

Colorado Commission on Uniform State Laws

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Colorado General Assembly

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AGENDA

January 11, 2019, 1:00 p.m.

Committee Room: HCR 0112

1. Introduction of new commissioners and election of chair and vice-chair for 2019-20
2. Public comment regarding items not on the agenda
3. Proposed 2019 legislative agenda:
 - a. LLS 19-0157: Uniform Voidable Transactions Act - introduction?; sponsors?
 - b. LLS 19-0158: Revised Unclaimed Property Act (Senator Gardner)
 - c. LLS 19-0159: Uniform Athlete Agents Act - ULC recommended change?; introduction?; sponsors?
 - d. LLS 19-0160: Uniform Regulation of Virtual Currencies - introduction?; sponsors?
 - e. LLS 19-0161: Remote Notarization - Uniform Law - introduction?; sponsors?
 - f. LLS 19-0162: Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images – sponsors?
 - g. LLS 19-0340: Uniform Directed Trust Act - introduction?; sponsors?
4. Status of other Uniform Acts:
 - a. [Criminal Records Accuracy Act](#)
 - b. [Fiduciary Income and Principal Act](#)
 - c. [Nonparent Custody and Visitation Act and the Uniform Parentage Act \(2017\)](#)
 - d. [Guardianship, Conservatorship, and Other Protective Arrangement Act](#)
5. CCUSL Budget
6. Other business
7. Next meeting

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.2.18

DRAFT

LLS NO. 19-0157.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL 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

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

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.

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

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

4 **38-8-101. Short title.** THE SHORT TITLE OF this article ~~shall be~~
5 ~~known and may be cited as~~ **8** IS the "Colorado Uniform Fraudulent
6 ~~Transfer~~ VOIDABLE TRANSACTIONS Act".

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

11 **38-8-102. Definitions.** As used in this article **8**, unless the context
12 otherwise requires:

13 (1) "Affiliate" means:

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

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

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

26 (I) As a fiduciary or agent without sole DISCRETIONARY power to

1 vote the securities; or

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

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

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

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

10 (7.5) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
11 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,
12 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

13 (9.5) "ORGANIZATION" MEANS A PERSON OTHER THAN AN
14 INDIVIDUAL.

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

21 (11.5) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
22 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
23 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

24 (12.5) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR
25 ADOPT A RECORD:

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

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

1 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

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

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

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

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

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

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

24 **38-8-104. Value.** (2) For the purposes of sections ~~38-8-105~~
25 **38-8-105 (1)(b)** and 38-8-106, a person gives a reasonably equivalent
26 value if the person acquires an interest of the debtor in an asset pursuant
27 to a regularly conducted, noncollusive sale, foreclosing on assets subject

1 to a lien, or pursuant to the execution of a power of sale for the
2 acquisition or disposition of the interest of the debtor upon default under
3 a mortgage, deed of trust, or security agreement.

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

6 **38-8-105. Transfer or obligation voidable as to present or**
7 **future creditor.** (1) A transfer made or obligation incurred by a debtor
8 is ~~fraudulent~~ VOIDABLE as to a creditor, whether the creditor's claim arose
9 before or after the transfer was made or the obligation was incurred, if the
10 debtor made the transfer or incurred the obligation:

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

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

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

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

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

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

26 **38-8-106. Transfer or obligation voidable as to present**
27 **creditor.** (1) A transfer made or obligation incurred by a debtor is

1 ~~fraudulent~~ VOIDABLE as to a creditor whose claim arose before the
2 transfer was made or the obligation was incurred if the debtor made the
3 transfer or incurred the obligation without receiving a reasonably
4 equivalent value in exchange for the transfer or obligation and the debtor
5 was insolvent at that time or the debtor became insolvent as a result of the
6 transfer or obligation.

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

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

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

18 **38-8-107. When transfer is made or obligation is incurred.**

19 (1) For the purposes of this article **8**:

20 (a) A transfer is made:

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

27 (5) An obligation is incurred:

1 (b) If evidenced by a ~~writing~~ RECORD, when the ~~writing~~ executed
2 RECORD SIGNED by the obligor is delivered to or for the benefit of the
3 obligee.

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

6 **38-8-108. Remedies of creditor.** (1) In an action for relief
7 against a transfer or obligation under this article **8**, a creditor, subject to
8 the limitations in section 38-8-109, may obtain:

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

13 (c) With respect to a transfer made or obligation incurred that is
14 ~~fraudulent~~ VOIDABLE under section 38-8-105 (1)(a), a judgment for one
15 and one-half the value of the asset transferred or for one and one-half the
16 amount necessary to satisfy the creditor's claim, whichever is less,
17 together with the creditor's actual costs; except that any judgment entered
18 against a person under this ~~paragraph (c)~~ SUBSECTION (1)(c) is in lieu of,
19 not in addition to, a judgment against the same person under section
20 38-8-109 (2). No judgment may be entered pursuant to this ~~paragraph (c)~~
21 SUBSECTION (1)(c) against a person other than the debtor unless that
22 person also acts with wrongful intent as defined in section 38-8-105
23 (1)(a); otherwise, judgment for money damages against a person other
24 than the debtor may be entered only as provided in section 38-8-109. No
25 judgment may be entered under this ~~paragraph (c)~~ SUBSECTION (1)(c)
26 unless a court of competent jurisdiction enters or has entered a judgment
27 or order establishing the validity of the creditor's claim against the debtor.

1 **SECTION 9.** In Colorado Revised Statutes, 38-8-109, **amend** (1),
2 (2), (4) introductory portion, (4)(a), (4)(b), (5)(b), and (6)(a); and **add** (7)
3 and (8) as follows:

4 **38-8-109. Defenses, liability, and protection of transferee or**
5 **obligee.** (1) A transfer or obligation is not voidable under section
6 38-8-105 (1)(a) against a person ~~who~~ THAT took in good faith and for a
7 reasonably equivalent value GIVEN THE DEBTOR or against any subsequent
8 transferee or obligee.

9 (2) TO THE EXTENT A TRANSFER IS AVOIDABLE IN AN ACTION BY A
10 CREDITOR UNDER SECTION 38-8-108 (1)(a), THE FOLLOWING RULES APPLY:

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

17 ~~(a)~~ (I) The first transferee of the asset or the person for whose
18 benefit the transfer was made; or

19 ~~(b)~~ (II) ~~Any subsequent~~ AN IMMEDIATE OR MEDIATE transferee OF
20 THE FIRST TRANSFEREE, other than:

21 (A) A good-faith transferee ~~or obligee who~~ THAT took for value;
22 ~~or from any subsequent transferee or obligee.~~

23 (B) AN IMMEDIATE OR MEDIATE GOOD-FAITH TRANSFEREE OF A
24 PERSON DESCRIBED IN SUBSECTION (2)(a)(II)(A) OF THIS SECTION.

25 (b) RECOVERY PURSUANT TO SECTION 38-8-108 (1)(a) OR (2) OF
26 THIS SECTION OF OR FROM THE ASSET TRANSFERRED OR ITS PROCEEDS, BY
27 LEVY OR OTHERWISE, IS AVAILABLE ONLY AGAINST A PERSON DESCRIBED

1 IN SUBSECTION (2)(a)(I) or (2)(a)(II) OF THIS SECTION.

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

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

7 (b) Enforcement of ~~any~~ AN obligation incurred; or

8 (5) A transfer is not voidable under section 38-8-105 (1)(b) or
9 38-8-106 if the transfer results from:

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

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

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

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

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

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

26 (c) THE TRANSFEREE HAS THE BURDEN OF PROVING THE
27 APPLICABILITY TO THE TRANSFEREE OF SUBSECTION (2)(a)(II)(A) OR

1 (2)(a)(II)(B) OF THIS SECTION.

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

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

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

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

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

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

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

20 **SECTION 11.** In Colorado Revised Statutes, **add** 38-8-110.3,
21 38-8-110.5, and 38-8-113 as follows:

22 **38-8-110.3. Governing law.** (1) IN THIS SECTION, THE
23 FOLLOWING RULES DETERMINE A DEBTOR'S LOCATION:

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

26 (b) A DEBTOR THAT IS AN ORGANIZATION AND HAS ONLY ONE
27 PLACE OF BUSINESS IS LOCATED AT ITS PLACE OF BUSINESS; AND

1 (c) A DEBTOR THAT IS AN ORGANIZATION AND HAS MORE THAN
2 ONE PLACE OF BUSINESS IS LOCATED AT ITS CHIEF EXECUTIVE OFFICE.

3 (2) A CLAIM FOR RELIEF IN THE NATURE OF A CLAIM FOR RELIEF
4 UNDER THIS ARTICLE 8 IS GOVERNED BY THE LOCAL LAW OF THE
5 JURISDICTION IN WHICH THE DEBTOR IS LOCATED WHEN THE TRANSFER IS
6 MADE OR THE OBLIGATION IS INCURRED.

7 **38-8-110.5. Application to series organizations - definitions.**

8 (1) IN THIS SECTION:

9 (a) "PROTECTED SERIES" MEANS AN ARRANGEMENT, HOWEVER
10 DENOMINATED, CREATED BY A SERIES ORGANIZATION THAT IS NOT
11 ESTABLISHED, FORMED, ORGANIZED, OR CREATED IN THIS STATE AND
12 THAT, PURSUANT TO THE LAW UNDER WHICH THE SERIES ORGANIZATION
13 IS ORGANIZED, HAS THE CHARACTERISTICS SET FORTH IN THIS SECTION.

14 (b) "SERIES ORGANIZATION" MEANS AN ORGANIZATION THAT IS
15 NOT ESTABLISHED, FORMED, ORGANIZED, OR CREATED IN THIS STATE AND
16 THAT, PURSUANT TO THE LAW UNDER WHICH IT IS ORGANIZED, HAS THE
17 FOLLOWING CHARACTERISTICS:

18 (I) THE ORGANIC RECORD OF THE ORGANIZATION PROVIDES FOR
19 CREATION BY THE ORGANIZATION OF ONE OR MORE PROTECTED SERIES,
20 HOWEVER DENOMINATED, WITH RESPECT TO SPECIFIED PROPERTY OF THE
21 ORGANIZATION, AND FOR RECORDS TO BE MAINTAINED FOR EACH
22 PROTECTED SERIES THAT IDENTIFY THE PROPERTY OF OR ASSOCIATED WITH
23 THE PROTECTED SERIES.

24 (II) DEBT INCURRED OR EXISTING WITH RESPECT TO THE
25 ACTIVITIES OF, PROPERTY OF, OR ASSOCIATED WITH, A PARTICULAR
26 PROTECTED SERIES IS ENFORCEABLE AGAINST THE PROPERTY OF, OR
27 ASSOCIATED WITH, THE PROTECTED SERIES ONLY AND NOT AGAINST THE

1 PROPERTY OF, OR ASSOCIATED WITH, THE ORGANIZATION OR OTHER
2 PROTECTED SERIES OF THE ORGANIZATION.

3 (III) DEBT INCURRED OR EXISTING WITH RESPECT TO THE
4 ACTIVITIES OR PROPERTY OF THE ORGANIZATION IS ENFORCEABLE AGAINST
5 THE PROPERTY OF THE ORGANIZATION ONLY AND NOT AGAINST THE
6 PROPERTY OF, OR ASSOCIATED WITH A PROTECTED SERIES OF, THE
7 ORGANIZATION. A SERIES ORGANIZATION AND EACH PROTECTED SERIES OF
8 THE ORGANIZATION IS A SEPARATE PERSON FOR PURPOSES OF THIS ARTICLE
9 8, EVEN IF FOR OTHER PURPOSES A PROTECTED SERIES IS NOT A PERSON
10 SEPARATE FROM THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE
11 ORGANIZATION.

12 (2) A SERIES ORGANIZATION AND EACH PROTECTED SERIES OF THE
13 ORGANIZATION IS A SEPARATE PERSON FOR PURPOSES OF THIS ARTICLE 8
14 ONLY, EVEN IF FOR OTHER PURPOSES A PROTECTED SERIES IS NOT A PERSON
15 SEPARATE FROM THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE
16 ORGANIZATION.

17 (3) THIS SECTION DOES NOT AUTHORIZE:

18 (a) THE ESTABLISHMENT, FORMATION, ORGANIZATION, OR
19 CREATION OF A SERIES ORGANIZATION OR PROTECTED SERIES PURSUANT
20 TO COLORADO LAW; OR

21 (b) THE RECOGNITION OF A SERIES ORGANIZATION OR PROTECTED
22 SERIES FOR ANY PURPOSE OTHER THAN THE REMEDIAL PURPOSES OF THIS
23 ARTICLE 8.

24 **38-8-113. Relation to electronic signatures in federal**
25 **"Electronic Signatures in Global and National Commerce Act".** THIS
26 ARTICLE 8 MODIFIES, LIMITS, OR SUPERSEDES THE FEDERAL "ELECTRONIC
27 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC.

1 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101
2 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR AUTHORIZE ELECTRONIC
3 DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT
4 ACT, 15 U.S.C. SEC. 7003 (b).

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

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

17 **SECTION 13. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

DRAFT

LLS NO. 19-0158.01 Ed DeCecco x4216

SENATE BILL

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

Senate Committees

House Committees

A BILL FOR AN ACT

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

Bill Summary

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

Colorado Commission on Uniform State Laws. 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
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

1 OR OWING BY THE HOLDER.

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

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

8 (6) "DOMICILE" MEANS:

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

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

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

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

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

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

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

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

4 (a) INCLUDES:

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

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

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

12 (B) DIGITAL CODES; AND

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

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

16 (A) MONEY; OR

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

18 OR

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

21 (11) "GIFT CARD":

22 (a) MEANS A STORED-VALUE CARD:

23 (I) THE VALUE OF WHICH DOES NOT EXPIRE;

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

26 (III) THAT, UNLESS REQUIRED BY LAW, MAY NOT BE REDEEMED
27 FOR OR CONVERTED INTO MONEY OR OTHERWISE MONETIZED BY THE

1 ISSUER; AND

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

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

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

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

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

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

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

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

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

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

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

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

24 (20) "NONFREELY TRANSFERABLE SECURITY" MEANS A SECURITY
25 THAT CANNOT BE DELIVERED TO THE ADMINISTRATOR BY THE DEPOSITORY
26 TRUST CLEARING CORPORATION OR A SIMILAR CUSTODIAN OF SECURITIES
27 PROVIDING POST-TRADE CLEARING AND SETTLEMENT SERVICES TO

1 FINANCIAL MARKETS OR CANNOT BE DELIVERED BECAUSE THERE IS NO
2 AGENT TO EFFECT TRANSFER. THE TERM INCLUDES A WORTHLESS
3 SECURITY.

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

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

13 (22) "PAYROLL CARD" MEANS A RECORD THAT EVIDENCES A
14 PAYROLL-CARD ACCOUNT AS DEFINED IN REGULATION E, 12 CFR PART
15 1005, AS AMENDED.

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

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

- 24 (a) INCLUDES ALL INCOME FROM OR INCREMENTS TO THE
25 PROPERTY;
- 26 (b) INCLUDES PROPERTY REFERRED TO AS OR EVIDENCED BY:
27 (I) MONEY, VIRTUAL CURRENCY, INTEREST, DIVIDEND, A CHECK,

1 DRAFT, DEPOSIT, OR PAYROLL CARD;

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

7 (III) A SECURITY EXCEPT FOR:

8 (A) A WORTHLESS SECURITY; OR

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

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

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

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

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

25 (c) DOES NOT INCLUDE:

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

1 SEC. 529A;

2 (II) GAME-RELATED DIGITAL CONTENT;

3 (III) A LOYALTY CARD;

4 (IV) A PAPER CERTIFICATE THAT IS REDEEMABLE UPON

5 PRESENTATION FOR GOODS OR SERVICES; OR

6 (V) UNCLAIMED CAPITAL CREDIT PAYMENTS HELD BY

7 COOPERATIVE ELECTRIC ASSOCIATIONS AND TELEPHONE COOPERATIVES.

8 (25) "PUTATIVE HOLDER" MEANS A PERSON BELIEVED BY THE

9 ADMINISTRATOR TO BE A HOLDER, UNTIL THE PERSON PAYS OR DELIVERS

10 TO THE ADMINISTRATOR PROPERTY SUBJECT TO THIS ARTICLE 13 OR THE

11 ADMINISTRATOR OR A COURT MAKES A FINAL DETERMINATION THAT THE

12 PERSON IS OR IS NOT A HOLDER.

13 (26) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A

14 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER

15 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

16 (27) "SECURITY" MEANS:

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

18 (b) A SECURITY ENTITLEMENT AS DEFINED IN SECTION 4-8-102

19 (17), INCLUDING A CUSTOMER SECURITY ACCOUNT HELD BY A REGISTERED

20 BROKER-DEALER TO THE EXTENT THAT THE FINANCIAL ASSETS HELD IN

21 THE SECURITY ACCOUNT ARE NOT:

22 (I) REGISTERED ON THE BOOKS OF THE ISSUER IN THE NAME OF THE

23 PERSON FOR WHICH THE BROKER-DEALER HOLDS THE ASSETS;

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

25 (III) SPECIFICALLY INDORSED TO THE PERSON; OR

26 (c) AN EQUITY INTEREST IN A BUSINESS ASSOCIATION NOT

27 INCLUDED IN SUBSECTION (27)(a) OR (27)(b) OF THIS SECTION.

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

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

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

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

10 (30) "STORED-VALUE CARD":

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

15 (b) INCLUDES:

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

21 (II) A GIFT CARD, EXCEPT AS SPECIFIED IN SECTION 38-13-219; AND

22 (III) A PAYROLL CARD; AND

23 (c) DOES NOT INCLUDE A LOYALTY CARD OR GAME-RELATED
24 DIGITAL CONTENT.

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

1 (a) TRANSMISSION OF COMMUNICATIONS OR INFORMATION;

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

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

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

10 (a) THE SOFTWARE OR PROTOCOLS GOVERNING THE TRANSFER OF
11 THE DIGITAL REPRESENTATION OF VALUE;

12 (b) GAME-RELATED DIGITAL CONTENT; OR

13 (c) A LOYALTY CARD.

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

18 **38-13-103. Inapplicability to wholly foreign transaction.** THIS
19 ARTICLE 13 DOES NOT APPLY TO PROPERTY HELD, DUE, AND OWING IN A
20 FOREIGN COUNTRY IF THE TRANSACTION OUT OF WHICH THE PROPERTY
21 AROSE WAS A FOREIGN TRANSACTION.

22 **38-13-104. Rule-making.** THE ADMINISTRATOR MAY ADOPT
23 UNDER THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF
24 TITLE 24, RULES TO IMPLEMENT AND ADMINISTER THIS ARTICLE 13.

25 PART 2

26 PRESUMPTION OF ABANDONMENT

27 **38-13-201. When property presumed abandoned.** (1) SUBJECT

1 TO SECTION 38-13-210, THE FOLLOWING PROPERTY IS PRESUMED
2 ABANDONED IF IT IS UNCLAIMED BY THE APPARENT OWNER DURING THE
3 PERIOD SPECIFIED IN THIS SECTION:

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

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

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

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

12 (e) DEMAND, SAVINGS, OR TIME DEPOSIT, INCLUDING A DEPOSIT
13 THAT IS AUTOMATICALLY RENEWABLE, FIVE YEARS AFTER THE MATURITY
14 OF THE DEPOSIT; EXCEPT THAT A DEPOSIT THAT IS AUTOMATICALLY
15 RENEWABLE IS DEEMED MATURED ON ITS INITIAL DATE OF MATURITY
16 UNLESS THE APPARENT OWNER CONSENTED IN A RECORD ON FILE WITH THE
17 HOLDER TO RENEWAL AT OR ABOUT THE TIME OF THE RENEWAL;

18 (f) MONEY OR A CREDIT OWED TO A CUSTOMER AS A RESULT OF A
19 RETAIL BUSINESS TRANSACTION, OTHER THAN IN-STORE CREDIT FOR
20 RETURNED MERCHANDISE, THREE YEARS AFTER THE OBLIGATION AROSE;

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

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

4 (A) THE INSURANCE COMPANY HAS KNOWLEDGE OF THE DEATH OF
5 THE INSURED; OR

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

9 (II) WITH RESPECT TO AN AMOUNT OWED ON AN ANNUITY
10 CONTRACT, THREE YEARS AFTER THE DATE THE INSURANCE COMPANY HAS
11 KNOWLEDGE OF THE DEATH OF THE ANNUITANT;

12 (h) PROPERTY DISTRIBUTABLE BY A BUSINESS ASSOCIATION IN THE
13 COURSE OF DISSOLUTION, ONE YEAR AFTER THE PROPERTY BECOMES
14 DISTRIBUTABLE;

15 (i) PROPERTY HELD BY A COURT, INCLUDING PROPERTY RECEIVED
16 AS PROCEEDS OF A CLASS ACTION, ONE YEAR AFTER THE PROPERTY
17 BECOMES DISTRIBUTABLE;

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

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

27 (l) EXCEPT AS OTHERWISE PROVIDED FOR UNCLAIMED UTILITY

1 DEPOSITS UNDER SECTION 40-8.5-106, A DEPOSIT OR REFUND OWED TO A
2 SUBSCRIBER BY A UTILITY, ONE YEAR AFTER THE DEPOSIT OR REFUND
3 BECOMES PAYABLE; AND

4 (m) ALL OTHER PROPERTY NOT SPECIFIED IN THIS SECTION OR
5 SECTIONS 38-13-202 TO 38-13-208 AND 38-13-213 TO 38-13-220, THE
6 EARLIER OF THREE YEARS AFTER THE OWNER FIRST HAS A RIGHT TO
7 DEMAND THE PROPERTY OR THE OBLIGATION TO PAY OR DISTRIBUTE THE
8 PROPERTY ARISES.

9 **38-13-202. When tax-deferred retirement account presumed**

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

15 (a) THE FOLLOWING DATES:

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

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

25 (b) THE EARLIER OF THE FOLLOWING DATES:

26 (I) THE DATE THE APPARENT OWNER BECOMES SEVENTY AND
27 ONE-HALF YEARS OF AGE, IF REASONABLY DETERMINABLE BY THE HOLDER;

1 OR

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

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

7 (B) CONFIRMS THE DEATH OF THE APPARENT OWNER UNDER
8 SUBSECTION (2) OF THIS SECTION.

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

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

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

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

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

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

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

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

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

20 **38-13-203. When other tax-deferred account presumed**
21 **abandoned.** (1) SUBJECT TO SECTION 38-13-210 AND EXCEPT FOR
22 PROPERTY DESCRIBED IN SECTION 38-13-202 AND PROPERTY HELD IN A
23 PLAN DESCRIBED IN SECTION 529A OF THE FEDERAL "INTERNAL REVENUE
24 CODE OF 1986", AS AMENDED, 26 U.S.C. SEC. 529A, PROPERTY HELD IN AN
25 ACCOUNT OR PLAN, INCLUDING A HEALTH SAVINGS ACCOUNT, THAT
26 QUALIFIES FOR TAX DEFERRAL UNDER THE INCOME TAX LAWS OF THE
27 UNITED STATES IS PRESUMED ABANDONED IF IT IS UNCLAIMED BY THE

1 OWNER THREE YEARS AFTER THE EARLIER OF:

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

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

7 **38-13-204. When custodial account for minor presumed**
8 **abandoned.** (1) SUBJECT TO SECTION 38-13-210, PROPERTY HELD IN AN
9 ACCOUNT ESTABLISHED UNDER A STATE'S UNIFORM GIFTS TO MINORS ACT
10 OR UNIFORM TRANSFERS TO MINORS ACT IS PRESUMED ABANDONED IF IT
11 IS UNCLAIMED BY OR ON BEHALF OF THE MINOR ON WHOSE BEHALF THE
12 ACCOUNT WAS OPENED THREE YEARS AFTER THE LATER OF:

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

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

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

27 (2) IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO THE

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

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

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

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

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

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

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

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

5 **38-13-205. When contents of safe-deposit box presumed**
6 **abandoned.** (1) TANGIBLE PROPERTY HELD IN A SAFE-DEPOSIT BOX AND
7 PROCEEDS FROM A SALE OF THE PROPERTY BY THE HOLDER PERMITTED BY
8 LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 ARE PRESUMED
9 ABANDONED IF THE PROPERTY REMAINS UNCLAIMED BY THE APPARENT
10 OWNER FIVE YEARS AFTER THE EARLIER OF THE:

- 11 (a) EXPIRATION OF THE LEASE OR RENTAL PERIOD FOR THE BOX; OR
12 (b) EARLIEST DATE WHEN THE LESSOR OF THE BOX IS AUTHORIZED
13 BY LAW OF THIS STATE OTHER THAN THIS ARTICLE 13 TO ENTER THE BOX
14 AND REMOVE OR DISPOSE OF THE CONTENTS WITHOUT CONSENT OR
15 AUTHORIZATION OF THE LESSEE.

16 **38-13-206. When stored-value card presumed abandoned.**
17 (1) SUBJECT TO SECTION 38-13-210, THE NET VALUE OF A STORED-VALUE
18 CARD OTHER THAN A GIFT CARD IS PRESUMED ABANDONED ON THE LATEST
19 OF THREE YEARS AFTER:

- 20 (a) DECEMBER 31 OF THE YEAR IN WHICH THE CARD IS ISSUED OR
21 ADDITIONAL FUNDS ARE DEPOSITED INTO IT;
22 (b) THE MOST RECENT INDICATION OF INTEREST IN THE CARD BY
23 THE APPARENT OWNER; OR
24 (c) A VERIFICATION OR REVIEW OF THE BALANCE BY OR ON BEHALF
25 OF THE APPARENT OWNER.

26 (2) THE AMOUNT PRESUMED ABANDONED IN A STORED-VALUE
27 CARD IS THE NET CARD VALUE AT THE TIME IT IS PRESUMED ABANDONED.

1 **38-13-207. When gift card presumed abandoned.** SUBJECT TO
2 SECTION 38-13-210, A GIFT CARD IS PRESUMED ABANDONED IF IT IS
3 UNCLAIMED BY THE APPARENT OWNER FIVE YEARS AFTER THE LATER OF
4 THE DATE OF PURCHASE OR ITS MOST RECENT USE.

5 **38-13-208. When security presumed abandoned.** (1) SUBJECT
6 TO SECTION 38-13-210, A SECURITY IS PRESUMED ABANDONED THREE
7 YEARS AFTER:

8 (a) THE DATE A SECOND CONSECUTIVE COMMUNICATION SENT BY
9 THE HOLDER BY FIRST-CLASS UNITED STATES MAIL TO THE APPARENT
10 OWNER IS RETURNED TO THE HOLDER UNDELIVERED BY THE UNITED
11 STATES POSTAL SERVICE; OR

12 (b) IF THE SECOND COMMUNICATION IS MADE LATER THAN THIRTY
13 DAYS AFTER THE FIRST COMMUNICATION IS RETURNED, THE DATE THE
14 FIRST COMMUNICATION IS RETURNED UNDELIVERED TO THE HOLDER BY
15 THE UNITED STATES POSTAL SERVICE.

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

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

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

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

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

10 **38-13-209. When related property interest presumed**
11 **abandoned.** AT AND AFTER THE TIME PROPERTY IS PRESUMED
12 ABANDONED UNDER THIS PART 2, ANY OTHER PROPERTY RIGHT OR
13 INTEREST ACCRUED OR ACCRUING FROM THE PROPERTY AND NOT
14 PREVIOUSLY PRESUMED ABANDONED IS ALSO PRESUMED ABANDONED.

15 **38-13-210. Indication of apparent owner interest in property.**

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

18 (a) THE DATE THE PROPERTY IS PRESUMED ABANDONED UNDER
19 THIS PART 2; OR

20 (b) THE LATEST INDICATION OF INTEREST BY THE APPARENT
21 OWNER IN THE PROPERTY.

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

24 (a) A RECORD COMMUNICATED BY THE APPARENT OWNER TO THE
25 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE
26 ACCOUNT IN WHICH THE PROPERTY IS HELD;

27 (b) AN ORAL COMMUNICATION BY THE APPARENT OWNER TO THE

1 HOLDER OR AGENT OF THE HOLDER CONCERNING THE PROPERTY OR THE
2 ACCOUNT IN WHICH THE PROPERTY IS HELD, IF THE HOLDER OR ITS AGENT
3 CONTEMPORANEOUSLY MAKES AND PRESERVES A RECORD OF THE FACT OF
4 THE APPARENT OWNER'S COMMUNICATION;

5 (c) PRESENTMENT OF A CHECK OR OTHER INSTRUMENT OF
6 PAYMENT OF A DIVIDEND, INTEREST PAYMENT, OR OTHER DISTRIBUTION,
7 OR EVIDENCE OF RECEIPT OF A DISTRIBUTION MADE BY ELECTRONIC OR
8 SIMILAR MEANS, WITH RESPECT TO AN ACCOUNT, UNDERLYING SECURITY,
9 OR INTEREST IN A BUSINESS ASSOCIATION;

10 (d) ACTIVITY DIRECTED BY AN APPARENT OWNER IN THE ACCOUNT
11 IN WHICH THE PROPERTY IS HELD, INCLUDING ACCESSING THE ACCOUNT OR
12 INFORMATION CONCERNING THE ACCOUNT, OR A DIRECTION BY THE
13 APPARENT OWNER TO INCREASE, DECREASE, OR OTHERWISE CHANGE THE
14 AMOUNT OR TYPE OF PROPERTY HELD IN THE ACCOUNT;

15 (e) MAKING A DEPOSIT INTO OR WITHDRAWAL FROM AN ACCOUNT
16 AT A FINANCIAL ORGANIZATION, INCLUDING AN AUTOMATIC DEPOSIT OR
17 WITHDRAWAL PREVIOUSLY AUTHORIZED BY THE APPARENT OWNER OTHER
18 THAN AN AUTOMATIC REINVESTMENT OF DIVIDENDS OR INTEREST OR FEES
19 AND CHARGES ASSESSED BY THE HOLDER OR AN AFFILIATED SERVICE
20 PROVIDER;

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

23 (g) ANY OTHER ACTION BY THE APPARENT OWNER THAT
24 REASONABLY DEMONSTRATES TO THE HOLDER THAT THE APPARENT
25 OWNER IS AWARE THAT THE PROPERTY EXISTS.

26 (3) AN ACTION BY AN AGENT OR OTHER REPRESENTATIVE OF AN
27 APPARENT OWNER, OTHER THAN THE HOLDER ACTING AS THE APPARENT

1 OWNER'S AGENT, IS PRESUMED TO BE AN ACTION ON BEHALF OF THE
2 APPARENT OWNER.

3 (4) A COMMUNICATION WITH AN APPARENT OWNER BY A PERSON
4 OTHER THAN THE HOLDER OR THE HOLDER'S REPRESENTATIVE IS NOT AN
5 INDICATION OF INTEREST IN THE PROPERTY BY THE APPARENT OWNER
6 UNLESS A RECORD OF THE COMMUNICATION EVIDENCES THE APPARENT
7 OWNER'S KNOWLEDGE OF A RIGHT TO THE PROPERTY.

8 (5) IF THE INSURED DIES OR THE INSURED OR BENEFICIARY OF AN
9 INSURANCE POLICY OTHERWISE BECOMES ENTITLED TO THE PROCEEDS
10 BEFORE DEPLETION OF THE CASH SURRENDER VALUE OF THE POLICY BY
11 OPERATION OF AN AUTOMATIC-PREMIUM-LOAN PROVISION OR OTHER
12 NONFORFEITURE PROVISION CONTAINED IN THE POLICY, THE OPERATION
13 DOES NOT PREVENT THE POLICY FROM MATURING OR TERMINATING.

14 **38-13-211. Knowledge of death of insured or annuitant -**
15 **definition.** (1) IN THIS SECTION, "DEATH MASTER FILE" MEANS THE
16 UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE
17 OR OTHER DATABASE OR SERVICE THAT IS AT LEAST AS COMPREHENSIVE
18 AS THE UNITED STATES SOCIAL SECURITY ADMINISTRATION'S DEATH
19 MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS
20 DIED.

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

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

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

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

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

17 (e) THE COMPANY:

18 (I) RECEIVES NOTICE OF THE DEATH OF THE INSURED OR
19 ANNUITANT FROM AN ADMINISTRATOR, BENEFICIARY, POLICY OWNER,
20 RELATIVE OF THE INSURED, OR TRUSTEE OR FROM A PERSONAL
21 REPRESENTATIVE, EXECUTOR, OR OTHER LEGAL REPRESENTATIVE OF THE
22 INSURED'S OR ANNUITANT'S ESTATE; AND

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

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

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

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

2 (II) A RULE OR POLICY ADOPTED BY THE COMMISSIONER OF
3 INSURANCE; OR

4 (III) ABSENT A LAW, RULE, OR POLICY, UNDER SUBSECTION
5 (3)(a)(I) OR (3)(a)(II) OF THIS SECTION, STANDARDS IN THE NATIONAL
6 CONFERENCE OF INSURANCE LEGISLATORS' "MODEL UNCLAIMED LIFE
7 INSURANCE BENEFITS ACT" AS PUBLISHED IN 2014.

8 (b) THE DEATH-MASTER-FILE MATCH DOES NOT CONSTITUTE PROOF
9 OF DEATH FOR THE PURPOSE OF SUBMISSION TO AN INSURANCE COMPANY
10 OF A CLAIM BY A BENEFICIARY, ANNUITANT, OR OWNER OF THE POLICY OR
11 CONTRACT FOR AN AMOUNT DUE UNDER AN INSURANCE POLICY OR
12 ANNUITY CONTRACT.

13 (c) THE DEATH-MASTER-FILE MATCH OR VALIDATION OF THE
14 INSURED'S OR ANNUITANT'S DEATH DOES NOT ALTER THE REQUIREMENTS
15 FOR A BENEFICIARY, ANNUITANT, OR OWNER OF THE POLICY OR CONTRACT
16 TO MAKE A CLAIM TO RECEIVE PROCEEDS UNDER THE TERMS OF THE
17 POLICY OR CONTRACT.

18 (d) IF NO PROVISION IN TITLE 10 OR RULES OF THE COMMISSIONER
19 OF INSURANCE ESTABLISHES A TIME FOR THE VALIDATION OF A DEATH OF
20 AN INSURED OR ANNUITANT, THE INSURANCE COMPANY SHALL MAKE A
21 GOOD-FAITH EFFORT USING OTHER AVAILABLE RECORDS AND
22 INFORMATION TO VALIDATE THE DEATH AND DOCUMENT THE EFFORT
23 TAKEN NOT LATER THAN NINETY DAYS AFTER THE INSURANCE COMPANY
24 HAS NOTICE OF THE DEATH.

25 (4) THIS ARTICLE 13 DOES NOT AFFECT THE DETERMINATION OF
26 THE EXTENT TO WHICH AN INSURANCE COMPANY, BEFORE THE EFFECTIVE
27 DATE OF THIS ARTICLE 13, AS AMENDED, HAD KNOWLEDGE OF THE DEATH

1 OF AN INSURED OR ANNUITANT OR WAS REQUIRED TO CONDUCT A
2 DEATH-MASTER-FILE COMPARISON TO DETERMINE WHETHER AMOUNTS
3 OWED BY THE COMPANY ON A LIFE OR ENDOWMENT INSURANCE POLICY OR
4 ANNUITY CONTRACT WERE PRESUMED ABANDONED OR UNCLAIMED.

5 **38-13-212. Deposit account for insurance policy or annuity**
6 **contract.** IF PROCEEDS PAYABLE UNDER A LIFE OR ENDOWMENT
7 INSURANCE POLICY OR ANNUITY CONTRACT ARE DEPOSITED INTO AN
8 ACCOUNT WITH CHECK- OR DRAFT-WRITING PRIVILEGES FOR THE
9 BENEFICIARY OF THE POLICY OR CONTRACT AND, UNDER A
10 SUPPLEMENTARY CONTRACT NOT INVOLVING ANNUITY BENEFITS OTHER
11 THAN DEATH BENEFITS, THE PROCEEDS ARE RETAINED BY THE INSURANCE
12 COMPANY OR THE FINANCIAL ORGANIZATION WHERE THE ACCOUNT IS
13 HELD, THE POLICY OR CONTRACT INCLUDES THE ASSETS IN THE ACCOUNT.

14 **38-13-213. [Similar to former 38-13-107.3] Refunds held by**
15 **business associations.** EXCEPT TO THE EXTENT OTHERWISE ORDERED BY
16 A COURT OR ADMINISTRATIVE AGENCY, ANY SUM THAT A BUSINESS
17 ASSOCIATION HAS BEEN ORDERED TO REFUND BY A COURT OR
18 ADMINISTRATIVE AGENCY THAT REMAINS UNCLAIMED BY THE OWNER FOR
19 MORE THAN ONE YEAR AFTER IT BECAME PAYABLE IN ACCORDANCE WITH
20 THE FINAL DETERMINATION OR ORDER PROVIDING FOR THE REFUND,
21 WHETHER OR NOT THE FINAL DETERMINATION OR ORDER REQUIRES ANY
22 PERSON ENTITLED TO A REFUND TO MAKE A CLAIM FOR IT, IS PRESUMED
23 ABANDONED.

24 **38-13-214. [Similar to former 38-13-108.2 (2)] Foreclosure sale**
25 **- overbid.** ANY OVERBID, AS DEFINED IN SECTION 38-38-100.3, THAT IS
26 EQUAL TO OR GREATER THAN TWENTY-FIVE DOLLARS AND THAT REMAINS
27 UNCLAIMED FOR SIX MONTHS AFTER THE DATE OF SALE IS PRESUMED

1 ABANDONED.

2 **38-13-215. [Similar to former 38-13-108.3] Funds held in**
3 **lawyer COLTAF trust accounts - exemption - definition.** (1) THIS
4 ARTICLE 13 DOES NOT APPLY TO MONEY HELD IN A LAWYER COLTAF
5 TRUST ACCOUNT.

6 (2) AS USED IN THIS SECTION, "LAWYER COLTAF TRUST
7 ACCOUNT" MEANS A COLORADO LAWYER TRUST ACCOUNT FOUNDATION
8 TRUST ACCOUNT IN WHICH A LAWYER, IN ACCORDANCE WITH THE
9 LAWYER'S PROFESSIONAL OBLIGATIONS, HOLDS FUNDS OF CLIENTS OR
10 THIRD PERSONS THAT ARE NOMINAL IN AMOUNT OR THAT ARE EXPECTED
11 TO BE HELD FOR A SHORT PERIOD.

12 **38-13-216. [Similar to former 38-13-108.5] Money held by the**
13 **public employees' retirement association - definitions.** (1) FOR
14 PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

21 (c) "BENEFIT" HAS THE SAME MEANING AS SET FORTH IN SECTION
22 24-51-101 (7).

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

25 (e) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN
26 SECTION 24-51-101 (20).

27 (f) "MEMBER" HAS THE SAME MEANING AS SET FORTH IN SECTION

1 24-51-101 (29).

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

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

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

15 (a) COMMUNICATED IN WRITING WITH THE ASSOCIATION
16 CONCERNING THE MONEY; OR

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

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

23 **38-13-217. [Similar to former 38-13-108.7] Gaming chips or**
24 **tokens - gaming award points - inapplicability.** THIS ARTICLE 13 DOES
25 NOT APPLY TO GAMING AWARD POINTS AND GAMING CHIPS OR TOKENS
26 ISSUED OR SOLD BY A LICENSED GAMING ESTABLISHMENT BEFORE, ON, OR
27 AFTER AUGUST 4, 2004, EXCEPT TO THE EXTENT THE STATE HAS TAKEN

1 CUSTODY OF ANY GAMING AWARD POINTS OR GAMING CHIPS OR TOKENS
2 ON OR BEFORE JANUARY 1, 2004.

3 **38-13-218. [Similar to former 38-13-108.8] Property held by**
4 **racetracks - inapplicability.** THIS ARTICLE 13 DOES NOT APPLY TO ANY
5 INTANGIBLE UNCLAIMED PROPERTY HELD BY A RACETRACK, AS DEFINED
6 IN SECTION 44-32-102 (24).

