MERGER OR CONSOLIDATION OF A LICENSEE OR REGISTRANT WITH ANOTHER PERSON, THE LICENSEE OR REGISTRANT SHALL SUBMIT TO THE DEPARTMENT IN A RECORD:

(a) AN APPLICATION IN A FORM AND MEDIUM PRESCRIBED BY THE DEPARTMENT;

(b) THE PLAN OF MERGER OR CONSOLIDATION IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION;

(c) IN THE CASE OF A LICENSEE, THE INFORMATION REQUIRED BY SECTION 11-111-202 CONCERNING THE PERSON THAT WOULD BE THE SURVIVING ENTITY IN THE PROPOSED MERGER OR CONSOLIDATION; AND
(d) In the case of a registrant, the information required by section 11-111-207 concerning the person that would be the surviving entity in the proposed merger or consolidation.

(2) If a proposed merger or consolidation would change the control of a licensee or registrant, the licensee or registrant shall comply with section 11-111-306 and this section.

(3) The department, in accordance with section 11-111-202, shall approve, conditionally approve, or deny an application for approval of a merger or consolidation of a licensee or registrant. The department, in a record, shall send notice of its decision to the licensee or registrant and the person that would be the surviving entity. If the department denies the application, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with or on behalf of residents.

(4) The department may revoke or modify a determination under subsection (3) of this section, after notice and opportunity to be heard, if, in its judgment, revocation or modification is consistent with this article 111.

(5) A plan of merger or consolidation of a licensee or a registrant with another person must:

(a) Describe the effect of the proposed transaction on the licensee’s or registrant’s conduct of virtual-currency business activity with or on behalf of residents;

(b) Identify each person to be merged or consolidated and the person that would be the surviving entity; and

(c) Describe the terms and conditions of the merger or consolidation.
CONSOLIDATION AND THE MODE OF CARRYING IT INTO EFFECT.

(6) If a merger or consolidation of a licensee or registrant and another person requires approval of an agency of this state or another state with which this state has a reciprocity agreement and the action of the other agency conflicts with that of the department, the department shall confer with the other agency. If the proposed merger or consolidation cannot be completed because the conflict cannot be resolved, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with or on behalf of residents.

(7) The department may condition approval of an application under subsection (1) of this section. If the department does not receive notice from the parties that the parties accept the department's condition not later than thirty-one days after the department sends notice in a record of the condition, the application is deemed denied. If the application is deemed denied, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with or on behalf of residents.

(8) If a licensee or registrant acquires substantially all the assets of a person, whether or not the person's license was approved by or registration was filed with the department, the transaction is subject to this section.

(9) Submission in good faith of the records required by subsection (5) of this section relieves the proposed surviving entity from any obligation imposed by this section, other than
SUBSECTIONS (3), (6), AND (7) OF THIS SECTION, UNTIL THE DEPARTMENT HAS ACTED ON THE APPLICATION.

PART 4

ENFORCEMENT

11-111-401. Enforcement measure - definition. (1) As used in this Article 111, "enforcement measure" means an action to:

(a) suspend or revoke a license or a registration under this Article 111;

(b) order a person to cease and desist from doing virtual-currency business activity with or on behalf of a resident;

(c) request the court to appoint a receiver for the assets of a person doing virtual-currency business activity with or on behalf of a resident;

(d) request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual-currency business activity with or on behalf of a resident;

(e) assess a penalty under section 11-111-403;

(f) recover on the security under section 11-111-204 and initiate a plan to distribute the proceeds for the benefit of a resident injured by a violation of this Article 111 or law of this state other than this Article 111 that applies to virtual-currency business activity with or on behalf of a resident; or

(g) impose necessary or appropriate conditions on the conduct of virtual-currency business activity with or on behalf
11-111-402. Department authority to use enforcement measures. (1) The Department may take an enforcement measure against a licensee, registrant, or person that is neither a licensee nor registrant but is engaging in virtual-currency business activity with or on behalf of a resident if:

(a) The licensee, registrant, or person materially violates this article 111, a rule adopted or order issued under this article 111, or a law of this state other than this article 111 that applies to virtual-currency business activity of the violator with or on behalf of a resident;

(b) The licensee, registrant, or person does not cooperate substantially with an examination or investigation by the Department, fails to pay a fee, or fails to submit a report or documentation;

(c) The licensee, registrant, or person, in the conduct of its virtual-currency business activity with or on behalf of a resident, engages in:

(I) An unsafe or unsound act or practice;

(II) An unfair or deceptive act or practice;

(III) Fraud or intentional misrepresentation;

(IV) Another dishonest act; or

(V) Misappropriation of legal tender, virtual currency, or other value held by a fiduciary;

(d) An agency of the United States or another state takes an action against the licensee, registrant, or person that would constitute an enforcement measure if the Department had taken
THE ACTION;

(e) The licensee, registrant, or person is convicted of a crime related to its virtual-currency business activity with or on behalf of a resident or involving fraud or felonious activity that, as determined by the department, makes the licensee, registrant, or person unsuitable to engage in virtual-currency business activity;

(f) The licensee, registrant, or person:

(I) becomes insolvent;

(II) makes a general assignment for the benefit of its creditors;

(III) becomes the debtor, alleged debtor, respondent, or person in a similar capacity in a case or other proceeding under any bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership, dissolution, liquidation, or similar law, and does not obtain from the court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding; or

(IV) applies for or permits the appointment of a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets; or

(g) the licensee, registrant, or person makes a material misrepresentation to the department.

(2) On application and for good cause, the department may:

(a) extend the due date for filing a document or report under subsection (1)(b) of this section; or

(b) waive to the extent warranted by circumstances, such
AS A BONA FIDE ERROR NOTWITHSTANDING REASONABLE PROCEDURES DESIGNED TO PREVENT ERROR, AN ENFORCEMENT MEASURE UNDER SUBSECTION (1) OF THIS SECTION IF THE DEPARTMENT DETERMINES THAT THE WAIVER WILL NOT ADVERSELY AFFECT THE LIKELIHOOD OF COMPLIANCE WITH THIS ARTICLE 111.