7 **38-13-219. [Similar to former 38-13-108.9] Unclaimed gift**
8 **cards - limited exception.** THIS ARTICLE 13 DOES NOT APPLY TO
9 UNCLAIMED GIFT CARDS IF THE HOLDER OR ISSUER IS A BUSINESS
10 ASSOCIATION WITH ANNUAL GROSS RECEIPTS FROM THE SALES OR
11 ISSUANCE OF ALL GIFT CARDS TOTALING TWO HUNDRED THOUSAND
12 DOLLARS OR LESS.

13 **38-13-220. [Similar to former 38-13-109.7] Tax refunds.**
14 (1) ON AND AFTER OCTOBER 1, 2002, ANY AMOUNT DUE AND PAYABLE AS
15 A REFUND OF COLORADO INCOME TAX OR GRANT FOR PROPERTY TAXES,
16 RENT, OR HEAT OR FUEL EXPENSES ASSISTANCE REPRESENTED BY A
17 WARRANT THAT HAS NOT BEEN PRESENTED FOR PAYMENT WITHIN SIX
18 MONTHS AFTER THE DATE OF ISSUANCE OF THE WARRANT AND THAT HAS
19 BEEN FORWARDED BY THE DEPARTMENT OF REVENUE TO THE
20 ADMINISTRATOR PURSUANT TO SECTION 39-21-108 (5) IS PRESUMED
21 ABANDONED.

22 (2) ON AND AFTER OCTOBER 1, 2010, ANY AMOUNT DUE AND
23 PAYABLE AS A REFUND OF A TAX IMPOSED OR ASSESSED BY THE
24 DEPARTMENT OF REVENUE THAT IS NOT ADDRESSED IN SUBSECTION (1) OF
25 THIS SECTION, THAT IS REPRESENTED BY A WARRANT THAT HAS NOT BEEN
26 PRESENTED FOR PAYMENT WITHIN SIX MONTHS AFTER THE DATE OF
27 ISSUANCE OF THE WARRANT, AND THAT HAS BEEN FORWARDED BY THE

1 DEPARTMENT TO THE ADMINISTRATOR PURSUANT TO SECTION 39-21-108
2 (7) IS PRESUMED ABANDONED.

3 PART 3
4 RULES FOR TAKING CUSTODY OF
5 PROPERTY PRESUMED ABANDONED

6 **38-13-301. Address of apparent owner to establish priority.**

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

8 (a) THE LAST-KNOWN ADDRESS OF AN APPARENT OWNER IS ANY
9 DESCRIPTION, CODE, OR OTHER INDICATION OF THE LOCATION OF THE
10 APPARENT OWNER THAT IDENTIFIES THE STATE, EVEN IF THE DESCRIPTION,
11 CODE, OR INDICATION OF LOCATION IS NOT SUFFICIENT TO DIRECT THE
12 DELIVERY OF FIRST-CLASS UNITED STATES MAIL TO THE APPARENT
13 OWNER;

14 (b) IF THE UNITED STATES POSTAL ZIP CODE ASSOCIATED WITH THE
15 APPARENT OWNER IS FOR A POST OFFICE LOCATED IN THIS STATE, THIS
16 STATE IS DEEMED TO BE THE STATE OF THE LAST-KNOWN ADDRESS OF THE
17 APPARENT OWNER UNLESS OTHER RECORDS ASSOCIATED WITH THE
18 APPARENT OWNER SPECIFICALLY IDENTIFY THE PHYSICAL ADDRESS OF THE
19 APPARENT OWNER TO BE IN ANOTHER STATE;

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

23 (d) THE ADDRESS OF THE APPARENT OWNER OF A LIFE OR
24 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT OR ITS PROCEEDS
25 IS PRESUMED TO BE THE ADDRESS OF THE INSURED OR ANNUITANT IF A
26 PERSON OTHER THAN THE INSURED OR ANNUITANT IS ENTITLED TO THE
27 AMOUNT OWED UNDER THE POLICY OR CONTRACT AND THE ADDRESS OF

1 THE OTHER PERSON IS NOT KNOWN BY THE INSURANCE COMPANY AND
2 CANNOT BE DETERMINED UNDER SECTION 38-13-302.

3 **38-13-302. Address of apparent owner in this state.** (1) THE
4 ADMINISTRATOR MAY TAKE CUSTODY OF PROPERTY THAT IS PRESUMED
5 ABANDONED, WHETHER LOCATED IN THIS STATE, ANOTHER STATE, OR A
6 FOREIGN COUNTRY IF:

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

9 (b) THE RECORDS OF THE HOLDER DO NOT REFLECT THE IDENTITY
10 OR LAST-KNOWN ADDRESS OF THE APPARENT OWNER, BUT THE
11 ADMINISTRATOR HAS DETERMINED THAT THE LAST-KNOWN ADDRESS OF
12 THE APPARENT OWNER IS IN THIS STATE.

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

20 (2) IF IT APPEARS FROM RECORDS OF THE HOLDER THAT THE MOST
21 RECENTLY RECORDED ADDRESS OF THE APPARENT OWNER UNDER
22 SUBSECTION (1) OF THIS SECTION IS A TEMPORARY ADDRESS AND IF THIS
23 STATE IS THE STATE OF THE NEXT MOST RECENTLY RECORDED ADDRESS
24 THAT IS NOT A TEMPORARY ADDRESS, THIS STATE MAY TAKE CUSTODY OF
25 THE PROPERTY PRESUMED ABANDONED.

26 **38-13-304. Holder domiciled in this state.** (1) EXCEPT AS
27 OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION OR IN SECTION

1 38-13-302 OR 38-13-303, THE ADMINISTRATOR MAY TAKE CUSTODY OF
2 PROPERTY PRESUMED ABANDONED, WHETHER LOCATED IN THIS STATE,
3 ANOTHER STATE, OR A FOREIGN COUNTRY, IF THE HOLDER IS DOMICILED IN
4 THIS STATE OR IS THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,
5 OR INSTRUMENTALITY OF THIS STATE, AND:

6 (a) ANOTHER STATE OR FOREIGN COUNTRY IS NOT ENTITLED TO
7 THE PROPERTY BECAUSE THERE IS NO LAST-KNOWN ADDRESS IN THE
8 RECORDS OF THE HOLDER OF THE APPARENT OWNER OR OTHER PERSON
9 ENTITLED TO THE PROPERTY; OR

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

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

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

23 **38-13-305. Custody if transaction took place in this state.**

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

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

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

8 (c) THE LAST-KNOWN ADDRESS OF THE APPARENT OWNER OR
9 OTHER PERSON ENTITLED TO THE PROPERTY IS UNKNOWN OR IN A STATE
10 THAT DOES NOT PROVIDE FOR THE CUSTODIAL TAKING OF THE PROPERTY;
11 EXCEPT THAT, IF THE PROPERTY IS SPECIFICALLY EXEMPT FROM CUSTODIAL
12 TAKING UNDER THE LAW OF THE STATE OF THE LAST-KNOWN ADDRESS,
13 THE PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE ADMINISTRATOR.

14 **38-13-306. Traveler's check, money order, or similar**
15 **instrument.** THE ADMINISTRATOR MAY TAKE CUSTODY OF SUMS PAYABLE
16 ON A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR INSTRUMENT
17 PRESUMED ABANDONED TO THE EXTENT PERMISSIBLE UNDER FEDERAL
18 LAW.

19 **38-13-307. Burden of proof to establish administrator's right**
20 **to custody.** (1) IF THE ADMINISTRATOR ASSERTS A RIGHT TO CUSTODY OF
21 UNCLAIMED PROPERTY, THE ADMINISTRATOR HAS THE BURDEN TO PROVE:

- 22 (a) THE EXISTENCE AND AMOUNT OF THE PROPERTY;
- 23 (b) THAT THE PROPERTY IS PRESUMED ABANDONED; AND
- 24 (c) THAT THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE
25 ADMINISTRATOR.

26 PART 4
27 REPORT BY HOLDER

1 **38-13-401. Report required by holder.** (1) A HOLDER OF
2 PROPERTY PRESUMED ABANDONED AND SUBJECT TO THE CUSTODY OF THE
3 ADMINISTRATOR SHALL REPORT IN A RECORD TO THE ADMINISTRATOR
4 CONCERNING THE PROPERTY. THE ADMINISTRATOR SHALL NOT REQUIRE A
5 HOLDER TO FILE A PAPER REPORT.

6 (2) A HOLDER MAY CONTRACT WITH A THIRD PARTY TO MAKE THE
7 REPORT REQUIRED UNDER SUBSECTION (1) OF THIS SECTION.

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

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

12 (b) FOR PAYING OR DELIVERING TO THE ADMINISTRATOR PROPERTY
13 DESCRIBED IN THE REPORT.

14 **38-13-402. Content of report.** (1) THE REPORT REQUIRED UNDER
15 SECTION 38-13-401 MUST:

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

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

23 (c) DESCRIBE THE PROPERTY;

24 (d) EXCEPT FOR A TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR
25 INSTRUMENT, CONTAIN THE NAME, IF KNOWN; LAST-KNOWN ADDRESS, IF
26 KNOWN; AND SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION
27 NUMBER, IF KNOWN OR READILY ASCERTAINABLE, OF THE APPARENT

1 OWNER OF PROPERTY WITH A VALUE OF FIFTY DOLLARS OR MORE;

2 (e) FOR AN AMOUNT HELD OR OWING UNDER A LIFE OR
3 ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT, CONTAIN THE
4 FULL NAME AND LAST-KNOWN ADDRESS OF THE INSURED, ANNUITANT, OR
5 OTHER APPARENT OWNER OF THE POLICY OR CONTRACT AND OF THE
6 BENEFICIARY;

7 (f) FOR PROPERTY HELD IN OR REMOVED FROM A SAFE-DEPOSIT
8 BOX, INDICATE THE LOCATION OF THE PROPERTY AND WHERE IT MAY BE
9 INSPECTED BY THE ADMINISTRATOR;

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

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

14 (i) IDENTIFY PROPERTY THAT IS A NONFREELY TRANSFERABLE
15 SECURITY, AND EXPLAIN WHY IT IS A NONFREELY TRANSFERABLE
16 SECURITY; AND

17 (j) CONTAIN OTHER INFORMATION THE ADMINISTRATOR
18 PRESCRIBES BY RULES NECESSARY FOR THE ADMINISTRATOR.

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

26 (3) A REPORT UNDER SECTION 38-13-401 MAY INCLUDE PERSONAL
27 INFORMATION AS DEFINED IN SECTION 38-13-1401 ABOUT THE APPARENT

1 OWNER OR THE APPARENT OWNER'S PROPERTY TO THE EXTENT NOT
2 OTHERWISE PROHIBITED BY FEDERAL LAW.

3 (4) IF A HOLDER HAS CHANGED ITS NAME WHILE HOLDING
4 PROPERTY PRESUMED ABANDONED OR IS A SUCCESSOR TO ANOTHER
5 PERSON THAT PREVIOUSLY HELD THE PROPERTY FOR THE APPARENT
6 OWNER, THE HOLDER SHALL INCLUDE IN THE REPORT UNDER SECTION
7 38-13-401 ITS FORMER NAME OR THE NAME OF THE PREVIOUS HOLDER, IF
8 ANY, AND THE KNOWN NAME AND ADDRESS OF EACH PREVIOUS HOLDER OF
9 THE PROPERTY.

10 **38-13-403. When report to be filed.** (1) EXCEPT AS OTHERWISE
11 PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SUBJECT TO
12 SUBSECTION (3) OF THIS SECTION, THE REPORT UNDER SECTION 38-13-401
13 MUST BE FILED BEFORE NOVEMBER 1 OF EACH YEAR AND COVER THE
14 TWELVE MONTHS PRECEDING JULY 1 OF THAT YEAR.

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

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

27 **38-13-404. Retention of records by holder.** (1) A HOLDER

1 REQUIRED TO FILE A REPORT UNDER SECTION 38-13-401 SHALL RETAIN
2 RECORDS FOR TEN YEARS AFTER THE LATER OF THE DATE THE REPORT WAS
3 FILED OR THE LAST DATE A TIMELY REPORT WAS DUE TO BE FILED, UNLESS
4 A SHORTER PERIOD IS PROVIDED BY RULE OF THE ADMINISTRATOR. A
5 HOLDER MAY SATISFY THE REQUIREMENT TO RETAIN RECORDS UNDER THIS
6 SECTION THROUGH AN AGENT. THE RECORDS MUST CONTAIN:

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

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

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

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

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

19 **38-13-405. When property reportable and payable or**
20 **deliverable.** PROPERTY IS REPORTABLE AND PAYABLE OR DELIVERABLE
21 UNDER THIS ARTICLE 13 EVEN IF THE OWNER FAILS TO MAKE DEMAND OR
22 PRESENT AN INSTRUMENT OR DOCUMENT OTHERWISE REQUIRED TO OBTAIN
23 PAYMENT.

24 PART 5

25 NOTICE TO APPARENT OWNER OF
26 PROPERTY PRESUMED ABANDONED

27 **38-13-501. Notice to apparent owner by holder.** (1) SUBJECT

1 TO SUBSECTION (2) OF THIS SECTION, THE HOLDER OF PROPERTY PRESUMED
2 ABANDONED SHALL SEND TO THE APPARENT OWNER NOTICE THAT
3 COMPLIES WITH SECTION 38-13-502 IN A FORMAT ACCEPTABLE TO THE
4 ADMINISTRATOR, BY FIRST-CLASS UNITED STATES MAIL, NOT MORE THAN
5 ONE HUNDRED EIGHTY DAYS NOR LESS THAN SIXTY DAYS BEFORE FILING
6 THE REPORT UNDER SECTION 38-13-401 IF:

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

11 (b) THE VALUE OF THE PROPERTY IS FIFTY DOLLARS OR MORE.

12 (2) IF AN APPARENT OWNER HAS CONSENTED TO RECEIVE
13 ELECTRONIC-MAIL DELIVERY FROM THE HOLDER, THE HOLDER MAY SEND
14 THE NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION BY
15 ELECTRONIC MAIL AND NOT BY FIRST-CLASS UNITED STATES MAIL; EXCEPT
16 THAT, IF THE HOLDER HAS EVIDENCE THAT THE ELECTRONIC MAIL COULD
17 NOT BE DELIVERED, THEN THE HOLDER SHALL SEND THE NOTICE IN
18 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

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

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

27 (a) IDENTIFY THE NATURE AND, EXCEPT FOR PROPERTY THAT DOES

1 NOT HAVE A FIXED VALUE, THE VALUE OF THE PROPERTY THAT IS THE
2 SUBJECT OF THE NOTICE;

3 (b) STATE THAT THE PROPERTY WILL BE TURNED OVER TO THE
4 ADMINISTRATOR;

5 (c) STATE THAT AFTER THE PROPERTY IS TURNED OVER TO THE
6 ADMINISTRATOR AN APPARENT OWNER THAT SEEKS RETURN OF THE
7 PROPERTY MUST FILE A CLAIM WITH THE ADMINISTRATOR;

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

10 (e) PROVIDE INSTRUCTIONS THAT THE APPARENT OWNER MUST
11 FOLLOW TO PREVENT THE HOLDER FROM REPORTING AND PAYING OR
12 DELIVERING THE PROPERTY TO THE ADMINISTRATOR.

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

17 (2) IN PROVIDING NOTICE UNDER SUBSECTION (1) OF THIS SECTION,
18 THE ADMINISTRATOR SHALL SEND THE NOTICE TO THE APPARENT OWNER'S
19 ELECTRONIC-MAIL ADDRESS IF THE ADMINISTRATOR HAS AN
20 ELECTRONIC-MAIL ADDRESS THAT THE ADMINISTRATOR DOES NOT KNOW
21 TO BE INVALID.

22 (3) IN ADDITION TO THE NOTICE UNDER SUBSECTION (2) OF THIS
23 SECTION, THE ADMINISTRATOR SHALL MAINTAIN A WEBSITE OR DATABASE
24 ACCESSIBLE BY THE PUBLIC AND ELECTRONICALLY SEARCHABLE THAT
25 CONTAINS THE NAMES REPORTED TO THE ADMINISTRATOR OF ALL
26 APPARENT OWNERS FOR WHOM PROPERTY IS BEING HELD BY THE
27 ADMINISTRATOR.

1 (4) THE WEBSITE OR DATABASE MAINTAINED UNDER SUBSECTION
2 (3) OF THIS SECTION MUST INCLUDE INSTRUCTIONS FOR FILING WITH THE
3 ADMINISTRATOR A CLAIM TO PROPERTY AND A PRINTABLE CLAIM FORM
4 WITH INSTRUCTIONS FOR ITS USE.

5 (5) IN ADDITION TO GIVING NOTICE UNDER SUBSECTION (2) OF THIS
6 SECTION AND MAINTAINING THE WEBSITE OR DATABASE UNDER
7 SUBSECTION (3) OF THIS SECTION, THE ADMINISTRATOR MAY USE
8 FIRST-CLASS MAIL, ELECTRONIC MAIL, OTHER PRINTED PUBLICATION,
9 TELECOMMUNICATION, THE INTERNET, OTHER MEDIA, OR PUBLIC EVENTS
10 TO INFORM THE PUBLIC OF THE EXISTENCE OF UNCLAIMED PROPERTY HELD
11 BY THE ADMINISTRATOR.

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

22 PART 6

23 TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

24 **38-13-601. Definition of good faith.** (1) IN THIS PART 6,
25 PAYMENT OR DELIVERY OF PROPERTY IS MADE IN GOOD FAITH IF A HOLDER:

26 (a) HAD A REASONABLE BASIS FOR BELIEVING, BASED ON THE
27 FACTS THEN KNOWN, THAT THE PROPERTY WAS REQUIRED OR PERMITTED

1 TO BE PAID OR DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE
2 13; OR

3 (b) MADE PAYMENT OR DELIVERY:

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

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

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

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

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

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

23 **38-13-603. Payment or delivery of property to administrator.**

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

27 (2) IF PROPERTY IN A REPORT UNDER SECTION 38-13-401 IS AN

1 AUTOMATICALLY RENEWABLE DEPOSIT AND A PENALTY OR FORFEITURE IN
2 THE PAYMENT OF INTEREST WOULD RESULT FROM PAYING THE DEPOSIT TO
3 THE ADMINISTRATOR AT THE TIME OF THE REPORT, THE DATE FOR
4 PAYMENT OF THE PROPERTY TO THE ADMINISTRATOR IS EXTENDED UNTIL
5 A PENALTY OR FORFEITURE NO LONGER WOULD RESULT FROM PAYMENT,
6 IF THE HOLDER INFORMS THE ADMINISTRATOR OF THE EXTENDED DATE.

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

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

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

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

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

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

26 (7) AN ISSUER, HOLDER, AND TRANSFER AGENT OR OTHER PERSON
27 ACTING UNDER THIS SECTION UNDER INSTRUCTIONS OF AND ON BEHALF OF

1 THE ISSUER OR HOLDER IS NOT LIABLE TO THE APPARENT OWNER FOR, AND
2 SHALL BE INDEMNIFIED BY THE STATE AGAINST, A CLAIM ARISING WITH
3 RESPECT TO PROPERTY AFTER THE PROPERTY HAS BEEN DELIVERED TO THE
4 ADMINISTRATOR.

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

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

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

1 SECTIONS 38-13-501 AND 38-13-502.

2 **38-13-605. Recovery of property by holder from**

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

7 (a) PAID THE MONEY IN ERROR; OR

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

11 (2) IF A CLAIM FOR REIMBURSEMENT UNDER SUBSECTION (1) OF
12 THIS SECTION IS MADE FOR A PAYMENT MADE ON A NEGOTIABLE
13 INSTRUMENT, INCLUDING A TRAVELER'S CHECK, MONEY ORDER, OR
14 SIMILAR INSTRUMENT, THE HOLDER MUST SUBMIT PROOF THAT THE
15 INSTRUMENT WAS PRESENTED AND THAT PAYMENT WAS MADE TO A
16 PERSON THE HOLDER REASONABLY BELIEVED TO BE ENTITLED TO
17 PAYMENT. THE HOLDER MAY CLAIM REIMBURSEMENT EVEN IF THE
18 PAYMENT WAS MADE TO A PERSON WHOSE CLAIM WAS MADE AFTER
19 EXPIRATION OF A PERIOD OF LIMITATION ON THE OWNER'S RIGHT TO
20 RECEIVE OR RECOVER PROPERTY, WHETHER SPECIFIED BY CONTRACT,
21 STATUTE, OR COURT ORDER.

22 (3) IF A HOLDER IS REIMBURSED BY THE ADMINISTRATOR UNDER
23 SUBSECTION (1)(b) OF THIS SECTION, THE HOLDER MAY ALSO RECOVER
24 FROM THE ADMINISTRATOR INCOME OR GAIN UNDER SECTION 38-13-606
25 THAT WOULD HAVE BEEN PAID TO THE OWNER IF THE MONEY HAD BEEN
26 CLAIMED FROM THE ADMINISTRATOR BY THE OWNER TO THE EXTENT THE
27 INCOME OR GAIN WAS PAID BY THE HOLDER TO THE OWNER.

1 (4) (a) A HOLDER THAT DELIVERS PROPERTY OTHER THAN MONEY
2 TO THE ADMINISTRATOR UNDER THIS ARTICLE 13 MAY FILE A CLAIM FOR
3 RETURN OF THE PROPERTY FROM THE ADMINISTRATOR IF:

4 (I) THE HOLDER DELIVERED THE PROPERTY IN ERROR; OR

5 (II) THE APPARENT OWNER HAS CLAIMED THE PROPERTY FROM THE
6 HOLDER.

7 (b) IF A CLAIM FOR RETURN OF PROPERTY UNDER SUBSECTION
8 (4)(a) OF THIS SECTION IS MADE, THE HOLDER SHALL INCLUDE WITH THE
9 CLAIM EVIDENCE SUFFICIENT TO ESTABLISH THAT THE APPARENT OWNER
10 HAS CLAIMED THE PROPERTY FROM THE HOLDER OR THAT THE PROPERTY
11 WAS DELIVERED BY THE HOLDER TO THE ADMINISTRATOR IN ERROR.

12 (5) THE ADMINISTRATOR MAY DETERMINE THAT AN AFFIDAVIT
13 SUBMITTED BY A HOLDER IS EVIDENCE SUFFICIENT TO ESTABLISH THAT THE
14 HOLDER IS ENTITLED TO REIMBURSEMENT OR TO RECOVER PROPERTY
15 UNDER THIS SECTION.

16 (6) A HOLDER IS NOT REQUIRED TO PAY A FEE OR OTHER CHARGE
17 FOR REIMBURSEMENT OR RETURN OF PROPERTY UNDER THIS SECTION.

18 (7) NOT LATER THAN NINETY DAYS AFTER A CLAIM IS FILED UNDER
19 SUBSECTION (1) OR (4) OF THIS SECTION, THE ADMINISTRATOR SHALL
20 ALLOW OR DENY THE CLAIM AND GIVE THE CLAIMANT NOTICE OF THE
21 DECISION IN A RECORD. IF THE ADMINISTRATOR DOES NOT TAKE ACTION ON
22 A CLAIM DURING THE NINETY-DAY PERIOD, THE CLAIM IS DEEMED DENIED.

23 (8) THE CLAIMANT MAY INITIATE A PROCEEDING UNDER THE
24 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, FOR
25 REVIEW OF THE ADMINISTRATOR'S DECISION OR THE DEEMED DENIAL
26 UNDER SUBSECTION (7) OF THIS SECTION NOT LATER THAN:

27 (a) THIRTY DAYS FOLLOWING RECEIPT OF THE NOTICE OF THE

1 ADMINISTRATOR'S DECISION; OR

2 (b) ONE HUNDRED TWENTY DAYS FOLLOWING THE FILING OF A
3 CLAIM UNDER SUBSECTION (1) OR (4) OF THIS SECTION IN THE CASE OF A
4 DEEMED DENIAL UNDER SUBSECTION (7) OF THIS SECTION.

5 **38-13-606. Crediting income or gain to owner's account.** IF
6 PROPERTY OTHER THAN MONEY IS DELIVERED TO THE ADMINISTRATOR,
7 THE OWNER IS ENTITLED TO RECEIVE FROM THE ADMINISTRATOR INCOME
8 OR GAIN REALIZED OR ACCRUED ON THE PROPERTY BEFORE THE PROPERTY
9 IS SOLD.

10 **38-13-607. Administrator's options as to custody.** (1) THE
11 ADMINISTRATOR MAY DECLINE TO TAKE CUSTODY OF PROPERTY REPORTED
12 UNDER SECTION 38-13-401 IF THE ADMINISTRATOR DETERMINES THAT:

13 (a) THE PROPERTY HAS A VALUE LESS THAN THE ESTIMATED
14 EXPENSES OF NOTICE AND SALE OF THE PROPERTY; OR

15 (b) TAKING CUSTODY OF THE PROPERTY WOULD BE UNLAWFUL.

16 (2) A HOLDER MAY PAY OR DELIVER PROPERTY TO THE
17 ADMINISTRATOR BEFORE THE PROPERTY IS PRESUMED ABANDONED UNDER
18 THIS ARTICLE 13 IF THE HOLDER:

19 (a) SENDS THE APPARENT OWNER OF THE PROPERTY THE NOTICE OR
20 NOTICES REQUIRED BY SECTION 38-13-501 AND PROVIDES THE
21 ADMINISTRATOR EVIDENCE OF THE HOLDER'S COMPLIANCE WITH THIS
22 SUBSECTION (2)(a);

23 (b) INCLUDES WITH THE PAYMENT OR DELIVERY A REPORT
24 REGARDING THE PROPERTY CONFORMING TO SECTION 38-13-402; AND

25 (c) FIRST OBTAINS THE ADMINISTRATOR'S CONSENT IN A RECORD
26 TO ACCEPT PAYMENT OR DELIVERY.

27 (3) A HOLDER'S REQUEST FOR THE ADMINISTRATOR'S CONSENT

1 UNDER SUBSECTION (2)(c) OF THIS SECTION MUST BE IN A RECORD. IF THE
2 ADMINISTRATOR FAILS TO RESPOND TO THE REQUEST NOT LATER THAN
3 THIRTY DAYS AFTER RECEIPT OF THE REQUEST, THE ADMINISTRATOR IS
4 DEEMED TO CONSENT TO THE PAYMENT OR DELIVERY OF THE PROPERTY
5 AND THE PAYMENT OR DELIVERY IS CONSIDERED TO HAVE BEEN MADE IN
6 GOOD FAITH.

7 (4) ON PAYMENT OR DELIVERY OF PROPERTY UNDER SUBSECTION
8 (2) OF THIS SECTION, THE PROPERTY IS PRESUMED ABANDONED.

9 **38-13-608. Disposition of property having no substantial value**
10 **- immunity from liability.** (1) IF THE ADMINISTRATOR TAKES CUSTODY
11 OF PROPERTY DELIVERED UNDER THIS ARTICLE 13 AND LATER DETERMINES
12 THAT THE PROPERTY HAS NO SUBSTANTIAL COMMERCIAL VALUE OR THAT
13 THE COST OF DISPOSING OF THE PROPERTY WILL EXCEED THE VALUE OF
14 THE PROPERTY, THE ADMINISTRATOR MAY RETURN THE PROPERTY TO THE
15 HOLDER OR DESTROY OR OTHERWISE DISPOSE OF THE PROPERTY.

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

21 **38-13-609. Periods of limitation and repose.** (1) EXPIRATION,
22 BEFORE, ON, OR AFTER JULY 1, 2020, OF A PERIOD OF LIMITATION ON AN
23 OWNER'S RIGHT TO RECEIVE OR RECOVER PROPERTY, WHETHER SPECIFIED
24 BY CONTRACT, STATUTE, OR COURT ORDER DOES NOT PREVENT THE
25 PROPERTY FROM BEING PRESUMED ABANDONED OR AFFECT THE DUTY OF
26 A HOLDER TO FILE A REPORT OR PAY OR DELIVER PROPERTY TO THE
27 ADMINISTRATOR UNDER THIS ARTICLE 13.

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

5 (5) IF A SALE HELD UNDER THIS SECTION IS TO BE CONDUCTED
6 OTHER THAN ON THE INTERNET, THE ADMINISTRATOR MUST PUBLISH AT
7 LEAST ONE NOTICE OF THE SALE AT LEAST THREE WEEKS BUT NOT MORE
8 THAN FIVE WEEKS BEFORE THE SALE IN A NEWSPAPER OF GENERAL
9 CIRCULATION IN THE COUNTY IN WHICH THE PROPERTY IS SOLD.

10 **38-13-702. Disposal of securities.** (1) THE ADMINISTRATOR
11 SHALL NOT SELL OR OTHERWISE LIQUIDATE A SECURITY UNTIL THREE
12 YEARS AFTER THE ADMINISTRATOR RECEIVES THE SECURITY AND GIVES
13 THE APPARENT OWNER NOTICE UNDER SECTION 38-13-503 THAT THE
14 ADMINISTRATOR HOLDS THE SECURITY. THIS SUBSECTION (1) APPLIES TO
15 ANY SECURITY PRESUMED ABANDONED UNDER SECTION 38-13-208 WITH
16 A COMMENCEMENT DATE, REPORTED UNDER SECTION 38-13-402, THAT IS
17 ON OR AFTER JULY 1, 2014.

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

23 **38-13-703. Recovery of securities or value by owner.** (1) IF THE
24 ADMINISTRATOR SELLS A SECURITY BEFORE THE EXPIRATION OF SIX YEARS
25 AFTER DELIVERY OF THE SECURITY TO THE ADMINISTRATOR, AN APPARENT
26 OWNER THAT FILES A VALID CLAIM UNDER THIS ARTICLE 13 OF OWNERSHIP
27 OF THE SECURITY BEFORE THE SIX-YEAR PERIOD EXPIRES IS ENTITLED, AT

1 THE OPTION OF THE ADMINISTRATOR, TO RECEIVE:

2 (a) A REPLACEMENT OF THE SECURITY; OR

3 (b) THE MARKET VALUE OF THE SECURITY AT THE TIME THE CLAIM
4 IS FILED PLUS DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE
5 SECURITY UP TO THE TIME THE CLAIM IS PAID.

6 (2) REPLACEMENT OF THE SECURITY OR CALCULATION OF MARKET
7 VALUE UNDER SUBSECTION (1) OF THIS SECTION MUST TAKE INTO
8 ACCOUNT A STOCK SPLIT, REVERSE STOCK SPLIT, STOCK DIVIDEND, OR
9 SIMILAR CORPORATE ACTION.

10 (3) A PERSON THAT MAKES A VALID CLAIM UNDER THIS ARTICLE 13
11 OF OWNERSHIP OF A SECURITY AFTER EXPIRATION OF SIX YEARS AFTER
12 DELIVERY OF THE SECURITY TO THE ADMINISTRATOR IS ENTITLED TO
13 RECEIVE:

14 (a) THE SECURITY THE HOLDER DELIVERED TO THE
15 ADMINISTRATOR, IF IT IS IN THE CUSTODY OF THE ADMINISTRATOR, PLUS
16 DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO
17 THE TIME THE ADMINISTRATOR DELIVERS THE SECURITY TO THE PERSON;
18 OR

19 (b) THE NET PROCEEDS OF THE SALE OF THE SECURITY, PLUS
20 DIVIDENDS, INTEREST, AND OTHER INCREMENTS ON THE SECURITY UP TO
21 THE TIME THE SECURITY WAS SOLD.

22 **38-13-704. Purchaser owns property after sale.** A PURCHASER
23 OF PROPERTY AT A SALE CONDUCTED BY THE ADMINISTRATOR UNDER THIS
24 ARTICLE 13 TAKES THE PROPERTY FREE OF ALL CLAIMS OF THE OWNER, A
25 PREVIOUS HOLDER, OR A PERSON CLAIMING THROUGH THE OWNER OR
26 HOLDER. THE ADMINISTRATOR SHALL EXECUTE DOCUMENTS NECESSARY
27 TO COMPLETE THE TRANSFER OF OWNERSHIP TO THE PURCHASER.

1 ARTICLE 13 OR OTHERWISE COLLECTED BY THE ADMINISTRATOR UNDER
2 THIS ARTICLE 13 OTHER THAN FROM THE SALE OF SECURITIES AS
3 CONTEMPLATED BY SECTION 38-13-801.5.

4 (b) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS
5 SECTION, THE PRINCIPAL OF THE TRUST FUND SHALL NOT BE EXPENDED
6 EXCEPT TO PAY CLAIMS MADE PURSUANT TO THIS ARTICLE 13. MONEY
7 CONSTITUTING THE PRINCIPAL OF THE TRUST FUND IS NOT FISCAL YEAR
8 SPENDING OF THE STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF
9 THE STATE CONSTITUTION AND IS NOT SUBJECT TO APPROPRIATION BY THE
10 GENERAL ASSEMBLY.

11 (c) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
12 OF MONEY IN THE TRUST FUND SHALL BE CREDITED TO THE TRUST FUND.

13 (d) THE MONEY IN THE UNCLAIMED PROPERTY TRUST FUND DOES
14 NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

15 (2) (a) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
16 APPROPRIATIONS OUT OF THE PRINCIPAL OF THE UNCLAIMED PROPERTY
17 TRUST FUND FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS
18 ARTICLE 13, EXCEPT AS PROVIDED FOR THE PAYMENT OF CONTRACT
19 AUDITOR SERVICES IN SUBSECTION (2)(b) OF THIS SECTION.

20 (b) MONEY IN THE UNCLAIMED PROPERTY TRUST FUND IS
21 CONTINUOUSLY APPROPRIATED TO THE ADMINISTRATOR FOR THE PAYMENT
22 OF CONTRACT AUDITOR SERVICES AND FOR FEES OF SECURITY CUSTODIANS
23 FOR PROPERTIES THAT ARE SECURITIES. ANY MONEY APPROPRIATED FOR
24 THE PAYMENT OF CONTRACT AUDITOR SERVICES SHALL BE PAID FROM
25 REVENUES COLLECTED BY CONTRACT AUDITORS.

26 (c) THE ADMINISTRATOR SHALL PROMULGATE RULES IN
27 ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS NECESSARY TO ADMINISTER

1 PAYMENT FOR CONTRACT AUDITOR SERVICES, INCLUDING ANY RULES
2 NECESSARY TO:

3 (I) SPECIFY THE REQUIREMENTS OR EXPERTISE OF CONTRACT
4 AUDITORS;

5 (II) ADEQUATELY PROTECT UNCLAIMED PROPERTY WHILE THE
6 PROPERTY IS IN THE POSSESSION OF THE CONTRACT AUDITOR; AND

7 (III) PREVENT IDENTITY THEFT AND THE SALE OR TRANSFER OF
8 PERSONAL IDENTIFYING INFORMATION OBTAINED BY THE CONTRACT
9 AUDITOR DURING THE COURSE OF THE CONTRACT AUDITOR'S DUTIES.

10 (d) THE FOLLOWING AMOUNTS CONSTITUTE FISCAL YEAR SPENDING
11 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION:

12 (I) ANY MONEY THAT IS APPROPRIATED TO THE DEPARTMENT OF
13 THE TREASURY AS REQUIRED BY THIS SUBSECTION (2); AND

14 (II) ANY MONEY THAT IS CREDITED TO THE ADULT DENTAL FUND
15 CREATED IN SECTION 25.5-5-207 (4) AS REQUIRED BY SUBSECTION (3) OF
16 THIS SECTION.

17 (3) (a) AFTER RESERVING THE AMOUNTS DESCRIBED IN SUBSECTION
18 (3)(b) OF THIS SECTION, THE STATE TREASURER SHALL TRANSMIT TO THE
19 ADULT DENTAL FUND CREATED IN SECTION 25.5-5-207 (4) AN AMOUNT OF
20 PRINCIPAL AND INTEREST IN THE TRUST FUND SUFFICIENT TO IMPLEMENT
21 THE ADULT DENTAL BENEFIT PURSUANT TO SECTION 25.5-5-202 (1)(w).

22 (b) THE ADMINISTRATOR SHALL RESERVE IN THE TRUST FUND AND
23 SHALL NOT TRANSFER ANY MONEY NECESSARY FOR:

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

26 (II) THE RESERVE AMOUNT NECESSARY TO PAY ANTICIPATED
27 CLAIMS; AND

1 (III) PUBLICATIONS AND CORRESPONDENCE EXPENSES PURSUANT
2 TO SECTION 38-13-503.

3 (4) BEFORE CREDITING ANY MONEY TO THE TRUST FUND PURSUANT
4 TO SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL RECORD
5 THE NAME AND LAST-KNOWN ADDRESS OF EACH PERSON APPEARING FROM
6 THE HOLDERS' REPORTS TO BE ENTITLED TO THE PROPERTY. THE RECORD
7 MUST BE AVAILABLE FOR PUBLIC INSPECTION DURING ALL REASONABLE
8 BUSINESS HOURS.

9 **38-13-801.5. [Similar to former 38-13-116.7] Unclaimed**
10 **property tourism promotion trust fund - creation - payments -**
11 **interest - transfers - definition.** (1) THERE IS HEREBY CREATED IN THE
12 STATE TREASURY THE UNCLAIMED PROPERTY TOURISM PROMOTION TRUST
13 FUND. THE PRINCIPAL IN THE TRUST FUND CONSISTS OF ALL PROCEEDS
14 COLLECTED BY THE ADMINISTRATOR FROM THE SALE OF SECURITIES UNDER
15 THIS ARTICLE 13.

16 (2) THE PRINCIPAL OF THE UNCLAIMED PROPERTY TOURISM
17 PROMOTION TRUST FUND SHALL NOT BE EXPENDED EXCEPT TO PAY CLAIMS
18 MADE PURSUANT TO THIS ARTICLE 13. MONEY CONSTITUTING THE
19 PRINCIPAL OF THE TRUST FUND THAT IS CREDITED TO OR EXPENDED FROM
20 THE TRUST FUND TO PAY CLAIMS IS NOT FISCAL YEAR SPENDING OF THE
21 STATE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
22 CONSTITUTION, AND SUCH MONEY IS DEEMED CUSTODIAL FUNDS THAT ARE
23 NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY.

24 (3) (a) AFTER RESERVING THE AMOUNTS DESCRIBED IN
25 SUBSECTION (3)(b) OF THIS SECTION, THE INTEREST DERIVED FROM THE
26 DEPOSIT AND INVESTMENT OF MONEY IN THE UNCLAIMED PROPERTY
27 TOURISM PROMOTION TRUST FUND SHALL BE CREDITED TO THE FOLLOWING

1 FUNDS:

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

6 (II) SIXTY-FIVE PERCENT OF THE INTEREST TO THE AGRICULTURE
7 MANAGEMENT FUND CREATED IN SECTION 35-1-106.9, SUBJECT TO
8 APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO SECTION
9 35-1-106.9; AND

10 (III) (A) TEN PERCENT OF THE INTEREST TO THE COLORADO
11 TRAVEL AND TOURISM PROMOTION FUND CREATED IN SECTION 24-49.7-106
12 (1), SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT
13 TO SECTION 24-49.7-106 (3) FOR USE IN THE PROMOTION OF AGRITOURISM
14 IN THE STATE. FOR PURPOSES OF THIS SUBSECTION (3)(a)(III),
15 "AGRITOURISM" MEANS THE PRACTICE OF ENGAGING IN ACTIVITIES,
16 EVENTS, AND SERVICES THAT HAVE BEEN PROVIDED TO CONSUMERS FOR
17 RECREATIONAL, ENTERTAINMENT, OR EDUCATIONAL PURPOSES AT A FARM,
18 RANCH, OR OTHER AGRICULTURAL, HORTICULTURAL, OR AGRIBUSINESS
19 OPERATION IN ORDER TO ALLOW CONSUMERS TO EXPERIENCE, LEARN
20 ABOUT, AND PARTICIPATE IN VARIOUS FACETS OF AGRICULTURAL
21 INDUSTRY, CULINARY PURSUITS, NATURAL RESOURCES, AND HERITAGE.

22 (B) THE BOARD OF DIRECTORS OF THE COLORADO TOURISM OFFICE
23 CREATED IN SECTION 24-49.7-103 SHALL CONSULT ANNUALLY, AND
24 EXECUTE A MEMORANDUM OF UNDERSTANDING, WITH THE COMMISSIONER
25 OF AGRICULTURE REGARDING THE EXPENDITURE OF MONEY CREDITED
26 PURSUANT TO SUBSECTION (3)(a)(III)(A) OF THIS SECTION IN ORDER TO
27 COORDINATE AGRITOURISM PROMOTION EFFORTS.

1 (b) THE ADMINISTRATOR SHALL RESERVE IN THE UNCLAIMED
2 PROPERTY TOURISM PROMOTION TRUST FUND AND SHALL NOT TRANSFER
3 ANY MONEY NECESSARY FOR:

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

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

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

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

17 **38-13-802. Administrator to retain records of property.**

18 (1) THE ADMINISTRATOR SHALL:

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

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

26 (c) WITH RESPECT TO EACH POLICY OF INSURANCE OR ANNUITY
27 CONTRACT LISTED IN THE REPORT OF AN INSURANCE COMPANY, RECORD

1 AND RETAIN THE POLICY OR ACCOUNT NUMBER, THE NAME OF THE
2 COMPANY, AND THE AMOUNT DUE OR PAID; AND

3 (d) WITH RESPECT TO EACH APPARENT OWNER LISTED IN THE
4 REPORT, RECORD AND RETAIN THE NAME OF THE HOLDER WHO FILED THE
5 REPORT AND THE AMOUNT DUE OR PAID.

6 **38-13-803. Administrator holds property as custodian for**
7 **owner.** PROPERTY RECEIVED BY THE ADMINISTRATOR UNDER THIS
8 ARTICLE 13 IS HELD IN CUSTODY FOR THE BENEFIT OF THE OWNER AND IS
9 NOT OWNED BY THE STATE.

10 PART 9

11 CLAIM TO RECOVER PROPERTY

12 FROM ADMINISTRATOR

13 **38-13-901. Claim of another state to recover property.** (1) IF
14 THE ADMINISTRATOR KNOWS THAT PROPERTY HELD BY THE
15 ADMINISTRATOR UNDER THIS ARTICLE 13 IS SUBJECT TO A SUPERIOR CLAIM
16 OF ANOTHER STATE, THE ADMINISTRATOR SHALL:

17 (a) REPORT AND PAY OR DELIVER THE PROPERTY TO THE OTHER
18 STATE; OR

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

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

24 **38-13-902. When property subject to recovery by another**
25 **state.** (1) PROPERTY HELD BY THE ADMINISTRATOR UNDER THIS ARTICLE
26 13 IS SUBJECT TO THE RIGHT OF ANOTHER STATE TO TAKE CUSTODY OF THE
27 PROPERTY IF:

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

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

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

10 (b) THE RECORDS OF THE HOLDER DID NOT ACCURATELY IDENTIFY
11 THE OWNER OF THE PROPERTY, THE LAST-KNOWN ADDRESS OF THE OWNER
12 WAS IN ANOTHER STATE, AND, UNDER THE LAW OF THE OTHER STATE, THE
13 PROPERTY HAS BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE
14 OTHER STATE;

15 (c) THE PROPERTY WAS SUBJECT TO THE CUSTODY OF THE
16 ADMINISTRATOR OF THIS STATE UNDER SECTION 38-13-305 AND, UNDER
17 THE LAW OF THE STATE OF DOMICILE OF THE HOLDER, THE PROPERTY HAS
18 BECOME SUBJECT TO A CLAIM OF ABANDONMENT BY THE STATE OF
19 DOMICILE OF THE HOLDER; OR

20 (d) THE PROPERTY:

21 (I) IS A SUM PAYABLE ON A TRAVELER'S CHECK, MONEY ORDER, OR
22 SIMILAR INSTRUMENT THAT WAS PURCHASED IN THE OTHER STATE AND
23 DELIVERED TO THE ADMINISTRATOR UNDER SECTION 38-13-306; AND

24 (II) UNDER THE LAW OF THE OTHER STATE, HAS BECOME SUBJECT
25 TO A CLAIM OF ABANDONMENT BY THE OTHER STATE.

26 (2) A CLAIM BY ANOTHER STATE TO RECOVER PROPERTY UNDER
27 THIS SECTION MUST BE PRESENTED IN A FORM PRESCRIBED BY THE

1 ADMINISTRATOR UNLESS THE ADMINISTRATOR WAIVES PRESENTATION OF
2 THE FORM.

3 (3) THE ADMINISTRATOR SHALL DECIDE A CLAIM UNDER THIS
4 SECTION NOT LATER THAN NINETY DAYS AFTER IT IS PRESENTED. IF THE
5 ADMINISTRATOR DETERMINES THAT THE OTHER STATE IS ENTITLED UNDER
6 SUBSECTION (1) OF THIS SECTION TO CUSTODY OF THE PROPERTY, THE
7 ADMINISTRATOR SHALL ALLOW THE CLAIM AND PAY OR DELIVER THE
8 PROPERTY TO THE OTHER STATE.

9 (4) THE ADMINISTRATOR MAY REQUIRE ANOTHER STATE, BEFORE
10 RECOVERING PROPERTY UNDER THIS SECTION, TO AGREE TO INDEMNIFY
11 THIS STATE AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LIABILITY ON
12 A CLAIM TO THE PROPERTY.

13 **38-13-902.1. [Similar to former 38-13-117.3] Claims offset for**
14 **child support.** (1) BEFORE PAYING A CLAIM PURSUANT TO SECTION
15 38-13-905 IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS, THE
16 ADMINISTRATOR SHALL OFFSET AGAINST THE AMOUNT OF THE CLAIM THE
17 CLAIMANT'S OBLIGATIONS TO PAY CURRENT CHILD SUPPORT, CHILD
18 SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT
19 ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED
20 WITH MAINTENANCE. THE ADMINISTRATOR MAY ENTER INTO A
21 MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF HUMAN
22 SERVICES TO IMPLEMENT THIS SECTION AND SECTION 26-13-118.5.

23 (2) (a) IF A CLAIMANT OWES CURRENT CHILD SUPPORT, CHILD
24 SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT
25 ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED
26 WITH MAINTENANCE, AND ALSO OWES RESTITUTION OR FINES, FEES, COSTS,
27 OR SURCHARGES AS DESCRIBED IN SECTION 38-13-902.2, DELINQUENT

1 STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN SECTION
2 38-13-902.3, OR BOTH, THE UNCLAIMED PROPERTY OFFSET AGAINST THE
3 CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD
4 SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD
5 SUPPORT WHEN COMBINED WITH MAINTENANCE TAKES PRIORITY AND
6 SHALL BE APPLIED FIRST.

7 (b) IF A CLAIMANT OWES BOTH RESTITUTION OR FINES, FEES,
8 COSTS, OR SURCHARGES AND DELINQUENT STATE TAXES, PENALTIES, OR
9 INTEREST, AFTER PAYMENT IN ACCORDANCE WITH SUBSECTION (2)(a) OF
10 THIS SECTION, IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY
11 SHALL BE APPLIED FIRST TOWARD THE PAYMENT OF THE OUTSTANDING
12 RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN
13 ACCORDANCE WITH SECTION 38-13-902.2 AND THEN APPLIED TO THE
14 PAYMENT OF DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AND
15 PROCESSED IN ACCORDANCE WITH SECTION 38-13-902.3.

16 (c) IF A CLAIMANT OWES RESTITUTION OR FINES, FEES, COSTS, OR
17 SURCHARGES OR DELINQUENT STATE TAXES, PENALTIES, OR INTEREST,
18 AFTER PAYMENT IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS
19 SECTION, IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY SHALL BE
20 APPLIED TOWARD THE PAYMENT OF THE OUTSTANDING RESTITUTION OR
21 FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN ACCORDANCE
22 WITH SECTION 38-13-902.2 OR TOWARD THE DELINQUENT STATE TAXES,
23 PENALTIES, OR INTEREST AND PROCESSED IN ACCORDANCE WITH SECTION
24 38-13-902.3, WHICHEVER IS APPLICABLE.

25 **38-13-902.2. [Similar to former 38-13-117.5] Claims offset for**
26 **judicial restitution, fines, fees, costs, or surcharges. (1) BEFORE**
27 **PAYING A CLAIM PURSUANT TO SECTION 38-13-905 IN AN AMOUNT**

1 EXCEEDING SIX HUNDRED DOLLARS, THE ADMINISTRATOR SHALL OFFSET
2 AGAINST THE AMOUNT OF THE CLAIM THE CLAIMANT'S OUTSTANDING
3 COURT FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION. THE
4 ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING
5 WITH THE JUDICIAL DEPARTMENT TO IMPLEMENT THIS SECTION AND
6 SECTIONS 16-11-101.6 (6) AND 16-18.5-106.7.

7 (2) IF A CLAIMANT OWES FINES, FEES, COSTS, OR SURCHARGES OR
8 RESTITUTION AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT
9 CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT,
10 CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT
11 WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION
12 38-13-902.1, DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS
13 DESCRIBED IN SECTION 38-13-902.3, OR BOTH, THE UNCLAIMED PROPERTY
14 OFFSETS SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET
15 FORTH IN SECTION 38-13-902.1 (2).

16 **38-13-902.3. [Similar to former 38-13-117.7] Claims offset for**
17 **state tax delinquencies.** (1) BEFORE PAYING A CLAIM PURSUANT TO
18 SECTION 38-13-905 IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS,
19 THE ADMINISTRATOR SHALL COMPARE THE SOCIAL SECURITY NUMBER OR
20 FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE CLAIMANT WITH THE
21 NUMBERS CERTIFIED BY THE DEPARTMENT OF REVENUE FOR THE PURPOSE
22 OF THE UNCLAIMED PROPERTY OFFSET AS PROVIDED IN SECTION
23 39-21-121.

24 (2) IF THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
25 IDENTIFICATION NUMBER OF A CLAIMANT APPEARS AMONG THE NUMBERS
26 CERTIFIED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION
27 39-21-121, THE ADMINISTRATOR SHALL SUSPEND THE PAYMENT OF THE

1 CLAIM UNTIL THE REQUIREMENTS OF SECTION 39-21-121 ARE MET. IF,
2 AFTER CONSULTING WITH THE DEPARTMENT, THE ADMINISTRATOR
3 DETERMINES THAT THE CLAIMANT IS OBLIGATED TO PAY THE AMOUNTS
4 CERTIFIED UNDER SECTION 39-21-121, THE ADMINISTRATOR SHALL
5 WITHHOLD FROM THE AMOUNT OF THE UNCLAIMED PROPERTY PAID TO THE
6 CLAIMANT AN AMOUNT EQUAL TO THE AMOUNT OF DELINQUENT STATE
7 TAXES, PENALTIES, OR INTEREST. IF THE AMOUNT OF THE UNCLAIMED
8 PROPERTY IS LESS THAN OR EQUAL TO THE AMOUNT OF DELINQUENT STATE
9 TAXES, PENALTIES, OR INTEREST, THE ADMINISTRATOR SHALL WITHHOLD
10 THE ENTIRE AMOUNT OF THE UNCLAIMED PROPERTY. THE ADMINISTRATOR
11 SHALL TRANSMIT ANY UNCLAIMED PROPERTY SO WITHHELD TO THE
12 DEPARTMENT FOR DISBURSEMENT AS DIRECTED IN SECTION 39-21-121.

13 (3) IF A CLAIMANT OWES DELINQUENT STATE TAXES, PENALTIES,
14 OR INTEREST AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT
15 CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT,
16 CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT
17 WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION
18 38-13-902.1, RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AS
19 DESCRIBED IN SECTION 38-13-902.2, OR BOTH, THE UNCLAIMED PROPERTY
20 OFFSET SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET FORTH
21 IN SECTION 38-13-902.1 (2).

22 **38-13-902.4. [Similar to former 38-13-118.5] Claim of the state**
23 **or governmental agency.** AT ANY TIME AFTER PROPERTY HAS BEEN PAID
24 OR DELIVERED TO THE ADMINISTRATOR UNDER THIS ARTICLE 13, IF THE
25 ADMINISTRATOR DETERMINES THAT THE STATE OR A STATE
26 GOVERNMENTAL AGENCY OWNS THE PROPERTY, THE ADMINISTRATOR MAY
27 TRANSFER THE PROPERTY TO AN OPERATING ACCOUNT OF THE STATE OR

1 THE AGENCY.

2 **38-13-903. Claim for property by person claiming to be owner.**

3 (1) A PERSON CLAIMING TO BE THE OWNER OF PROPERTY HELD BY THE
4 ADMINISTRATOR UNDER THIS ARTICLE 13 MAY FILE A CLAIM FOR THE
5 PROPERTY ON A FORM PRESCRIBED BY THE ADMINISTRATOR.

6 (2) THE ADMINISTRATOR MAY WAIVE THE REQUIREMENT IN
7 SUBSECTION (1) OF THIS SECTION AND MAY PAY OR DELIVER PROPERTY
8 DIRECTLY TO A PERSON IF:

9 (a) THE PERSON RECEIVING THE PROPERTY OR PAYMENT IS SHOWN
10 TO BE THE APPARENT OWNER INCLUDED ON A REPORT FILED UNDER
11 SECTION 38-13-401; AND

12 (b) THE ADMINISTRATOR REASONABLY BELIEVES THE PERSON IS
13 ENTITLED TO RECEIVE THE PROPERTY OR PAYMENT.

14 **38-13-904. When administrator must honor claim for**
15 **property.** (1) THE ADMINISTRATOR SHALL PAY OR DELIVER PROPERTY TO

16 A CLAIMANT UNDER SECTION 38-13-903 IF THE ADMINISTRATOR RECEIVES
17 EVIDENCE SUFFICIENT TO ESTABLISH TO THE SATISFACTION OF THE
18 ADMINISTRATOR THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY.

19 (2) NOT LATER THAN NINETY DAYS AFTER A CLAIM IS FILED UNDER
20 SECTION 38-13-903, THE ADMINISTRATOR SHALL ALLOW OR DENY THE
21 CLAIM AND GIVE THE CLAIMANT NOTICE OF THE DECISION IN A RECORD. IF
22 THE CLAIM IS DENIED:

23 (a) THE ADMINISTRATOR SHALL INFORM THE CLAIMANT OF THE
24 REASON FOR THE DENIAL AND SPECIFY WHAT ADDITIONAL EVIDENCE, IF
25 ANY, IS REQUIRED FOR THE CLAIM TO BE ALLOWED;

26 (b) THE CLAIMANT MAY FILE AN AMENDED CLAIM WITH THE
27 ADMINISTRATOR OR COMMENCE AN ACTION UNDER SECTION 38-13-906;

1 AND

2 (c) THE ADMINISTRATOR SHALL CONSIDER AN AMENDED CLAIM
3 FILED UNDER SUBSECTION (2)(b) OF THIS SECTION AS AN INITIAL CLAIM.

4 (3) IF THE ADMINISTRATOR DOES NOT TAKE ACTION ON A CLAIM
5 DURING THE NINETY-DAY PERIOD FOLLOWING THE FILING OF A CLAIM
6 UNDER SECTION 38-13-903 (1), THE CLAIM IS DEEMED DENIED.

7 **38-13-905. Allowance of claim for property.** (1) NOT LATER
8 THAN THIRTY DAYS AFTER A CLAIM IS ALLOWED UNDER SECTION
9 38-13-904 (2) OR, IN THE CASE OF A SECURITY, NOT LATER THAN
10 FORTY-FIVE DAYS AFTER THE CLAIM IS ALLOWED UNDER SECTION
11 39-13-904 (2), THE ADMINISTRATOR SHALL PAY OR DELIVER TO THE
12 OWNER THE PROPERTY OR PAY TO THE OWNER THE NET PROCEEDS OF A
13 SALE OF THE PROPERTY, TOGETHER WITH INCOME OR GAIN TO WHICH THE
14 OWNER IS ENTITLED UNDER SECTION 38-13-606.

15 (2) BEFORE DELIVERY OR PAYMENT TO AN OWNER UNDER
16 SUBSECTION (1) OF THIS SECTION OF PROPERTY OR PAYMENT TO THE
17 OWNER OF NET PROCEEDS OF A SALE OF THE PROPERTY, THE
18 ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS IN
19 ACCORDANCE WITH SECTIONS 38-13-902.2 TO 38-13-902.4. THE
20 ADMINISTRATOR SHALL PAY THE AMOUNT TO THE APPROPRIATE STATE
21 AGENCY AND NOTIFY THE OWNER OF THE PAYMENT.

22 (3) THE ADMINISTRATOR MAY MAKE PERIODIC INQUIRIES OF STATE
23 AGENCIES IN THE ABSENCE OF A CLAIM FILED UNDER SECTION 38-13-903
24 TO DETERMINE WHETHER AN APPARENT OWNER INCLUDED IN THE
25 UNCLAIMED PROPERTY RECORDS OF THIS STATE HAS AN ENFORCEABLE
26 DEBT DESCRIBED IN SECTIONS 38-13-902.2 TO 38-13-902.4. THE
27 ADMINISTRATOR FIRST SHALL APPLY THE PROPERTY OR NET PROCEEDS OF

1 A SALE OF PROPERTY HELD BY THE ADMINISTRATOR TO A DEBT UNDER
2 SECTIONS 38-13-902.2 TO 38-13-902.4 OF AN APPARENT OWNER THAT
3 APPEARS IN THE RECORDS OF THE ADMINISTRATOR AND DELIVER THE
4 AMOUNT TO THE APPROPRIATE STATE AGENCY. THE ADMINISTRATOR
5 SHALL NOTIFY THE APPARENT OWNER OF THE PAYMENT.

6 **38-13-906. Action by person whose claim is denied.** NOT LATER
7 THAN ONE YEAR AFTER FILING A CLAIM WITH THE ADMINISTRATOR UNDER
8 SECTION 38-13-903, THE CLAIMANT MAY COMMENCE AN ACTION AGAINST
9 THE ADMINISTRATOR IN THE DISTRICT COURT FOR THE CITY AND COUNTY
10 OF DENVER TO ESTABLISH A CLAIM THAT HAS BEEN DENIED OR DEEMED
11 DENIED UNDER SECTION 38-13-904. ON FINAL DETERMINATION OF THE
12 ACTION, THE COURT MAY, ON APPLICATION, AWARD TO THE PLAINTIFF
13 THEIR REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES OF
14 LITIGATION.

15 PART 10

16 VERIFIED REPORT OF PROPERTY -
17 EXAMINATION OF RECORDS

18 **38-13-1001. Verified report of property.** (1) IF A PERSON DOES
19 NOT FILE A REPORT REQUIRED BY SECTION 38-13-401 OR THE
20 ADMINISTRATOR BELIEVES THAT A PERSON MAY HAVE FILED AN
21 INACCURATE, INCOMPLETE, OR FALSE REPORT, THE ADMINISTRATOR MAY
22 REQUIRE THE PERSON TO FILE A VERIFIED REPORT IN A FORM PRESCRIBED
23 BY THE ADMINISTRATOR. THE REPORT MUST:

24 (a) STATE WHETHER THE PERSON IS HOLDING PROPERTY
25 REPORTABLE UNDER THIS ARTICLE 13;

26 (b) DESCRIBE PROPERTY NOT PREVIOUSLY REPORTED OR ABOUT
27 WHICH THE ADMINISTRATOR HAS INQUIRED;

1 (c) SPECIFICALLY IDENTIFY PROPERTY DESCRIBED UNDER
2 SUBSECTION (1)(b) OF THIS SECTION ABOUT WHICH THERE IS A DISPUTE
3 WHETHER IT IS REPORTABLE UNDER THIS ARTICLE 13; AND

4 (d) STATE THE AMOUNT OR VALUE OF THE PROPERTY.

5 **38-13-1002. Examination of records to determine compliance.**

6 (1) THE ADMINISTRATOR, AT REASONABLE TIMES AND ON REASONABLE
7 NOTICE, MAY:

8 (a) EXAMINE THE RECORDS OF A PERSON, INCLUDING
9 EXAMINATION OF APPROPRIATE RECORDS IN THE POSSESSION OF AN AGENT
10 OF THE PERSON UNDER EXAMINATION, IF SUCH RECORDS ARE REASONABLY
11 NECESSARY TO DETERMINE WHETHER THE PERSON HAS COMPLIED WITH
12 THIS ARTICLE 13;

13 (b) ISSUE AN ADMINISTRATIVE SUBPOENA REQUIRING THE PERSON
14 OR AN AGENT OF THE PERSON TO MAKE RECORDS AVAILABLE FOR
15 EXAMINATION; AND

16 (c) BRING AN ACTION SEEKING JUDICIAL ENFORCEMENT OF THE
17 SUBPOENA.

18 **38-13-1003. Rules for conducting examination.** (1) THE
19 ADMINISTRATOR SHALL ADOPT RULES GOVERNING PROCEDURES AND
20 STANDARDS FOR AN EXAMINATION UNDER SECTION 38-13-1002,
21 INCLUDING RULES FOR USE OF AN ESTIMATION, EXTRAPOLATION, AND
22 STATISTICAL SAMPLING IN CONDUCTING AN EXAMINATION.

23 (2) AN EXAMINATION UNDER SECTION 38-13-1002 MUST BE
24 PERFORMED UNDER RULES ADOPTED UNDER SUBSECTION (1) OF THIS
25 SECTION AND WITH GENERALLY ACCEPTED EXAMINATION PRACTICES AND
26 STANDARDS APPLICABLE TO AN UNCLAIMED-PROPERTY EXAMINATION.

27 (3) IF A PERSON SUBJECT TO EXAMINATION UNDER SECTION

1 38-13-1002 HAS FILED THE REPORTS REQUIRED BY SECTIONS 38-13-401
2 AND 38-13-1001 AND HAS RETAINED THE RECORDS REQUIRED BY SECTION
3 38-13-404, THE FOLLOWING RULES APPLY:

4 (a) THE EXAMINATION MUST INCLUDE A REVIEW OF THE PERSON'S
5 RECORDS;

6 (b) THE EXAMINATION MUST NOT BE BASED ON AN ESTIMATE
7 UNLESS THE PERSON EXPRESSLY CONSENTS IN A RECORD TO THE USE OF AN
8 ESTIMATE; AND

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

12 **38-13-1004. Records obtained in examination.** (1) RECORDS
13 OBTAINED AND RECORDS, INCLUDING WORK PAPERS, COMPILED BY THE
14 ADMINISTRATOR IN THE COURSE OF CONDUCTING AN EXAMINATION UNDER
15 SECTION 38-13-1002:

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

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

21 (c) MAY BE USED IN A JOINT EXAMINATION CONDUCTED WITH
22 ANOTHER STATE, THE UNITED STATES, A FOREIGN COUNTRY OR
23 SUBORDINATE UNIT OF A FOREIGN COUNTRY, OR ANY OTHER
24 GOVERNMENTAL ENTITY IF THE GOVERNMENTAL ENTITY CONDUCTING THE
25 EXAMINATION IS LEGALLY BOUND TO MAINTAIN THE CONFIDENTIALITY
26 AND SECURITY OF INFORMATION OBTAINED FROM A PERSON SUBJECT TO
27 EXAMINATION IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF

1 THIS ARTICLE 13;

2 (d) MUST BE DISCLOSED, ON REQUEST, TO THE PERSON THAT
3 ADMINISTERS THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE FOR
4 THAT STATE'S USE IN CIRCUMSTANCES EQUIVALENT TO CIRCUMSTANCES
5 DESCRIBED IN THIS PART 10, IF THE OTHER STATE IS REQUIRED TO
6 MAINTAIN THE CONFIDENTIALITY AND SECURITY OF INFORMATION
7 OBTAINED IN A MANNER SUBSTANTIALLY EQUIVALENT TO PART 14 OF THIS
8 ARTICLE 13;

9 (e) SHALL BE PRODUCED BY THE ADMINISTRATOR UNDER AN
10 ADMINISTRATIVE OR JUDICIAL SUBPOENA OR ADMINISTRATIVE OR COURT
11 ORDER; AND

12 (f) SHALL BE PRODUCED BY THE ADMINISTRATOR ON REQUEST OF
13 THE PERSON SUBJECT TO THE EXAMINATION IN AN ADMINISTRATIVE OR
14 JUDICIAL PROCEEDING RELATING TO THE PROPERTY.

15 **38-13-1005. Evidence of unpaid debt or undischarged**
16 **obligation.** (1) A RECORD OF A PUTATIVE HOLDER SHOWING AN UNPAID
17 DEBT OR UNDISCHARGED OBLIGATION IS PRIMA FACIE EVIDENCE OF THE
18 DEBT OR OBLIGATION.

19 (2) A PUTATIVE HOLDER MAY ESTABLISH BY A PREPONDERANCE OF
20 THE EVIDENCE THAT THERE IS NO UNPAID DEBT OR UNDISCHARGED
21 OBLIGATION FOR A DEBT OR OBLIGATION DESCRIBED IN SUBSECTION (1) OF
22 THIS SECTION OR THAT THE DEBT OR OBLIGATION WAS NOT, OR NO LONGER
23 IS, A FIXED AND CERTAIN OBLIGATION OF THE PUTATIVE HOLDER.

24 (3) A PUTATIVE HOLDER MAY OVERCOME PRIMA FACIE EVIDENCE
25 UNDER SUBSECTION (1) OF THIS SECTION BY ESTABLISHING BY A
26 PREPONDERANCE OF THE EVIDENCE THAT A CHECK, DRAFT, OR SIMILAR
27 INSTRUMENT WAS:

1 (a) ISSUED AS AN UNACCEPTED OFFER IN SETTLEMENT OF AN
2 UNLIQUIDATED AMOUNT;

3 (b) ISSUED BUT LATER WAS REPLACED WITH ANOTHER
4 INSTRUMENT BECAUSE THE EARLIER INSTRUMENT WAS LOST OR
5 CONTAINED AN ERROR THAT WAS CORRECTED;

6 (c) ISSUED TO A PARTY AFFILIATED WITH THE ISSUER;

7 (d) PAID, SATISFIED, OR DISCHARGED;

8 (e) ISSUED IN ERROR;

9 (f) ISSUED WITHOUT CONSIDERATION;

10 (g) ISSUED BUT THERE WAS A FAILURE OF CONSIDERATION;

11 (h) VOIDED NOT LATER THAN NINETY DAYS AFTER ISSUANCE FOR
12 A VALID BUSINESS REASON SET FORTH IN A CONTEMPORANEOUS RECORD;
13 OR

14 (i) ISSUED BUT NOT DELIVERED TO THE THIRD-PARTY PAYEE FOR
15 A SUFFICIENT REASON RECORDED WITHIN A REASONABLE TIME AFTER
16 ISSUANCE.

17 (4) IN ASSERTING A DEFENSE UNDER THIS SECTION, A PUTATIVE
18 HOLDER MAY PRESENT EVIDENCE OF A COURSE OF DEALING BETWEEN THE
19 PUTATIVE HOLDER AND THE APPARENT OWNER OR OF CUSTOM AND
20 PRACTICE.

21 **38-13-1006. Failure of person examined to retain records.** IF
22 A PERSON SUBJECT TO EXAMINATION UNDER SECTION 38-13-1002 DOES
23 NOT RETAIN THE RECORDS REQUIRED BY SECTION 38-13-404, THE
24 ADMINISTRATOR MAY DETERMINE THE VALUE OF PROPERTY DUE USING A
25 REASONABLE METHOD OF ESTIMATION BASED ON ALL INFORMATION
26 AVAILABLE TO THE ADMINISTRATOR, INCLUDING EXTRAPOLATION AND USE
27 OF STATISTICAL SAMPLING WHEN APPROPRIATE AND NECESSARY,

1 CONSISTENT WITH EXAMINATION PROCEDURES AND STANDARDS ADOPTED
2 UNDER SECTION 38-13-1003 (1) AND IN ACCORDANCE WITH SECTION
3 38-13-1003 (2).

4 **38-13-1007. Report to person whose records were examined.**

5 (1) AT THE CONCLUSION OF AN EXAMINATION UNDER SECTION
6 38-13-1002, THE ADMINISTRATOR SHALL PROVIDE TO THE PERSON WHOSE
7 RECORDS WERE EXAMINED A COMPLETE AND UNREDACTED EXAMINATION
8 REPORT THAT SPECIFIES:

- 9 (a) THE WORK PERFORMED;
- 10 (b) THE PROPERTY TYPES REVIEWED;
- 11 (c) THE METHODOLOGY OF ANY ESTIMATION TECHNIQUE,
12 EXTRAPOLATION, OR STATISTICAL SAMPLING USED IN CONDUCTING THE
13 EXAMINATION;
- 14 (d) EACH CALCULATION SHOWING THE VALUE OF PROPERTY
15 DETERMINED TO BE DUE; AND
- 16 (e) THE FINDINGS OF THE PERSON CONDUCTING THE EXAMINATION.

17 **38-13-1008. Complaint to administrator about conduct of**

18 **person conducting examination.** (1) IF A PERSON SUBJECT TO
19 EXAMINATION UNDER SECTION 38-13-1002 BELIEVES THE PERSON
20 CONDUCTING THE EXAMINATION HAS MADE AN UNREASONABLE OR
21 UNAUTHORIZED REQUEST OR IS NOT PROCEEDING EXPEDITIOUSLY TO
22 COMPLETE THE EXAMINATION, THE PERSON IN A RECORD MAY ASK THE
23 ADMINISTRATOR TO INTERVENE AND TAKE APPROPRIATE REMEDIAL
24 ACTION, INCLUDING COUNTERMANDING THE REQUEST OF THE PERSON
25 CONDUCTING THE EXAMINATION, IMPOSING A TIME LIMIT FOR COMPLETION
26 OF THE EXAMINATION, OR REASSIGNING THE EXAMINATION TO ANOTHER
27 PERSON.

1 (2) IF A PERSON IN A RECORD REQUESTS A CONFERENCE WITH THE
2 ADMINISTRATOR TO PRESENT MATTERS THAT ARE THE BASIS OF A REQUEST
3 UNDER SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL
4 HOLD THE CONFERENCE NOT LATER THAN THIRTY DAYS AFTER RECEIVING
5 THE REQUEST. THE ADMINISTRATOR MAY HOLD THE CONFERENCE IN
6 PERSON, BY TELEPHONE, OR BY ELECTRONIC MEANS.

7 (3) IF A CONFERENCE IS HELD UNDER SUBSECTION (2) OF THIS
8 SECTION, NOT LATER THAN THIRTY DAYS AFTER THE CONFERENCE ENDS,
9 THE ADMINISTRATOR SHALL PROVIDE A REPORT IN A RECORD OF THE
10 CONFERENCE TO THE PERSON THAT REQUESTED THE CONFERENCE.

11 **38-13-1009. Administrator's contract with another to conduct**
12 **examination - definition.** (1) IN THIS SECTION, "RELATED TO THE
13 ADMINISTRATOR" REFERS TO AN INDIVIDUAL WHO IS:

14 (a) THE ADMINISTRATOR'S SPOUSE, PARTNER IN A CIVIL UNION,
15 DOMESTIC PARTNER, OR RECIPROCAL BENEFICIARY;

16 (b) THE ADMINISTRATOR'S CHILD, STEPCHILD, GRANDCHILD,
17 PARENT, STEPPARENT, SIBLING, STEPSIBLING, HALF-SIBLING, AUNT, UNCLE,
18 NIECE, OR NEPHEW;

19 (c) A SPOUSE, PARTNER IN A CIVIL UNION, DOMESTIC PARTNER, OR
20 RECIPROCAL BENEFICIARY OF AN INDIVIDUAL LISTED IN SUBSECTION (1)(b)
21 OF THIS SECTION; OR

22 (d) ANY INDIVIDUAL RESIDING IN THE ADMINISTRATOR'S
23 HOUSEHOLD.

24 (2) THE ADMINISTRATOR MAY CONTRACT WITH A PERSON TO
25 CONDUCT AN EXAMINATION UNDER THIS PART 10. THE CONTRACT MAY BE
26 AWARDED ONLY UNDER THE "PROCUREMENT CODE", ARTICLES 101 TO 112
27 OF TITLE 24.

1 (3) IF THE PERSON WITH WHICH THE ADMINISTRATOR CONTRACTS
2 UNDER SUBSECTION (2) OF THIS SECTION IS:

3 (a) AN INDIVIDUAL, THE INDIVIDUAL MUST NOT BE RELATED TO
4 THE ADMINISTRATOR; OR

5 (b) A BUSINESS ENTITY, THE ENTITY MUST NOT BE OWNED IN
6 WHOLE OR IN PART BY THE ADMINISTRATOR OR AN INDIVIDUAL RELATED
7 TO THE ADMINISTRATOR.

8 (4) AT LEAST SIXTY DAYS BEFORE ASSIGNING A PERSON UNDER
9 CONTRACT WITH THE ADMINISTRATOR UNDER SUBSECTION (2) OF THIS
10 SECTION TO CONDUCT AN EXAMINATION, THE ADMINISTRATOR SHALL
11 DEMAND IN A RECORD THAT THE PERSON TO BE EXAMINED SUBMIT A
12 REPORT AND DELIVER PROPERTY THAT IS PREVIOUSLY UNREPORTED.

13 (5) IF THE ADMINISTRATOR CONTRACTS WITH A PERSON UNDER
14 SUBSECTION (2) OF THIS SECTION:

15 (a) THE CONTRACT MAY PROVIDE FOR COMPENSATION OF THE
16 PERSON BASED ON A FIXED FEE, HOURLY FEE, OR CONTINGENT FEE;

17 (b) A CONTINGENT FEE ARRANGEMENT MUST NOT PROVIDE FOR A
18 PAYMENT THAT EXCEEDS TEN PERCENT OF THE AMOUNT OR VALUE OF
19 PROPERTY PAID OR DELIVERED AS A RESULT OF THE EXAMINATION; AND

20 (c) ON REQUEST BY A PERSON SUBJECT TO EXAMINATION BY A
21 CONTRACTOR, THE ADMINISTRATOR SHALL DELIVER TO THE PERSON A
22 COMPLETE AND UNREDACTED COPY OF THE CONTRACT AND ANY
23 CONTRACT BETWEEN THE CONTRACTOR AND A PERSON EMPLOYED OR
24 ENGAGED BY THE CONTRACTOR TO CONDUCT THE EXAMINATION.

25 (6) A CONTRACT UNDER SUBSECTION (2) OF THIS SECTION IS
26 SUBJECT TO PUBLIC DISCLOSURE WITHOUT REDACTION UNDER THE
27 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

1 (a) NOT LATER THAN TWENTY DAYS AFTER THE DATE OF THE
2 REQUEST, THE ADMINISTRATOR SHALL SET THE TIME AND PLACE OF THE
3 CONFERENCE;

4 (b) THE ADMINISTRATOR SHALL GIVE THE PUTATIVE HOLDER
5 NOTICE IN A RECORD OF THE TIME AND PLACE OF THE CONFERENCE;

6 (c) THE CONFERENCE MAY BE HELD IN PERSON, BY TELEPHONE, OR
7 BY ELECTRONIC MEANS, AS DETERMINED BY THE ADMINISTRATOR;

8 (d) THE REQUEST TOLLS THE NINETY-DAY PERIOD UNDER SECTIONS
9 38-13-1103 AND 38-13-1104 UNTIL NOTICE OF A DECISION UNDER
10 SUBSECTION (2)(g) OF THIS SECTION HAS BEEN GIVEN TO THE PUTATIVE
11 HOLDER OR THE PUTATIVE HOLDER WITHDRAWS THE REQUEST FOR THE
12 CONFERENCE;

13 (e) THE CONFERENCE MAY BE POSTPONED, ADJOURNED, AND
14 RECONVENED AS THE ADMINISTRATOR DETERMINES APPROPRIATE;

15 (f) THE ADMINISTRATOR OR ADMINISTRATOR'S DESIGNEE, WITH
16 THE APPROVAL OF THE ADMINISTRATOR, MAY MODIFY A DETERMINATION
17 MADE UNDER SECTION 38-13-1011 OR WITHDRAW IT; AND

18 (g) THE ADMINISTRATOR SHALL ISSUE A DECISION IN A RECORD
19 AND PROVIDE A COPY OF THE RECORD TO THE PUTATIVE HOLDER AND
20 EXAMINER NOT LATER THAN TWENTY DAYS AFTER THE CONFERENCE ENDS.

21 (3) A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION IS NOT
22 AN ADMINISTRATIVE REMEDY AND IS NOT A CONTESTED CASE SUBJECT TO
23 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24.
24 AN OATH IS NOT REQUIRED AND THE RULES OF EVIDENCE DO NOT APPLY IN
25 THE CONFERENCE.

26 (4) AT A CONFERENCE UNDER SUBSECTION (2) OF THIS SECTION,
27 THE PUTATIVE HOLDER SHALL BE GIVEN AN OPPORTUNITY TO CONFER

1 INFORMALLY WITH THE ADMINISTRATOR AND THE PERSON THAT EXAMINED
2 THE RECORDS OF THE PUTATIVE HOLDER TO:

3 (a) DISCUSS THE DETERMINATION MADE UNDER SECTION
4 38-13-1011; AND

5 (b) PRESENT ANY ISSUE CONCERNING THE VALIDITY OF THE
6 DETERMINATION.

7 (5) IF THE ADMINISTRATOR FAILS TO ACT WITHIN THE PERIOD
8 PRESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE FAILURE DOES NOT
9 AFFECT A RIGHT OF THE ADMINISTRATOR; EXCEPT THAT INTEREST DOES
10 NOT ACCRUE ON THE AMOUNT FOR WHICH THE PUTATIVE HOLDER WAS
11 DETERMINED TO BE LIABLE UNDER SECTION 38-13-1011 DURING THE
12 PERIOD IN WHICH THE ADMINISTRATOR FAILED TO ACT UNTIL THE EARLIER
13 OF:

14 (a) THE DATE UNDER SECTION 38-13-1103 WHEN THE PUTATIVE
15 HOLDER INITIATES ADMINISTRATIVE REVIEW OR FILES AN ACTION UNDER
16 SECTION 38-13-1104; OR

17 (b) NINETY DAYS AFTER THE PUTATIVE HOLDER RECEIVED NOTICE
18 OF THE ADMINISTRATOR'S DETERMINATION UNDER SECTION 38-13-1011 IF
19 NO REVIEW WAS INITIATED UNDER SECTION 38-13-1103 AND NO ACTION
20 WAS FILED UNDER SECTION 38-13-1104.

21 (6) THE ADMINISTRATOR MAY HOLD AN INFORMAL CONFERENCE
22 WITH A PUTATIVE HOLDER ABOUT A DETERMINATION UNDER SECTION
23 38-13-1011 WITHOUT A REQUEST AT ANY TIME BEFORE THE PUTATIVE
24 HOLDER INITIATES ADMINISTRATIVE REVIEW UNDER SECTION 38-13-1103
25 OR FILES AN ACTION UNDER SECTION 38-13-1104.