(3) IN AN ENFORCEMENT ACTION RELATED TO OPERATING WITHOUT A LICENSE UNDER THIS ARTICLE 111 OR REGISTRATION IN THIS STATE, IT IS A DEFENSE TO THE ACTION THAT THE PERSON HAS IN EFFECT A CUSTOMER IDENTIFICATION PROGRAM REASONABLY DESIGNED TO IDENTIFY WHETHER A CUSTOMER IS A RESIDENT, WHICH FAILED TO IDENTIFY THE PARTICULAR CUSTOMER AS A RESIDENT.

(4) A PROCEEDING UNDER THIS ARTICLE 111 IS SUBJECT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.

11-111-403. Civil penalty. (1) IF A PERSON OTHER THAN A LICENSEE OR REGISTRANT ENGAGES IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT IN VIOLATION OF THIS ARTICLE 111, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY AGAINST THE PERSON IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS FOR EACH DAY OF VIOLATION.

(2) IF A LICENSEE OR REGISTRANT MATERIALLY VIOLATES A PROVISION OF THIS ARTICLE 111, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH DAY OF VIOLATION.

(3) A CIVIL PENALTY UNDER THIS SECTION CONTINUES TO ACCRUE UNTIL THE EARLIER OF:

(a) The date the violation ceases; or

(b) A date specified by the department.
11-111-404. Effective period of revocation, suspension, or cease-and-desist order. (1) Revocation of a license under this article 111 is effective against a licensee one day after the department sends notice in a record of the revocation to the licensee, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the department.

(2) Suspension of a license under this article 111, suspension of a registration, or an order to cease and desist is effective against a licensee, registrant, or other person one day after the department sends notice in a record of the suspension or order to the licensee, registrant, or other person, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the department or, if no address is provided, to the recipient's last known address. A suspension or order to cease and desist remains in effect until the earliest of:

(a) Entry of an order by the department under the "State Administrative Procedure Act", article 4 of title 24, setting aside or limiting the suspension or order;

(b) Entry of a court order setting aside or limiting the suspension or order to cease and desist; or

(c) A date specified by the department.

(3) If, without reason to know of the department's notice sent under subsection (1) or (2) of this section, a licensee, registrant, or other person does not comply in accordance with the notice until the notice is actually received at the address
Provided, the Department may consider the delay in compliance in imposing a sanction for the failure.

11-111-405. Consent order. The Department may enter into a consent order with a person regarding an enforcement measure. The order may provide that it does not constitute an admission of fact by a party.

11-111-406. Scope of right of action. (1) Except as otherwise provided in this section, a person does not have a right of action for violation of this article 111.

(2) The Department may bring an action for restitution on behalf of a resident if the Department proves economic injury due to a violation of this article 111.

(3) This section does not preclude an action by a resident to enforce rights under section 11-111-502 or law of this state other than this article 111.

Part 5

Disclosures and other protections for residents

11-111-501. Required disclosures. (1) A licensee or registrant shall provide to a resident who uses the licensee’s or registrant’s products or service the disclosures required by subsection (2) of this section and any additional disclosure the Department by rule determines reasonably necessary for the protection of residents. The Department shall determine by rule the time and form required for disclosure. A disclosure required by this section must be made separately from any other information provided by the licensee or registrant and in a clear and conspicuous manner in a record the resident may keep.
A licensee or registrant may propose for the department’s approval alternate disclosures as more appropriate for its virtual-currency business activity with or on behalf of residents.

(2) Before establishing a relationship with a resident, a licensee or registrant shall disclose, to the extent applicable to the virtual-currency business activity the licensee or registrant will undertake with the resident:

(a) A schedule of fees and charges the licensee or registrant may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;

(b) Whether the product or service provided by the licensee or registrant is covered by:

(I) A form of insurance or is otherwise guaranteed against loss by an agency of the United States:

(A) Up to the full U.S. dollar equivalent of virtual currency placed under the control of or purchased from the licensee or registrant as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or

(B) If not provided at the full U.S. dollar equivalent of virtual currency placed under the control of or purchased from the licensee or registrant, the maximum amount of coverage for each resident expressed in the U.S. dollar
EQUIVALENT OF VIRTUAL CURRENCY; OR

(II) PRIVATE INSURANCE AGAINST THEFT OR LOSS, INCLUDING CYBER THEFT OR THEFT BY OTHER MEANS;

(c) THE IRREVOCABILITY OF A TRANSFER OR EXCHANGE AND ANY EXCEPTION TO IRREVOCABILITY;

(d) A DESCRIPTION OF:

(I) LIABILITY FOR AN UNAUTHORIZED, MISTaken, OR ACCIDENTAL TRANSFER OR EXCHANGE;

(II) THE RESIDENT'S RESPONSIBILITY TO PROVIDE NOTICE TO THE LICENSEE OR REGISTRANT OF THE TRANSFER OR EXCHANGE;

(III) THE BASIS FOR ANY RECOVERY BY THE RESIDENT FROM THE LICENSEE OR REGISTRANT;

(IV) GENERAL ERROR-RESOLUTION RIGHTS APPLICABLE TO THE TRANSFER OR EXCHANGE; AND

(V) THE METHOD FOR THE RESIDENT TO UPDATE THE RESIDENT'S CONTACT INFORMATION WITH THE LICENSEE OR REGISTRANT;

(e) THAT THE DATE OR TIME WHEN THE TRANSFER OR EXCHANGE IS MADE AND THE RESIDENT'S ACCOUNT IS DEBITED MAY DIFFER FROM THE DATE OR TIME WHEN THE RESIDENT INITIATES THE INSTRUCTION TO MAKE THE TRANSFER OR EXCHANGE;

(f) WHETHER THE RESIDENT HAS A RIGHT TO STOP A PREAUTHORIZED PAYMENT OR REVOKE AUTHORIZATION FOR A TRANSFER AND THE PROCEDURE TO INITIATE A STOP-PAYMENT ORDER OR REVOKE AUTHORIZATION FOR A SUBSEQUENT TRANSFER;

(g) THE RESIDENT'S RIGHT TO RECEIVE A RECEIPT, TRADE TICKET, OR OTHER EVIDENCE OF THE TRANSFER OR EXCHANGE;

(h) THE RESIDENT'S RIGHT TO AT LEAST THIRTY DAYS' PRIOR
NOTICE OF A CHANGE IN THE LICENSEE'S OR REGISTRANT'S FEE SCHEDULE,
OTHER TERMS AND CONDITIONS OF OPERATING ITS VIRTUAL-CURRENCY
BUSINESS ACTIVITY WITH THE RESIDENT, AND THE POLICIES APPLICABLE TO
THE RESIDENT'S ACCOUNT; AND