26 (7) INTEREST AND PENALTIES UNDER SECTION 38-13-1204
27 CONTINUE TO ACCRUE ON PROPERTY NOT REPORTED, PAID, OR DELIVERED

1 AS REQUIRED BY THIS ARTICLE 13 AFTER THE INITIATION, AND DURING THE
2 PENDENCY, OF AN INFORMAL CONFERENCE UNDER THIS SECTION.

3 **38-13-1102. Review of administrator's determination.** (1) A
4 PUTATIVE HOLDER MAY SEEK RELIEF FROM A DETERMINATION UNDER
5 SECTION 38-13-1011 OR 38-13-1205 BY:

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

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

8 **38-13-1103. Administrative review.** (1) NOT LATER THAN
9 NINETY DAYS AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S
10 DETERMINATION UNDER SECTION 38-13-1011 OR THAT A CIVIL PENALTY
11 HAS BEEN IMPOSED UNDER SECTION 38-13-1205, A PUTATIVE HOLDER OR
12 A HOLDER MAY INITIATE A PROCEEDING UNDER THE "STATE
13 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, FOR REVIEW
14 OF THE ADMINISTRATOR'S DETERMINATION.

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

18 **38-13-1104. Judicial remedy.** (1) NOT LATER THAN NINETY DAYS
19 AFTER RECEIVING NOTICE OF THE ADMINISTRATOR'S DETERMINATION
20 UNDER SECTION 38-13-1011 OR THAT A CIVIL PENALTY HAS BEEN IMPOSED
21 UNDER SECTION 38-13-1205, A PUTATIVE HOLDER OR A HOLDER MAY:

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

1 (b) PAY THE CIVIL PENALTY OR PAY THE AMOUNT OR DELIVER THE
2 PROPERTY THE ADMINISTRATOR DETERMINED MUST BE PAID OR DELIVERED
3 TO THE ADMINISTRATOR AND, NOT LATER THAN SIX MONTHS AFTER
4 PAYMENT OR DELIVERY, FILE AN ACTION AGAINST THE ADMINISTRATOR IN
5 THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER FOR A
6 REFUND OF ALL OR PART OF THE AMOUNT PAID OR RETURN OF ALL OR PART
7 OF THE PROPERTY DELIVERED.

8 (2) IF A HOLDER PAYS A CIVIL PENALTY OR A PUTATIVE HOLDER
9 PAYS OR DELIVERS PROPERTY DETERMINED BY THE ADMINISTRATOR TO BE
10 PAID OR DELIVERED TO THE ADMINISTRATOR AT ANY TIME AFTER THE
11 HOLDER OR PUTATIVE HOLDER FILES AN ACTION UNDER SUBSECTION (1)(a)
12 OF THIS SECTION, THE COURT SHALL CONTINUE THE ACTION AS IF IT HAD
13 BEEN FILED ORIGINALLY AS AN ACTION FOR A REFUND OR RETURN OF
14 PROPERTY UNDER SUBSECTION (1)(b) OF THIS SECTION.

15 (3) ON THE FINAL DETERMINATION OF AN ACTION FILED UNDER
16 SUBSECTION (1) OF THIS SECTION, THE COURT MAY, ON APPLICATION,
17 AWARD TO THE PLAINTIFF THEIR REASONABLE ATTORNEY FEES, COSTS,
18 AND EXPENSES OF LITIGATION.

19 (4) A HOLDER OR PUTATIVE HOLDER THAT IS THE PREVAILING
20 PARTY IN AN ACTION UNDER SUBSECTION (1) OF THIS SECTION FOR REFUND
21 OF MONEY PAID TO THE ADMINISTRATOR IS ENTITLED TO INTEREST ON THE
22 AMOUNT REFUNDED, AT THE SAME RATE A HOLDER IS REQUIRED TO PAY TO
23 THE ADMINISTRATOR UNDER SECTION 38-13-1204 (1), FROM THE DATE
24 PAID TO THE ADMINISTRATOR UNTIL THE DATE OF THE REFUND.

25 PART 12

26 ENFORCEMENT BY ADMINISTRATOR

27 **38-13-1201. Judicial action to enforce liability.** (1) IF A

1 DETERMINATION UNDER SECTION 38-13-1011 BECOMES FINAL AND IS NOT
2 SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW, THE ADMINISTRATOR
3 MAY COMMENCE AN ACTION IN THE DISTRICT COURT FOR THE CITY AND
4 COUNTY OF DENVER OR IN AN APPROPRIATE COURT OF ANOTHER STATE TO
5 ENFORCE THE DETERMINATION AND SECURE PAYMENT OR DELIVERY OF
6 PAST DUE, UNPAID, OR UNDELIVERED PROPERTY. THE ACTION MUST BE
7 BROUGHT NOT LATER THAN ONE YEAR AFTER THE DETERMINATION
8 BECOMES FINAL.

9 (2) IN AN ACTION UNDER SUBSECTION (1) OF THIS SECTION, IF NO
10 COURT IN THIS STATE HAS JURISDICTION OVER THE DEFENDANT, THE
11 ADMINISTRATOR MAY COMMENCE AN ACTION IN ANY COURT HAVING
12 JURISDICTION OVER THE DEFENDANT.

13 **38-13-1202. Interstate and international agreement -**
14 **cooperation.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE
15 ADMINISTRATOR MAY:

16 (a) EXCHANGE INFORMATION WITH ANOTHER STATE OR FOREIGN
17 COUNTRY RELATING TO PROPERTY PRESUMED ABANDONED OR RELATING
18 TO THE POSSIBLE EXISTENCE OF PROPERTY PRESUMED ABANDONED; AND

19 (b) AUTHORIZE IN A RECORD ANOTHER STATE OR FOREIGN
20 COUNTRY OR A PERSON ACTING ON BEHALF OF THE OTHER STATE OR
21 COUNTRY TO EXAMINE ITS RECORDS OF A PUTATIVE HOLDER AS PROVIDED
22 IN PART 10 OF THIS ARTICLE 13.

23 (2) AN EXCHANGE OR EXAMINATION UNDER SUBSECTION (1) OF
24 THIS SECTION MAY BE DONE ONLY IF THE STATE OR FOREIGN COUNTRY HAS
25 CONFIDENTIALITY AND SECURITY REQUIREMENTS SUBSTANTIALLY
26 EQUIVALENT TO THOSE IN PART 14 OF THIS ARTICLE 13 OR AGREES IN A
27 RECORD TO BE BOUND BY THIS STATE'S CONFIDENTIALITY AND SECURITY

1 REQUIREMENTS.

2 **38-13-1203. Action involving another state or foreign country.**

3 (1) THE ADMINISTRATOR MAY JOIN ANOTHER STATE OR FOREIGN
4 COUNTRY TO EXAMINE AND SEEK ENFORCEMENT OF THIS ARTICLE 13
5 AGAINST A PUTATIVE HOLDER.

6 (2) ON REQUEST OF ANOTHER STATE OR FOREIGN COUNTRY, THE
7 ATTORNEY GENERAL MAY COMMENCE AN ACTION ON BEHALF OF THE
8 OTHER STATE OR COUNTRY TO ENFORCE, IN THIS STATE, THE LAW OF THE
9 OTHER STATE OR COUNTRY AGAINST A PUTATIVE HOLDER SUBJECT TO A
10 CLAIM BY THE OTHER STATE OR COUNTRY, IF THE OTHER STATE OR
11 COUNTRY AGREES TO PAY COSTS INCURRED BY THE ATTORNEY GENERAL
12 IN THE ACTION.

13 (3) THE ADMINISTRATOR MAY REQUEST THE OFFICIAL AUTHORIZED
14 TO ENFORCE THE UNCLAIMED PROPERTY LAW OF ANOTHER STATE OR
15 FOREIGN COUNTRY TO COMMENCE AN ACTION TO RECOVER PROPERTY IN
16 THE OTHER STATE OR COUNTRY ON BEHALF OF THE ADMINISTRATOR. THIS
17 STATE SHALL PAY THE COSTS, INCLUDING REASONABLE ATTORNEY FEES
18 AND EXPENSES, INCURRED BY THE OTHER STATE OR FOREIGN COUNTRY IN
19 AN ACTION UNDER THIS SUBSECTION (3).

20 (4) THE ADMINISTRATOR MAY PURSUE AN ACTION ON BEHALF OF
21 THIS STATE TO RECOVER PROPERTY SUBJECT TO THIS ARTICLE 13 BUT
22 DELIVERED TO THE CUSTODY OF ANOTHER STATE IF THE ADMINISTRATOR
23 BELIEVES THE PROPERTY IS SUBJECT TO THE CUSTODY OF THE
24 ADMINISTRATOR.

25 (5) THE ADMINISTRATOR MAY RETAIN AN ATTORNEY IN THIS
26 STATE, ANOTHER STATE, OR A FOREIGN COUNTRY TO COMMENCE AN
27 ACTION TO RECOVER PROPERTY ON BEHALF OF THE ADMINISTRATOR AND

1 MAY AGREE TO PAY ATTORNEY FEES BASED IN WHOLE OR IN PART ON A
2 FIXED FEE, HOURLY FEE, OR PERCENTAGE OF THE AMOUNT OR VALUE OF
3 PROPERTY RECOVERED IN THE ACTION.

4 (6) EXPENSES INCURRED BY THIS STATE IN AN ACTION UNDER THIS
5 SECTION MAY BE PAID FROM PROPERTY RECEIVED UNDER THIS ARTICLE 13
6 OR THE NET PROCEEDS OF THE PROPERTY. EXPENSES PAID TO RECOVER
7 PROPERTY SHALL NOT BE DEDUCTED FROM THE AMOUNT THAT IS SUBJECT
8 TO A CLAIM UNDER THIS ARTICLE 13 BY THE OWNER.

9 **38-13-1204. Interest and penalty for failure to act in timely**
10 **manner.** (1) A HOLDER THAT FAILS TO REPORT, PAY, OR DELIVER
11 PROPERTY WITHIN THE TIME PRESCRIBED BY THIS ARTICLE 13 SHALL PAY
12 TO THE ADMINISTRATOR INTEREST AT THE ANNUAL RATE SPECIFIED IN
13 SECTION 39-21-110.5 ON THE PROPERTY OR VALUE OF THE PROPERTY
14 FROM THE DATE THE PROPERTY SHOULD HAVE BEEN REPORTED, PAID, OR
15 DELIVERED TO THE ADMINISTRATOR UNTIL THE DATE REPORTED, PAID, OR
16 DELIVERED.

17 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1205 OR
18 38-13-1206, THE ADMINISTRATOR MAY REQUIRE A HOLDER THAT FAILS TO
19 REPORT, PAY, OR DELIVER PROPERTY WITHIN THE TIME PRESCRIBED BY
20 THIS ARTICLE 13 TO PAY TO THE ADMINISTRATOR, IN ADDITION TO
21 INTEREST INCLUDED UNDER SUBSECTION (1) OF THIS SECTION, A CIVIL
22 PENALTY OF TWO HUNDRED DOLLARS FOR EACH DAY THE DUTY IS NOT
23 PERFORMED, UP TO A CUMULATIVE MAXIMUM AMOUNT OF FIVE THOUSAND
24 DOLLARS.

25 **38-13-1205. Other civil penalties.** (1) IF A HOLDER ENTERS INTO
26 A CONTRACT OR OTHER ARRANGEMENT FOR THE PURPOSE OF EVADING AN
27 OBLIGATION UNDER THIS ARTICLE 13 OR OTHERWISE WILLFULLY FAILS TO

1 PERFORM A DUTY IMPOSED ON THE HOLDER UNDER THIS ARTICLE 13, THE
2 ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY THE ADMINISTRATOR,
3 IN ADDITION TO INTEREST AS PROVIDED IN SECTION 38-13-1204 (1), A
4 CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR EACH DAY THE
5 OBLIGATION IS EVADED OR THE DUTY IS NOT PERFORMED, UP TO A
6 CUMULATIVE MAXIMUM AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS,
7 PLUS TWENTY-FIVE PERCENT OF THE AMOUNT OR VALUE OF PROPERTY
8 THAT SHOULD HAVE BEEN BUT WAS NOT REPORTED, PAID, OR DELIVERED
9 AS A RESULT OF THE EVASION OR FAILURE TO PERFORM.

10 (2) IF A HOLDER MAKES A FRAUDULENT REPORT UNDER THIS
11 ARTICLE 13, THE ADMINISTRATOR MAY REQUIRE THE HOLDER TO PAY TO
12 THE ADMINISTRATOR, IN ADDITION TO INTEREST UNDER SECTION
13 38-13-1204 (1), A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR EACH
14 DAY FROM THE DATE THE REPORT WAS MADE UNTIL CORRECTED, UP TO A
15 CUMULATIVE MAXIMUM AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS,
16 PLUS TWENTY-FIVE PERCENT OF THE AMOUNT OR VALUE OF ANY PROPERTY
17 THAT SHOULD HAVE BEEN REPORTED BUT WAS NOT INCLUDED IN THE
18 REPORT OR WAS UNDERREPORTED.

19 **38-13-1206. Waiver of interest and penalty.** THE
20 ADMINISTRATOR SHALL WAIVE A PENALTY UNDER SECTION 38-13-1204 (2)
21 IF THE ADMINISTRATOR DETERMINES THAT THE HOLDER ACTED IN GOOD
22 FAITH AND WITHOUT NEGLIGENCE.

23 PART 13

24 AGREEMENT TO LOCATE PROPERTY OF
25 APPARENT OWNER HELD BY ADMINISTRATOR

26 **38-13-1301. When agreement to locate property enforceable.**
27 (1) AN AGREEMENT BY AN APPARENT OWNER AND ANOTHER PERSON, THE

1 PRIMARY PURPOSE OF WHICH IS TO LOCATE, DELIVER, RECOVER, OR ASSIST
2 IN THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY HELD BY THE
3 ADMINISTRATOR, IS ENFORCEABLE ONLY IF THE AGREEMENT:

4 (a) IS IN A RECORD THAT CLEARLY STATES THE NATURE OF THE
5 PROPERTY AND THE SERVICES TO BE PROVIDED;

6 (b) IS SIGNED BY OR ON BEHALF OF THE APPARENT OWNER; AND

7 (c) STATES THE AMOUNT OR VALUE OF THE PROPERTY
8 REASONABLY EXPECTED TO BE RECOVERED, COMPUTED BEFORE AND
9 AFTER A FEE OR OTHER COMPENSATION TO BE PAID TO THE PERSON HAS
10 BEEN DEDUCTED.

11 **38-13-1302. When agreement to locate property void - rules.**

12 (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, AN AGREEMENT UNDER
13 SECTION 38-13-1301 IS VOID IF IT IS ENTERED INTO DURING THE PERIOD
14 BEGINNING ON THE DATE THE PROPERTY WAS PAID OR DELIVERED BY A
15 HOLDER TO THE ADMINISTRATOR AND ENDING TWENTY-FOUR MONTHS
16 AFTER THE PAYMENT OR DELIVERY.

17 (2) IF A PROVISION IN AN AGREEMENT DESCRIBED IN SUBSECTION
18 (1) OF THIS SECTION APPLIES TO MINERAL PROCEEDS FOR WHICH
19 COMPENSATION IS TO BE PAID TO THE OTHER PERSON BASED IN WHOLE OR
20 IN PART ON A PART OF THE UNDERLYING MINERALS OR MINERAL PROCEEDS
21 NOT THEN PRESUMED ABANDONED, THE PROVISION IS VOID REGARDLESS
22 OF WHEN THE AGREEMENT WAS ENTERED INTO.

23 (3) THE ADMINISTRATOR SHALL ADOPT RULES GOVERNING THE
24 MAXIMUM COMPENSATION IN AN AGREEMENT UNDER SUBSECTION (1) OF
25 THIS SECTION. AN AGREEMENT THAT PROVIDES FOR COMPENSATION IN AN
26 AMOUNT THAT EXCEEDS THE MAXIMUM AMOUNT ESTABLISHED BY RULE
27 IS UNENFORCEABLE EXCEPT BY THE APPARENT OWNER. AN APPARENT

1 OWNER OR THE ADMINISTRATOR, ACTING ON BEHALF OF AN APPARENT
2 OWNER, OR BOTH, MAY FILE AN ACTION IN THE DISTRICT COURT FOR THE
3 CITY AND COUNTY OF DENVER TO REDUCE THE COMPENSATION TO THE
4 MAXIMUM AMOUNT. ON THE FINAL DETERMINATION OF AN ACTION FILED
5 UNDER THIS SUBSECTION (3), THE COURT MAY, ON APPLICATION, AWARD
6 THE PLAINTIFF ITS REASONABLE ATTORNEY FEES, COSTS, AND EXPENSES OF
7 LITIGATION.

8 (4) AN APPARENT OWNER OR THE ADMINISTRATOR MAY ASSERT
9 THAT AN AGREEMENT DESCRIBED IN THIS SECTION IS VOID ON A GROUND
10 OTHER THAN IT PROVIDES FOR PAYMENT OF UNCONSCIONABLE
11 COMPENSATION.

12 (5) THIS SECTION DOES NOT APPLY TO AN APPARENT OWNER'S
13 AGREEMENT WITH AN ATTORNEY TO PURSUE A CLAIM FOR RECOVERY OF
14 SPECIFICALLY IDENTIFIED PROPERTY HELD BY THE ADMINISTRATOR OR TO
15 CONTEST THE ADMINISTRATOR'S DENIAL OF A CLAIM FOR RECOVERY OF
16 THE PROPERTY.

17 **38-13-1303. Right of agent of apparent owner to recover**
18 **property held by administrator.** (1) AN APPARENT OWNER THAT
19 CONTRACTS WITH A PERSON TO LOCATE, DELIVER, RECOVER, OR ASSIST IN
20 THE LOCATION, DELIVERY, OR RECOVERY OF PROPERTY OF THE APPARENT
21 OWNER THAT IS HELD BY THE ADMINISTRATOR MAY DESIGNATE THE
22 PERSON AS THE AGENT OF THE APPARENT OWNER. THE DESIGNATION MUST
23 BE IN A RECORD SIGNED BY THE APPARENT OWNER.

24 (2) THE ADMINISTRATOR SHALL GIVE THE AGENT OF THE APPARENT
25 OWNER ALL INFORMATION CONCERNING THE PROPERTY THAT THE
26 APPARENT OWNER IS ENTITLED TO RECEIVE, INCLUDING INFORMATION
27 THAT OTHERWISE IS CONFIDENTIAL INFORMATION UNDER SECTION

1 38-13-1402.

2 (3) IF AUTHORIZED BY THE APPARENT OWNER, THE AGENT OF THE
3 APPARENT OWNER MAY BRING AN ACTION AGAINST THE ADMINISTRATOR
4 ON BEHALF OF AND IN THE NAME OF THE APPARENT OWNER.

5 **38-13-1304. [Similar to former 38-13-128.5] Agreements to**
6 **locate reported property - overbids from foreclosure sales.**

7 (1) NOTWITHSTANDING ANY PROVISION OF SECTION 38-13-1303 TO THE
8 CONTRARY, AN AGREEMENT TO PAY COMPENSATION TO RECOVER OR
9 ASSIST IN RECOVERING AN UNCLAIMED OVERBID TRANSFERRED TO THE
10 ADMINISTRATOR UNDER SECTION 38-38-111 IS:

11 (a) NOT ENFORCEABLE UNLESS ENTERED INTO AT LEAST TWO
12 YEARS AFTER THE DATE OF THE TRANSFER;

13 (b) ENFORCEABLE IF:

14 (I) THE AGREEMENT IS IN WRITING AND SIGNED BY THE OWNER, AS
15 DEFINED IN SECTION 38-38-111 (5);

16 (II) THE AGREEMENT DESCRIBES THE PROPERTY AND THE DATE OF
17 THE FORECLOSURE SALE FROM WHICH THE OVERBID WAS DERIVED;

18 (III) THE AGREEMENT SETS FORTH THE NATURE OF THE SERVICES
19 TO BE PROVIDED; AND

20 (IV) THE COMPENSATION TO BE PAID UNDER THE TERMS OF THE
21 AGREEMENT DOES NOT EXCEED:

22 (A) TWENTY PERCENT OF THE AMOUNT OF THE OVERBID IF
23 ENTERED INTO AT LEAST TWO YEARS, BUT NOT MORE THAN THREE YEARS,
24 AFTER THE DATE OF THE TRANSFER; OR

25 (B) THIRTY PERCENT OF THE AMOUNT OF THE OVERBID IF ENTERED
26 INTO MORE THAN THREE YEARS AFTER THE DATE OF THE TRANSFER.

27 (2) A PERSON WHO INDUCES OR ATTEMPTS TO INDUCE ANOTHER

1 PERSON TO ENTER INTO AN AGREEMENT DESCRIBED IN THIS SECTION THAT
2 DOES NOT COMPLY WITH ALL REQUIREMENTS OF SUBSECTION (1) OF THIS
3 SECTION IS GUILTY OF A MISDEMEANOR, AS DEFINED IN SECTION
4 18-1.3-504, AND, UPON CONVICTION, SHALL BE PUNISHED BY
5 IMPRISONMENT IN THE COUNTY JAIL FOR UP TO SIX MONTHS, A FINE OF UP
6 TO TEN THOUSAND DOLLARS, OR BOTH.

7 (3) NOTHING IN SUBSECTION (1) OF THIS SECTION PROHIBITS AN
8 OWNER FROM ASSERTING, AT ANY TIME, THAT A WRITTEN, SIGNED
9 AGREEMENT TO RECOVER OR ASSIST IN RECOVERING AN OVERBID IS BASED
10 ON EXCESSIVE OR UNJUST CONSIDERATION.

11 (4) THE RESTRICTIONS SET FORTH IN THIS SECTION DO NOT APPLY
12 TO AN AGREEMENT TO PAY COMPENSATION TO RECOVER OR ASSIST IN
13 RECOVERING AN OVERBID OF LESS THAN ONE THOUSAND DOLLARS.

14 PART 14

15 CONFIDENTIALITY AND SECURITY OF INFORMATION

16 **38-13-1401. Definitions - applicability.** (1) IN THIS PART 14,
17 "PERSONAL INFORMATION" MEANS:

18 (a) INFORMATION THAT IDENTIFIES OR REASONABLY CAN BE USED
19 TO IDENTIFY AN INDIVIDUAL, SUCH AS FIRST AND LAST NAME IN
20 COMBINATION WITH THE INDIVIDUAL'S:

21 (I) SOCIAL SECURITY NUMBER OR OTHER GOVERNMENT-ISSUED
22 NUMBER OR IDENTIFIER;

23 (II) DATE OF BIRTH;

24 (III) HOME OR PHYSICAL ADDRESS;

25 (IV) ELECTRONIC-MAIL ADDRESS OR OTHER ONLINE CONTACT
26 INFORMATION OR INTERNET PROVIDER ADDRESS;

27 (V) FINANCIAL ACCOUNT NUMBER OR CREDIT OR DEBIT CARD

1 NUMBER;

2 (VI) BIOMETRIC DATA, HEALTH OR MEDICAL DATA, OR INSURANCE
3 INFORMATION; OR

4 (VII) PASSWORDS OR OTHER CREDENTIALS THAT PERMIT ACCESS
5 TO AN ONLINE OR OTHER ACCOUNT;

6 (b) PERSONALLY IDENTIFIABLE FINANCIAL OR INSURANCE
7 INFORMATION, INCLUDING NONPUBLIC PERSONAL INFORMATION DEFINED
8 BY APPLICABLE FEDERAL LAW; AND

9 (c) ANY COMBINATION OF DATA THAT, IF ACCESSED, DISCLOSED,
10 MODIFIED, OR DESTROYED WITHOUT AUTHORIZATION OF THE OWNER OF
11 THE DATA OR IS LOST OR MISUSED, WOULD REQUIRE NOTICE OR REPORTING
12 UNDER APPLICABLE FEDERAL AND STATE PRIVACY AND DATA SECURITY
13 LAW, WHETHER OR NOT THE ADMINISTRATOR OR THE ADMINISTRATOR'S
14 AGENT IS SUBJECT TO THE LAW.

15 (2) PROVISIONS OF THIS PART 14 APPLICABLE TO THE
16 ADMINISTRATOR OR THE ADMINISTRATOR'S RECORDS APPLY TO AN
17 ADMINISTRATOR'S AGENT.

18 **38-13-1402. Confidential information.** (1) EXCEPT AS
19 OTHERWISE PROVIDED IN THIS ARTICLE 13, THE FOLLOWING ARE
20 CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION OR DISCLOSURE:

21 (a) RECORDS OF THE ADMINISTRATOR AND THE ADMINISTRATOR'S
22 AGENT RELATED TO THE ADMINISTRATION OF THIS ARTICLE 13;

23 (b) REPORTS AND RECORDS OF A HOLDER IN POSSESSION OF THE
24 ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT; AND

25 (c) PERSONAL INFORMATION AND OTHER INFORMATION DERIVED
26 OR OTHERWISE OBTAINED BY OR COMMUNICATED TO THE ADMINISTRATOR
27 OR THE ADMINISTRATOR'S AGENT FROM AN EXAMINATION UNDER THIS

1 ARTICLE 13 OF THE RECORDS OF A PERSON.

2 (2) A RECORD OR OTHER INFORMATION THAT IS CONFIDENTIAL
3 UNDER THE LAW OF THIS STATE OTHER THAN THIS ARTICLE 13, ANOTHER
4 STATE, OR THE UNITED STATES CONTINUES TO BE CONFIDENTIAL WHEN
5 DISCLOSED OR DELIVERED UNDER THIS ARTICLE 13 TO THE
6 ADMINISTRATOR OR ADMINISTRATOR'S AGENT.

7 **38-13-1403. When confidential information may be disclosed.**

8 (1) WHEN REASONABLY NECESSARY TO ENFORCE OR IMPLEMENT THIS
9 ARTICLE 13, THE ADMINISTRATOR MAY DISCLOSE CONFIDENTIAL
10 INFORMATION CONCERNING PROPERTY HELD BY THE ADMINISTRATOR OR
11 THE ADMINISTRATOR'S AGENT ONLY TO:

12 (a) AN APPARENT OWNER OR THE APPARENT OWNER'S PERSONAL
13 REPRESENTATIVE, NEXT OF KIN, RELATIVE, ATTORNEY-AT-LAW, OTHER
14 LEGAL REPRESENTATIVE, OR AGENT DESIGNATED UNDER SECTION
15 38-13-1303 TO HAVE THE INFORMATION;

16 (b) THE PERSONAL REPRESENTATIVE, EXECUTOR, NEXT OF KIN, OR
17 RELATIVE OF A DECEASED APPARENT OWNER OR THE ATTORNEY-AT-LAW,
18 OTHER LEGAL REPRESENTATIVE, OR AGENT DESIGNATED UNDER SECTION
19 38-13-1303 BY THE DECEASED APPARENT OWNER OR A PERSON ENTITLED
20 TO INHERIT FROM THE DECEASED APPARENT OWNER;

21 (c) ANOTHER DEPARTMENT OR AGENCY OF THIS STATE OR THE
22 UNITED STATES;

23 (d) THE PERSON THAT ADMINISTERS THE UNCLAIMED PROPERTY
24 LAW OF ANOTHER STATE, IF THE OTHER STATE ACCORDS SUBSTANTIALLY
25 RECIPROCAL PRIVILEGES TO THE ADMINISTRATOR OF THIS STATE AND IF
26 THE OTHER STATE IS REQUIRED TO MAINTAIN THE CONFIDENTIALITY AND
27 SECURITY OF INFORMATION OBTAINED IN A MANNER SUBSTANTIALLY

1 EQUIVALENT TO THE REQUIREMENTS OF THIS PART 14; AND

2 (e) A PERSON SUBJECT TO AN EXAMINATION AS REQUIRED BY
3 SECTION 38-13-1004 (1)(f).

4 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-1402 (1),
5 THE ADMINISTRATOR SHALL INCLUDE IN PUBLISHED NOTICES AND ON A
6 WEBSITE OR DATABASE REQUIRED BY SECTION 38-13-503 (3) THE NAME
7 OF EACH APPARENT OWNER OF PROPERTY HELD BY THE ADMINISTRATOR.
8 THE ADMINISTRATOR MAY INCLUDE IN PUBLISHED NOTICES, PRINTED
9 PUBLICATIONS, TELECOMMUNICATIONS, THE INTERNET, OR OTHER MEDIA
10 AND ON THE WEBSITE OR IN THE DATABASE ADDITIONAL INFORMATION
11 CONCERNING THE APPARENT OWNER'S PROPERTY IF THE ADMINISTRATOR
12 BELIEVES THE INFORMATION WILL ASSIST IN IDENTIFYING AND RETURNING
13 PROPERTY TO THE OWNER AND DOES NOT DISCLOSE PERSONAL
14 INFORMATION EXCEPT THE HOME OR PHYSICAL ADDRESS OF AN APPARENT
15 OWNER.

16 (3) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
17 NOT USE CONFIDENTIAL INFORMATION PROVIDED TO THEM OR IN THEIR
18 POSSESSION EXCEPT AS EXPRESSLY AUTHORIZED BY THIS ARTICLE 13 OR
19 REQUIRED BY LAW OTHER THAN THIS ARTICLE 13.

20 **38-13-1404. Confidentiality agreement.** (1) A PERSON TO BE
21 EXAMINED UNDER SECTION 38-13-1002 MAY REQUIRE, AS A CONDITION OF
22 DISCLOSURE OF THE RECORDS OF THE PERSON TO BE EXAMINED, THAT
23 EACH PERSON HAVING ACCESS TO THE RECORDS DISCLOSED IN THE
24 EXAMINATION EXECUTE AND DELIVER TO THE PERSON TO BE EXAMINED A
25 CONFIDENTIALITY AGREEMENT THAT:

26 (a) IS IN A FORM THAT IS REASONABLY SATISFACTORY TO THE
27 ADMINISTRATOR; AND

1 (b) REQUIRES THE PERSON HAVING ACCESS TO RECORDS TO
2 COMPLY WITH THE PROVISIONS OF THIS PART 14 APPLICABLE TO THE
3 PERSON.

4 **38-13-1405. No confidential information in notice.** EXCEPT AS
5 OTHERWISE PROVIDED IN SECTIONS 38-13-501 AND 38-13-502, A HOLDER
6 IS NOT REQUIRED UNDER THIS ARTICLE 13 TO INCLUDE CONFIDENTIAL
7 INFORMATION IN A NOTICE THE HOLDER IS REQUIRED TO PROVIDE TO AN
8 APPARENT OWNER UNDER THIS ARTICLE 13.

9 **38-13-1406. Security of information.** (1) IF A HOLDER IS
10 REQUIRED TO INCLUDE CONFIDENTIAL INFORMATION IN A REPORT TO THE
11 ADMINISTRATOR, THE INFORMATION MUST BE PROVIDED BY SECURE
12 MEANS.

13 (2) IF CONFIDENTIAL INFORMATION IN A RECORD IS PROVIDED TO
14 AND MAINTAINED BY THE ADMINISTRATOR OR ADMINISTRATOR'S AGENT
15 AS REQUIRED BY THIS ARTICLE 13, THE ADMINISTRATOR OR
16 ADMINISTRATOR'S AGENT SHALL:

17 (a) IMPLEMENT ADMINISTRATIVE, TECHNICAL, AND PHYSICAL
18 SAFEGUARDS DESIGNED TO PROTECT THE SECURITY, CONFIDENTIALITY,
19 AND INTEGRITY OF THE INFORMATION AS REQUIRED BY THE LAW OF THIS
20 STATE AND FEDERAL LAW WHETHER OR NOT THE ADMINISTRATOR OR THE
21 ADMINISTRATOR'S AGENT IS SUBJECT TO THE LAW;

22 (b) PROTECT AGAINST REASONABLY ANTICIPATED THREATS OR
23 HAZARDS TO THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE
24 INFORMATION; AND

25 (c) PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE
26 INFORMATION THAT COULD RESULT IN SUBSTANTIAL HARM OR
27 INCONVENIENCE TO A HOLDER OR THE HOLDER'S CUSTOMERS, INCLUDING

1 INSUREDS, ANNUITANTS, AND POLICY OR CONTRACT OWNERS AND THEIR
2 BENEFICIARIES.

3 (3) THE ADMINISTRATOR:

4 (a) AFTER NOTICE AND COMMENT, SHALL ADOPT AND IMPLEMENT
5 A SECURITY PLAN THAT IDENTIFIES AND ASSESSES REASONABLY
6 FORESEEABLE INTERNAL AND EXTERNAL RISKS TO CONFIDENTIAL
7 INFORMATION IN THE ADMINISTRATOR'S POSSESSION AND SEEKS TO
8 MITIGATE THE RISKS; AND

9 (b) SHALL ENSURE THAT AN ADMINISTRATOR'S AGENT ADOPTS AND
10 IMPLEMENTS A SIMILAR PLAN WITH RESPECT TO CONFIDENTIAL
11 INFORMATION IN THE AGENT'S POSSESSION.

12 (4) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
13 EDUCATE AND TRAIN THEIR EMPLOYEES REGARDING THE PLAN ADOPTED
14 UNDER SUBSECTION (3) OF THIS SECTION.

15 (5) THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL
16 IN A SECURE MANNER RETURN OR DESTROY ALL CONFIDENTIAL
17 INFORMATION NO LONGER REASONABLY NEEDED UNDER THIS ARTICLE 13.

18 **38-13-1407. Security breach.** (1) EXCEPT TO THE EXTENT
19 PROHIBITED BY LAW OTHER THAN THIS ARTICLE 13, THE ADMINISTRATOR
20 OR ADMINISTRATOR'S AGENT SHALL NOTIFY A HOLDER AS SOON AS
21 PRACTICABLE OF:

22 (a) SUSPECTED LOSS, MISUSE, OR UNAUTHORIZED ACCESS,
23 DISCLOSURE, MODIFICATION, OR DESTRUCTION OF CONFIDENTIAL
24 INFORMATION OBTAINED FROM THE HOLDER IN THE POSSESSION OF THE
25 ADMINISTRATOR OR AN ADMINISTRATOR'S AGENT; AND

26 (b) ANY INTERFERENCE WITH OPERATIONS IN ANY SYSTEM
27 HOSTING OR HOUSING CONFIDENTIAL INFORMATION THAT:

1 (I) COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY
2 OF THE INFORMATION; OR

3 (II) CREATES A SUBSTANTIAL RISK OF IDENTITY FRAUD OR THEFT.

4 (2) EXCEPT AS NECESSARY TO INFORM AN INSURER, ATTORNEY,
5 INVESTIGATOR, OR OTHERS AS REQUIRED BY LAW, THE ADMINISTRATOR
6 AND AN ADMINISTRATOR'S AGENT SHALL NOT DISCLOSE, WITHOUT THE
7 EXPRESS CONSENT IN A RECORD OF THE HOLDER, AN EVENT DESCRIBED IN
8 SUBSECTION (1) OF THIS SECTION TO A PERSON WHOSE CONFIDENTIAL
9 INFORMATION WAS SUPPLIED BY THE HOLDER.

10 (3) IF AN EVENT DESCRIBED IN SUBSECTION (1) OF THIS SECTION
11 OCCURS, THE ADMINISTRATOR AND THE ADMINISTRATOR'S AGENT SHALL:

12 (a) TAKE ACTION NECESSARY FOR THE HOLDER TO UNDERSTAND
13 AND MINIMIZE THE EFFECTS OF THE EVENT AND DETERMINE ITS SCOPE;
14 AND

15 (b) COOPERATE WITH THE HOLDER WITH RESPECT TO:

16 (I) ANY NOTIFICATION REQUIRED BY LAW CONCERNING A DATA OR
17 OTHER SECURITY BREACH; AND

18 (II) A REGULATORY INQUIRY, LITIGATION, OR SIMILAR ACTION.

19 PART 15

20 MISCELLANEOUS PROVISIONS

21 **38-13-1501. Uniformity of application and construction.** IN
22 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
23 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
24 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

25 **38-13-1502. Relation to electronic signatures in global and**
26 **national commerce act.** THIS ARTICLE 13 MODIFIES, LIMITS, OR
27 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL

1 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,
2 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001
3 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
4 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

5 **38-13-1503. Transitional provision.** (1) AN INITIAL REPORT
6 FILED UNDER THIS ARTICLE 13 FOR PROPERTY THAT WAS NOT REQUIRED TO
7 BE REPORTED BEFORE JULY 1, 2020, BUT THAT IS REQUIRED TO BE
8 REPORTED UNDER THIS ARTICLE 13, MUST INCLUDE ALL ITEMS OF
9 PROPERTY THAT WOULD HAVE BEEN PRESUMED ABANDONED DURING THE
10 TEN-YEAR PERIOD PRECEDING JULY 1, 2020, AS IF THIS ARTICLE 13 HAD
11 BEEN IN EFFECT DURING THAT PERIOD.

12 (2) THIS ARTICLE 13 DOES NOT RELIEVE A HOLDER OF A DUTY THAT
13 AROSE BEFORE JULY 1, 2020, TO REPORT, PAY, OR DELIVER PROPERTY.
14 SUBJECT TO SECTION 38-13-609, A HOLDER THAT DID NOT COMPLY WITH
15 THE LAW GOVERNING UNCLAIMED PROPERTY BEFORE JULY 1, 2020, IS
16 SUBJECT TO APPLICABLE PROVISIONS FOR ENFORCEMENT AND PENALTIES
17 IN EFFECT BEFORE JULY 1, 2020.

18 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **amend**
19 (1)(iii)(II) as follows:

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

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

26 (II) The state treasurer and does not meet the requirements for
27 such an agreement as specified in ~~section 38-13-128.5, C.R.S.~~ SECTION

1 38-13-1304;

2 **SECTION 3.** In Colorado Revised Statutes, 8-45-118, **amend**
3 (3)(b) as follows:

4 **8-45-118. Treasurer custodian of fund - disbursements.**

5 (3) (b) For warrants issued on or after August 6, 2003, the funds
6 transferred pursuant to ~~paragraph (a) of this subsection (3)~~ SUBSECTION
7 (3)(a) OF THIS SECTION shall be subject to ~~the provisions of the "REVISED~~
8 UNIFORM Unclaimed Property Act", article 13 of title 38, ~~C.R.S.~~, and for
9 purposes of this ~~paragraph (b)~~ SUBSECTION (3)(b), Pinnacol Assurance
10 shall be considered an insurance company as defined in ~~section 38-13-102~~
11 ~~(6.5), C.R.S.~~ SECTION 38-13-102 (13).

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

14 **16-11-101.6. Collection of fines and fees - methods - charges**
15 **- judicial collection enhancement fund - definition.** (6) (a) The judicial
16 department may enter into a memorandum of understanding with the state
17 treasurer, acting as the administrator of unclaimed property under the
18 "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38,
19 ~~C.R.S.~~, for the purpose of offsetting against a claim for unclaimed
20 property the amount of outstanding fines, fees, costs, or surcharges owed
21 pursuant to law or an order entered by a court of this state by the person
22 claiming unclaimed property. When an offset is to be made, the judicial
23 department or the court to which the fines, fees, costs, or surcharges are
24 owed shall notify the defendant in writing that the state intends to offset
25 the defendant's outstanding fines, fees, costs, or surcharges against his or
26 her claim for unclaimed property.

27 (c) For purposes of this subsection (6), "claim for unclaimed

1 property" means a cash claim filed in accordance with ~~section 38-13-117,~~
2 ~~C.R.S.~~ SECTION 38-13-903.