(i) THAT VIRTUAL CURRENCY IS NOT LEGAL TENDER.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS
SECTION, AT THE CONCLUSION OF A VIRTUAL-CURRENCY TRANSACTION
WITH OR ON BEHALF OF A RESIDENT, A LICENSEE OR REGISTRANT SHALL
PROVIDE THE RESIDENT A CONFIRMATION IN A RECORD THAT CONTAINS:

(a) THE NAME AND CONTACT INFORMATION OF THE LICENSEE OR
REGISTRANT, INCLUDING INFORMATION THE RESIDENT MAY NEED TO ASK
A QUESTION OR FILE A COMPLAINT;

(b) THE TYPE, VALUE, DATE, PRECISE TIME, AND AMOUNT OF THE
TRANSACTION; AND

(c) THE FEE CHARGED FOR THE TRANSACTION, INCLUDING ANY
CHARGE FOR CONVERSION OF VIRTUAL CURRENCY TO LEGAL TENDER,
BANK CREDIT, OR OTHER VIRTUAL CURRENCY.

(4) IF A LICENSEE OR REGISTRANT DISCLOSES THAT IT WILL
PROVIDE A DAILY CONFIRMATION IN THE INITIAL DISCLOSURE UNDER
SUBSECTION (3) OF THIS SECTION, THE LICENSEE OR REGISTRANT MAY
ELECT TO PROVIDE A SINGLE, DAILY CONFIRMATION FOR ALL
TRANSACTIONS WITH OR ON BEHALF OF A RESIDENT ON THAT DAY INSTEAD
OF A PER-TRANSACTION CONFIRMATION.

11-111-502. Property interests and entitlements to virtual
currency - definitions - applicability of "Uniform Commercial Code"
- mandatory choice-of-law provisions. (1) Definitions. AS USED IN THIS
SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:
(a) "AGREEMENT" has the meaning set forth in section 4-1-201 of the "Uniform Commercial Code", as amended, in substantially the form approved by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.

(b) "ARTICLE 8" means article 8 of the "Uniform Commercial Code", in substantially the form approved by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.

(c) "ENTITLEMENT HOLDER" has the meaning set forth in section 4-8-102 (a)(7).

(d) "FINANCIAL ASSET" has the meaning set forth in section 4-8-102 (a)(9).


(f) "SECURITIES ACCOUNT" has the meaning set forth in section 4-8-501 (a).

(g) "SECURITIES INTERMEDIARY" has the meaning set forth in section 4-8-102 (a)(14).

(h) "SECURITY" has the meaning set forth in section 4-8-102 (a)(15).

(i) "UNIFORM COMMERCIAL CODE JURISDICTION" means a state that has enacted Article 8.

(j) "USER" means a person for which a licensee or registrant has control of virtual currency.

(2) **Scope.** This section applies to:
(a) A person or transaction governed by this Article 111;

AND

(b) A user that is not a resident if the user or transaction with the user would be governed by this Article 111 if the user were a resident.

(3) Incorporation of Article 8. (a) The relationship between a licensee or registrant and a user must be evidenced by an agreement in a record signed by the licensee or registrant and by the user. The agreement:

(I) Must specify the jurisdiction whose law governs the agreement;

(II) If governed by the law of a jurisdiction that is not a Uniform Commercial Code jurisdiction, must:

(A) Specify a Uniform Commercial Code jurisdiction as the securities intermediary’s jurisdiction for the purpose of Article 8; and

(B) State that the law in force in the Uniform Commercial Code jurisdiction under subsection (3)(b)(I) of this section applies to all issues specified in Article 2(1) of the Hague Securities Convention;

(III) Must state that:

(A) The licensee or registrant is a securities intermediary;

(B) The control of virtual currency by the licensee or registrant for the benefit of the user creates a securities account of which the user is the entitlement holder;

(C) The parties agree that the virtual currency is to be treated as a financial asset credited or held for credit to the
SECURITIES ACCOUNT OF THE USER; AND

(D) THE LICENSEE OR REGISTRANT WILL NOT GRANT A SECURITY

INTEREST IN VIRTUAL CURRENCY THAT THE LICENSEE OR REGISTRANT IS

OBLIGATED TO MAINTAIN UNDER SECTION 4-8-504 (a);

(IV) MAY NOT PROVIDE A STANDARD FOR THE LICENSEE OR

REGISTRANT TO COMPLY WITH ITS DUTIES UNDER PART 5 OF Article 8

THAT IS LESS PROTECTIVE OF THE USER THAN THE STANDARD THAT WOULD

APPLY UNDER PART 5 OF Article 8 IN THE ABSENCE OF AN AGREEMENT

CONCERNING THE STANDARD; AND

(V) MAY NOT PROVIDE THAT:

(A) THE SECURITIES INTERMEDIARY'S JURISDICTION FOR THE

PURPOSE OF Article 8 IS A JURISDICTION THAT IS NOT A UNIFORM

COMMERCIAL CODE JURISDICTION; OR

(B) THE LAW IN FORCE IN A JURISDICTION THAT IS NOT A UNIFORM

COMMERCIAL CODE JURISDICTION APPLIES TO ALL ISSUES SPECIFIED IN

ARTICLE 2(1) OF THE HAGUE SECURITIES CONVENTION.

(b) (I) TO THE EXTENT THAT THERE IS NO AGREEMENT THAT

COMPLIES WITH SUBSECTION (3) OF THIS SECTION, THE RELATIONSHIP

BETWEEN A LICENSEE OR REGISTRANT AND A USER IS DETERMINED AS IF

THE LICENSEE OR REGISTRANT AND THE USER HAVE AN AGREEMENT THAT

COMPLIES WITH SUBSECTION (3) OF THIS SECTION AND SPECIFIES THAT THE

LAW OF THIS STATE GOVERNS THE AGREEMENT.

(II) THE EFFECT OF THIS SUBSECTION (3) MAY NOT BE VARIED BY

AGREEMENT.

(4) Qualifying office under Hague Securities Convention.

(a) A LICENSEE OR REGISTRANT SHALL MAINTAIN IN ANY STATE AN OFFICE

THAT COMPLIES WITH THE SECOND SENTENCE OF Article 4(1) OF THE
Hague Securities Convention.

(b) The effect of this subsection (5) may not be varied by agreement.