3 **SECTION 5.** In Colorado Revised Statutes, 16-18.5-106.7,
4 **amend** (1) and (3) as follows:

5 **16-18.5-106.7. Unclaimed property offset - definition.** (1) The
6 judicial department may enter into a memorandum of understanding with
7 the state treasurer, acting as the administrator of unclaimed property
8 under the "REVISED UNIFORM Unclaimed Property Act", article 13 of title
9 38, ~~C.R.S.~~, for the purpose of offsetting against a claim for unclaimed
10 property the unpaid amount of restitution the person making the claim has
11 been ordered to pay pursuant to section 18-1.3-603 or 19-2-918. ~~C.R.S.~~
12 When an offset is to be made, the judicial department or the court in
13 which the person's restitution obligation is pending shall notify the person
14 in writing that the state intends to offset the amount of the person's unpaid
15 restitution obligation against his or her claim for unclaimed property.

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

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

21 **24-30-202. Procedures - vouchers, warrants, and checks -**
22 **rules - penalties.** (9) (c) In the event of any conflict between this
23 subsection (9) and any provision of the "REVISED UNIFORM Unclaimed
24 Property Act", article 13 of title 38, ~~C.R.S.~~, the provisions of the
25 "REVISED UNIFORM Unclaimed Property Act" shall control; except that
26 this subsection (9) shall control with regard to:

27 **SECTION 7.** In Colorado Revised Statutes, 24-49.7-106, **amend**

1 (1)(a) as follows:

2 **24-49.7-106. Colorado travel and tourism promotion fund -**
3 **Colorado travel and tourism additional source fund - creation -**
4 **nature of funds.** (1) There is hereby created a fund in the state treasury
5 to be known as the Colorado travel and tourism promotion fund, which
6 shall be administered by the board and which shall consist of:

7 (a) All money transferred thereto in accordance with ~~sections~~
8 ~~38-13-116.7(3)~~ SECTIONS 38-13-801.5 (3) and 44-30-701 (2); and

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

11 **24-51-205. General authority of the board.** (2) The board is
12 authorized to accept on behalf of the association any moneys or properties
13 received in the form of donations, gifts, appropriations, bequests,
14 forfeitures, or otherwise, or income derived therefrom. ~~The provisions of~~
15 This subsection (2) ~~shall not be interpreted to~~ DOES NOT allow the board
16 to accept or retain ~~moneys~~ MONEY held by the association that are
17 presumed to be abandoned pursuant to ~~the provisions of section~~
18 ~~38-13-108.5, C.R.S.~~ SECTION 38-13-216.

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

21 **24-51-218. Unclaimed money.** Notwithstanding any other
22 provision of this ~~article~~ ARTICLE 51 to the contrary, any ~~moneys~~ MONEY
23 that ~~are~~ IS presumed to be abandoned pursuant to ~~the provisions of section~~
24 ~~38-13-108.5, C.R.S., shall be~~ SECTION 38-13-216 IS subject to ~~the~~
25 ~~provisions of~~ the "REVISED UNIFORM Unclaimed Property Act", article 13
26 of title 38. ~~C.R.S.~~

27 **SECTION 10.** In Colorado Revised Statutes, 25.5-5-207, **amend**

1 (4)(a) as follows:

2 **25.5-5-207. Adult dental benefit - adult dental fund - creation**
3 **- legislative declaration.** (4) (a) There is hereby created in the state
4 treasury the adult dental fund, referred to in this section as the "fund",
5 consisting of ~~moneys~~ MONEY transferred to the fund from the unclaimed
6 property trust fund pursuant to ~~section 38-13-116.5(2.8), C.R.S.,~~ SECTION
7 38-13-801 (3) and any ~~moneys~~ MONEY that may be appropriated to the
8 fund by the general assembly. The ~~moneys~~ MONEY in the fund ~~are~~ IS
9 subject to annual appropriation by the general assembly to the state
10 department for the direct and indirect costs associated with implementing
11 the adult dental benefit pursuant to section 25.5-5-202 (1)(w).

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

14 **26-13-115.5. Family support registry fund created.** (1) There
15 is hereby created in the state treasury a fund to be known as the family
16 support registry fund, which shall consist of any ~~moneys~~ MONEY credited
17 thereto from the investment earnings on ~~moneys~~ MONEY deposited with
18 the state treasurer, ~~moneys~~ MONEY accruing from collections for child
19 support received by the family support registry, any undeliverable child
20 support payments, and any fees collected pursuant to section 26-13-114
21 (13). ~~Moneys~~ MONEY in the family support registry fund shall be
22 continuously appropriated to the state department to reimburse the family
23 support registry for unfunded payments by obligors or for other incidental
24 expenditures associated with the operation of the family support registry.
25 At the end of any fiscal year, all unexpended and unencumbered ~~moneys~~
26 MONEY in the family support registry fund shall remain in the fund and
27 shall not be credited or transferred to the general fund or any other fund

1 of the state; except that any non-IV-D child support payments that are
2 undeliverable after two years shall be considered unclaimed property for
3 purposes of the "REVISED UNIFORM Unclaimed Property Act", ARTICLE
4 13 OF TITLE 38, and shall be reported to the administrator of the "REVISED
5 UNIFORM Unclaimed Property Act" for purposes of locating the payee.
6 Consistent with the requirements for confidentiality of information
7 regarding child support, the state department shall specify the amount of
8 money that is unclaimed and provide sufficient identifying information,
9 if available, to allow the administrator to locate the payee.

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

12 **26-13-118.5. Unclaimed property offset - definitions.** (1) The
13 state department may enter into a memorandum of understanding with the
14 state treasurer, acting as the administrator of unclaimed property under
15 the "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38,
16 ~~C.R.S.~~, for the purpose of offsetting against a claim for unclaimed
17 property the amount of current child support, child support debt,
18 retroactive child support, child support arrearages, child support costs, or
19 child support when combined with maintenance owed by the person
20 claiming the unclaimed property.

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

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

26 **35-1-106.9. Agriculture management fund - creation.** There is
27 hereby created in the state treasury the agriculture management fund. The

1 fund shall consist of ~~moneys~~ MONEY transferred pursuant to ~~section~~
2 ~~38-13-116.7 (3), C.R.S.~~ SECTION 38-13-801.5 (3), any ~~moneys~~ MONEY
3 realized from the sale of the inspection and consumer services division
4 facility and other real property associated with that facility that are all
5 located in the Highlands neighborhood of Denver, Colorado, and any
6 ~~moneys~~ MONEY realized from the sale of the warehouse and storage
7 facility located at 5000 Packing House Road, Denver, Colorado. The
8 department shall use such ~~moneys~~ MONEY to fund agricultural efforts
9 approved by the commissioner, including, but not limited to, funding
10 additional department employees necessary to implement and manage
11 approved programs. ~~Moneys~~ MONEY may be used for direct assistance or
12 grant assistance for conservation districts created pursuant to article 70
13 of this ~~title.~~ ~~Moneys~~ TITLE 35. MONEY in the fund may be used for
14 expenses related to the department's office consolidation as authorized by
15 House Bill 13-1234, enacted in 2013, and as authorized by House Bill
16 16-1460, enacted in 2016. ~~Moneys~~ MONEY in the fund ~~are~~ IS subject to
17 annual appropriation to the department. Any ~~moneys~~ MONEY not
18 expended or encumbered from any appropriation at the end of any fiscal
19 year shall remain available for expenditure in the next fiscal year without
20 further appropriation. All interest derived from the deposit and investment
21 of ~~moneys~~ MONEY in the fund shall be credited to the fund and shall not
22 be transferred or credited to the general fund or any other fund.

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

25 **38-38-111. Treatment of an overbid - agreements to assist in**
26 **recovery of overbid prohibited - penalty - definition.** (3) (a) (I) When
27 the property is sold by the sheriff, all of the sale proceeds must be

1 deposited into the registry of the court.

2 (II) When the property is sold by the public trustee, any unclaimed
3 remaining overbid from a foreclosure sale shall be held by the public
4 trustee in escrow. The remaining overbid shall be held for six months
5 from the date of the sale. The public trustee is answerable for the funds
6 without interest at any time within the six-month period to any person
7 legally entitled to the funds. Any interest earned on the escrowed funds
8 must be paid to the county at least annually. Unclaimed remaining
9 overbids that are less than twenty-five dollars and that are not claimed
10 within six months from the date of sale must be paid to the general fund
11 of the county, and such money paid to the general fund of the county
12 becomes the property of the county. Unclaimed remaining overbids that
13 are equal to or greater than twenty-five dollars and that are not claimed
14 within six months from the date of the sale are unclaimed property for
15 purposes of the "REVISED UNIFORM Unclaimed Property Act", article 13
16 of this title 38, and must be transferred to the administrator in accordance
17 with article 13. After the unclaimed remaining overbids are transferred to
18 the administrator or to the general fund of the county, the public trustee
19 is discharged from any further liability or responsibility for the money.

20 (b) If the unclaimed remaining overbids exceed five hundred
21 dollars and have not been claimed by any person entitled thereto within
22 sixty calendar days after the expiration of all redemption periods as
23 provided by section 38-38-302, the public trustee shall, within ninety
24 calendar days after the expiration of all redemption periods, commence
25 publication of a notice for four weeks, which means publication once
26 each week for five successive weeks, in a newspaper of general
27 circulation in the county where the subject property is located. The notice

1 must contain the name of the owner, the owner's address as given in the
2 recorded instrument evidencing the owner's interest, and the legal
3 description and street address, if any, of the property sold at the sale and
4 must state that an overbid was realized from the sale and that, unless the
5 funds are claimed by the owner or other person entitled thereto within six
6 months after the date of sale, the funds shall be transferred to the state
7 treasurer ~~as part of~~ FOR DISPOSITION IN ACCORDANCE WITH the "REVISED
8 UNIFORM Unclaimed Property Act", ARTICLE 13 OF THIS TITLE 38. The
9 public trustee shall also mail a copy of the notice to the owner at the best
10 available address.

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

13 **35-65-107. State fair fund - lease and use of facilities.**

14 (3) (a) The Colorado state fair authority cash fund shall consist of:

15 (III) All ~~moneys~~ MONEY credited to the fund in accordance with
16 ~~section 38-13-116.7 (3), C.R.S.~~ SECTION 38-13-801.5 (3).

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

19 **38-38-114. Unclaimed refunds - disposition under "Revised**
20 **Uniform Unclaimed Property Act".** ~~Moneys~~ MONEY payable as a
21 refund for overpayment of a cure of default pursuant to section 38-38-104
22 or for overpayment of a redemption pursuant to part 3 of this ~~article~~
23 ARTICLE 38 that ~~remain~~ REMAINS unclaimed by the owner one year after
24 the ~~moneys~~ MONEY became payable ~~are~~ IS presumed abandoned and shall
25 be reported and paid to the state treasurer in accordance with ~~sections~~
26 ~~38-13-110 and 38-13-112~~ SECTIONS 38-13-401 AND 38-13-603.

27 **SECTION 17.** In Colorado Revised Statutes, 39-21-108, **amend**

1 (5)(a) and (7)(a) as follows:

2 **39-21-108. Refunds.** (5) (a) On and after October 1, 2002, any
3 warrant representing a refund of income tax imposed by article 22 of this
4 ~~title~~ TITLE 39 or a grant for property taxes, rent, or heat or fuel expenses
5 assistance allowed by article 31 of this ~~title~~ TITLE 39 that is not presented
6 for payment within six months from its date of issuance shall be void. On
7 and after October 1, 2002, upon the cancellation of a warrant in
8 accordance with the standard operating procedures of the department or
9 the state controller, the department shall forward to the state treasurer the
10 name of the taxpayer as it appears on the warrant, the taxpayer
11 identification number, the taxpayer's last-known address, the amount of
12 the cancelled warrant, and an amount of money equal to the amount
13 specified in the warrant so that the state treasurer may make the refund
14 pursuant to ~~the provisions of the~~ "REVISED UNIFORM Unclaimed Property
15 Act", article 13 of title 38. ~~C.R.S.~~

16 (7) (a) On and after October 1, 2010, any warrant representing a
17 refund issued by the department, excluding refunds addressed by
18 subsection (5) of this section, that is not presented for payment within six
19 months from its date of issuance shall be void. On and after October 1,
20 2010, upon the cancellation of a warrant in accordance with the standard
21 operating procedures of the department or the state controller, the
22 department shall forward to the state treasurer the name of the taxpayer
23 as it appears on the warrant, the taxpayer identification number, the
24 taxpayer's last-known address, the amount of the canceled warrant, and
25 an amount of money equal to the amount specified in the warrant so that
26 the state treasurer may make the refund pursuant to ~~the provisions of the~~
27 "REVISED UNIFORM Unclaimed Property Act", article 13 of title 38.

1 ~~C.R.S.~~

2 **SECTION 18.** In Colorado Revised Statutes, 39-21-113, **amend**
3 (12)(a) as follows:

4 **39-21-113. Reports and returns - rule.** (12) (a) Notwithstanding
5 ~~the provisions~~ ANY PROVISION of this section TO THE CONTRARY, on and
6 after October 1, 2002, for the purpose of enabling the state treasurer to
7 make income tax refunds pursuant to the ~~provisions of the~~ "REVISED
8 UNIFORM Unclaimed Property Act", article 13 of title 38, ~~C.R.S.~~, the
9 department shall supply the state treasurer with information as required
10 by section 39-21-108 (5).

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

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

20 (2) (a) ~~Prior to the payment of~~ BEFORE PAYING a claim for
21 unclaimed property pursuant to ~~section 38-13-117, C.R.S.~~ SECTION
22 38-13-905, the state treasurer shall compare the social security number or
23 federal employer identification number, whichever is applicable, of the
24 claimant with those certified by the department pursuant to subsection (1)
25 of this section. If the name and associated social security number or
26 federal employer identification number of a claimant appears among
27 those certified, the state treasurer shall obtain the current address of the

1 claimant, suspend the payment of the claim, and notify the department.
2 The notification shall include the name, home address, and social security
3 number or federal employer identification number of the claimant.

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

11 (3) Except as otherwise provided in ~~section 38-13-117.3 (2),~~
12 ~~C.R.S.~~ SECTION 38-13-902.1 (2), upon notification by the state treasurer
13 of the amounts of unclaimed property held pursuant to ~~section~~
14 ~~38-13-117.7, C.R.S.~~ SECTION 38-13-902.3, the department shall apply
15 such amounts to the person's delinquent state tax liability.

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

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

21 **39-22-604. Withholding tax - requirement to withhold - tax**
22 **lien - exemption from lien - definitions.** (12) (a) (II) On and after
23 October 1, 2002, if the department of revenue has cancelled a warrant
24 pursuant to section 39-21-108 that has not been presented and has
25 forwarded to the state treasurer information and an amount of money
26 equal to the amount of the warrant as required by section 39-21-108 (5),
27 the taxpayer must file the claim for the amount of the refund with the

1 state treasurer pursuant to the "REVISED UNIFORM Unclaimed Property
2 Act", article 13 of title 38. ~~C.R.S.~~ The department and the state treasurer
3 shall cooperate to ensure that any taxpayer who contacts the department
4 ~~of revenue~~ to claim the amount of a refund represented by a cancelled
5 warrant is provided with the information or assistance necessary to obtain
6 the refund from the state treasurer.

7 **SECTION 21. Act subject to petition - effective date.** This act
8 takes effect July 1, 2020; except that, if a referendum petition is filed
9 pursuant to section 1 (3) of article V of the state constitution against this
10 act or an item, section, or part of this act within the ninety-day period
11 after final adjournment of the general assembly, then the act, item,
12 section, or part will not take effect unless approved by the people at the
13 general election to be held in November 2020 and, in such case, will take
14 effect on the date of the official declaration of the vote thereon by the
15 governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
9.26.18

DRAFT

LLS NO. 19-0159.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Revised Uniform Athlete Agents Act 2015"
DEADLINES: Finalize by: JAN 23, 2019 File by: JAN 25, 2019

A BILL FOR AN ACT

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

Bill Summary

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

1 (II) FOR COMPENSATION OR IN ANTICIPATION OF COMPENSATION
2 RELATED TO A STUDENT ATHLETE'S PARTICIPATION IN ATHLETICS:

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

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

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

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

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

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

22 (b) DOES NOT INCLUDE AN INDIVIDUAL WHO:

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

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

1 INDIVIDUAL:

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

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

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

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

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

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

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

1 (7) "INTERCOLLEGIATE SPORT" MEANS A SPORT PLAYED AT THE
2 COLLEGIATE LEVEL FOR WHICH ELIGIBILITY REQUIREMENTS FOR
3 PARTICIPATION BY A STUDENT ATHLETE ARE ESTABLISHED BY A NATIONAL
4 ASSOCIATION THAT PROMOTES OR REGULATES COLLEGIATE ATHLETICS.

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

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

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

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

26 (12) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
27 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER

1 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

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

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

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

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

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

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

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

1 **23-16-203. Authority - procedure - rules.** THE "STATE
2 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, APPLIES TO
3 THIS PART 2. THE SECRETARY OF STATE MAY ADOPT RULES PURSUANT TO
4 THE REQUIREMENTS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT"
5 TO IMPLEMENT THIS PART 2.

6 **23-16-204. Athlete agent - registration required - void**
7 **contract.** (1) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBSECTION (2) OF
8 THIS SECTION, EFFECTIVE JANUARY 1, 2020, AN INDIVIDUAL SHALL NOT
9 ACT AS AN ATHLETE AGENT IN THIS STATE WITHOUT HOLDING A VALID
10 CERTIFICATE OF REGISTRATION UNDER THIS PART 2.

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

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

17 (b) NOT LATER THAN SEVEN DAYS AFTER AN INITIAL ACTION THAT
18 REQUIRES THE INDIVIDUAL TO REGISTER AS AN ATHLETE AGENT AND THAT
19 OCCURS ON OR AFTER JANUARY 1, 2020, THE INDIVIDUAL SUBMITS AN
20 APPLICATION FOR REGISTRATION AS AN ATHLETE AGENT IN THIS STATE.

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

25 **23-16-205. Registration as athlete agent - application -**
26 **requirements - reciprocal registration.** (1) AN APPLICANT FOR
27 REGISTRATION AS AN ATHLETE AGENT MUST SUBMIT AN APPLICATION FOR

1 REGISTRATION TO THE SECRETARY OF STATE IN A FORM PRESCRIBED BY
2 THE SECRETARY OF STATE. THE APPLICANT MUST BE AN INDIVIDUAL, AND
3 THE APPLICANT SHALL SIGN THE APPLICATION UNDER PENALTY OF
4 PERJURY. THE APPLICATION MUST CONTAIN AT LEAST THE FOLLOWING
5 INFORMATION:

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

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

10 (II) WORK AND MOBILE TELEPHONE NUMBERS; AND

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

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

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

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

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

26 (I) FORMAL TRAINING AS AN ATHLETE AGENT;

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

1 (III) EDUCATIONAL BACKGROUND RELATING TO THE APPLICANT'S
2 ACTIVITIES AS AN ATHLETE AGENT;

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

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

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

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

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

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

1 (I) THE CRIME;
2 (II) THE LAW ENFORCEMENT AGENCY INVOLVED; AND
3 (III) IF APPLICABLE, THE DATE OF THE CONVICTION AND THE FINE
4 OR PENALTY IMPOSED;

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

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

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

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

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

1 INTERCOLLEGIATE, OR PROFESSIONAL ATHLETIC EVENT ON A STUDENT
2 ATHLETE OR A SANCTION ON AN EDUCATIONAL INSTITUTION;

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

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

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

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

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

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

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

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

27 (2) INSTEAD OF PROCEEDING AS PROVIDED IN SUBSECTION (1) OF

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

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

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

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

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

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

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

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

26 (a) COOPERATE WITH NATIONAL ORGANIZATIONS CONCERNED
27 WITH ATHLETE AGENT ISSUES AND AGENCIES IN OTHER STATES THAT

1 REGISTER ATHLETE AGENTS TO DEVELOP A COMMON REGISTRATION FORM
2 AND DETERMINE WHICH STATES HAVE LAWS THAT ARE SUBSTANTIALLY
3 SIMILAR TO OR MORE RESTRICTIVE THAN THOSE OF THIS PART 2; AND

4 (b) EXCHANGE INFORMATION, INCLUDING INFORMATION RELATED
5 TO ACTIONS TAKEN AGAINST REGISTERED ATHLETE AGENTS OR THEIR
6 REGISTRATIONS, WITH THOSE ORGANIZATIONS AND AGENCIES SPECIFIED IN
7 SUBSECTION (4)(a) OF THIS SECTION.

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

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

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

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

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

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

2 (e) HAD A REGISTRATION AS AN ATHLETE AGENT SUSPENDED,
3 REVOKED, OR DENIED IN ANY STATE;

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

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

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

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

15 (a) HOW RECENTLY THE CONDUCT OCCURRED;

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

18 (c) OTHER RELEVANT CONDUCT OF THE APPLICANT.

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

25 (5) AN ATHLETE AGENT REGISTERED PURSUANT TO SECTION
26 23-16-205 (3) MAY RENEW THE REGISTRATION BY PROCEEDING PURSUANT
27 TO SUBSECTION (4) OF THIS SECTION OR, IF THE REGISTRATION IN THE

1 OTHER STATE HAS BEEN RENEWED, BY SUBMITTING TO THE SECRETARY OF
2 STATE COPIES OF THE APPLICATION FOR RENEWAL IN THE OTHER STATE
3 AND THE RENEWED REGISTRATION FROM THE OTHER STATE. THE
4 SECRETARY OF STATE SHALL RENEW THE REGISTRATION IF THE SECRETARY
5 OF STATE DETERMINES THAT:

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

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

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

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

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

27 **23-16-208. Temporary registration.** THE SECRETARY OF STATE

1 MAY ISSUE A TEMPORARY CERTIFICATE OF REGISTRATION AS AN ATHLETE
2 AGENT WHILE AN APPLICATION FOR REGISTRATION OR RENEWAL OF
3 REGISTRATION IS PENDING.

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

8 **23-16-210. Required form of agency contract.** (1) AN AGENCY
9 CONTRACT MUST BE IN A RECORD SIGNED BY THE PARTIES.

10 (2) AN AGENCY CONTRACT MUST CONTAIN:

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

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

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

24 (d) A DESCRIPTION OF ANY EXPENSES THE STUDENT ATHLETE
25 AGREES TO REIMBURSE;

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

1 (f) THE DURATION OF THE CONTRACT; AND

2 (g) THE DATE OF EXECUTION.

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

6 **WARNING TO STUDENT ATHLETE**

7 **IF YOU SIGN THIS CONTRACT:**

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

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

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

26 (4) AN AGENCY CONTRACT MUST BE ACCOMPANIED BY A
27 SEPARATE RECORD SIGNED BY THE STUDENT ATHLETE OR, IF THE STUDENT

1 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN, ACKNOWLEDGING
2 THAT SIGNING THE CONTRACT MAY RESULT IN THE LOSS OF THE STUDENT
3 ATHLETE'S ELIGIBILITY TO PARTICIPATE IN THE STUDENT ATHLETE'S SPORT.

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

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

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

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

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

1 EXISTENCE OF THE CONTRACT TO THE ATHLETIC DIRECTOR OF THE
2 EDUCATIONAL INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED
3 OR AT WHICH THE ATHLETE AGENT HAS REASONABLE GROUNDS TO
4 BELIEVE THE ATHLETE INTENDS TO ENROLL.

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

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

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

26 (a) THE RELATIONSHIP WAS MOTIVATED IN WHOLE OR IN PART BY
27 THE INTENTION OF THE ATHLETE AGENT TO RECRUIT OR SOLICIT THE

1 STUDENT ATHLETE TO ENTER INTO AN AGENCY CONTRACT IN THE FUTURE;

2 OR

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

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

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

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

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

25 (8) AN EDUCATIONAL INSTITUTION THAT BECOMES AWARE OF A
26 VIOLATION OF THIS PART 2 BY AN ATHLETE AGENT SHALL PROVIDE NOTICE
27 OF THE VIOLATION TO THE SECRETARY OF STATE AND ANY PROFESSIONAL

1 LEAGUE OR PLAYERS ASSOCIATION WITH WHICH THE EDUCATIONAL
2 INSTITUTION IS AWARE THE ATHLETE AGENT IS LICENSED OR REGISTERED.

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

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

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

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

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

19 (a) THE NAME AND ADDRESS OF EACH INDIVIDUAL REPRESENTED
20 BY THE ATHLETE AGENT;

21 (b) EACH AGENCY CONTRACT ENTERED INTO BY THE ATHLETE
22 AGENT; AND

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

26 (2) THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION
27 ARE OPEN TO INSPECTION BY THE SECRETARY OF STATE DURING NORMAL

1 BUSINESS HOURS.

2 **23-16-214. Prohibited conduct.** (1) AN ATHLETE AGENT, WITH
3 THE INTENT TO INFLUENCE A STUDENT ATHLETE OR, IF THE STUDENT
4 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN TO ENTER INTO AN
5 AGENCY CONTRACT, MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS OR
6 ENCOURAGE ANY OTHER INDIVIDUAL TO TAKE OR ASSIST ANY OTHER
7 INDIVIDUAL IN TAKING ANY OF THE FOLLOWING ACTIONS ON BEHALF OF
8 THE ATHLETE AGENT:

9 (a) GIVE MATERIALLY FALSE OR MISLEADING INFORMATION OR
10 MAKE A MATERIALLY FALSE PROMISE OR REPRESENTATION;

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

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

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

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

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

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

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

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

2 (f) FAIL TO NOTIFY A STUDENT ATHLETE OR, IF THE STUDENT
3 ATHLETE IS A MINOR, HIS OR HER PARENT OR GUARDIAN BEFORE THE
4 STUDENT ATHLETE OR HIS OR HER PARENT OR GUARDIAN SIGNS AN
5 AGENCY CONTRACT FOR A PARTICULAR SPORT THAT THE SIGNING MAY
6 MAKE THE STUDENT ATHLETE INELIGIBLE TO PARTICIPATE AS A STUDENT
7 ATHLETE IN THAT SPORT.

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

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

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

1 SPORTS; OR

2 (b) SUFFERS FINANCIAL DAMAGE.

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

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

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

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

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

1 **23-16-220. Athlete agents registration fund - gifts, grants,**
2 **donations - software.** (1)(a) THE ATHLETE AGENTS REGISTRATION FUND,
3 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE
4 STATE TREASURY. THE SECRETARY OF STATE SHALL TRANSFER ALL FEES
5 COLLECTED PURSUANT TO THIS PART 2 TO THE STATE TREASURER, WHO
6 SHALL CREDIT THEM TO THE FUND. THE FUND CONSISTS OF ALL FEES
7 CREDITED TO THE FUND PURSUANT TO THIS SECTION AND ANY OTHER
8 MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER
9 TO THE FUND.

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

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

16 (2) THE SECRETARY OF STATE MAY SEEK, ACCEPT, AND EXPEND
17 GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR
18 THE PURPOSES OF THIS PART 2.

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

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

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

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

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

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

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

14 **WARNING TO STUDENT ATHLETE:**

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

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

1 (28)(a)(III) as follows:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for repeal, continuation, or reestablishment - legislative**
4 **declaration - repeal.** (28) (a) The following agencies, functions, or both,
5 are scheduled for repeal on September 1, 2027:

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

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

11 **6-1-105. Deceptive trade practices.** (1) A person engages in a
12 deceptive trade practice when, in the course of the person's business,
13 vocation, or occupation, the person:

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

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly (August 2, 2019, if adjournment sine die is on May 3,
19 2019); except that, if a referendum petition is filed pursuant to section 1
20 (3) of article V of the state constitution against this act or an item, section,
21 or part of this act within such period, then the act, item, section, or part
22 will not take effect unless approved by the people at the general election
23 to be held in November 2020 and, in such case, will take effect on the
24 date of the official declaration of the vote thereon by the governor.

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

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.4.18

DRAFT

LLS NO. 19-0160.01 Duane Gall x4335

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Uniform Regulation Of Virtual-currency Businesses"

DEADLINES: Finalize by: JAN 23, 2019 File by: JAN 25, 2019

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF VIRTUAL-CURRENCY BUSINESS**
102 **ACTIVITY, AND, IN CONNECTION THEREWITH, ADOPTING THE**
103 **"COLORADO UNIFORM REGULATION OF VIRTUAL-CURRENCY**
104 **BUSINESSES ACT" AND THE "UNIFORM SUPPLEMENTAL**
105 **COMMERCIAL LAW FOR THE UNIFORM REGULATION OF**
106 **VIRTUAL-CURRENCY BUSINESSES ACT" AS RECOMMENDED BY**
107 **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

1 title 11 as follows:

2 **ARTICLE 111**

3 **Uniform Regulation of Virtual-Currency Businesses Act**

4 PART 1

5 GENERAL PROVISIONS

6 **11-111-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 111 IS
7 THE "COLORADO UNIFORM REGULATION OF VIRTUAL-CURRENCY
8 BUSINESSES ACT".

9 **11-111-102. Definitions.** AS USED IN THIS ARTICLE 111, UNLESS
10 THE CONTEXT OTHERWISE REQUIRES:

11 (1) "APPLICANT" MEANS A PERSON THAT APPLIES FOR A LICENSE
12 UNDER THIS ARTICLE 111.

13 (2) "BANK" MEANS A FEDERALLY CHARTERED OR
14 STATE-CHARTERED DEPOSITORY INSTITUTION OR HOLDER OF A CHARTER
15 GRANTED BY THE FEDERAL OFFICE OF THE COMPTROLLER OF THE
16 CURRENCY TO A PERSON ENGAGED IN THE BUSINESS OF BANKING OTHER
17 THAN DEPOSIT-TAKING. THE TERM DOES NOT INCLUDE:

18 (a) AN INDUSTRIAL LOAN COMPANY, STATE-CHARTERED TRUST
19 COMPANY, OR LIMITED-PURPOSE TRUST COMPANY UNLESS THE
20 DEPARTMENT HAS AUTHORIZED THE COMPANY TO ENGAGE IN
21 VIRTUAL-CURRENCY BUSINESS ACTIVITY; OR

22 (b) A TRUST COMPANY OR LIMITED-PURPOSE TRUST COMPANY
23 CHARTERED BY A STATE WITH WHICH THIS STATE DOES NOT HAVE A
24 RECIPROCITY AGREEMENT GOVERNING TRUST-COMPANY ACTIVITIES.

25 (3) "CONTROL" MEANS:

26 (a) WHEN USED IN REFERENCE TO A TRANSACTION OR
27 RELATIONSHIP INVOLVING VIRTUAL CURRENCY, POWER TO EXECUTE

1 UNILATERALLY OR PREVENT INDEFINITELY A VIRTUAL-CURRENCY
2 TRANSACTION; AND

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

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

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

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

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

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

25 (7) "INSOLVENT" MEANS:

26 (a) HAVING GENERALLY CEASED TO PAY DEBTS IN THE ORDINARY
27 COURSE OF BUSINESS OTHER THAN AS A RESULT OF A BONA FIDE DISPUTE;

1 (b) BEING UNABLE TO PAY DEBTS AS THEY BECOME DUE; OR

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

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

7 (9) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE
8 111.

9 (10) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ESTATE,
10 BUSINESS OR NONPROFIT ENTITY, [PUBLIC CORPORATION, GOVERNMENT OR
11 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY,] OR OTHER
12 LEGAL ENTITY. [THE TERM DOES NOT INCLUDE A PUBLIC CORPORATION,
13 GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR
14 INSTRUMENTALITY.]< *Would you prefer to omit this definition, in view*
15 *of the broad definition of "person" in §2-4-401 (8)?*>

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

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

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

27 (14) "REGISTRATION" MEANS THE ABILITY UNDER SECTION

1 11-111-207 TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY.

2 (15) "REGISTRY" MEANS THE NATIONWIDE MULTISTATE
3 LICENSING SYSTEM AND REGISTRY.

4 (16) "RESIDENT":

5 (a) MEANS A PERSON THAT:

6 (I) IS DOMICILED IN THIS STATE;

7 (II) IS PHYSICALLY LOCATED IN THIS STATE FOR MORE THAN ONE
8 HUNDRED EIGHTY-THREE DAYS OF THE PREVIOUS THREE HUNDRED
9 SIXTY-FIVE DAYS; OR

10 (III) HAS A PLACE OF BUSINESS IN THIS STATE; AND

11 (b) INCLUDES A LEGAL REPRESENTATIVE OF A PERSON THAT
12 SATISFIES SUBSECTION (16)(a) OF THIS SECTION.

13 (17) "RESPONSIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS
14 MANAGERIAL AUTHORITY WITH RESPECT TO A LICENSEE'S OR
15 REGISTRANT'S VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON
16 BEHALF OF A RESIDENT.

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

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

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

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

26 (20) "STORE", EXCEPT IN THE PHRASE "STORE OF VALUE", MEANS
27 TO MAINTAIN CONTROL OF VIRTUAL CURRENCY ON BEHALF OF A RESIDENT

1 BY A PERSON OTHER THAN THE RESIDENT. "STORAGE" AND "STORING"
2 HAVE CORRESPONDING MEANINGS.

3 (21) "TRANSFER" MEANS TO ASSUME CONTROL OF VIRTUAL
4 CURRENCY FROM OR ON BEHALF OF A RESIDENT AND TO:

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

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

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

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

16 (23) "VIRTUAL CURRENCY":

17 (a) MEANS A DIGITAL REPRESENTATION OF VALUE THAT:

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

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

22 (b) DOES NOT INCLUDE:

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

27 (II) A DIGITAL REPRESENTATION OF VALUE ISSUED BY OR ON

1 BEHALF OF A PUBLISHER AND USED SOLELY WITHIN AN ONLINE GAME,
2 GAME PLATFORM, OR FAMILY OF GAMES SOLD BY THE SAME PUBLISHER OR
3 OFFERED ON THE SAME GAME PLATFORM.

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

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

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

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

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

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

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

26 (26) "VIRTUAL-CURRENCY CONTROL-SERVICES VENDOR" MEANS
27 A PERSON THAT HAS CONTROL OF VIRTUAL CURRENCY SOLELY UNDER AN

1 AGREEMENT WITH A PERSON THAT, ON BEHALF OF ANOTHER PERSON,
2 ASSUMES CONTROL OF VIRTUAL CURRENCY.

3 **11-111-103. Scope.** (1) EXCEPT AS OTHERWISE PROVIDED IN
4 SUBSECTION (2) OR (3) OF THIS SECTION, THIS ARTICLE 111 GOVERNS THE
5 VIRTUAL-CURRENCY BUSINESS ACTIVITY OF A PERSON, WHEREVER
6 LOCATED, THAT ENGAGES IN OR HOLDS ITSELF OUT AS ENGAGING IN THE
7 ACTIVITY WITH OR ON BEHALF OF A RESIDENT.

8 (2) THIS ARTICLE 111 DOES NOT APPLY TO THE EXCHANGE,
9 TRANSFER, OR STORAGE OF VIRTUAL CURRENCY OR TO
10 VIRTUAL-CURRENCY ADMINISTRATION TO THE EXTENT THE FEDERAL
11 "ELECTRONIC FUND TRANSFER ACT OF 1978", 15 U.S.C. SECS. 1693 TO
12 1693r, AS AMENDED; THE FEDERAL "SECURITIES EXCHANGE ACT OF
13 1934", 15 U.S.C. SECS. 78a TO 78oo, AS AMENDED; THE FEDERAL
14 "COMMODITIES EXCHANGE ACT OF 1936", 7 U.S.C. SECS. 1 TO 27f, AS
15 AMENDED; OR ARTICLE 51 OF THIS TITLE 11 GOVERN THE ACTIVITY. THIS
16 ARTICLE 111 DOES NOT APPLY TO ACTIVITY BY:

17 (a) THE UNITED STATES, A STATE, A POLITICAL SUBDIVISION OF A
18 STATE, AN AGENCY OR INSTRUMENTALITY OF FEDERAL, STATE, OR LOCAL
19 GOVERNMENT, OR A FOREIGN GOVERNMENT OR A SUBDIVISION,
20 DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF A FOREIGN
21 GOVERNMENT;

22 (b) A BANK;

23 (c) A PERSON ENGAGED IN MONEY TRANSMISSION THAT:

24 (I) HOLDS A LICENSE UNDER ARTICLE 110 OF THIS TITLE 11;

25 (II) IS AUTHORIZED BY THE DEPARTMENT TO ENGAGE IN
26 VIRTUAL-CURRENCY BUSINESS ACTIVITY; AND

27 (III) COMPLIES WITH PARTS 2, 3, 5, AND 6 OF THIS ARTICLE 111;

1 (d) A PERSON WHOSE PARTICIPATION IN A PAYMENT SYSTEM IS
2 LIMITED TO PROVIDING <{SUGGEST "PROVIDING PROCESSING OR
3 CLEARING SERVICES, OR PERFORMING SETTLEMENT SERVICES FOR ...}>
4 PROCESSING, CLEARING, OR PERFORMING SETTLEMENT SERVICES SOLELY
5 FOR TRANSACTIONS BETWEEN OR AMONG PERSONS THAT ARE EXEMPT
6 FROM THE LICENSING OR REGISTRATION REQUIREMENTS OF THIS ARTICLE
7 111;

8 (e) A PERSON ENGAGED IN THE BUSINESS OF DEALING IN FOREIGN
9 EXCHANGE TO THE EXTENT THE PERSON'S ACTIVITY MEETS THE DEFINITION
10 IN 31 CFR 1010.605(f)(1)(iv), AS AMENDED;

11 (f) A PERSON THAT:

12 (I) CONTRIBUTES ONLY CONNECTIVITY SOFTWARE OR COMPUTING
13 POWER TO A DECENTRALIZED VIRTUAL CURRENCY, OR TO A PROTOCOL
14 GOVERNING TRANSFER OF THE DIGITAL REPRESENTATION OF VALUE;

15 (II) PROVIDES ONLY DATA STORAGE OR SECURITY SERVICES FOR A
16 BUSINESS ENGAGED IN VIRTUAL-CURRENCY BUSINESS ACTIVITY AND DOES
17 NOT OTHERWISE ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY ON
18 BEHALF OF ANOTHER PERSON; OR

19 (III) PROVIDES ONLY TO A PERSON OTHERWISE EXEMPT FROM THIS
20 ARTICLE 111 VIRTUAL CURRENCY AS ONE OR MORE ENTERPRISE SOLUTIONS
21 USED SOLELY AMONG EACH OTHER AND HAS NO AGREEMENT OR
22 RELATIONSHIP WITH A RESIDENT THAT IS AN END-USER OF VIRTUAL
23 CURRENCY;

24 (g) A PERSON USING VIRTUAL CURRENCY, INCLUDING CREATING,
25 INVESTING, BUYING OR SELLING, OR OBTAINING VIRTUAL CURRENCY AS
26 PAYMENT FOR THE PURCHASE OR SALE OF GOODS OR SERVICES, SOLELY:

27 (I) ON ITS OWN BEHALF;

1 (II) FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; OR

2 (III) FOR ACADEMIC PURPOSES;

3 (h) A PERSON WHOSE VIRTUAL-CURRENCY BUSINESS ACTIVITY
4 WITH OR ON BEHALF OF RESIDENTS IS REASONABLY EXPECTED TO BE
5 VALUED, IN THE AGGREGATE, ON AN ANNUAL BASIS AT FIVE THOUSAND
6 DOLLARS OR LESS, MEASURED BY THE U.S. DOLLAR EQUIVALENT OF
7 VIRTUAL CURRENCY;

8 (i) AN ATTORNEY TO THE EXTENT OF PROVIDING ESCROW SERVICES
9 TO A RESIDENT;

10 (j) A TITLE INSURANCE COMPANY TO THE EXTENT OF PROVIDING
11 ESCROW SERVICES TO A RESIDENT;

12 (k) A SECURITIES INTERMEDIARY, AS DEFINED IN SECTION 4-8-102
13 (14), OR A COMMODITY INTERMEDIARY, AS DEFINED IN SECTION 4-9-102
14 (17), THAT:

15 (I) DOES NOT ENGAGE IN THE ORDINARY COURSE OF BUSINESS IN
16 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
17 RESIDENT IN ADDITION TO MAINTAINING SECURITIES ACCOUNTS OR
18 COMMODITIES ACCOUNTS AND IS REGULATED AS A SECURITIES
19 INTERMEDIARY OR COMMODITY INTERMEDIARY UNDER FEDERAL LAW,
20 LAW OF THIS STATE OTHER THAN THIS ARTICLE 111, OR LAW OF ANOTHER
21 STATE; AND

22 (II) AFFORDS A RESIDENT PROTECTIONS COMPARABLE TO THOSE
23 SET FORTH IN SECTION 11-111-502;

24 (l) A SECURED CREDITOR UNDER ARTICLE 9 OF TITLE 4 OR A
25 CREDITOR WITH A JUDICIAL LIEN OR LIEN ARISING BY OPERATION OF LAW
26 ON COLLATERAL THAT IS VIRTUAL CURRENCY, IF THE VIRTUAL-CURRENCY
27 BUSINESS ACTIVITY OF THE CREDITOR IS LIMITED TO ENFORCEMENT OF THE

1 SECURITY INTEREST IN COMPLIANCE WITH ARTICLE 9 OF TITLE 4 OR OF THE
2 LIEN IN COMPLIANCE WITH THE LAW APPLICABLE TO THE LIEN;

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

4 (n) A PERSON THAT:

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

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

7 (B) CONDUCTING VIRTUAL-CURRENCY BUSINESS ACTIVITY; OR

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

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

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

20 **11-111-104. Supplementary law.** UNLESS DISPLACED BY THE
21 PARTICULAR PROVISIONS OF THIS ARTICLE 111, THE PRINCIPLES OF LAW
22 AND EQUITY SUPPLEMENT ITS PROVISIONS.