(5) No inference as to characterization under other statute or rule. Treatment of virtual currency as a financial asset credited to a securities account under this Article 111 and Article 8 does not determine the characterization or treatment of the virtual currency under any other statute or rule.

PART 6
Policies and Procedures

11-111-601. Mandated compliance programs and monitoring.

(1) An applicant, before submitting an application, and registrant, before registering, shall create and, during licensure or registration, maintain in a record policies and procedures for:

(a) An information security and operational security program;

(b) A business continuity program;

(c) A disaster recovery program;

(d) An anti-fraud program;

(e) An anti-money-laundering program;

(f) A program to prevent funding of terrorist activity;

and

(g) A program designed to:

(I) Ensure compliance with this Article 111, law of this state other than this Article 111, and federal law, which are relevant to the virtual-currency business activity
CONTEMPLATED BY THE LICENSEE OR REGISTRANT WITH OR ON BEHALF OF RESIDENTS; AND

(II) ASSIST THE LICENSEE OR REGISTRANT IN ACHIEVING THE PURPOSES OF LAW OF THIS STATE OTHER THAN THIS ARTICLE 111 AND FEDERAL LAW IF VIOLATION OF THAT LAW HAS A REMEDY UNDER THIS ARTICLE 111.

(2) EACH POLICY REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST BE IN A RECORD AND DESIGNED TO BE ADEQUATE FOR A LICENSEE'S OR REGISTRANT'S CONTEMPLATED VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF RESIDENTS, CONSIDERING THE CIRCUMSTANCES OF ALL PARTICIPANTS AND THE SAFE OPERATION OF THE ACTIVITY. EACH POLICY AND IMPLEMENTING PROCEDURE MUST BE COMPATIBLE WITH OTHER POLICIES AND THE PROCEDURES IMPLEMENTING THEM AND NOT CONFLICT WITH POLICIES OR PROCEDURES APPLICABLE TO THE LICENSEE OR REGISTRANT UNDER LAW OF THIS STATE OTHER THAN THIS ARTICLE 111. A POLICY AND IMPLEMENTING PROCEDURE MAY BE ONE IN EXISTENCE IN THE LICENSEE'S OR REGISTRANT'S VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

(3) A LICENSEE'S OR REGISTRANT'S POLICY FOR DETECTING FRAUD MUST INCLUDE:

(a) IDENTIFICATION AND ASSESSMENT OF THE MATERIAL RISKS OF ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY RELATED TO FRAUD;

(b) PROTECTION AGAINST ANY MATERIAL RISK RELATED TO FRAUD IDENTIFIED BY THE DEPARTMENT OR THE LICENSEE OR REGISTRANT; AND

(c) PERIODIC EVALUATION AND REVISION OF THE ANTI-FRAUD PROCEDURE.

(4) A LICENSEE'S OR REGISTRANT'S POLICY FOR PREVENTING
MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITY MUST INCLUDE:

(a) IDENTIFICATION AND ASSESSMENT OF THE MATERIAL RISKS OF ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY RELATED TO MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITY;

(b) PROCEDURES, IN ACCORDANCE WITH FEDERAL LAW OR GUIDANCE PUBLISHED BY FEDERAL AGENCIES RESPONSIBLE FOR ENFORCING FEDERAL LAW, PERTAINING TO MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITY; AND


(5) A LICENSEE'S OR REGISTRANT'S INFORMATION SECURITY AND OPERATIONAL SECURITY POLICY MUST INCLUDE REASONABLE AND APPROPRIATE ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS TO PROTECT THE CONFIDENTIALITY, INTEGRITY, AND AVAILABILITY OF ANY NONPUBLIC PERSONAL INFORMATION OR VIRTUAL CURRENCY IT RECEIVES, MAINTAINS, OR TRANSMITS.

(6) A LICENSEE OR REGISTRANT IS NOT REQUIRED TO FILE WITH THE DEPARTMENT A COPY OF A REPORT IT MAKES TO A FEDERAL AUTHORITY UNLESS THE DEPARTMENT SPECIFICALLY REQUIRES FILING.

(7) A LICENSEE'S OR REGISTRANT'S PROTECTION POLICY UNDER SUBSECTION (5) OF THIS SECTION FOR RESIDENTS MUST INCLUDE:

(a) ANY ACTION OR SYSTEM OF RECORDS REQUIRED TO COMPLY
WITH THIS ARTICLE 111 AND LAW OF THIS STATE OTHER THAN THIS ARTICLE 111 APPLICABLE TO THE LICENSEE OR REGISTRANT WITH RESPECT TO VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT;

(b) A PROCEDURE FOR RESOLVING DISPUTES BETWEEN THE LICENSEE OR REGISTRANT AND A RESIDENT;

(c) A PROCEDURE FOR A RESIDENT TO REPORT AN UNAUTHORIZED, MISTaken, OR ACCIDENTAL VIRTUAL-CURRENCY BUSINESS ACTIVITY TRANSACTION; AND

(d) A PROCEDURE FOR A RESIDENT TO FILE A COMPLAINT WITH THE LICENSEE OR REGISTRANT AND FOR THE RESOLUTION OF THE COMPLAINT IN A FAIR AND TIMELY MANNER WITH NOTICE TO THE RESIDENT AS SOON AS REASONABLY PRACTICAL OF THE RESOLUTION AND THE REASONS FOR THE RESOLUTION.

(8) AFTER THE POLICIES AND PROCEDURES REQUIRED UNDER THIS SECTION ARE CREATED AND APPROVED BY THE DEPARTMENT AND THE LICENSEE OR REGISTRANT, THE LICENSEE OR REGISTRANT SHALL ENGAGE A RESPONSIBLE INDIVIDUAL WITH ADEQUATE AUTHORITY AND EXPERIENCE TO MONITOR EACH POLICY AND PROCEDURE, PUBLICIZE IT AS APPROPRIATE, RECOMMEND CHANGES AS DESIRABLE, AND ENFORCE IT.

(9) A LICENSEE OR REGISTRANT MAY:

(a) REQUEST ADVICE FROM THE DEPARTMENT AS TO COMPLIANCE WITH THIS SECTION; AND

(b) WITH THE DEPARTMENT'S APPROVAL, OUTSOURCE FUNCTIONS, OTHER THAN COMPLIANCE, REQUIRED UNDER THIS SECTION.