23 PART 2

24 LICENSURE

25 **11-111-201. Conditions precedent to engaging in**
26 **virtual-currency business activity.** (1) A PERSON MAY NOT ENGAGE IN
27 VIRTUAL-CURRENCY BUSINESS ACTIVITY, OR HOLD ITSELF OUT AS BEING

1 ABLE TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY, WITH OR ON
2 BEHALF OF A RESIDENT, UNLESS THE PERSON IS:

3 (a) LICENSED IN THIS STATE BY THE DEPARTMENT UNDER SECTION
4 11-111-202;

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

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

11 (d) EXEMPT FROM LICENSURE OR REGISTRATION UNDER THIS
12 ARTICLE 111 BY SECTION 11-111-103 (2) OR (3). <Should this be "or"
13 or "and"?>

14 **11-111-202. License by application.** (1) EXCEPT AS OTHERWISE
15 PROVIDED IN SECTION 11-111-203, AN APPLICATION FOR A LICENSE UNDER
16 THIS ARTICLE 111:

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

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

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

27 (II) THE LEGAL NAME, ANY FORMER OR FICTITIOUS NAME, AND THE

1 RESIDENTIAL AND BUSINESS UNITED STATES POSTAL SERVICE ADDRESS OF
2 EACH EXECUTIVE OFFICER AND RESPONSIBLE INDIVIDUAL OF THE
3 APPLICANT, AND EACH PERSON THAT HAS CONTROL OF THE APPLICANT;

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

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

16 (V) A LIST OF:

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

19 (B) THE DATE THE LICENSE EXPIRES; AND

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

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

26 (A) THE APPLICANT;

27 (B) EACH EXECUTIVE OFFICER OF THE APPLICANT;

1 (C) EACH RESPONSIBLE INDIVIDUAL OF THE APPLICANT;

2 (D) EACH PERSON THAT HAS CONTROL OVER THE APPLICANT; AND

3 (E) EACH PERSON OVER WHICH THE APPLICANT HAS CONTROL;

4 (VII) A LIST OF ANY LITIGATION, ARBITRATION, OR
5 ADMINISTRATIVE PROCEEDING IN ANY JURISDICTION IN WHICH THE
6 APPLICANT, OR AN EXECUTIVE OFFICER OR A RESPONSIBLE INDIVIDUAL OF
7 THE APPLICANT, HAS BEEN A PARTY FOR THE FIVE YEARS BEFORE THE
8 APPLICATION IS SUBMITTED, DETERMINED TO BE MATERIAL IN
9 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND,
10 TO THE EXTENT THE APPLICANT WOULD BE REQUIRED TO DISCLOSE THE
11 LITIGATION, ARBITRATION, OR ADMINISTRATIVE PROCEEDING IN THE
12 APPLICANT'S AUDITED FINANCIAL STATEMENTS, REPORTS TO EQUITY
13 OWNERS, AND SIMILAR STATEMENTS OR REPORTS;

14 (VIII) A LIST OF ANY BANKRUPTCY OR RECEIVERSHIP PROCEEDING
15 IN ANY JURISDICTION FOR THE TEN YEARS BEFORE THE APPLICATION IS
16 SUBMITTED IN WHICH ANY OF THE FOLLOWING WAS A DEBTOR:

17 (A) THE APPLICANT;

18 (B) EACH EXECUTIVE OFFICER OF THE APPLICANT;

19 (C) EACH RESPONSIBLE INDIVIDUAL OF THE APPLICANT;

20 (D) EACH PERSON THAT HAS CONTROL OVER THE APPLICANT; AND

21 (E) EACH PERSON OVER WHICH THE APPLICANT HAS CONTROL;

22 (IX) THE NAME AND UNITED STATES POSTAL SERVICE ADDRESS OF
23 EACH BANK IN WHICH THE APPLICANT PLANS TO DEPOSIT FUNDS OBTAINED
24 BY ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY;

25 (X) THE SOURCE OF FUNDS AND CREDIT TO BE USED BY THE
26 APPLICANT TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR
27 ON BEHALF OF A RESIDENT AND DOCUMENTATION DEMONSTRATING THAT

1 THE APPLICANT HAS THE NET WORTH AND RESERVES REQUIRED BY
2 SECTION 11-111-204;

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

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

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

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

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

23 (XVI) IF A PERSON HAS CONTROL OF THE APPLICANT AND THE
24 PERSON'S EQUITY INTERESTS ARE PUBLICLY TRADED OUTSIDE THE UNITED
25 STATES, A COPY OF THE AUDITED FINANCIAL STATEMENT OF THE PERSON
26 FOR THE MOST RECENT FISCAL YEAR OF THE PERSON OR A COPY OF THE
27 MOST RECENT DOCUMENTATION SIMILAR TO THAT REQUIRED IN

1 SUBSECTION (1)(b)(XV) OF THIS SECTION FILED WITH THE FOREIGN
2 REGULATOR IN THE DOMICILE OF THE PERSON;

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

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

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

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

16 (A) EMPLOYMENT HISTORY; AND

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

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

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

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

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

1 INFORMATION.

2 (3) AN APPLICATION FOR A LICENSE UNDER THIS SECTION IS NOT
3 COMPLETE UNTIL THE DEPARTMENT RECEIVES ALL INFORMATION
4 REQUIRED BY THIS ARTICLE 111 AND COMPLETES ITS INVESTIGATION
5 UNDER SUBSECTION (4) OF THIS SECTION.

6 (4) ON RECEIPT OF A COMPLETED APPLICATION:

7 (a) THE DEPARTMENT SHALL INVESTIGATE:

8 (I) THE FINANCIAL CONDITION AND RESPONSIBILITY OF THE
9 APPLICANT;

10 (II) THE RELEVANT FINANCIAL AND BUSINESS EXPERIENCE,
11 CHARACTER, AND GENERAL FITNESS OF THE APPLICANT; AND

12 (III) THE COMPETENCE, EXPERIENCE, CHARACTER, AND GENERAL
13 FITNESS OF EACH EXECUTIVE OFFICER, EACH RESPONSIBLE INDIVIDUAL,
14 AND ANY PERSON THAT HAS CONTROL OF THE APPLICANT; AND

15 (b) THE DEPARTMENT MAY CONDUCT AN INVESTIGATION OF THE
16 BUSINESS PREMISES OF AN APPLICANT.

17 (5) NOT LATER THAN THIRTY DAYS AFTER AN APPLICATION IS
18 COMPLETE, THE DEPARTMENT SHALL SEND THE APPLICANT NOTICE OF ITS
19 DECISION TO APPROVE, CONDITIONALLY APPROVE, OR DENY THE
20 APPLICATION. IF THE DEPARTMENT DOES NOT SEND THE APPLICANT NOTICE
21 OF ITS DECISION WITHIN THIRTY-ONE DAYS FOLLOWING COMPLETION OF
22 THE APPLICATION, THE APPLICATION IS DEEMED DENIED. IF THE
23 DEPARTMENT DOES NOT RECEIVE NOTICE FROM THE APPLICANT THAT THE
24 APPLICANT ACCEPTS CONDITIONS SPECIFIED BY THE DEPARTMENT WITHIN
25 THIRTY-ONE DAYS FOLLOWING THE DEPARTMENT'S NOTICE OF THE
26 CONDITIONS, THE APPLICATION IS DEEMED DENIED.

27 (6) A LICENSE TAKES EFFECT ON THE LATER OF:

1 (a) THE DATE ON WHICH THE DEPARTMENT ISSUES THE LICENSE; OR

2 (b) THE DATE THE LICENSEE PROVIDES THE SECURITY REQUIRED BY
3 SECTION 11-111-204.

4 (7) AN APPLICANT SHALL PAY THE REASONABLE COSTS OF THE
5 DEPARTMENT'S INVESTIGATION UNDER THIS SECTION.

6 *Legislative Note [from NCCUSL, regarding section*
7 *11-111-203 below (licensure by reciprocity)]: Alternative*
8 *A is applicable only if the department has agreed to*
9 *participate in the registry operated by a subsidiary of the*
10 *Conference of State Bank Supervisors. If the state already*
11 *participates in the registry, Alternative A would be enacted*
12 *and Alternative B should be deleted. If the state elects not*
13 *to participate in the registry, then Alternative B should be*
14 *enacted.*

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

20 **Alternative A**

21 **11-111-203. License by reciprocity.** (1) INSTEAD OF AN
22 APPLICATION REQUIRED BY SECTION 11-111-202, A PERSON LICENSED BY
23 ANOTHER STATE TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY IN
24 THAT STATE MAY FILE WITH THE REGISTRY AN APPLICATION UNDER THIS
25 SECTION.

26 (2) WHEN AN APPLICATION UNDER THIS SECTION IS FILED WITH THE
27 REGISTRY, THE APPLICANT SHALL NOTIFY THE DEPARTMENT IN A RECORD

1 THAT THE APPLICANT HAS SUBMITTED THE APPLICATION TO THE REGISTRY
2 AND SHALL SUBMIT TO THE DEPARTMENT:

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

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

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

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

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

19 **Alternative B**

20 **11-111-203. License by reciprocity.** (1) A PERSON LICENSED BY
21 ANOTHER STATE TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY
22 IN THAT STATE MAY ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY
23 WITH OR ON BEHALF OF A RESIDENT TO THE SAME EXTENT AS A LICENSEE
24 IF:

25 (a) THE DEPARTMENT DETERMINES THAT THE STATE IN WHICH THE
26 PERSON IS LICENSED HAS IN FORCE LAWS REGULATING VIRTUAL-CURRENCY
27 BUSINESS ACTIVITY THAT ARE SUBSTANTIALLY SIMILAR TO, OR MORE

1 PROTECTIVE OF RIGHTS OF USERS THAN, THIS ARTICLE 111;

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

5 (I) NOTICE CONTAINING:

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

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

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

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

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

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

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

26 (d) SUBJECT TO SUBSECTION (2) OF THIS SECTION, THE APPLICANT
27 DOES NOT COMMENCE VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR

1 ON BEHALF OF A RESIDENT UNTIL AT LEAST THIRTY-ONE DAYS AFTER
2 COMPLYING WITH SUBSECTION (1)(b) OF THIS SECTION.

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

5 *[End of Alternatives]*

6 **11-111-204. Security, net worth, and reserves.** (1) BEFORE A
7 LICENSE IS ISSUED UNDER THIS ARTICLE 111:

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

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

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

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

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

23 (d) SECURITY DEPOSITED UNDER THIS SECTION MUST COVER
24 CLAIMS FOR THE PERIOD THE DEPARTMENT SPECIFIES BY RULE AND FOR AN
25 ADDITIONAL PERIOD THE DEPARTMENT SPECIFIES AFTER THE LICENSEE
26 CEASES TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR
27 ON BEHALF OF A RESIDENT;

1 (e) FOR GOOD CAUSE, THE DEPARTMENT MAY REQUIRE THE
2 LICENSEE TO INCREASE THE AMOUNT OF SECURITY DEPOSITED UNDER THIS
3 SECTION, AND THE LICENSEE SHALL DEPOSIT THE ADDITIONAL SECURITY
4 NOT LATER THAN [FIFTEEN] DAYS AFTER THE LICENSEE RECEIVES NOTICE
5 IN A RECORD OF THE REQUIRED INCREASE;

6 (f) FOR GOOD CAUSE, THE DEPARTMENT MAY PERMIT A LICENSEE
7 TO SUBSTITUTE OR DEPOSIT AN ALTERNATE FORM OF SECURITY
8 SATISFACTORY TO THE DEPARTMENT IF THE LICENSEE AT ALL TIMES
9 COMPLIES WITH THIS SECTION;

10 (g) A CLAIMANT DOES NOT HAVE A DIRECT RIGHT TO RECOVER
11 AGAINST SECURITY DEPOSITED UNDER THIS SECTION; AND

12 (h) ONLY THE DEPARTMENT MAY RECOVER AGAINST THE
13 SECURITY, AND THE DEPARTMENT MAY RETAIN THE RECOVERY FOR NO
14 LONGER THAN [FIVE] YEARS AND MAY PROCESS CLAIMS AND DISTRIBUTE
15 RECOVERIES TO CLAIMANTS IN ACCORDANCE WITH RULES ADOPTED BY THE
16 [DEPARTMENT] UNDER ARTICLE 110 OF THIS TITLE 11.

17 (2) IN ADDITION TO THE SECURITY REQUIRED UNDER SUBSECTION
18 (1) OF THIS SECTION, A LICENSEE AND A REGISTRANT, AT THE TIME OF THE
19 APPLICATION FOR A LICENSE UNDER THIS ARTICLE 111 OR FILING OF
20 REGISTRATION, SHALL SUBMIT TO THE DEPARTMENT EVIDENCE OF AND
21 MAINTAIN:

22 (a) A MINIMUM NET WORTH OF [TWENTY-FIVE THOUSAND
23 DOLLARS]; AND

24 (b) SUFFICIENT UNENCUMBERED RESERVES FOR WINDING DOWN
25 THE LICENSEE'S OR REGISTRANT'S OPERATIONS AS AGREED TO BY THE
26 DEPARTMENT CONSIDERING THE NATURE AND SIZE OF EXPECTED
27 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF

1 RESIDENTS.

2 (3) A LICENSEE OR REGISTRANT MAY INCLUDE IN ITS CALCULATION
3 OF NET WORTH VIRTUAL CURRENCY, MEASURED BY THE AVERAGE VALUE
4 OF THE VIRTUAL CURRENCY IN U.S. DOLLAR EQUIVALENT OVER THE PRIOR
5 SIX MONTHS, OTHER THAN THE VIRTUAL CURRENCY OVER WHICH IT HAS
6 CONTROL FOR A RESIDENT ENTITLED TO THE PROTECTIONS UNDER SECTION
7 11-111-502.

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

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

20 **11-111-205. Issuance of license - appeal.** (1) ABSENT GOOD
21 CAUSE, THE DEPARTMENT SHALL ISSUE A LICENSE TO AN APPLICANT IF THE
22 APPLICANT COMPLIES WITH THIS ARTICLE 111 AND PAYS THE COSTS OF THE
23 INVESTIGATION UNDER SECTION 11-111-202 (7) AND THE INITIAL LICENSE
24 FEE UNDER SECTION 11-111-202 (1)(c).

25 (2) AN APPLICANT MAY APPEAL, UNDER ARTICLE 4 OF TITLE 24, A
26 DENIAL OF ITS APPLICATION UNDER SECTION 11-111-202 OR 11-111-203
27 NOT LATER THAN THIRTY DAYS AFTER:

1 (a) THE DEPARTMENT NOTIFIES THE APPLICANT OF THE DENIAL; OR

2 (b) THE APPLICATION IS DEEMED DENIED.

3 **11-111-206. Renewal of license.** (1) SUBJECT TO SUBSECTION (7)

4 OF THIS SECTION, NOT LATER THAN FIFTEEN DAYS BEFORE THE
5 ANNIVERSARY DATE OF ISSUANCE OF ITS LICENSE UNDER THIS ARTICLE
6 111, A LICENSEE MAY APPLY FOR RENEWAL OF THE LICENSE BY:

7 (a) PAYING A RENEWAL FEE IN AN AMOUNT SPECIFIED BY THE
8 DEPARTMENT BY RULE; AND

9 (b) SUBMITTING TO THE DEPARTMENT A RENEWAL REPORT UNDER
10 SUBSECTION (2) OF THIS SECTION.

11 (2) A RENEWAL REPORT REQUIRED BY SUBSECTION (1)(b) OF THIS
12 SECTION MUST BE SUBMITTED IN A FORM AND MEDIUM PRESCRIBED BY THE
13 DEPARTMENT. THE REPORT MUST CONTAIN:

14 (a) A COPY OF THE LICENSEE'S MOST RECENT:

15 (I) REVIEWED ANNUAL FINANCIAL STATEMENT IF THE LICENSEE'S
16 VIRTUAL-CURRENCY BUSINESS ACTIVITY IN THIS STATE WAS [INSERT
17 AMOUNT STATE USES FOR CORPORATE ACTIVITY AUDITING PURPOSES] OR
18 LESS FOR THE FISCAL YEAR ENDING BEFORE THE ANNIVERSARY DATE OF
19 ISSUANCE OF ITS LICENSE UNDER THIS ARTICLE 111; OR

20 (II) AUDITED ANNUAL FINANCIAL STATEMENT IF THE LICENSEE'S
21 VIRTUAL-CURRENCY BUSINESS ACTIVITY IN THIS STATE AMOUNTED TO
22 MORE THAN [INSERT THE FIGURE STATE USES FOR CORPORATE ACTIVITY
23 AUDITING PURPOSES] FOR THE FISCAL YEAR ENDING BEFORE THE
24 ANNIVERSARY DATE;

25 (b) IF A PERSON OTHER THAN AN INDIVIDUAL HAS CONTROL OF THE
26 LICENSEE, A COPY OF THE PERSON'S MOST RECENT:

27 (I) REVIEWED ANNUAL FINANCIAL STATEMENT IF THE PERSON'S

1 GROSS REVENUE WAS [INSERT AMOUNT STATE USES FOR CORPORATE
2 ACTIVITY AUDITING PURPOSES] OR LESS IN THE PREVIOUS FISCAL YEAR,
3 MEASURED AS OF THE ANNIVERSARY DATE OF ISSUANCE OF ITS LICENSE
4 UNDER THIS ARTICLE 111; OR

5 (II) AUDITED CONSOLIDATED ANNUAL FINANCIAL STATEMENT IF
6 THE PERSON'S GROSS REVENUE WAS MORE THAN [INSERT AMOUNT STATE
7 USES FOR CORPORATE ACTIVITY AUDITING PURPOSES] IN THE PREVIOUS
8 FISCAL YEAR, MEASURED AS OF THE ANNIVERSARY DATE OF ISSUANCE OF
9 ITS LICENSE UNDER THIS ARTICLE 111;

10 (c) A DESCRIPTION OF ANY:

11 (I) MATERIAL CHANGE IN THE FINANCIAL CONDITION OF THE
12 LICENSEE;

13 (II) MATERIAL LITIGATION INVOLVING THE LICENSEE OR AN
14 EXECUTIVE OFFICER, OR RESPONSIBLE INDIVIDUAL OF THE LICENSEE;

15 (III) LICENSE SUSPENSION OR REVOCATION PROCEEDING
16 COMMENCED, OR OTHER ACTION TAKEN, INVOLVING A LICENSE TO
17 CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY ISSUED BY ANOTHER
18 STATE ON WHICH RECIPROCAL LICENSING IS BASED;

19 (IV) FEDERAL OR STATE INVESTIGATION INVOLVING THE LICENSEE;

20 AND

21 (V) DATA SECURITY BREACH INVOLVING THE LICENSEE;

22 (d) INFORMATION OR RECORDS REQUIRED BY SECTION 11-111-305
23 THE LICENSEE HAS NOT REPORTED TO THE DEPARTMENT;

24 (e) THE NUMBER OF VIRTUAL-CURRENCY BUSINESS ACTIVITY
25 TRANSACTIONS WITH OR ON BEHALF OF RESIDENTS FOR THE PERIOD SINCE,
26 SUBJECT TO SUBSECTION (7) OF THIS SECTION, THE LATER OF THE DATE THE
27 LICENSE WAS ISSUED OR THE DATE THE LAST RENEWAL REPORT WAS

1 SUBMITTED;

2 (f) (I) THE AMOUNT OF U.S. DOLLAR EQUIVALENT OF VIRTUAL
3 CURRENCY IN THE CONTROL OF THE LICENSEE AT, SUBJECT TO SUBSECTION
4 (7) OF THIS SECTION, THE END OF THE LAST MONTH THAT ENDS NOT LATER
5 THAN THIRTY DAYS BEFORE THE DATE OF THE RENEWAL REPORT; AND

6 (II) THE TOTAL NUMBER OF RESIDENTS FOR WHOM THE LICENSEE
7 HAD CONTROL OF U.S. DOLLAR EQUIVALENT OF VIRTUAL CURRENCY ON
8 THAT DATE;

9 (g) EVIDENCE THAT THE LICENSEE CONTINUES TO SATISFY SECTION
10 11-111-502;

11 (h) EVIDENCE THAT THE LICENSEE CONTINUES TO SATISFY SECTION
12 11-111-204;

13 (i) A LIST OF EACH LOCATION WHERE THE LICENSEE OPERATES ITS
14 VIRTUAL-CURRENCY BUSINESS ACTIVITY; AND

15 (j) THE NAME, UNITED STATES POSTAL SERVICE ADDRESS, AND
16 TELEPHONE NUMBER OF EACH PERSON THAT MANAGES A SERVER USED BY
17 THE LICENSEE IN CONDUCTING ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY
18 WITH OR ON BEHALF OF A RESIDENT.

19 (3) IF A LICENSEE DOES NOT TIMELY COMPLY WITH SUBSECTION (1)
20 OF THIS SECTION, THE DEPARTMENT MAY USE ENFORCEMENT MEASURES
21 PROVIDED UNDER PART 4 OF THIS ARTICLE 111. NOTICE OR HEARING IS NOT
22 REQUIRED FOR A SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS
23 ARTICLE 111 FOR FAILURE TO PAY A RENEWAL FEE OR FILE A RENEWAL
24 REPORT.

25 (4) IF THE DEPARTMENT SUSPENDS OR REVOKES A LICENSE UNDER
26 THIS ARTICLE 111 FOR NONCOMPLIANCE WITH SUBSECTION (1) OF THIS
27 SECTION, THE DEPARTMENT MAY END THE SUSPENSION OR RESCIND THE

1 REVOCATION AND NOTIFY THE LICENSEE OF THE ACTION IF, SUBJECT TO
2 SUBSECTION (7) OF THIS SECTION, NOT LATER THAN TWENTY DAYS AFTER
3 THE LICENSE WAS SUSPENDED OR REVOKED, THE LICENSEE:

4 (a) FILES A RENEWAL REPORT AND PAYS A RENEWAL FEE; AND

5 (b) PAYS ANY PENALTY ASSESSED UNDER SECTION 11-111-403.

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

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

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

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

20 (9) A LICENSEE THAT DOES NOT COMPLY WITH THIS SECTION SHALL
21 CEASE OPERATIONS WITH OR ON BEHALF OF A RESIDENT ON OR BEFORE THE
22 ANNIVERSARY DATE OF ISSUANCE OF ITS LICENSE UNDER THIS ARTICLE
23 111.

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

26 **11-111-207. Registration in lieu of license.** (1) A PERSON WHOSE
27 VOLUME OF VIRTUAL-CURRENCY BUSINESS ACTIVITY IN U.S. DOLLAR

1 EQUIVALENT OF VIRTUAL CURRENCY WILL NOT EXCEED THIRTY-FIVE
2 THOUSAND DOLLARS ANNUALLY MAY ENGAGE IN VIRTUAL-CURRENCY
3 BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT UNDER A
4 REGISTRATION WITHOUT FIRST OBTAINING A LICENSE UNDER THIS ARTICLE
5 111 IF THE PERSON:

6 (a) FILES WITH THE DEPARTMENT A NOTICE IN THE FORM AND
7 MEDIUM PRESCRIBED BY THE DEPARTMENT OF ITS INTENTION TO ENGAGE
8 IN VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
9 RESIDENT;

10 (b) PROVIDES THE INFORMATION FOR AN INVESTIGATION UNDER
11 SECTION 11-111-202;

12 (c) STATES THE ANTICIPATED VIRTUAL-CURRENCY BUSINESS
13 ACTIVITY FOR ITS NEXT FISCAL QUARTER;

14 (d) PAYS THE DEPARTMENT A REGISTRATION FEE IN THE AMOUNT
15 SPECIFIED BY THE DEPARTMENT BY RULE;

16 (e) IF REQUIRED TO REGISTER WITH THE FINANCIAL CRIMES
17 ENFORCEMENT NETWORK OF THE UNITED STATES DEPARTMENT OF THE
18 TREASURY AS A MONEY SERVICE BUSINESS, PROVIDES THE DEPARTMENT
19 EVIDENCE OF THE REGISTRATION;

20 (f) PROVIDES EVIDENCE THAT THE PERSON HAS POLICIES AND
21 PROCEDURES TO COMPLY WITH THE FEDERAL "FINANCIAL RECORDKEEPING
22 AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS ACT OF
23 1970", 31 U.S.C. SEC. 5311 ET SEQ., AS AMENDED, AND OTHER APPLICABLE
24 LAWS;

25 (g) DESCRIBES THE SOURCE OF FUNDS AND CREDIT TO BE USED BY
26 THE PERSON TO CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH
27 OR ON BEHALF OF A RESIDENT AND PROVIDES EVIDENCE OF AND AGREES

1 TO MAINTAIN THE MINIMUM NET WORTH AND RESERVES REQUIRED BY
2 SECTION 11-111-204 AND SUFFICIENT UNENCUMBERED RESERVES FOR
3 WINDING DOWN OPERATIONS;

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

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

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

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

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

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

26 (b) IF THE DEPARTMENT SUSPENDS OR REVOKES THE
27 REGISTRATION, ONE DAY AFTER THE DEPARTMENT SENDS NOTICE OF THE

1 SUSPENSION OR REVOCATION TO THE REGISTRANT IN A RECORD BY A
2 MEANS REASONABLY SELECTED FOR THE NOTICE TO BE RECEIVED BY THE
3 RECIPIENT IN ONE DAY, TO THE ADDRESS PROVIDED FOR RECEIVING
4 COMMUNICATIONS FROM THE DEPARTMENT;

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

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

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

14 **11-111-209. Rules and guidance.** THE DEPARTMENT MAY ADOPT
15 RULES TO IMPLEMENT THIS ARTICLE 111 AND ISSUE GUIDANCE AS
16 APPROPRIATE.

17 PART 3

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

20 **11-111-301. Authority to conduct examination.** (1) THE
21 DEPARTMENT MAY CONDUCT AN ANNUAL EXAMINATION OF A LICENSEE OR
22 REGISTRANT. FOR GOOD CAUSE, THE DEPARTMENT MAY CONDUCT AN
23 ADDITIONAL EXAMINATION. THE DEPARTMENT MAY EXAMINE A LICENSEE
24 OR REGISTRANT WITHOUT PRIOR NOTICE TO THE LICENSEE OR REGISTRANT.

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

27 (3) INFORMATION OBTAINED DURING AN EXAMINATION UNDER

1 THIS PART 3 MAY BE DISCLOSED ONLY AS PROVIDED IN SECTION
2 11-111-304.

3 **11-111-302. Records.** (1) A LICENSEE OR REGISTRANT SHALL
4 MAINTAIN, FOR ALL VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON
5 BEHALF OF A RESIDENT FIVE YEARS AFTER THE DATE OF THE ACTIVITY, A
6 RECORD OF:

7 (a) EACH TRANSACTION OF THE LICENSEE OR REGISTRANT WITH OR
8 ON BEHALF OF THE RESIDENT OR FOR THE LICENSEE'S OR REGISTRANT'S
9 ACCOUNT IN THIS STATE, INCLUDING:

10 (I) THE IDENTITY OF THE RESIDENT;

11 (II) THE FORM OF THE TRANSACTION;

12 (III) THE AMOUNT, DATE, AND PAYMENT INSTRUCTIONS GIVEN BY
13 THE RESIDENT; AND

14 (IV) THE ACCOUNT NUMBER, NAME, AND UNITED STATES POSTAL
15 SERVICE ADDRESS OF THE RESIDENT, AND, TO THE EXTENT FEASIBLE,
16 OTHER PARTIES TO THE TRANSACTION;

17 (b) THE AGGREGATE NUMBER OF TRANSACTIONS AND AGGREGATE
18 VALUE OF TRANSACTIONS BY THE LICENSEE OR REGISTRANT WITH OR ON
19 BEHALF OF THE RESIDENT AND FOR THE LICENSEE'S OR REGISTRANT'S
20 ACCOUNT IN THIS STATE, EXPRESSED IN U.S. DOLLAR EQUIVALENT OF
21 VIRTUAL CURRENCY FOR THE PREVIOUS TWELVE CALENDAR MONTHS;

22 (c) EACH TRANSACTION IN WHICH THE LICENSEE OR REGISTRANT
23 EXCHANGES ONE FORM OF VIRTUAL CURRENCY FOR LEGAL TENDER OR
24 ANOTHER FORM OF VIRTUAL CURRENCY WITH OR ON BEHALF OF THE
25 RESIDENT;

26 (d) A GENERAL LEDGER POSTED AT LEAST MONTHLY THAT LISTS
27 ALL ASSETS, LIABILITIES, CAPITAL, INCOME, AND EXPENSES OF THE

1 LICENSEE OR REGISTRANT;

2 (e) EACH BUSINESS-CALL REPORT THE LICENSEE OR REGISTRANT
3 IS REQUIRED TO CREATE OR PROVIDE TO THE DEPARTMENT OR REGISTRY;

4 (f) BANK STATEMENTS AND BANK RECONCILIATION RECORDS FOR
5 THE LICENSEE OR REGISTRANT AND THE NAME, ACCOUNT NUMBER, AND
6 UNITED STATES POSTAL SERVICE ADDRESS OF EACH BANK THE LICENSEE
7 OR REGISTRANT USES IN THE CONDUCT OF ITS VIRTUAL-CURRENCY
8 BUSINESS ACTIVITY WITH OR ON BEHALF OF THE RESIDENT;

9 (g) A REPORT OF ANY DISPUTE WITH THE RESIDENT; AND

10 (h) A REPORT OF ANY VIRTUAL-CURRENCY BUSINESS ACTIVITY
11 TRANSACTION WITH OR ON BEHALF OF A RESIDENT THAT THE LICENSEE OR
12 REGISTRANT WAS UNABLE TO COMPLETE.

13 (2) A LICENSEE OR REGISTRANT SHALL MAINTAIN RECORDS
14 REQUIRED BY SUBSECTION (1) OF THIS SECTION IN A FORM THAT ENABLES
15 THE DEPARTMENT TO DETERMINE WHETHER THE LICENSEE OR REGISTRANT
16 IS IN COMPLIANCE WITH THIS ARTICLE 111, ANY COURT ORDER, AND ANY
17 LAW OF THIS STATE OTHER THAN THIS ARTICLE 111.

18 (3) IF A LICENSEE OR REGISTRANT MAINTAINS RECORDS OUTSIDE
19 THIS STATE THAT PERTAIN TO TRANSACTIONS WITH OR ON BEHALF OF A
20 RESIDENT, THE LICENSEE OR REGISTRANT SHALL MAKE THE RECORDS
21 AVAILABLE TO THE DEPARTMENT NOT LATER THAN THREE DAYS AFTER
22 REQUEST, OR, ON A DETERMINATION OF GOOD CAUSE BY THE DEPARTMENT,
23 AT A LATER TIME.

24 (4) ALL RECORDS MAINTAINED BY A LICENSEE OR REGISTRANT ARE
25 SUBJECT TO INSPECTION BY THE DEPARTMENT.

26 **11-111-303. Rules - cooperation - data-sharing authority.**

27 (1) SUBJECT TO SECTION 11-111-304 AND THE LAW OF THIS STATE OTHER

1 THAN THIS ARTICLE 111 CONCERNING PRIVACY, CONSUMER FINANCIAL
2 PRIVACY, DATA PROTECTION, PRIVILEGE, AND CONFIDENTIALITY, THE
3 DEPARTMENT MAY COOPERATE, COORDINATE, JOINTLY EXAMINE,
4 CONSULT, AND SHARE RECORDS AND OTHER INFORMATION WITH THE
5 APPROPRIATE REGULATORY AGENCY OF ANOTHER STATE, A
6 SELF-REGULATORY ORGANIZATION, FEDERAL OR STATE REGULATOR OF
7 BANKING OR NONDEPOSITORY PROVIDERS, OR A REGULATOR OF A
8 JURISDICTION OUTSIDE THE UNITED STATES, CONCERNING THE AFFAIRS
9 AND CONDUCT OF A LICENSEE OR REGISTRANT IN THIS STATE.

10 (2) THE DEPARTMENT SHALL:

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

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

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

20 (d) DEVELOP COMMON SYSTEMS AND PROCEDURES.

21 (3) THE DEPARTMENT MAY NOT ESTABLISH OR PARTICIPATE IN A
22 CENTRAL COMMERCIAL DEPOSITORY THAT CONTAINS NONPUBLIC
23 PERSONALLY IDENTIFIABLE INFORMATION THAT DOES NOT COMPLY WITH
24 SECTION 502(e)(5) OR (8) OF THE FEDERAL "GRAMM-LEACH-BLILEY ACT",
25 15 U.S.C. SEC. 6802(e)(5) OR (8), AS AMENDED, OR WITH THE FEDERAL
26 "RIGHT TO FINANCIAL PRIVACY ACT", 18 U.S.C. SEC. 3401 ET SEQ., AS
27 AMENDED.

1 (4) IN DECIDING WHETHER AND HOW TO COOPERATE, COORDINATE,
2 JOINTLY EXAMINE, CONSULT, OR SHARE RECORDS AND OTHER
3 INFORMATION UNDER SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT
4 SHALL CONSIDER:

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

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

10 **11-111-304. Confidentiality.** (1) EXCEPT AS OTHERWISE
11 PROVIDED IN SUBSECTION (2) OR (3) OF THIS SECTION, INFORMATION NOT
12 CONTAINED IN A REPORT OTHERWISE AVAILABLE TO THE PUBLIC OR
13 REPORTS OBTAINED BY THE DEPARTMENT FROM AN APPLICANT, LICENSEE,
14 OR REGISTRANT, INFORMATION CONTAINED IN OR RELATED TO AN
15 EXAMINATION, INVESTIGATION, OR OPERATING OR CONDITION REPORT
16 PREPARED BY, ON BEHALF OF, OR FOR THE USE OF THE DEPARTMENT, AND
17 OTHER FINANCIAL AND OPERATING INFORMATION, IS NOT SUBJECT TO
18 DISCLOSURE UNDER THE COLORADO OPEN RECORDS LAW, ARTICLE 72 OF
19 TITLE 24. IF THE DEPARTMENT DETERMINES THE INFORMATION OR
20 RECORDS ARE CONFIDENTIAL UNDER THE OPEN RECORDS LAW OF A
21 RECIPROCAL-LICENSING STATE, THE INFORMATION OR RECORDS MAY NOT
22 BE DISCLOSED.

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

1 SECRET MAY NOT BE DISCLOSED.

2 (3) SUBSECTION (1) OF THIS SECTION DOES NOT PROHIBIT
3 DISCLOSURE OF:

4 (a) GENERAL INFORMATION ABOUT A LICENSEE'S OR REGISTRANT'S
5 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
6 RESIDENT;

7 (b) A LIST OF PERSONS LICENSED OR REGISTERED UNDER THIS
8 ARTICLE 111; OR

9 (c) AGGREGATED FINANCIAL DATA CONCERNING LICENSEES OR
10 REGISTRANTS IN THIS STATE.

11 **11-111-305. Interim report.** (1) EACH LICENSEE AND
12 REGISTRANT SHALL FILE WITH THE DEPARTMENT A REPORT OF:

13 (a) A MATERIAL CHANGE IN INFORMATION IN THE APPLICATION FOR
14 A LICENSE UNDER THIS ARTICLE 111 OR A REGISTRATION OR THE MOST
15 RECENT RENEWAL REPORT OF THE LICENSEE UNDER THIS ARTICLE 111 OR
16 FOR THE REGISTRANT;

17 (b) A MATERIAL CHANGE IN THE LICENSEE'S OR REGISTRANT'S
18 BUSINESS FOR THE CONDUCT OF ITS VIRTUAL-CURRENCY BUSINESS
19 ACTIVITY WITH OR ON BEHALF OF A RESIDENT; AND

20 (c) A CHANGE OF AN EXECUTIVE OFFICER, RESPONSIBLE
21 INDIVIDUAL, OR PERSON IN CONTROL OF THE LICENSEE OR REGISTRANT.

22 (2) ABSENT GOOD CAUSE, A REPORT REQUIRED BY SUBSECTION (1)
23 OF THIS SECTION MUST BE FILED NOT LATER THAN FIFTEEN DAYS AFTER
24 THE CHANGE.

25 **11-111-306. Change in control of licensee or registrant -**
26 **definition.** (1) AS USED IN THIS SECTION, "PROPOSED PERSON TO BE IN
27 CONTROL" MEANS THE PERSON THAT WOULD CONTROL A LICENSEE OR

1 REGISTRANT AFTER A PROPOSED TRANSACTION THAT WOULD RESULT IN A
2 CHANGE IN CONTROL OF THE LICENSEE OR REGISTRANT.

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

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

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

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

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

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

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

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

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

26 (c) A LICENSE APPLICATION UNDER SECTION 11-111-202 BY THE
27 PROPOSED PERSON TO BE IN CONTROL;

1 (d) IN THE CASE OF A REGISTRANT, THE INFORMATION THAT
2 SECTION 11-111-207 WOULD REQUIRE IF THE PROPOSED PERSON TO BE IN
3 CONTROL ALREADY HAD CONTROL OF THE REGISTRANT; AND

4 (e) IN THE CASE OF A REGISTRATION, A REGISTRATION UNDER
5 SECTION 11-111-207 BY THE PROPOSED PERSON TO BE IN CONTROL.

6 (4) THE DEPARTMENT, IN ACCORDANCE WITH SECTION 11-111-202,
7 SHALL APPROVE, APPROVE WITH CONDITIONS, OR DENY AN APPLICATION
8 FOR A CHANGE IN CONTROL OF A LICENSEE OR REGISTRANT. THE
9 DEPARTMENT, IN A RECORD, SHALL SEND NOTICE OF ITS DECISION TO THE
10 LICENSEE OR REGISTRANT AND THE PERSON THAT WOULD BE IN CONTROL
11 IF THE DEPARTMENT HAD APPROVED THE CHANGE IN CONTROL. IF THE
12 DEPARTMENT DENIES THE APPLICATION, THE LICENSEE OR REGISTRANT
13 SHALL ABANDON THE PROPOSED CHANGE IN CONTROL OR CEASE
14 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF
15 RESIDENTS.