(10) FAILURE OF A PARTICULAR POLICY OR PROCEDURE ADOPTED UNDER THIS SECTION TO MEET ITS GOALS IN A PARTICULAR INSTANCE IS
NOT A GROUND FOR LIABILITY OF THE LICENSEE OR REGISTRANT IF THE
POLICY OR PROCEDURE WAS CREATED, IMPLEMENTED, AND MONITORED
PROPERLY. REPEATED FAILURES OF A POLICY OR PROCEDURE ARE
EVIDENCE THAT THE POLICY OR PROCEDURE WAS NOT CREATED OR
IMPLEMENTED PROPERLY.

(11) POLICIES AND PROCEDURES ADOPTED UNDER THIS SECTION
MUST BE DISCLOSED SEPARATELY FROM OTHER DISCLOSURES MADE
AVAILABLE TO A RESIDENT, IN A CLEAR AND CONSPICUOUS MANNER AND
IN THE MEDIUM THROUGH WHICH THE RESIDENT CONTACTED THE LICENSEE
OR REGISTRANT.

11-111-602. Mandated compliance policy or procedure.

(1) AN APPLICANT, BEFORE SUBMITTING ITS APPLICATION, AND A
REGISTRANT, BEFORE REGISTERING, SHALL ESTABLISH AND MAINTAIN IN
A RECORD A POLICY OR PROCEDURE DESIGNED TO ENSURE COMPLIANCE
WITH:

(a) THIS ARTICLE 111; AND

(b) LAW OF THIS STATE OTHER THAN THIS ARTICLE 111 IF:

(I) THE OTHER LAW IS RELEVANT TO THE VIRTUAL-CURRENCY
BUSINESS ACTIVITY CONTEMPLATED BY THE LICENSEE OR REGISTRANT OR
THE SCOPE OF THIS ARTICLE 111; OR

(II) THIS ARTICLE 111 COULD ASSIST IN THE PURPOSE OF THE
OTHER LAW BECAUSE VIOLATION OF THE OTHER LAW HAS A REMEDY
UNDER THIS ARTICLE 111.

(2) A POLICY OR PROCEDURE UNDER SUBSECTION (1) OF THIS
SECTION:

(a) MUST BE COMPATIBLE, AND NOT CONFLICT, WITH
REQUIREMENTS APPLICABLE TO A LICENSEE OR REGISTRANT UNDER LAW
OF THIS STATE OTHER THAN THIS ARTICLE 111 AND UNDER FEDERAL LAW;

AND

(b) MAY BE A POLICY OR PROCEDURE IN EXISTENCE FOR THE
LICENSEE'S OR REGISTRANT'S VIRTUAL-CURRENCY BUSINESS ACTIVITY
WITH OR ON BEHALF OF A RESIDENT.

(3) AFTER THE POLICIES AND PROCEDURES REQUIRED UNDER THIS
SECTION ARE CREATED BY THE LICENSEE OR REGISTRANT AND APPROVED
BY THE DEPARTMENT, THE LICENSEE OR REGISTRANT SHALL ENGAGE A
RESPONSIBLE INDIVIDUAL WITH ADEQUATE AUTHORITY AND EXPERIENCE
TO MONITOR EACH POLICY OR PROCEDURE, PUBLICIZE IT AS APPROPRIATE,
RECOMMEND CHANGES AS DESIRABLE, AND ENFORCE IT.

(4) A LICENSEE OR REGISTRANT MAY:

(a) REQUEST ADVICE FROM THE DEPARTMENT AS TO COMPLIANCE
WITH THIS SECTION; AND

(b) WITH THE DEPARTMENT'S APPROVAL, OUTSOURCE FUNCTIONS,
OTHER THAN COMPLIANCE, REQUIRED UNDER THIS SECTION.

(5) FAILURE OF A PARTICULAR POLICY OR PROCEDURE ADOPTED
UNDER THIS SECTION TO MEET ITS GOALS IN A PARTICULAR INSTANCE IS
NOT A GROUND FOR LIABILITY OF THE LICENSEE OR REGISTRANT IF THE
POLICY OR PROCEDURE WAS CREATED, IMPLEMENTED, AND MONITORED
PROPERLY. REPEATED FAILURES OF A POLICY OR PROCEDURE ARE
EVIDENCE THAT THE POLICY OR PROCEDURE WAS NOT CREATED OR
IMPLEMENTED PROPERLY.

PART 7

MISCELLANEOUS PROVISIONS

11-111-701. 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 THE STATES THAT ENACT IT.

11-111-702. Relation to federal "Electronic Signatures in Global and National Commerce Act". This article 111 modifies, limits, or supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001, et seq., but does not modify, limit, or supersedes section 101 (c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003(b).

11-111-703. Saving and transitional provisions. (1) A license issued under the "Money Transmitters Act", article 110 of this title 11, that was in effect immediately before the effective date of this article 111 remains in effect as a license for its duration unless revoked or suspended under article 110 of this title 11. A person licensed under article 110 of this title 11 that does not intend to engage in virtual-currency business activity is not required to inform the department of its intention.

(2) If the department denies, suspends, or revokes a license under this article 111 or suspends or revokes a registration to conduct virtual-currency business activity with or on behalf of a resident, the denial, suspension, or revocation may not be used as a ground for suspension or revocation of a license granted under article 110 of this title 11 unless that article independently provides a basis for action against the licensee or registrant.

(3) This article 111 applies to virtual-currency business
ACTIVITY WITH OR ON BEHALF OF A RESIDENT ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE 111.

(4) A PERSON IS DEEMED TO BE CONDUCTING UNLICENSED VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT IN VIOLATION OF THIS ARTICLE 111 IF THE PERSON ENGAGES IN VIRTUAL-CURRENCY BUSINESS ACTIVITY ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE 111 AND THE PERSON DOES NOT HOLD A LICENSE ISSUED OR RECOGNIZED UNDER THIS ARTICLE 111, IS NOT EXEMPT FROM THIS ARTICLE 111, AND HAS NOT APPLIED FOR A LICENSE OR FILED A REGISTRATION. THIS SUBSECTION (4) INCLUDES A PERSON THAT:

(a) HAS OBTAINED A LICENSE UNDER ARTICLE 110 OF THIS TITLE 11, WHETHER OR NOT THAT ARTICLE COVERS VIRTUAL-CURRENCY BUSINESS ACTIVITY, OR HOLDS A CHARTER AS A TRUST COMPANY FROM THIS STATE; AND

(b) DOES NOT HAVE PERMISSION TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT.

Legislative Note [from NCCUSL]: A state that allows a state-chartered bank with trust powers or a non-bank trust company or limited-purpose trust company to engage in activities that would be governed by this article 111, only if it has received a separate permit or approval, or otherwise conditions its exercise of powers governed by this article 111, should add a separate savings or transitional subsection to this article 111. The new subsection should specify any limitations on the powers of the trust company or limited-purpose trust company as well.
as the state's preference on reciprocal licensing of a trust company or limited-purpose trust company, or of recognizing cross-border activities of a chartered trust company or limited-purpose trust company not domiciled in the state.

11-111-704. Effective date. This article 111 takes effect

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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.
Bills Topic: "Revised Uniform Law Remote Notarization"

A BILL FOR AN ACT

CONCERNING AN AUTHORIZATION OF REMOTE NOTARIZATION, AND, IN CONNECTION THEREWITH, ENACTING THE 2018 AMENDMENTS TO THE "REVISED UNIFORM LAW ON NOTARIAL ACTS".

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. Current law requires an individual who wishes to have a document notarized to appear personally before the notary public. The bill enacts the 2018 amendments to the "Revised Uniform Law on Notarial Acts", drafted by the Uniform Law Commission, which authorize notaries public to perform a notarial
act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document.

To perform a "remote notarization", a notary must use a tamper-evident electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communications and keeping an audio-video recording of the notarization for at least 10 years. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the person seeking the remote notarization.

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

SECTION 1. In Colorado Revised Statutes, amend 24-21-501 as follows:


SECTION 2. In Colorado Revised Statutes, 24-21-504, add (4) as follows:

24-21-504. Authority to perform notarial act. (4) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

SECTION 3. In Colorado Revised Statutes, add 24-21-514.5 as follows:

24-21-514.5. Notarial act performed by remotely located individual - definitions - rules. (1) As used in this section, unless the context otherwise requires:

(a) "communication technology" means an electronic device or process that:

(I) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and
(II) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED INDIVIDUAL WITH A VISION, HEARING, OR SPEECH IMPAIRMENT.

(b) "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

(c) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH A THIRD PERSON PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

(d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY, INSULAR POSSESSION, OR OTHER LOCATION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(e) "REMTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT UNDER SUBSECTION (3) OF THIS SECTION.

(2) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH SECTION 24-21-506 BY APPEARING BEFORE A NOTARY PUBLIC BY MEANS OF COMMUNICATION TECHNOLOGY.

(3) A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A NOTARIAL ACT FACILITATED BY COMMUNICATION TECHNOLOGY FOR A REMOTELY LOCATED INDIVIDUAL IF:

(a) THE NOTARY PUBLIC:

(I) HAS PERSONAL KNOWLEDGE UNDER SECTION 24-21-507 (1) OF THE IDENTITY OF THE INDIVIDUAL;

(II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE
REMTELY LOCATED INDIVIDUAL BY OATH OR AFFIRMATION FROM A
CREDIBLE WITNESS APPEARING BEFORE THE NOTARY PUBLIC UNDER
SECTION 24-21-507 (2) OR UNDER THIS SECTION; OR

(III) REASONABLY CAN IDENTIFY THE INDIVIDUAL BY AT LEAST
TWO DIFFERENT TYPES OF IDENTITY-PROOFING PROCESSES OR SERVICES.

(b) THE NOTARY PUBLIC IS ABLE REASONABLY TO IDENTIFY A
RECORD BEFORE THE NOTARY PUBLIC AS THE SAME RECORD IN WHICH THE
REMTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE
REMTELY LOCATED INDIVIDUAL EXECUTED A SIGNATURE;

(c) THE NOTARY PUBLIC, OR A PERSON ACTING ON BEHALF OF THE
NOTARY PUBLIC, CREATES AN AUDIO-VISUAL RECORDING OF THE
PERFORMANCE OF THE NOTARIAL ACT; AND

(d) FOR A REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED
OUTSIDE THE UNITED STATES:

(I) THE RECORD:

(A) IS TO BE FILED WITH OR RELATES TO A MATTER BEFORE A
COURT, GOVERNMENTAL ENTITY, PUBLIC OFFICIAL, OR OTHER ENTITY
SUBJECT TO THE JURISDICTION OF THE UNITED STATES; OR

(B) INVOLVES PROPERTY LOCATED IN THE TERRITORIAL
JURISDICTION OF THE UNITED STATES OR A TRANSACTION SUBSTANTIALLY
CONNECTED WITH THE UNITED STATES; AND

(II) THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD
IS NOT PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY
LOCATED INDIVIDUAL IS LOCATED.

(4) IF A NOTARIAL ACT IS PERFORMED UNDER THIS SECTION, THE
CERTIFICATE OF NOTARIAL ACT REQUIRED BY SECTION 24-21-515 AND THE
SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516 MUST
INDICATE THAT THE NOTARIAL ACT WAS PERFORMED BY MEANS OF COMMUNICATION TECHNOLOGY.

(5) A short-form certificate provided in section 24-21-516 for a notarial act subject to this section is sufficient if it:

(a) complies with rules adopted under subsection (8)(a) of this section; or

(b) is in the form provided by section 24-21-516 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(6) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection (3)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (8)(d) of this section, the recording must be retained for a period of at least ten years after the recording is made.

(7) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the secretary of state that the notary public will be performing notarial acts facilitated by communication technology and identify the technology. If the secretary of state has established standards for approval of communication technology or identity proofing under subsection (8) of this section and section 24-21-527, the communication technology and identity proofing must conform to the standards.
(8) In addition to adopting rules under section 24-21-527, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may:

(a) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) establish standards for communication technology and identity proofing;

(c) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) establish standards and a period for the retention of an audio-visual recording created under subsection (3)(c) of this section.

(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state shall consider:

(a) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the National Association of Secretaries of State;

(b) standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) the views of governmental officials and entities and other interested persons.
(10) By allowing its communication technology or identity proofing technology to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection (3)(c) of this section, the provider of the technology or storage appoints the secretary of state as the provider's agent for service of process in any civil action in this state related to the notarial act.

SECTION 4. In Colorado Revised Statutes, 24-21-520, add (4) as follows:

24-21-520. Notification regarding performance of notarial act on electronic record - selection of technology - acceptance of tangible copy of electronic record. (4) A county clerk and recorder may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

SECTION 5. 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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.