16 (5) IF THE DEPARTMENT APPLIES A CONDITION TO APPROVAL OF A
17 CHANGE IN CONTROL OF A LICENSEE OR REGISTRANT AND THE
18 DEPARTMENT DOES NOT RECEIVE NOTICE OF THE APPLICANT'S
19 ACCEPTANCE OF THE CONDITION SPECIFIED BY THE DEPARTMENT NOT
20 LATER THAN THIRTY-ONE DAYS AFTER THE DEPARTMENT SENDS NOTICE OF
21 THE CONDITION, THE APPLICATION IS DEEMED DENIED. IF THE APPLICATION
22 IS DEEMED DENIED, THE LICENSEE OR REGISTRANT SHALL ABANDON THE
23 PROPOSED CHANGE IN CONTROL OR CEASE VIRTUAL-CURRENCY BUSINESS
24 ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

25 (6) SUBMISSION IN GOOD FAITH OF RECORDS REQUIRED BY
26 SUBSECTION (3) OF THIS SECTION RELIEVES THE PROPOSED PERSON TO BE
27 IN CONTROL FROM ANY OBLIGATION IMPOSED BY THIS SECTION OTHER

1 THAN SUBSECTIONS (4), (5), AND (8) OF THIS SECTION UNTIL THE
2 DEPARTMENT HAS ACTED ON THE APPLICATION.

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

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

16 **11-111-307. Merger or consolidation by licensee or registrant.**

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

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

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

25 (c) IN THE CASE OF A LICENSEE, THE INFORMATION REQUIRED BY
26 SECTION 11-111-202 CONCERNING THE PERSON THAT WOULD BE THE
27 SURVIVING ENTITY IN THE PROPOSED MERGER OR CONSOLIDATION; AND

1 (d) IN THE CASE OF A REGISTRANT, THE INFORMATION REQUIRED
2 BY SECTION 11-111-207 CONCERNING THE PERSON THAT WOULD BE THE
3 SURVIVING ENTITY IN THE PROPOSED MERGER OR CONSOLIDATION.

4 (2) IF A PROPOSED MERGER OR CONSOLIDATION WOULD CHANGE
5 THE CONTROL OF A LICENSEE OR REGISTRANT, THE LICENSEE OR
6 REGISTRANT SHALL COMPLY WITH SECTION 11-111-306 AND THIS SECTION.

7 (3) THE DEPARTMENT, IN ACCORDANCE WITH SECTION 11-111-202,
8 SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY AN APPLICATION FOR
9 APPROVAL OF A MERGER OR CONSOLIDATION OF A LICENSEE OR
10 REGISTRANT. THE DEPARTMENT, IN A RECORD, SHALL SEND NOTICE OF ITS
11 DECISION TO THE LICENSEE OR REGISTRANT AND THE PERSON THAT WOULD
12 BE THE SURVIVING ENTITY. IF THE DEPARTMENT DENIES THE APPLICATION,
13 THE LICENSEE OR REGISTRANT SHALL ABANDON THE MERGER OR
14 CONSOLIDATION OR CEASE VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH
15 OR ON BEHALF OF RESIDENTS.

16 (4) THE DEPARTMENT MAY REVOKE OR MODIFY A DETERMINATION
17 UNDER SUBSECTION (3) OF THIS SECTION, AFTER NOTICE AND OPPORTUNITY
18 TO BE HEARD, IF, IN ITS JUDGMENT, REVOCATION OR MODIFICATION IS
19 CONSISTENT WITH THIS ARTICLE 111.

20 (5) A PLAN OF MERGER OR CONSOLIDATION OF A LICENSEE OR A
21 REGISTRANT WITH ANOTHER PERSON MUST:

22 (a) DESCRIBE THE EFFECT OF THE PROPOSED TRANSACTION ON THE
23 LICENSEE'S OR REGISTRANT'S CONDUCT OF VIRTUAL-CURRENCY BUSINESS
24 ACTIVITY WITH OR ON BEHALF OF RESIDENTS;

25 (b) IDENTIFY EACH PERSON TO BE MERGED OR CONSOLIDATED AND
26 THE PERSON THAT WOULD BE THE SURVIVING ENTITY; AND

27 (c) DESCRIBE THE TERMS AND CONDITIONS OF THE MERGER OR

1 CONSOLIDATION AND THE MODE OF CARRYING IT INTO EFFECT.

2 (6) IF A MERGER OR CONSOLIDATION OF A LICENSEE OR
3 REGISTRANT AND ANOTHER PERSON REQUIRES APPROVAL OF AN AGENCY
4 OF THIS STATE OR ANOTHER STATE WITH WHICH THIS STATE HAS A
5 RECIPROCITY AGREEMENT AND THE ACTION OF THE OTHER AGENCY
6 CONFLICTS WITH THAT OF THE DEPARTMENT, THE DEPARTMENT SHALL
7 CONFER WITH THE OTHER AGENCY. IF THE PROPOSED MERGER OR
8 CONSOLIDATION CANNOT BE COMPLETED BECAUSE THE CONFLICT CANNOT
9 BE RESOLVED, THE LICENSEE OR REGISTRANT SHALL ABANDON THE
10 MERGER OR CONSOLIDATION OR CEASE VIRTUAL-CURRENCY BUSINESS
11 ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

12 (7) THE DEPARTMENT MAY CONDITION APPROVAL OF AN
13 APPLICATION UNDER SUBSECTION (1) OF THIS SECTION. IF THE
14 DEPARTMENT DOES NOT RECEIVE NOTICE FROM THE PARTIES THAT THE
15 PARTIES ACCEPT THE DEPARTMENT'S CONDITION NOT LATER THAN
16 THIRTY-ONE DAYS AFTER THE DEPARTMENT SENDS NOTICE IN A RECORD OF
17 THE CONDITION, THE APPLICATION IS DEEMED DENIED. IF THE APPLICATION
18 IS DEEMED DENIED, THE LICENSEE OR REGISTRANT SHALL ABANDON THE
19 MERGER OR CONSOLIDATION OR CEASE VIRTUAL-CURRENCY BUSINESS
20 ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

21 (8) IF A LICENSEE OR REGISTRANT ACQUIRES SUBSTANTIALLY ALL
22 THE ASSETS OF A PERSON, WHETHER OR NOT THE PERSON'S LICENSE WAS
23 APPROVED BY OR REGISTRATION WAS FILED WITH THE DEPARTMENT, THE
24 TRANSACTION IS SUBJECT TO THIS SECTION.

25 (9) SUBMISSION IN GOOD FAITH OF THE RECORDS REQUIRED BY
26 SUBSECTION (5) OF THIS SECTION RELIEVES THE PROPOSED SURVIVING
27 ENTITY FROM ANY OBLIGATION IMPOSED BY THIS SECTION, OTHER THAN

1 SUBSECTIONS (3), (6), AND (7) OF THIS SECTION, UNTIL THE DEPARTMENT
2 HAS ACTED ON THE APPLICATION.

3 PART 4

4 ENFORCEMENT

5 **11-111-401. Enforcement measure - definition.** (1) AS USED IN
6 THIS ARTICLE 111, "ENFORCEMENT MEASURE" MEANS AN ACTION TO:

7 (a) SUSPEND OR REVOKE A LICENSE OR A REGISTRATION UNDER
8 THIS ARTICLE 111;

9 (b) ORDER A PERSON TO CEASE AND DESIST FROM DOING
10 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
11 RESIDENT;

12 (c) REQUEST THE COURT TO APPOINT A RECEIVER FOR THE ASSETS
13 OF A PERSON DOING VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON
14 BEHALF OF A RESIDENT;

15 (d) REQUEST THE COURT TO ISSUE TEMPORARY, PRELIMINARY, OR
16 PERMANENT INJUNCTIVE RELIEF AGAINST A PERSON DOING
17 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
18 RESIDENT;

19 (e) ASSESS A PENALTY UNDER SECTION 11-111-403;

20 (f) RECOVER ON THE SECURITY UNDER SECTION 11-111-204 AND
21 INITIATE A PLAN TO DISTRIBUTE THE PROCEEDS FOR THE BENEFIT OF A
22 RESIDENT INJURED BY A VIOLATION OF THIS ARTICLE 111 OR LAW OF THIS
23 STATE OTHER THAN THIS ARTICLE 111 THAT APPLIES TO
24 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
25 RESIDENT; OR

26 (g) IMPOSE NECESSARY OR APPROPRIATE CONDITIONS ON THE
27 CONDUCT OF VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF

1 OF A RESIDENT.

2 **11-111-402. Department authority to use enforcement**

3 **measures.** (1) THE DEPARTMENT MAY TAKE AN ENFORCEMENT MEASURE
4 AGAINST A LICENSEE, REGISTRANT, OR PERSON THAT IS NEITHER A
5 LICENSEE NOR REGISTRANT BUT IS ENGAGING IN VIRTUAL-CURRENCY
6 BUSINESS ACTIVITY WITH OR ON BEHALF OF A RESIDENT IF:

7 (a) THE LICENSEE, REGISTRANT, OR PERSON MATERIALLY VIOLATES
8 THIS ARTICLE 111, A RULE ADOPTED OR ORDER ISSUED UNDER THIS
9 ARTICLE 111, OR A LAW OF THIS STATE OTHER THAN THIS ARTICLE 111
10 THAT APPLIES TO VIRTUAL-CURRENCY BUSINESS ACTIVITY OF THE
11 VIOLATOR WITH OR ON BEHALF OF A RESIDENT;

12 (b) THE LICENSEE, REGISTRANT, OR PERSON DOES NOT COOPERATE
13 SUBSTANTIALLY WITH AN EXAMINATION OR INVESTIGATION BY THE
14 DEPARTMENT, FAILS TO PAY A FEE, OR FAILS TO SUBMIT A REPORT OR
15 DOCUMENTATION;

16 (c) THE LICENSEE, REGISTRANT, OR PERSON, IN THE CONDUCT OF
17 ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
18 RESIDENT, ENGAGES IN:

19 (I) AN UNSAFE OR UNSOUND ACT OR PRACTICE;

20 (II) AN UNFAIR OR DECEPTIVE ACT OR PRACTICE;

21 (III) FRAUD OR INTENTIONAL MISREPRESENTATION;

22 (IV) ANOTHER DISHONEST ACT; OR

23 (V) MISAPPROPRIATION OF LEGAL TENDER, VIRTUAL CURRENCY,
24 OR OTHER VALUE HELD BY A FIDUCIARY;

25 (d) AN AGENCY OF THE UNITED STATES OR ANOTHER STATE TAKES
26 AN ACTION AGAINST THE LICENSEE, REGISTRANT, OR PERSON THAT WOULD
27 CONSTITUTE AN ENFORCEMENT MEASURE IF THE DEPARTMENT HAD TAKEN

1 THE ACTION;

2 (e) THE LICENSEE, REGISTRANT, OR PERSON IS CONVICTED OF A
3 CRIME RELATED TO ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR
4 ON BEHALF OF A RESIDENT OR INVOLVING FRAUD OR FELONIOUS ACTIVITY
5 THAT, AS DETERMINED BY THE DEPARTMENT, MAKES THE LICENSEE,
6 REGISTRANT, OR PERSON UNSUITABLE TO ENGAGE IN VIRTUAL-CURRENCY
7 BUSINESS ACTIVITY;

8 (f) THE LICENSEE, REGISTRANT, OR PERSON:

9 (I) BECOMES INSOLVENT;

10 (II) MAKES A GENERAL ASSIGNMENT FOR THE BENEFIT OF ITS
11 CREDITORS;

12 (III) BECOMES THE DEBTOR, ALLEGED DEBTOR, RESPONDENT, OR
13 PERSON IN A SIMILAR CAPACITY IN A CASE OR OTHER PROCEEDING UNDER
14 ANY BANKRUPTCY, REORGANIZATION, ARRANGEMENT, READJUSTMENT,
15 INSOLVENCY, RECEIVERSHIP, DISSOLUTION, LIQUIDATION, OR SIMILAR LAW,
16 AND DOES NOT OBTAIN FROM THE COURT, WITHIN A REASONABLE TIME,
17 CONFIRMATION OF A PLAN OR DISMISSAL OF THE CASE OR PROCEEDING; OR

18 (IV) APPLIES FOR OR PERMITS THE APPOINTMENT OF A RECEIVER,
19 TRUSTEE, OR OTHER AGENT OF A COURT FOR ITSELF OR FOR A SUBSTANTIAL
20 PART OF ITS ASSETS; OR

21 (g) THE LICENSEE, REGISTRANT, OR PERSON MAKES A MATERIAL
22 MISREPRESENTATION TO THE DEPARTMENT.

23 (2) ON APPLICATION AND FOR GOOD CAUSE, THE DEPARTMENT
24 MAY:

25 (a) EXTEND THE DUE DATE FOR FILING A DOCUMENT OR REPORT
26 UNDER SUBSECTION (1)(b) OF THIS SECTION; OR

27 (b) WAIVE TO THE EXTENT WARRANTED BY CIRCUMSTANCES, SUCH

1 AS A BONA FIDE ERROR NOTWITHSTANDING REASONABLE PROCEDURES
2 DESIGNED TO PREVENT ERROR, AN ENFORCEMENT MEASURE UNDER
3 SUBSECTION (1) OF THIS SECTION IF THE DEPARTMENT DETERMINES THAT
4 THE WAIVER WILL NOT ADVERSELY AFFECT THE LIKELIHOOD OF
5 COMPLIANCE WITH THIS ARTICLE 111.

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

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

14 **11-111-403. Civil penalty.** (1) IF A PERSON OTHER THAN A
15 LICENSEE OR REGISTRANT ENGAGES IN VIRTUAL-CURRENCY BUSINESS
16 ACTIVITY WITH OR ON BEHALF OF A RESIDENT IN VIOLATION OF THIS
17 ARTICLE 111, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY AGAINST
18 THE PERSON IN AN AMOUNT NOT TO EXCEED [FIFTY THOUSAND DOLLARS]
19 FOR EACH DAY OF VIOLATION.

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

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

- 26 (a) THE DATE THE VIOLATION CEASES; OR
27 (b) A DATE SPECIFIED BY THE DEPARTMENT.

1 **11-111-404. Effective period of revocation, suspension, or**

2 **cease-and-desist order.** (1) REVOCATION OF A LICENSE UNDER THIS
3 ARTICLE 111 IS EFFECTIVE AGAINST A LICENSEE ONE DAY AFTER THE
4 DEPARTMENT SENDS NOTICE IN A RECORD OF THE REVOCATION TO THE
5 LICENSEE, BY A MEANS REASONABLY SELECTED FOR THE NOTICE TO BE
6 RECEIVED BY THE RECIPIENT IN ONE DAY, TO THE ADDRESS PROVIDED FOR
7 RECEIVING COMMUNICATIONS FROM THE DEPARTMENT.

8 (2) SUSPENSION OF A LICENSE UNDER THIS ARTICLE 111,
9 SUSPENSION OF A REGISTRATION, OR AN ORDER TO CEASE AND DESIST IS
10 EFFECTIVE AGAINST A LICENSEE, REGISTRANT, OR OTHER PERSON ONE DAY
11 AFTER THE DEPARTMENT SENDS NOTICE IN A RECORD OF THE SUSPENSION
12 OR ORDER TO THE LICENSEE, REGISTRANT, OR OTHER PERSON, BY A MEANS
13 REASONABLY SELECTED FOR THE NOTICE TO BE RECEIVED BY THE
14 RECIPIENT IN ONE DAY, TO THE ADDRESS PROVIDED FOR RECEIVING
15 COMMUNICATIONS FROM THE DEPARTMENT OR, IF NO ADDRESS IS
16 PROVIDED, TO THE RECIPIENT'S LAST KNOWN ADDRESS. A SUSPENSION OR
17 ORDER TO CEASE AND DESIST REMAINS IN EFFECT UNTIL THE EARLIEST OF:

18 (a) ENTRY OF AN ORDER BY THE DEPARTMENT UNDER THE "STATE
19 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, SETTING
20 ASIDE OR LIMITING THE SUSPENSION OR ORDER;

21 (b) ENTRY OF A COURT ORDER SETTING ASIDE OR LIMITING THE
22 SUSPENSION OR ORDER TO CEASE AND DESIST; OR

23 (c) A DATE SPECIFIED BY THE DEPARTMENT.

24 (3) IF, WITHOUT REASON TO KNOW OF THE DEPARTMENT'S NOTICE
25 SENT UNDER SUBSECTION (1) OR (2) OF THIS SECTION, A LICENSEE,
26 REGISTRANT, OR OTHER PERSON DOES NOT COMPLY IN ACCORDANCE WITH
27 THE NOTICE UNTIL THE NOTICE IS ACTUALLY RECEIVED AT THE ADDRESS

1 PROVIDED, THE DEPARTMENT MAY CONSIDER THE DELAY IN COMPLIANCE
2 IN IMPOSING A SANCTION FOR THE FAILURE.

3 **11-111-405. Consent order.** THE DEPARTMENT MAY ENTER INTO
4 A CONSENT ORDER WITH A PERSON REGARDING AN ENFORCEMENT
5 MEASURE. THE ORDER MAY PROVIDE THAT IT DOES NOT CONSTITUTE AN
6 ADMISSION OF FACT BY A PARTY.

7 **11-111-406. Scope of right of action.** (1) EXCEPT AS OTHERWISE
8 PROVIDED IN THIS SECTION, A PERSON DOES NOT HAVE A RIGHT OF ACTION
9 FOR VIOLATION OF THIS ARTICLE 111.

10 (2) THE DEPARTMENT MAY BRING AN ACTION FOR RESTITUTION ON
11 BEHALF OF A RESIDENT IF THE DEPARTMENT PROVES ECONOMIC INJURY
12 DUE TO A VIOLATION OF THIS ARTICLE 111.

13 (3) THIS SECTION DOES NOT PRECLUDE AN ACTION BY A RESIDENT
14 TO ENFORCE RIGHTS UNDER SECTION 11-111-502 OR LAW OF THIS STATE
15 OTHER THAN THIS ARTICLE 111.

16 PART 5

17 DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS

18 **11-111-501. Required disclosures.** (1) A LICENSEE OR
19 REGISTRANT SHALL PROVIDE TO A RESIDENT WHO USES THE LICENSEE'S OR
20 REGISTRANT'S PRODUCTS OR SERVICE THE DISCLOSURES REQUIRED BY
21 SUBSECTION (2) OF THIS SECTION AND ANY ADDITIONAL DISCLOSURE THE
22 DEPARTMENT BY RULE DETERMINES REASONABLY NECESSARY FOR THE
23 PROTECTION OF RESIDENTS. THE DEPARTMENT SHALL DETERMINE BY RULE
24 THE TIME AND FORM REQUIRED FOR DISCLOSURE. A DISCLOSURE REQUIRED
25 BY THIS SECTION MUST BE MADE SEPARATELY FROM ANY OTHER
26 INFORMATION PROVIDED BY THE LICENSEE OR REGISTRANT AND IN A
27 CLEAR AND CONSPICUOUS MANNER IN A RECORD THE RESIDENT MAY KEEP.

1 A LICENSEE OR REGISTRANT MAY PROPOSE FOR THE DEPARTMENT'S
2 APPROVAL ALTERNATE DISCLOSURES AS MORE APPROPRIATE FOR ITS
3 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF
4 RESIDENTS.

5 (2) BEFORE ESTABLISHING A RELATIONSHIP WITH A RESIDENT, A
6 LICENSEE OR REGISTRANT SHALL DISCLOSE, TO THE EXTENT APPLICABLE
7 TO THE VIRTUAL-CURRENCY BUSINESS, ACTIVITY THE LICENSEE OR
8 REGISTRANT WILL UNDERTAKE WITH THE RESIDENT:

9 (a) A SCHEDULE OF FEES AND CHARGES THE LICENSEE OR
10 REGISTRANT MAY ASSESS, THE MANNER BY WHICH FEES AND CHARGES
11 WILL BE CALCULATED IF THEY ARE NOT SET IN ADVANCE AND DISCLOSED,
12 AND THE TIMING OF THE FEES AND CHARGES;

13 (b) WHETHER THE PRODUCT OR SERVICE PROVIDED BY THE
14 LICENSEE OR REGISTRANT IS COVERED BY:

15 (I) A FORM OF INSURANCE OR IS OTHERWISE GUARANTEED
16 AGAINST LOSS BY AN AGENCY OF THE UNITED STATES:

17 (A) UP TO THE FULL U.S. DOLLAR EQUIVALENT OF VIRTUAL
18 CURRENCY PLACED UNDER THE CONTROL OF OR PURCHASED FROM THE
19 LICENSEE OR REGISTRANT AS OF THE DATE OF THE PLACEMENT OR
20 PURCHASE, INCLUDING THE MAXIMUM AMOUNT PROVIDED BY INSURANCE
21 UNDER THE FEDERAL DEPOSIT INSURANCE CORPORATION OR OTHERWISE
22 AVAILABLE FROM THE SECURITIES INVESTOR PROTECTION CORPORATION;
23 OR

24 (B) IF NOT PROVIDED AT THE FULL U.S. DOLLAR EQUIVALENT OF
25 VIRTUAL CURRENCY PLACED UNDER THE CONTROL OF OR PURCHASED
26 FROM THE LICENSEE OR REGISTRANT, THE MAXIMUM AMOUNT OF
27 COVERAGE FOR EACH RESIDENT EXPRESSED IN THE U.S. DOLLAR

1 EQUIVALENT OF VIRTUAL CURRENCY; OR

2 (II) PRIVATE INSURANCE AGAINST THEFT OR LOSS, INCLUDING

3 CYBER THEFT OR THEFT BY OTHER MEANS;

4 (c) THE IRREVOCABILITY OF A TRANSFER OR EXCHANGE AND ANY

5 EXCEPTION TO IRREVOCABILITY;

6 (d) A DESCRIPTION OF:

7 (I) LIABILITY FOR AN UNAUTHORIZED, MISTAKEN, OR ACCIDENTAL

8 TRANSFER OR EXCHANGE;

9 (II) THE RESIDENT'S RESPONSIBILITY TO PROVIDE NOTICE TO THE

10 LICENSEE OR REGISTRANT OF THE TRANSFER OR EXCHANGE;

11 (III) THE BASIS FOR ANY RECOVERY BY THE RESIDENT FROM THE

12 LICENSEE OR REGISTRANT;

13 (IV) GENERAL ERROR-RESOLUTION RIGHTS APPLICABLE TO THE

14 TRANSFER OR EXCHANGE; AND

15 (V) THE METHOD FOR THE RESIDENT TO UPDATE THE RESIDENT'S

16 CONTACT INFORMATION WITH THE LICENSEE OR REGISTRANT;

17 (e) THAT THE DATE OR TIME WHEN THE TRANSFER OR EXCHANGE

18 IS MADE AND THE RESIDENT'S ACCOUNT IS DEBITED MAY DIFFER FROM THE

19 DATE OR TIME WHEN THE RESIDENT INITIATES THE INSTRUCTION TO MAKE

20 THE TRANSFER OR EXCHANGE;

21 (f) WHETHER THE RESIDENT HAS A RIGHT TO STOP A

22 PREAUTHORIZED PAYMENT OR REVOKE AUTHORIZATION FOR A TRANSFER

23 AND THE PROCEDURE TO INITIATE A STOP-PAYMENT ORDER OR REVOKE

24 AUTHORIZATION FOR A SUBSEQUENT TRANSFER;

25 (g) THE RESIDENT'S RIGHT TO RECEIVE A RECEIPT, TRADE TICKET,

26 OR OTHER EVIDENCE OF THE TRANSFER OR EXCHANGE;

27 (h) THE RESIDENT'S RIGHT TO AT LEAST THIRTY DAYS' PRIOR

1 NOTICE OF A CHANGE IN THE LICENSEE'S OR REGISTRANT'S FEE SCHEDULE,
2 OTHER TERMS AND CONDITIONS OF OPERATING ITS VIRTUAL-CURRENCY
3 BUSINESS ACTIVITY WITH THE RESIDENT, AND THE POLICIES APPLICABLE TO
4 THE RESIDENT'S ACCOUNT; AND

5 (i) THAT VIRTUAL CURRENCY IS NOT LEGAL TENDER.

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

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

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

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

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

24 **11-111-502. Property interests and entitlements to virtual**
25 **currency - definitions - applicability of "Uniform Commercial Code"**
26 **- mandatory choice-of-law provisions. (1) Definitions.** AS USED IN THIS
27 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1 (a) "AGREEMENT" HAS THE MEANING SET FORTH IN SECTION
2 4-1-201 OF THE "UNIFORM COMMERCIAL CODE", AS AMENDED, IN
3 SUBSTANTIALLY THE FORM APPROVED BY THE AMERICAN LAW INSTITUTE
4 AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE
5 LAWS.

6 (b) "ARTICLE 8" MEANS ARTICLE 8 OF THE "UNIFORM
7 COMMERCIAL CODE", IN SUBSTANTIALLY THE FORM APPROVED BY THE
8 AMERICAN LAW INSTITUTE AND THE NATIONAL CONFERENCE OF
9 COMMISSIONERS ON UNIFORM STATE LAWS.

10 (c) "ENTITLEMENT HOLDER" HAS THE MEANING SET FORTH IN
11 SECTION 4-8-102 (a)(7).

12 (d) "FINANCIAL ASSET" HAS THE MEANING SET FORTH IN SECTION
13 4-8-102 (a)(9).

14 (e) "HAGUE SECURITIES CONVENTION" MEANS THE CONVENTION
15 ON THE LAW APPLICABLE TO CERTAIN RIGHTS IN RESPECT OF SECURITIES
16 HELD WITH AN INTERMEDIARY, CONCLUDED JULY 5, 2006.

17 (f) "SECURITIES ACCOUNT" HAS THE MEANING SET FORTH IN
18 SECTION 4-8-501 (a).

19 (g) "SECURITIES INTERMEDIARY" HAS THE MEANING SET FORTH IN
20 SECTION 4-8-102 (a)(14).

21 (h) "SECURITY" HAS THE MEANING SET FORTH IN SECTION 4-8-102
22 (a)(15).

23 (i) "UNIFORM COMMERCIAL CODE JURISDICTION" MEANS A STATE
24 THAT HAS ENACTED ARTICLE 8.

25 (j) "USER" MEANS A PERSON FOR WHICH A LICENSEE OR
26 REGISTRANT HAS CONTROL OF VIRTUAL CURRENCY.

27 (2) **Scope.** THIS SECTION APPLIES TO:

1 (a) A PERSON OR TRANSACTION GOVERNED BY THIS ARTICLE 111;
2 AND

3 (b) A USER THAT IS NOT A RESIDENT IF THE USER OR TRANSACTION
4 WITH THE USER WOULD BE GOVERNED BY THIS ARTICLE 111 IF THE USER
5 WERE A RESIDENT.

6 (3) **Incorporation of Article 8.** (a) THE RELATIONSHIP BETWEEN
7 A LICENSEE OR REGISTRANT AND A USER MUST BE EVIDENCED BY AN
8 AGREEMENT IN A RECORD SIGNED BY THE LICENSEE OR REGISTRANT AND
9 BY THE USER. THE AGREEMENT:

10 (I) MUST SPECIFY THE JURISDICTION WHOSE LAW GOVERNS THE
11 AGREEMENT;

12 (II) IF GOVERNED BY THE LAW OF A JURISDICTION THAT IS NOT A
13 UNIFORM COMMERCIAL CODE JURISDICTION, MUST:

14 (A) SPECIFY A UNIFORM COMMERCIAL CODE JURISDICTION AS THE
15 SECURITIES INTERMEDIARY'S JURISDICTION FOR THE PURPOSE OF ARTICLE
16 8; AND

17 (B) STATE THAT THE LAW IN FORCE IN THE UNIFORM COMMERCIAL
18 CODE JURISDICTION UNDER SUBSECTION (3)(b)(I) OF THIS SECTION APPLIES
19 TO ALL ISSUES SPECIFIED IN ARTICLE 2(1) OF THE HAGUE SECURITIES
20 CONVENTION;

21 (III) MUST STATE THAT:

22 (A) THE LICENSEE OR REGISTRANT IS A SECURITIES INTERMEDIARY;

23 (B) THE CONTROL OF VIRTUAL CURRENCY BY THE LICENSEE OR
24 REGISTRANT FOR THE BENEFIT OF THE USER CREATES A SECURITIES
25 ACCOUNT OF WHICH THE USER IS THE ENTITLEMENT HOLDER;

26 (C) THE PARTIES AGREE THAT THE VIRTUAL CURRENCY IS TO BE
27 TREATED AS A FINANCIAL ASSET CREDITED OR HELD FOR CREDIT TO THE

1 SECURITIES ACCOUNT OF THE USER; AND

2 (D) THE LICENSEE OR REGISTRANT WILL NOT GRANT A SECURITY
3 INTEREST IN VIRTUAL CURRENCY THAT THE LICENSEE OR REGISTRANT IS
4 OBLIGATED TO MAINTAIN UNDER SECTION 4-8-504 (a);

5 (IV) MAY NOT PROVIDE A STANDARD FOR THE LICENSEE OR
6 REGISTRANT TO COMPLY WITH ITS DUTIES UNDER PART 5 OF ARTICLE 8
7 THAT IS LESS PROTECTIVE OF THE USER THAN THE STANDARD THAT WOULD
8 APPLY UNDER PART 5 OF ARTICLE 8 IN THE ABSENCE OF AN AGREEMENT
9 CONCERNING THE STANDARD; AND

10 (V) MAY NOT PROVIDE THAT:

11 (A) THE SECURITIES INTERMEDIARY'S JURISDICTION FOR THE
12 PURPOSE OF ARTICLE 8 IS A JURISDICTION THAT IS NOT A UNIFORM
13 COMMERCIAL CODE JURISDICTION; OR

14 (B) THE LAW IN FORCE IN A JURISDICTION THAT IS NOT A UNIFORM
15 COMMERCIAL CODE JURISDICTION APPLIES TO ALL ISSUES SPECIFIED IN
16 ARTICLE 2(1) OF THE HAGUE SECURITIES CONVENTION.

17 (b) (I) TO THE EXTENT THAT THERE IS NO AGREEMENT THAT
18 COMPLIES WITH SUBSECTION (3) OF THIS SECTION, THE RELATIONSHIP
19 BETWEEN A LICENSEE OR REGISTRANT AND A USER IS DETERMINED AS IF
20 THE LICENSEE OR REGISTRANT AND THE USER HAVE AN AGREEMENT THAT
21 COMPLIES WITH SUBSECTION (3) OF THIS SECTION AND SPECIFIES THAT THE
22 LAW OF THIS STATE GOVERNS THE AGREEMENT.

23 (II) THE EFFECT OF THIS SUBSECTION (3) MAY NOT BE VARIED BY
24 AGREEMENT.

25 (4) **Qualifying office under Hague Securities Convention.**

26 (a) A LICENSEE OR REGISTRANT SHALL MAINTAIN IN ANY STATE AN OFFICE
27 THAT COMPLIES WITH THE SECOND SENTENCE OF ARTICLE 4(1) OF THE

1 HAGUE SECURITIES CONVENTION.

2 (b) THE EFFECT OF THIS SUBSECTION (5) MAY NOT BE VARIED BY
3 AGREEMENT.

4 (5) **No inference as to characterization under other statute or**
5 **rule.** TREATMENT OF VIRTUAL CURRENCY AS A FINANCIAL ASSET
6 CREDITED TO A SECURITIES ACCOUNT UNDER THIS ARTICLE 111 AND
7 ARTICLE 8 DOES NOT DETERMINE THE CHARACTERIZATION OR TREATMENT
8 OF THE VIRTUAL CURRENCY UNDER ANY OTHER STATUTE OR RULE.

9 PART 6

10 POLICIES AND PROCEDURES

11 **11-111-601. Mandated compliance programs and monitoring.**

12 (1) AN APPLICANT, BEFORE SUBMITTING AN APPLICATION, AND
13 REGISTRANT, BEFORE REGISTERING, SHALL CREATE AND, DURING
14 LICENSURE OR REGISTRATION, MAINTAIN IN A RECORD POLICIES AND
15 PROCEDURES FOR:

16 (a) AN INFORMATION SECURITY AND OPERATIONAL SECURITY
17 PROGRAM;

18 (b) A BUSINESS CONTINUITY PROGRAM;

19 (c) A DISASTER RECOVERY PROGRAM;

20 (d) AN ANTI-FRAUD PROGRAM;

21 (e) AN ANTI-MONEY-LAUNDERING PROGRAM;

22 (f) A PROGRAM TO PREVENT FUNDING OF TERRORIST ACTIVITY;

23 AND

24 (g) A PROGRAM DESIGNED TO:

25 (I) ENSURE COMPLIANCE WITH THIS ARTICLE 111, LAW OF THIS
26 STATE OTHER THAN THIS ARTICLE 111, AND FEDERAL LAW, WHICH ARE
27 RELEVANT TO THE VIRTUAL-CURRENCY BUSINESS ACTIVITY

1 CONTEMPLATED BY THE LICENSEE OR REGISTRANT WITH OR ON BEHALF OF
2 RESIDENTS; AND

3 (II) ASSIST THE LICENSEE OR REGISTRANT IN ACHIEVING THE
4 PURPOSES OF LAW OF THIS STATE OTHER THAN THIS ARTICLE 111 AND
5 FEDERAL LAW IF VIOLATION OF THAT LAW HAS A REMEDY UNDER THIS
6 ARTICLE 111.

7 (2) EACH POLICY REQUIRED BY SUBSECTION (1) OF THIS SECTION
8 MUST BE IN A RECORD AND DESIGNED TO BE ADEQUATE FOR A LICENSEE'S
9 OR REGISTRANT'S CONTEMPLATED VIRTUAL-CURRENCY BUSINESS
10 ACTIVITY WITH OR ON BEHALF OF RESIDENTS, CONSIDERING THE
11 CIRCUMSTANCES OF ALL PARTICIPANTS AND THE SAFE OPERATION OF THE
12 ACTIVITY. EACH POLICY AND IMPLEMENTING PROCEDURE MUST BE
13 COMPATIBLE WITH OTHER POLICIES AND THE PROCEDURES IMPLEMENTING
14 THEM AND NOT CONFLICT WITH POLICIES OR PROCEDURES APPLICABLE TO
15 THE LICENSEE OR REGISTRANT UNDER LAW OF THIS STATE OTHER THAN
16 THIS ARTICLE 111. A POLICY AND IMPLEMENTING PROCEDURE MAY BE ONE
17 IN EXISTENCE IN THE LICENSEE'S OR REGISTRANT'S VIRTUAL-CURRENCY
18 BUSINESS ACTIVITY WITH OR ON BEHALF OF RESIDENTS.

19 (3) A LICENSEE'S OR REGISTRANT'S POLICY FOR DETECTING FRAUD
20 MUST INCLUDE:

21 (a) IDENTIFICATION AND ASSESSMENT OF THE MATERIAL RISKS OF
22 ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY RELATED TO FRAUD;

23 (b) PROTECTION AGAINST ANY MATERIAL RISK RELATED TO FRAUD
24 IDENTIFIED BY THE DEPARTMENT OR THE LICENSEE OR REGISTRANT; AND

25 (c) PERIODIC EVALUATION AND REVISION OF THE ANTI-FRAUD
26 PROCEDURE.

27 (4) A LICENSEE'S OR REGISTRANT'S POLICY FOR PREVENTING

1 MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITY MUST
2 INCLUDE:

3 (a) IDENTIFICATION AND ASSESSMENT OF THE MATERIAL RISKS OF
4 ITS VIRTUAL-CURRENCY BUSINESS ACTIVITY RELATED TO MONEY
5 LAUNDERING AND FINANCING OF TERRORIST ACTIVITY;

6 (b) PROCEDURES, IN ACCORDANCE WITH FEDERAL LAW OR
7 GUIDANCE PUBLISHED BY FEDERAL AGENCIES RESPONSIBLE FOR
8 ENFORCING FEDERAL LAW, PERTAINING TO MONEY LAUNDERING AND
9 FINANCING OF TERRORIST ACTIVITY; AND

10 (c) FILING REPORTS UNDER THE FEDERAL "FINANCIAL
11 RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN
12 TRANSACTIONS ACT OF 1970", 31 U.S.C. SEC. 5311 ET SEQ., AS AMENDED,
13 OR 31 CFR PART X, AS AMENDED, AND OTHER FEDERAL OR STATE LAWS
14 PERTAINING TO THE PREVENTION OR DETECTION OF MONEY LAUNDERING
15 OR FINANCING OF TERRORIST ACTIVITY.

16 (5) A LICENSEE'S OR REGISTRANT'S INFORMATION SECURITY AND
17 OPERATIONAL SECURITY POLICY MUST INCLUDE REASONABLE AND
18 APPROPRIATE ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS
19 TO PROTECT THE CONFIDENTIALITY, INTEGRITY, AND AVAILABILITY OF
20 ANY NONPUBLIC PERSONAL INFORMATION OR VIRTUAL CURRENCY IT
21 RECEIVES, MAINTAINS, OR TRANSMITS.

22 (6) A LICENSEE OR REGISTRANT IS NOT REQUIRED TO FILE WITH THE
23 DEPARTMENT A COPY OF A REPORT IT MAKES TO A FEDERAL AUTHORITY
24 UNLESS THE DEPARTMENT SPECIFICALLY REQUIRES FILING.

25 (7) A LICENSEE'S OR REGISTRANT'S PROTECTION POLICY UNDER
26 SUBSECTION (5) OF THIS SECTION FOR RESIDENTS MUST INCLUDE:

27 (a) ANY ACTION OR SYSTEM OF RECORDS REQUIRED TO COMPLY

1 WITH THIS ARTICLE 111 AND LAW OF THIS STATE OTHER THAN THIS
2 ARTICLE 111 APPLICABLE TO THE LICENSEE OR REGISTRANT WITH RESPECT
3 TO VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
4 RESIDENT;

5 (b) A PROCEDURE FOR RESOLVING DISPUTES BETWEEN THE
6 LICENSEE OR REGISTRANT AND A RESIDENT;

7 (c) A PROCEDURE FOR A RESIDENT TO REPORT AN UNAUTHORIZED,
8 MISTAKEN, OR ACCIDENTAL VIRTUAL-CURRENCY BUSINESS ACTIVITY
9 TRANSACTION; AND

10 (d) A PROCEDURE FOR A RESIDENT TO FILE A COMPLAINT WITH THE
11 LICENSEE OR REGISTRANT AND FOR THE RESOLUTION OF THE COMPLAINT
12 IN A FAIR AND TIMELY MANNER WITH NOTICE TO THE RESIDENT AS SOON
13 AS REASONABLY PRACTICAL OF THE RESOLUTION AND THE REASONS FOR
14 THE RESOLUTION.

15 (8) AFTER THE POLICIES AND PROCEDURES REQUIRED UNDER THIS
16 SECTION ARE CREATED AND APPROVED BY THE DEPARTMENT AND THE
17 LICENSEE OR REGISTRANT, THE LICENSEE OR REGISTRANT SHALL ENGAGE
18 A RESPONSIBLE INDIVIDUAL WITH ADEQUATE AUTHORITY AND EXPERIENCE
19 TO MONITOR EACH POLICY AND PROCEDURE, PUBLICIZE IT AS
20 APPROPRIATE, RECOMMEND CHANGES AS DESIRABLE, AND ENFORCE IT.