<\{Do you want a safety clause or a specific effective date?\}>
A BILL FOR AN ACT

CONCERNING THE CREATION OF THE "UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES 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 creates the "Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act". An individual whose body is shown in whole or in part in an intimate image and who has suffered harm from a person's intentional disclosure or threatened disclosure of that intimate image without the depicted individual's consent has a cause of action against that person if
the person knew:

- The depicted individual did not consent to the disclosure;
- The intimate image was private; and
- The depicted individual was identifiable.

The bill provides an exception to the civil action if the disclosure is made in good faith under various circumstances or if the person disclosing the image is a parent or guardian and has not disclosed the image for purposes of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

A successful plaintiff may recover:

- The greater of:
  - Economic and noneconomic damages proximately caused by the defendant's disclosures or threatened disclosures, including damages for emotional distress whether or not accompanied by other damages; or
  - Statutory damages not to exceed $10,000 against each defendant found liable for all disclosures or threatened disclosures by the defendant;
- An amount equal to the gain made by the defendant from disclosure of the intimate image if applicable;
- Punitive damages;
- Reasonable attorney's fees and costs; and
- Additional relief, including injunctive relief.

The civil action has a 4-year statute of limitation.

---

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

2 SECTION 1. In Colorado Revised Statutes, add part 14 to article

3 21 of title 13 as follows:

4 PART 14

5 UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED

6 DISCLOSURE OF INTIMATE IMAGES

7 13-21-1401. Short title. The short title of this part 14 is the

8 "UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF

9 INTIMATE IMAGES ACT".

10 13-21-1402. Definitions. As used in this part 14, unless the

11 context otherwise requires:
(1) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(2) "Depicted individual" means an individual whose body is shown in whole or in part in an intimate image.

(3) "Disclosure" means transfer, publish, or distribute to another person. "Disclose" has a corresponding meaning.

(4) "Identifiable" means recognizable by a person other than the depicted individual:

   (a) from an intimate image itself; or

   (b) from the intimate image and identifying characteristic displayed in connection with the intimate image.

(5) "Identifying characteristic" means information that may be used to identify a depicted individual.

(6) "Individual" means a human being.

(7) "Intimate image" means a photograph, film, video recording, or other similar medium that shows:

   (a) the uncovered genitals, pubic area, anus, or female postpubescent nipple of a depicted individual; or

   (b) the depicted individual engaging in or being subjected to sexual conduct.

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

(9) "Sexual conduct" includes:

   (a) masturbation;
(b) genital, anal, or oral sex;
(c) sexual penetration of, or with, an object;
(d) bestiality; or
(e) the transfer of semen onto the depicted individual.

13-21-1403. Civil action - definitions. (1) In this section, unless the context otherwise requires:

(a) "Harm" means physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm;
(b) "Private" means:
   (I) created or obtained under circumstances in which the depicted individual had a reasonable expectation of privacy; or
   (II) made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to property or to an account, message, file, device, or resource.

(2) Except as otherwise provided in section 13-21-1404, a depicted individual who is identifiably and who has suffered harm from a person's intentional disclosure or threatened disclosure of a private, intimate image without the depicted individual's consent has a cause of action against that person if the person knew or acted with reckless disregard for whether:
   (a) the depicted individual did not consent to the disclosure;
   (b) the intimate image was private; and
   (c) the depicted individual was identifiable.

(3) The following conduct by a depicted individual does
NOT ESTABLISH BY ITSELF THAT THE INDIVIDUAL CONSENTED TO THE
DISCLOSURE OF THE INTIMATE IMAGE THAT IS THE SUBJECT OF THE ACTION
OR THAT THE INDIVIDUAL LACKED A REASONABLE EXPECTATION OF
PRIVACY:

(a) CONSENT TO THE CREATION OF THE IMAGE; OR
(b) PREVIOUS CONSENSUAL DISCLOSURE OF THE IMAGE.

(4) A DEPICTED INDIVIDUAL WHO DOES NOT CONSENT TO SEXUAL
CONDUCT OR THE UNCOVERING OF THE PART OF THE BODY DEPICTED IN
THE INTIMATE IMAGE OF THE INDIVIDUAL RETAINS A REASONABLE
EXPECTATION OF PRIVACY EVEN IF THE IMAGE WAS CREATED WHEN THE
INDIVIDUAL WAS IN A PUBLIC PLACE.

13-21-1404. Exceptions to liability - definitions. (1) In this
SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILD" MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS LESS
THAN EIGHTEEN YEARS OF AGE.
(b) "PARENT" MEANS AN INDIVIDUAL RECOGNIZED AS A PARENT
UNDER LAW OF THIS STATE OTHER THAN THIS PART 14.

(2) A PERSON IS NOT LIABLE PURSUANT TO THIS PART 14 IF THE
PERSON PROVES THAT THE DISCLOSURE OF, OR THREAT TO DISCLOSE, THE
INTIMATE IMAGE WAS:

(a) MADE IN GOOD FAITH IN:
(I) LAW ENFORCEMENT;
(II) A LEGAL PROCEEDING; OR
(III) MEDICAL EDUCATION OR TREATMENT;
(b) MADE IN GOOD FAITH IN THE REPORTING OR INVESTIGATION OF:
(I) UNLAWFUL CONDUCT;
(II) UNSOLICITED AND UNWELCOME CONDUCT;
(III) RELATED TO A MATTER OF PUBLIC CONCERN OR PUBLIC INTEREST; OR

(IV) REASONABLY INTENDED TO ASSIST THE DEPICTED INDIVIDUAL.

(3) SUBJECT TO SUBSECTION (4) OF THIS SECTION, A DEFENDANT WHO IS A CHILD’S PARENT OR LEGAL GUARDIAN IS NOT LIABLE PURSUANT TO THIS PART 14 FOR A DISCLOSURE OR THREATENED DISCLOSURE OF AN INTIMATE IMAGE OF THE CHILD.

(4) IF A DEFENDANT ASSERTS AN EXCEPTION TO LIABILITY PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE EXCEPTION SHALL BE RENDERED INAPPLICABLE IF THE PLAINTIFF PROVES THAT THE DISCLOSURE WAS:

(a) PROHIBITED BY LAW OTHER THAN THIS PART 14; OR

(b) MADE FOR THE PURPOSES OF SEXUAL AROUSAL, SEXUAL GRATIFICATION, HUMILIATION, DEGRADATION, OR MONETARY OR COMMERCIAL GAIN.

(5) THE DISCLOSURE OR THREAT TO DISCLOSE AN INTIMATE IMAGE IS NOT A MATTER OF PUBLIC CONCERN OR PUBLIC INTEREST SOLELY BECAUSE THE DEPICTED INDIVIDUAL IS A PUBLIC FIGURE.

13-21-1405. Plaintiff's privacy. (1) IN AN ACTION UNDER THIS PART 14:

(a) A PLAINTIFF MAY PROCEED USING A PSEUDONYM IN PLACE OF THE TRUE NAME OF THE PLAINTIFF;

(b) THE COURT MAY EXCLUDE OR REDACT FROM ALL PLEADINGS AND DOCUMENTS FILED IN THE ACTION OTHER IDENTIFYING CHARACTERISTICS OF THE PLAINTIFF;

(c) A PLAINTIFF TO WHOM SUBSECTION (1) OR (2) OF THIS SECTION
APPLIES SHALL FILE WITH THE COURT AND SERVE ON THE DEFENDANT A
CONFIDENTIAL INFORMATION FORM THAT INCLUDES THE EXCLUDED OR
REDACTED PLAINTIFF’S NAME AND OTHER IDENTIFYING CHARACTERISTICS;

AND

(d) THE COURT MAY MAKE FURTHER ORDERS AS NECESSARY TO
PROTECT THE IDENTITY AND PRIVACY OF A PLAINTIFF.

13-21-1406. Remedies. (1) IN AN ACTION UNDER THIS PART 14,
A PREVAILING PLAINTIFF MAY RECOVER:

(a) THE GREATER OF:

(I) ECONOMIC AND NONECONOMIC DAMAGES PROXIMATELY
CAUSED BY THE DEFENDANT’S DISCLOSURES OR THREATENED
DISCLOSURES, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS WHETHER
OR NOT ACCOMPANIED BY OTHER DAMAGES; OR

(II) STATUTORY DAMAGES NOT TO EXCEED TEN THOUSAND
DOLLARS AGAINST EACH DEFENDANT FOUND LIABLE PURSUANT TO THIS
PART 14 FOR ALL DISCLOSURES OR THREATENED DISCLOSURES BY THE
DEFENDANT OF WHICH THE PLAINTIFF HAD KNOWLEDGE OR REASONABLY
SHOULD HAVE HAD KNOWLEDGE WHEN FILING THE ACTION OR WHICH
BECAME KNOWN DURING THE PENDENCY OF THE ACTION. IN DETERMINING
THE AMOUNT OF STATUTORY DAMAGES, CONSIDERATION MUST BE GIVEN
TO THE AGE OF THE PARTIES AT THE TIME OF THE DISCLOSURE OR
THREATENED DISCLOSURE, THE NUMBER OF DISCLOSURES OR THREATENED
DISCLOSURES MADE BY THE DEFENDANT, THE BREADTH OF DISTRIBUTION
OF THE IMAGE BY THE DEFENDANT, AND OTHER EXACERBATING OR
MITIGATING FACTORS.

(b) AN AMOUNT EQUAL TO THE GAIN MADE BY THE DEFENDANT
FROM DISCLOSURE OF THE INTIMATE IMAGE IF APPLICABLE; AND
(c) PUNITIVE DAMAGES AS ALLOWED UNDER THE LAW OF THIS STATE OTHER THAN THIS PART 14.

(2) IN AN ACTION UNDER THIS PART 14, THE COURT MAY ALSO AWARD A PREVAILING PLAINTIFF:

(a) REASONABLE ATTORNEY'S FEES AND COSTS; AND

(b) ADDITIONAL RELIEF, INCLUDING INJUNCTIVE RELIEF.

(3) THIS PART 14 DOES NOT AFFECT A RIGHT OR REMEDY AVAILABLE UNDER STATE LAW OTHER THAN THIS PART 14.

13-21-1407. Statute of limitations. (1) AN ACTION UNDER THIS PART 14 FOR AN UNAUTHORIZED DISCLOSURE MUST BE BROUGHT NOT LATER THAN FOUR YEARS AFTER THE DATE THE UNAUTHORIZED DISCLOSURE WAS DISCOVERED OR SHOULD HAVE BEEN DISCOVERED WITH THE EXERCISE OF REASONABLE DILIGENCE.

(2) AN ACTION UNDER THIS PART 14 FOR A THREAT TO DISCLOSE MUST BE BROUGHT NOT LATER THAN FOUR YEARS AFTER THE DATE OF THE THREAT TO DISCLOSE.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE LIMITATIONS IN THIS SECTION ARE SUBJECT TO THE TOLLING STATUTES OF THIS STATE.

(4) IN AN ACTION BY A DEPICTED INDIVIDUAL WHO WAS A MINOR ON THE DATE OF THE DISCLOSURE OR THREAT TO DISCLOSE, THE LIMITATIONS IN THIS SECTION SHALL BEGIN TO RUN ON THE DATE THE DEPICTED INDIVIDUAL ATTAINS THE AGE OF MAJORITY.


13-21-1409. Uniformity of application and construction. IN
APPLYING AND CONSTRUING THIS PART 14, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

SECTION 2. In Colorado Revised Statutes, 18-7-107, repeal (4)(a) as follows:

18-7-107. Posting a private image for harassment - definitions.
(4)(a) An individual whose private intimate parts have been posted or an individual who has had an image displaying sexual acts of the individual posted in accordance with this section may bring a civil action against the person who caused the posting of the private images and is entitled to injunctive relief, the greater of ten thousand dollars or actual damages incurred as a result of the posting of the private images, exemplary damages, and reasonable attorney fees and costs.

SECTION 3. In Colorado Revised Statutes, 18-7-108, repeal (4)(a) as follows:

18-7-108. Posting a private image for pecuniary gain - definitions. (4)(a) An individual whose private intimate parts have been posted or an individual who has had an image displaying sexual acts of the individual posted in accordance with this section may bring a civil action against the person who caused the posting of the private images and is entitled to injunctive relief, the greater of ten thousand dollars or actual damages incurred as a result of the posting of the private images, exemplary damages, and reasonable attorney fees and costs.

SECTION 4. Applicability. This act applies to acts committed on or after the effective date of this act.

SECTION 5. 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.