21 (9) A LICENSEE OR REGISTRANT MAY:

22 (a) REQUEST ADVICE FROM THE DEPARTMENT AS TO COMPLIANCE
23 WITH THIS SECTION; AND

24 (b) WITH THE DEPARTMENT'S APPROVAL, OUTSOURCE FUNCTIONS,
25 OTHER THAN COMPLIANCE, REQUIRED UNDER THIS SECTION.

26 (10) FAILURE OF A PARTICULAR POLICY OR PROCEDURE ADOPTED
27 UNDER THIS SECTION TO MEET ITS GOALS IN A PARTICULAR INSTANCE IS

1 NOT A GROUND FOR LIABILITY OF THE LICENSEE OR REGISTRANT IF THE
2 POLICY OR PROCEDURE WAS CREATED, IMPLEMENTED, AND MONITORED
3 PROPERLY. REPEATED FAILURES OF A POLICY OR PROCEDURE ARE
4 EVIDENCE THAT THE POLICY OR PROCEDURE WAS NOT CREATED OR
5 IMPLEMENTED PROPERLY.

6 (11) POLICIES AND PROCEDURES ADOPTED UNDER THIS SECTION
7 MUST BE DISCLOSED SEPARATELY FROM OTHER DISCLOSURES MADE
8 AVAILABLE TO A RESIDENT, IN A CLEAR AND CONSPICUOUS MANNER AND
9 IN THE MEDIUM THROUGH WHICH THE RESIDENT CONTACTED THE LICENSEE
10 OR REGISTRANT.

11 **11-111-602. Mandated compliance policy or procedure.**

12 (1) AN APPLICANT, BEFORE SUBMITTING ITS APPLICATION, AND A
13 REGISTRANT, BEFORE REGISTERING, SHALL ESTABLISH AND MAINTAIN IN
14 A RECORD A POLICY OR PROCEDURE DESIGNED TO ENSURE COMPLIANCE
15 WITH:

16 (a) THIS ARTICLE 111; AND

17 (b) LAW OF THIS STATE OTHER THAN THIS ARTICLE 111 IF:

18 (I) THE OTHER LAW IS RELEVANT TO THE VIRTUAL-CURRENCY
19 BUSINESS ACTIVITY CONTEMPLATED BY THE LICENSEE OR REGISTRANT OR
20 THE SCOPE OF THIS ARTICLE 111; OR

21 (II) THIS ARTICLE 111 COULD ASSIST IN THE PURPOSE OF THE
22 OTHER LAW BECAUSE VIOLATION OF THE OTHER LAW HAS A REMEDY
23 UNDER THIS ARTICLE 111.

24 (2) A POLICY OR PROCEDURE UNDER SUBSECTION (1) OF THIS
25 SECTION:

26 (a) MUST BE COMPATIBLE, AND NOT CONFLICT, WITH
27 REQUIREMENTS APPLICABLE TO A LICENSEE OR REGISTRANT UNDER LAW

1 OF THIS STATE OTHER THAN THIS ARTICLE 111 AND UNDER FEDERAL LAW;
2 AND

3 (b) MAY BE A POLICY OR PROCEDURE IN EXISTENCE FOR THE
4 LICENSEE'S OR REGISTRANT'S VIRTUAL-CURRENCY BUSINESS ACTIVITY
5 WITH OR ON BEHALF OF A RESIDENT.

6 (3) AFTER THE POLICIES AND PROCEDURES REQUIRED UNDER THIS
7 SECTION ARE CREATED BY THE LICENSEE OR REGISTRANT AND APPROVED
8 BY THE DEPARTMENT, THE LICENSEE OR REGISTRANT SHALL ENGAGE A
9 RESPONSIBLE INDIVIDUAL WITH ADEQUATE AUTHORITY AND EXPERIENCE
10 TO MONITOR EACH POLICY OR PROCEDURE, PUBLICIZE IT AS APPROPRIATE,
11 RECOMMEND CHANGES AS DESIRABLE, AND ENFORCE IT.

12 (4) A LICENSEE OR REGISTRANT MAY:

13 (a) REQUEST ADVICE FROM THE DEPARTMENT AS TO COMPLIANCE
14 WITH THIS SECTION; AND

15 (b) WITH THE DEPARTMENT'S APPROVAL, OUTSOURCE FUNCTIONS,
16 OTHER THAN COMPLIANCE, REQUIRED UNDER THIS SECTION.

17 (5) FAILURE OF A PARTICULAR POLICY OR PROCEDURE ADOPTED
18 UNDER THIS SECTION TO MEET ITS GOALS IN A PARTICULAR INSTANCE IS
19 NOT A GROUND FOR LIABILITY OF THE LICENSEE OR REGISTRANT IF THE
20 POLICY OR PROCEDURE WAS CREATED, IMPLEMENTED, AND MONITORED
21 PROPERLY. REPEATED FAILURES OF A POLICY OR PROCEDURE ARE
22 EVIDENCE THAT THE POLICY OR PROCEDURE WAS NOT CREATED OR
23 IMPLEMENTED PROPERLY.

24 PART 7

25 MISCELLANEOUS PROVISIONS

26 **11-111-701. Uniformity of application and construction.** IN
27 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE

1 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
2 TO ITS SUBJECT MATTER AMONG THE STATES THAT ENACT IT.

3 **11-111-702. Relation to federal "Electronic Signatures in**
4 **Global and National Commerce Act".** THIS ARTICLE 111 MODIFIES,
5 LIMITS, OR SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN
6 GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001, ET SEQ.,
7 BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT
8 ACT, 15 U.S.C. SEC. 7001(c), OR AUTHORIZE ELECTRONIC DELIVERY OF
9 ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15
10 U.S.C. SEC. 7003(b).

11 **11-111-703. Saving and transitional provisions.** (1) A LICENSE
12 ISSUED UNDER THE "MONEY TRANSMITTERS ACT", ARTICLE 110 OF THIS
13 TITLE 11, THAT WAS IN EFFECT IMMEDIATELY BEFORE THE EFFECTIVE DATE
14 OF THIS ARTICLE 111 REMAINS IN EFFECT AS A LICENSE FOR ITS DURATION
15 UNLESS REVOKED OR SUSPENDED UNDER ARTICLE 110 OF THIS TITLE 11. A
16 PERSON LICENSED UNDER ARTICLE 110 OF THIS TITLE 11 THAT DOES NOT
17 INTEND TO ENGAGE IN VIRTUAL-CURRENCY BUSINESS ACTIVITY IS NOT
18 REQUIRED TO INFORM THE DEPARTMENT OF ITS INTENTION.

19 (2) IF THE DEPARTMENT DENIES, SUSPENDS, OR REVOKES A LICENSE
20 UNDER THIS ARTICLE 111 OR SUSPENDS OR REVOKES A REGISTRATION TO
21 CONDUCT VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF
22 A RESIDENT, THE DENIAL, SUSPENSION, OR REVOCATION MAY NOT BE USED
23 AS A GROUND FOR SUSPENSION OR REVOCATION OF A LICENSE GRANTED
24 UNDER ARTICLE 110 OF THIS TITLE 11 UNLESS THAT ARTICLE
25 INDEPENDENTLY PROVIDES A BASIS FOR ACTION AGAINST THE LICENSEE OR
26 REGISTRANT.

27 (3) THIS ARTICLE 111 APPLIES TO VIRTUAL-CURRENCY BUSINESS

1 ACTIVITY WITH OR ON BEHALF OF A RESIDENT ON OR AFTER THE EFFECTIVE
2 DATE OF THIS ARTICLE 111.

3 (4) A PERSON IS DEEMED TO BE CONDUCTING UNLICENSED
4 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
5 RESIDENT IN VIOLATION OF THIS ARTICLE 111 IF THE PERSON ENGAGES IN
6 VIRTUAL-CURRENCY BUSINESS ACTIVITY ON OR AFTER THE EFFECTIVE
7 DATE OF THIS ARTICLE 111 AND THE PERSON DOES NOT HOLD A LICENSE
8 ISSUED OR RECOGNIZED UNDER THIS ARTICLE 111, IS NOT EXEMPT FROM
9 THIS ARTICLE 111, AND HAS NOT APPLIED FOR A LICENSE OR FILED A
10 REGISTRATION. THIS SUBSECTION (4) INCLUDES A PERSON THAT:

11 (a) HAS OBTAINED A LICENSE UNDER ARTICLE 110 OF THIS TITLE
12 11, WHETHER OR NOT THAT ARTICLE COVERS VIRTUAL-CURRENCY
13 BUSINESS ACTIVITY, OR HOLDS A CHARTER AS A TRUST COMPANY FROM
14 THIS STATE; AND

15 (b) DOES NOT HAVE PERMISSION TO ENGAGE IN
16 VIRTUAL-CURRENCY BUSINESS ACTIVITY WITH OR ON BEHALF OF A
17 RESIDENT.

18 *Legislative Note [from NCCUSL]: A state that allows a*
19 *state-chartered bank with trust powers or a non-bank trust*
20 *company or limited-purpose trust company to engage in*
21 *activities that would be governed by this article 111, only*
22 *if it has received a separate permit or approval, or*
23 *otherwise conditions its exercise of powers governed by*
24 *this article 111, should add a separate savings or*
25 *transitional subsection to this article 111. The new*
26 *subsection should specify any limitations on the powers of*
27 *the trust company or limited-purpose trust company as well*

1 *as the state's preference on reciprocal licensing of a trust*
2 *company or limited-purpose trust company, or of*
3 *recognizing cross-border activities of a chartered trust*
4 *company or limited-purpose trust company not domiciled*
5 *in the state.*

6 **11-111-704. Effective date.** THIS ARTICLE 111 TAKES EFFECT
7 _____. <{*Do you wish to include a statutory effective date?*}>

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2020 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.

18 <{*Do you want a safety clause or a specific effective date?*}>

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REDRAFT
10.30.18

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 19-0161.01 Thomas Morris x4218

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Revised Uniform Law Remote Notarization"
DEADLINES: Finalize by: JAN 23, 2019 File by: JAN 25, 2019

A BILL FOR AN ACT

101 CONCERNING AN AUTHORIZATION OF REMOTE NOTARIZATION, AND, IN
102 CONNECTION THEREWITH, ENACTING THE **2018** AMENDMENTS
103 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

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

act on behalf of an individual who is not in the notary's physical presence. _____

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-21-501 as
3 follows:

4 **24-21-501. Short title.** The short title of this part 5 is the "Revised
5 Uniform Law on Notarial Acts (*2018*)".

6 **SECTION 2.** In Colorado Revised Statutes, 24-21-504, **add** (4)
7 as follows:

8 **24-21-504. Authority to perform notarial act.** (4) A NOTARIAL
9 OFFICER MAY CERTIFY THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD
10 IS AN ACCURATE COPY OF THE ELECTRONIC RECORD.

11 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as
12 follows:

13 **24-21-514.5. Notarial act performed by remotely located**
14 **individual - definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS
15 THE CONTEXT OTHERWISE REQUIRES:

16 (a) "COMMUNICATION TECHNOLOGY" MEANS AN ELECTRONIC
17 DEVICE OR PROCESS THAT:

18 (I) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED
19 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY
20 SIGHT AND SOUND; AND

1 (II) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE
2 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED
3 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

4 (b) "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE
5 UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

6 (c) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH
7 A THIRD PERSON PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY
8 THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF
9 PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

10 (d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
11 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
12 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY, INSULAR
13 POSSESSION, OR OTHER LOCATION SUBJECT TO THE JURISDICTION OF THE
14 UNITED STATES.

15 (e) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL
16 WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO
17 PERFORMS A NOTARIAL ACT UNDER SUBSECTION (3) OF THIS SECTION.

18 (2) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH
19 SECTION 24-21-506 BY USING COMMUNICATION TECHNOLOGY TO APPEAR
20 BEFORE A NOTARY PUBLIC.

21 (3) A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A
22 NOTARIAL ACT USING COMMUNICATION TECHNOLOGY FOR A REMOTELY
23 LOCATED INDIVIDUAL IF:

24 (a) THE NOTARY PUBLIC:

25 (I) HAS PERSONAL KNOWLEDGE UNDER SECTION 24-21-507 (1) OF
26 THE IDENTITY OF THE INDIVIDUAL;

27 (II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE

1 REMOTELY LOCATED INDIVIDUAL BY OATH OR AFFIRMATION FROM A
2 CREDIBLE WITNESS APPEARING BEFORE THE NOTARY PUBLIC UNDER
3 SECTION 24-21-507 (2) OR UNDER THIS SECTION; OR

4 (III) HAS OBTAINED SATISFACTORY EVIDENCE OF THE IDENTITY OF
5 THE REMOTELY LOCATED INDIVIDUAL BY USING AT LEAST TWO DIFFERENT
6 TYPES OF IDENTITY PROOFING; _____

7 (b) THE NOTARY PUBLIC IS ABLE REASONABLY TO CONFIRM THAT
8 A RECORD BEFORE THE NOTARY PUBLIC IS THE SAME RECORD IN WHICH THE
9 REMOTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE
10 REMOTELY LOCATED INDIVIDUAL EXECUTED A SIGNATURE;

11 (c) THE NOTARY PUBLIC, OR A PERSON ACTING ON BEHALF OF THE
12 NOTARY PUBLIC, CREATES AN AUDIO-VISUAL RECORDING OF THE
13 PERFORMANCE OF THE NOTARIAL ACT; AND

14 (d) FOR A REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED
15 OUTSIDE THE UNITED STATES:

16 (I) THE RECORD:

17 (A) IS TO BE FILED WITH OR RELATES TO A MATTER BEFORE A
18 PUBLIC OFFICIAL OR COURT, GOVERNMENTAL ENTITY, _____ OR OTHER
19 ENTITY SUBJECT TO THE JURISDICTION OF THE UNITED STATES; OR

20 (B) INVOLVES PROPERTY LOCATED IN THE TERRITORIAL
21 JURISDICTION OF THE UNITED STATES OR INVOLVES A TRANSACTION
22 SUBSTANTIALLY CONNECTED WITH THE UNITED STATES; AND

23 (II) THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD
24 IS NOT PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY
25 LOCATED INDIVIDUAL IS LOCATED.

26 (4) IF A NOTARIAL ACT IS PERFORMED UNDER THIS SECTION, THE
27 CERTIFICATE OF NOTARIAL ACT REQUIRED BY SECTION 24-21-515 AND THE

1 SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516 MUST
2 INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING
3 COMMUNICATION TECHNOLOGY.

4 (5) A SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516
5 FOR A NOTARIAL ACT SUBJECT TO THIS SECTION IS SUFFICIENT IF IT:

6 (a) COMPLIES WITH RULES ADOPTED UNDER SUBSECTION (8)(a) OF
7 THIS SECTION; OR

8 (b) IS IN THE FORM PROVIDED BY SECTION 24-21-516 AND
9 CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: "THIS NOTARIAL
10 ACT INVOLVED THE USE OF COMMUNICATION TECHNOLOGY."

11 (6) A NOTARY PUBLIC, A GUARDIAN, CONSERVATOR, OR AGENT OF
12 A NOTARY PUBLIC, OR A PERSONAL REPRESENTATIVE OF A DECEASED
13 NOTARY PUBLIC SHALL RETAIN THE AUDIO-VISUAL RECORDING CREATED
14 UNDER SUBSECTION (3)(c) OF THIS SECTION OR CAUSE THE RECORDING TO
15 BE RETAINED BY A REPOSITORY DESIGNATED BY OR ON BEHALF OF THE
16 PERSON REQUIRED TO RETAIN THE RECORDING. UNLESS A DIFFERENT
17 PERIOD IS REQUIRED BY RULE ADOPTED UNDER SUBSECTION (8)(d) OF THIS
18 SECTION, THE RECORDING MUST BE RETAINED FOR A PERIOD OF AT LEAST
19 TEN YEARS AFTER THE RECORDING IS MADE.

20 (7) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
21 INITIAL NOTARIAL ACT UNDER THIS SECTION, THE NOTARY PUBLIC MUST
22 NOTIFY THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE
23 PERFORMING NOTARIAL ACTS WITH RESPECT TO REMOTELY LOCATED
24 INDIVIDUALS AND IDENTIFY THE TECHNOLOGIES THE NOTARY PUBLIC
25 INTENDS TO USE. IF THE SECRETARY OF STATE HAS ESTABLISHED
26 STANDARDS UNDER SUBSECTION (8) OF THIS SECTION AND SECTION
27 24-21-527 FOR APPROVAL OF COMMUNICATION TECHNOLOGY OR IDENTITY

1 PROOFING _____, THE COMMUNICATION TECHNOLOGY AND IDENTITY
2 PROOFING MUST CONFORM TO THE STANDARDS.

3 (8) IN ADDITION TO ADOPTING RULES UNDER SECTION 24-21-527,
4 THE SECRETARY OF STATE MAY ADOPT RULES UNDER THIS SECTION
5 REGARDING PERFORMANCE OF A NOTARIAL ACT. THE RULES MAY:

6 (a) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT
7 INVOLVING A REMOTELY LOCATED INDIVIDUAL USING COMMUNICATION
8 TECHNOLOGY;

9 (b) ESTABLISH STANDARDS FOR COMMUNICATION TECHNOLOGY
10 AND IDENTITY PROOFING;

11 (c) ESTABLISH REQUIREMENTS OR PROCEDURES TO APPROVE
12 PROVIDERS OF COMMUNICATION TECHNOLOGY AND THE PROCESS OF
13 IDENTITY PROOFING; AND

14 (d) ESTABLISH STANDARDS AND A PERIOD FOR THE RETENTION OF
15 AN AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (3)(c) OF THIS
16 SECTION.

17 (9) BEFORE ADOPTING, AMENDING, OR REPEALING A RULE
18 GOVERNING PERFORMANCE OF A NOTARIAL ACT WITH RESPECT TO A
19 REMOTELY LOCATED INDIVIDUAL, THE SECRETARY OF STATE MUST
20 CONSIDER:

21 (a) THE MOST RECENT STANDARDS REGARDING THE PERFORMANCE
22 OF A NOTARIAL ACT WITH RESPECT TO A REMOTELY LOCATED INDIVIDUAL
23 PROMULGATED BY NATIONAL STANDARD-SETTING ORGANIZATIONS AND
24 THE RECOMMENDATIONS OF THE NATIONAL ASSOCIATION OF SECRETARIES
25 OF STATE;

26 (b) STANDARDS, PRACTICES, AND CUSTOMS OF OTHER
27 JURISDICTIONS THAT HAVE LAWS SUBSTANTIALLY SIMILAR TO THIS

1 SECTION; AND

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

4 (10) BY ALLOWING ITS COMMUNICATION TECHNOLOGY OR
5 IDENTITY PROOFING _____ TO FACILITATE A NOTARIAL ACT FOR A
6 REMOTELY LOCATED INDIVIDUAL OR BY PROVIDING STORAGE OF THE
7 AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (3)(c) OF THIS
8 SECTION, THE PROVIDER OF THE TECHNOLOGY, IDENTITY PROOFING, OR
9 STORAGE APPOINTS THE SECRETARY OF STATE AS THE PROVIDER'S AGENT
10 FOR SERVICE OF PROCESS IN ANY CIVIL ACTION IN THIS STATE RELATED TO
11 THE NOTARIAL ACT.

12 **SECTION 4.** In Colorado Revised Statutes, 24-21-520, **add** (4)
13 as follows:

14 **24-21-520. Notification regarding performance of notarial act**
15 **on electronic record - selection of technology - acceptance of tangible**
16 **copy of electronic record.** (4) A COUNTY CLERK AND RECORDER MAY
17 ACCEPT FOR RECORDING A TANGIBLE COPY OF AN ELECTRONIC RECORD
18 CONTAINING A NOTARIAL CERTIFICATE AS SATISFYING ANY REQUIREMENT
19 THAT A RECORD ACCEPTED FOR RECORDING BE AN ORIGINAL, IF THE
20 NOTARIAL OFFICER EXECUTING THE NOTARIAL CERTIFICATE CERTIFIES
21 THAT THE TANGIBLE COPY IS AN ACCURATE COPY OF THE ELECTRONIC
22 RECORD.

23 **SECTION 5. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2020 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.

6 <{*Do you want a safety clause or a specific effective date?*}>

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REDRAFT
10.29.18

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 19-0162.01 Michael Dohr x4347

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Unauthorized Disclosure Of Intimate Images Act"

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "UNIFORM CIVIL REMEDIES FOR**
102 **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

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

1 (1) "CONSENT" MEANS AFFIRMATIVE, CONSCIOUS, AND
2 VOLUNTARY AUTHORIZATION BY AN INDIVIDUAL WITH LEGAL CAPACITY
3 TO GIVE AUTHORIZATION.

4 (2) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHOSE BODY
5 IS SHOWN IN WHOLE OR IN PART IN AN INTIMATE IMAGE.

6 (3) "DISCLOSURE" MEANS TRANSFER, PUBLICATION, OR
7 DISTRIBUTION TO ANOTHER PERSON. "DISCLOSE" HAS A CORRESPONDING
8 MEANING.

9 (4) "IDENTIFIABLE" MEANS RECOGNIZABLE BY A PERSON OTHER
10 THAN THE DEPICTED INDIVIDUAL:

11 (a) FROM AN INTIMATE IMAGE ITSELF; OR

12 (b) FROM THE INTIMATE IMAGE AND IDENTIFYING CHARACTERISTIC
13 DISPLAYED IN CONNECTION WITH THE INTIMATE IMAGE.

14 (5) "IDENTIFYING CHARACTERISTIC" MEANS INFORMATION THAT
15 MAY BE USED TO IDENTIFY A DEPICTED INDIVIDUAL.

16 (6) "INDIVIDUAL" MEANS A HUMAN BEING.

17 (7) "INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM, VIDEO
18 RECORDING, OR OTHER SIMILAR MEDIUM THAT SHOWS:

19 (a) THE UNCOVERED GENITALS, PUBIC AREA, ANUS, OR FEMALE
20 POSTPUBESCENT NIPPLE OF A DEPICTED INDIVIDUAL; OR

21 (b) THE DEPICTED INDIVIDUAL ENGAGING IN OR BEING SUBJECTED
22 TO SEXUAL CONDUCT.

23 (8) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
24 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR
25 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER
26 LEGAL ENTITY.

27 (9) "SEXUAL CONDUCT" INCLUDES:

- 1 (a) MASTURBATION;
- 2 (b) GENITAL, ANAL, OR ORAL SEX;
- 3 (c) SEXUAL PENETRATION OF, OR WITH, AN OBJECT;
- 4 (d) BESTIALITY; OR
- 5 (e) THE TRANSFER OF SEMEN ONTO A DEPICTED INDIVIDUAL.

6 **13-21-1403. Civil action - definitions.** (1) IN THIS SECTION,
7 UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (a) "HARM" MEANS PHYSICAL HARM, ECONOMIC HARM, AND
9 EMOTIONAL DISTRESS WHETHER OR NOT ACCOMPANIED BY PHYSICAL OR
10 ECONOMIC HARM;

11 (b) "PRIVATE" MEANS:

12 (I) CREATED OR OBTAINED UNDER CIRCUMSTANCES IN WHICH THE
13 DEPICTED INDIVIDUAL HAD A REASONABLE EXPECTATION OF PRIVACY; OR

14 (II) MADE ACCESSIBLE THROUGH THEFT, BRIBERY, EXTORTION,
15 FRAUD, FALSE PRETENSES, VOYEURISM, OR EXCEEDING AUTHORIZED
16 ACCESS TO AN ACCOUNT, MESSAGE, FILE, DEVICE, RESOURCE, OR
17 PROPERTY.

18 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-21-1404, A
19 DEPICTED INDIVIDUAL WHO IS IDENTIFIABLE AND WHO HAS SUFFERED
20 HARM FROM A PERSON'S INTENTIONAL DISCLOSURE OR THREATENED
21 DISCLOSURE OF AN INTIMATE IMAGE THAT WAS PRIVATE WITHOUT THE
22 DEPICTED INDIVIDUAL'S CONSENT HAS A CAUSE OF ACTION AGAINST THE
23 PERSON IF THE PERSON KNEW OR ACTED WITH RECKLESS DISREGARD FOR
24 WHETHER:

25 (a) THE DEPICTED INDIVIDUAL DID NOT CONSENT TO THE
26 DISCLOSURE;

27 (b) THE INTIMATE IMAGE WAS PRIVATE; AND

1 (c) THE DEPICTED INDIVIDUAL WAS IDENTIFIABLE.

2 (3) THE FOLLOWING CONDUCT BY A DEPICTED INDIVIDUAL DOES
3 NOT ESTABLISH BY ITSELF THAT THE INDIVIDUAL CONSENTED TO THE
4 DISCLOSURE OF THE INTIMATE IMAGE WHICH IS THE SUBJECT OF THE
5 ACTION OR THAT THE INDIVIDUAL LACKED A REASONABLE EXPECTATION
6 OF PRIVACY:

7 (a) CONSENT TO THE CREATION OF THE IMAGE; OR

8 (b) PREVIOUS CONSENSUAL DISCLOSURE OF THE IMAGE.

9 (4) A DEPICTED INDIVIDUAL WHO DOES NOT CONSENT TO SEXUAL
10 CONDUCT OR THE UNCOVERING OF THE PART OF THE BODY DEPICTED IN
11 THE INTIMATE IMAGE OF THE INDIVIDUAL RETAINS A REASONABLE
12 EXPECTATION OF PRIVACY EVEN IF THE IMAGE WAS CREATED WHEN THE
13 INDIVIDUAL WAS IN A PUBLIC PLACE.

14 **13-21-1404. Exceptions to liability - definitions.** (1) IN THIS
15 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 (a) "CHILD" MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS LESS
17 THAN EIGHTEEN YEARS OF AGE.

18 (b) "PARENT" MEANS AN INDIVIDUAL RECOGNIZED AS A PARENT
19 UNDER LAW OF THIS STATE OTHER THAN THIS PART 14.

20 (2) A PERSON IS NOT LIABLE UNDER THIS PART 14 IF THE PERSON
21 PROVES THAT DISCLOSURE OF, OR A THREAT TO DISCLOSE, THE INTIMATE
22 IMAGE WAS:

23 (a) MADE IN GOOD FAITH IN:

24 (I) LAW ENFORCEMENT;

25 (II) A LEGAL PROCEEDING; OR

26 (III) MEDICAL EDUCATION OR TREATMENT; OR

27 (b) MADE IN GOOD FAITH IN THE REPORTING OR INVESTIGATION OF:

- 1 (I) UNLAWFUL CONDUCT;
- 2 (II) UNSOLICITED AND UNWELCOME CONDUCT;
- 3 (III) RELATED TO A MATTER OF PUBLIC CONCERN OR PUBLIC
- 4 INTEREST; OR
- 5 (IV) REASONABLY INTENDED TO ASSIST THE DEPICTED
- 6 INDIVIDUAL.

7 (3) SUBJECT TO SUBSECTION (4) OF THIS SECTION, A DEFENDANT

8 WHO IS A _____ PARENT, LEGAL GUARDIAN, OR INDIVIDUAL WITH LEGAL

9 CUSTODY OF A CHILD IS NOT LIABLE UNDER THIS PART 14 FOR A

10 DISCLOSURE OR THREATENED DISCLOSURE OF AN INTIMATE IMAGE OF THE

11 CHILD.

12 (4) IF A DEFENDANT ASSERTS AN EXCEPTION TO LIABILITY UNDER

13 SUBSECTION (3) OF THIS SECTION, THE EXCEPTION DOES NOT APPLY IF THE

14 PLAINTIFF PROVES THE DISCLOSURE WAS:

- 15 (a) PROHIBITED BY LAW OTHER THAN THIS PART 14; OR
- 16 (b) MADE FOR THE PURPOSES OF SEXUAL AROUSAL, SEXUAL
- 17 GRATIFICATION, HUMILIATION, DEGRADATION, OR MONETARY OR
- 18 COMMERCIAL GAIN.

19 (5) DISCLOSURE OF, OR A THREAT TO DISCLOSE, AN INTIMATE

20 IMAGE IS NOT A MATTER OF PUBLIC CONCERN OR PUBLIC INTEREST SOLELY

21 BECAUSE THE DEPICTED INDIVIDUAL IS A PUBLIC FIGURE.

22 **13-21-1405. Plaintiff's privacy.** (1) IN AN ACTION UNDER THIS

23 PART 14:

- 24 (a) A PLAINTIFF MAY PROCEED USING A PSEUDONYM IN PLACE OF
- 25 THE TRUE NAME OF THE PLAINTIFF;
- 26 (b) THE COURT MAY EXCLUDE OR REDACT FROM ALL PLEADINGS
- 27 AND DOCUMENTS FILED IN THE ACTION OTHER IDENTIFYING

1 CHARACTERISTICS OF THE PLAINTIFF;

2 (c) A PLAINTIFF TO WHOM SUBSECTION (1)(a) OR (1)(b) OF THIS
3 SECTION APPLIES SHALL FILE WITH THE COURT AND SERVE ON THE
4 DEFENDANT A CONFIDENTIAL INFORMATION FORM THAT INCLUDES THE
5 EXCLUDED OR REDACTED PLAINTIFF'S NAME AND OTHER IDENTIFYING
6 CHARACTERISTICS; AND

7 (d) THE COURT MAY MAKE FURTHER ORDERS AS NECESSARY TO
8 PROTECT THE IDENTITY AND PRIVACY OF A PLAINTIFF.

9 **13-21-1406. Remedies.** (1) IN AN ACTION UNDER THIS PART 14,
10 A PREVAILING PLAINTIFF MAY RECOVER:

11 (a) THE GREATER OF:

12 (I) ECONOMIC AND NONECONOMIC DAMAGES PROXIMATELY
13 CAUSED BY THE DEFENDANT'S DISCLOSURES OR THREATENED
14 DISCLOSURES, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS WHETHER
15 OR NOT ACCOMPANIED BY OTHER DAMAGES; OR

16 (II) (A) STATUTORY DAMAGES NOT TO EXCEED TEN THOUSAND
17 DOLLARS AGAINST EACH DEFENDANT FOUND LIABLE UNDER THIS PART 14
18 FOR ALL DISCLOSURES AND THREATENED DISCLOSURES BY THE
19 DEFENDANT OF WHICH THE PLAINTIFF KNEW OR REASONABLY SHOULD
20 HAVE KNOWN WHEN FILING THE ACTION OR WHICH BECAME KNOWN
21 DURING THE PENDENCY OF THE ACTION.

22 (B) IN DETERMINING THE AMOUNT OF STATUTORY DAMAGES
23 UNDER THIS SUBSECTION (1)(a)(II), CONSIDERATION MUST BE GIVEN TO
24 THE AGE OF THE PARTIES AT THE TIME OF THE DISCLOSURE OR
25 THREATENED DISCLOSURE, THE NUMBER OF DISCLOSURES OR THREATENED
26 DISCLOSURES MADE BY THE DEFENDANT, THE BREADTH OF DISTRIBUTION
27 OF THE IMAGE BY THE DEFENDANT, AND OTHER EXACERBATING OR

1 MITIGATING FACTORS.

2 (b) AN AMOUNT EQUAL TO ANY MONETARY GAIN MADE BY THE
3 DEFENDANT FROM DISCLOSURE OF THE INTIMATE IMAGE _____; AND

4 (c) PUNITIVE DAMAGES AS ALLOWED UNDER THE LAW OF THIS
5 STATE OTHER THAN THIS PART 14.

6 (2) IN AN ACTION UNDER THIS PART 14, THE COURT MAY AWARD
7 A PREVAILING PLAINTIFF:

8 (a) REASONABLE ATTORNEY FEES AND COSTS; AND

9 (b) ADDITIONAL RELIEF, INCLUDING INJUNCTIVE RELIEF.

10 (3) THIS PART 14 DOES NOT AFFECT A RIGHT OR REMEDY
11 AVAILABLE UNDER STATE LAW OTHER THAN THIS PART 14.

12 **13-21-1407. Statute of limitations.** (1) AN ACTION UNDER
13 SECTION 13-21-1403 (2) FOR:

14 (a) AN UNAUTHORIZED DISCLOSURE MAY NOT BE BROUGHT LATER
15 THAN FOUR YEARS FROM THE DATE THE _____ DISCLOSURE WAS
16 DISCOVERED OR SHOULD HAVE BEEN DISCOVERED WITH THE EXERCISE OF
17 REASONABLE DILIGENCE; AND

18 (b) A THREAT TO DISCLOSE MAY NOT BE BROUGHT LATER THAN
19 FOUR YEARS FROM THE DATE OF THE THREAT TO DISCLOSE.

20 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
21 SECTION, _____ THIS SECTION IS SUBJECT TO THE TOLLING STATUTES OF THIS
22 STATE.

23 (3) IN AN ACTION UNDER SECTION 13-21-1403 (2) BY A DEPICTED
24 INDIVIDUAL WHO WAS A MINOR ON THE DATE OF THE DISCLOSURE OR
25 THREAT TO DISCLOSE, THE TIME SPECIFIED IN SUBSECTION (1) OF THIS
26 SECTION DOES NOT BEGIN TO RUN UNTIL THE DEPICTED INDIVIDUAL
27 ATTAINS THE AGE OF MAJORITY.

1 **13-21-1408. Construction.** THIS PART 14 MUST BE CONSTRUED TO
2 BE CONSISTENT WITH THE FEDERAL "COMMUNICATIONS DECENCY ACT OF
3 1996", 47 U.S.C. SEC. 230.

4 **13-21-1409. Uniformity of application and construction.** IN
5 APPLYING AND CONSTRUING THIS PART 14, CONSIDERATION MUST BE
6 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
7 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

8 **SECTION 2.** In Colorado Revised Statutes, 18-7-107, **repeal**
9 (4)(a) as follows:

10 **18-7-107. Posting a private image for harassment - definitions.**

11 ~~(4) (a) An individual whose private intimate parts have been posted or an~~
12 ~~individual who has had an image displaying sexual acts of the individual~~
13 ~~posted in accordance with this section may bring a civil action against the~~
14 ~~person who caused the posting of the private images and is entitled to~~
15 ~~injunctive relief, the greater of ten thousand dollars or actual damages~~
16 ~~incurred as a result of the posting of the private images, exemplary~~
17 ~~damages, and reasonable attorney fees and costs.~~

18 **SECTION 3.** In Colorado Revised Statutes, 18-7-108, **repeal**
19 (4)(a) as follows:

20 **18-7-108. Posting a private image for pecuniary gain -**

21 **definitions.** ~~(4) (a) An individual whose private intimate parts have been~~
22 ~~posted or an individual who has had an image displaying sexual acts of~~
23 ~~the individual posted in accordance with this section may bring a civil~~
24 ~~action against the person who caused the posting of the private images~~
25 ~~and is entitled to injunctive relief, the greater of ten thousand dollars or~~
26 ~~actual damages incurred as a result of the posting of the private images,~~
27 ~~exemplary damages, and reasonable attorney fees and costs.~~

1 **SECTION 4. Applicability.** This act applies to acts committed
2 on or after the effective date of this act.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
12.10.18

DRAFT

LLS NO. 19-0340.01 Conrad Imel x2313

COMMITTEE BILL

Colorado Commission on Uniform State Laws

BILL TOPIC: "Colorado Uniform Directed Trust Act"

A BILL FOR AN ACT

101 **CONCERNING THE COLORADO UNIFORM DIRECTED TRUST 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. Under current law, the administration of trusts, including directed trusts, is generally governed by certain provisions in the probate code. The bill repeals provisions governing directed trustees and creates a new Colorado Uniform Directed Trust Act (act). The new act includes provisions concerning:

- Judicial proceedings;
- Trust directors' powers;

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

1 POWER IS EXERCISABLE WHILE THE PERSON IS NOT SERVING AS A TRUSTEE.
2 THE TERM INCLUDES A POWER OVER THE INVESTMENT, MANAGEMENT, OR
3 DISTRIBUTION OF TRUST PROPERTY OR OTHER MATTERS OF TRUST
4 ADMINISTRATION. THE TERM EXCLUDES THE POWERS DESCRIBED IN
5 SECTION 15-16-805 (2).

6 (6) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, THAT
7 CREATES, OR CONTRIBUTES PROPERTY TO, A TRUST. IF MORE THAN ONE
8 PERSON CREATES OR CONTRIBUTES PROPERTY TO A TRUST, EACH PERSON
9 IS A SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO
10 THAT PERSON'S CONTRIBUTION EXCEPT TO THE EXTENT ANOTHER PERSON
11 HAS THE POWER TO REVOKE OR WITHDRAW THAT PORTION.

12 (7) "STATE" MEANS A STATE OF THE UNITED STATES, THE
13 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
14 ISLANDS, OR ANY OTHER TERRITORY OR POSSESSION SUBJECT TO THE
15 JURISDICTION OF THE UNITED STATES.

16 (8) "TERMS OF A TRUST" MEANS:

17 (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8)(b) OF
18 THIS SECTION, THE MANIFESTATION OF THE SETTLOR'S INTENT REGARDING
19 A TRUST'S PROVISIONS AS:

20 (I) EXPRESSED IN THE TRUST INSTRUMENT; OR

21 (II) AS MAY BE ESTABLISHED BY OTHER EVIDENCE IN A JUDICIAL
22 PROCEEDING; OR

23 (b) THE TRUST'S PROVISIONS AS ESTABLISHED, DETERMINED, OR
24 AMENDED BY:

25 (I) A TRUSTEE OR TRUST DIRECTOR IN ACCORDANCE WITH
26 APPLICABLE LAW;

27 (II) COURT ORDER;

1 (III) A NONJUDICIAL SETTLEMENT AGREEMENT; OR

2 (IV) BY ALTERNATIVE DISPUTE RESOLUTION.

3 (9) "TRUST DIRECTOR" MEANS A PERSON THAT IS GRANTED A
4 POWER OF DIRECTION BY THE TERMS OF A TRUST TO THE EXTENT THE
5 POWER IS EXERCISABLE WHILE THE PERSON IS NOT SERVING AS A TRUSTEE.
6 THE PERSON IS A TRUST DIRECTOR WHETHER OR NOT THE TERMS OF THE
7 TRUST REFER TO THE PERSON AS A TRUST DIRECTOR AND WHETHER OR NOT
8 THE PERSON IS A BENEFICIARY OR SETTLOR OF THE TRUST.

9 (10) "TRUSTEE" INCLUDES AN ORIGINAL, ADDITIONAL, AND
10 SUCCESSOR TRUSTEE, AND A COTRUSTEE.

11 (11) "WILLFUL MISCONDUCT" MEANS INTENTIONAL WRONGDOING
12 AND NOT MERE NEGLIGENCE, GROSS NEGLIGENCE, OR RECKLESSNESS.

13 (12) "WRONGDOING" MEANS MALICIOUS CONDUCT OR CONDUCT
14 DESIGNED TO DEFRAUD OR SEEK AN UNCONSCIONABLE ADVANTAGE.

15 **15-16-803. Application - principal place of administration.**

16 (1) THIS PART 8 APPLIES TO A TRUST, WHENEVER CREATED, THAT HAS ITS
17 PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE, SUBJECT TO THE
18 FOLLOWING RULES:

19 (a) IF THE TRUST WAS CREATED BEFORE THE EFFECTIVE DATE OF
20 THIS PART 8, THIS PART 8, AS AMENDED IN 2019, APPLIES ONLY TO A
21 DECISION OR ACTION OCCURRING ON OR AFTER THE EFFECTIVE DATE OF
22 THIS PART 8.

23 (b) IF THE PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST IS
24 CHANGED TO THIS STATE ON OR AFTER THE EFFECTIVE DATE OF THIS PART
25 8, THIS PART 8 APPLIES ONLY TO A DECISION OR ACTION OCCURRING ON OR
26 AFTER THE DATE OF THE CHANGE.

27 (2) WITHOUT PRECLUDING OTHER MEANS TO ESTABLISH A

1 SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION IN A
2 DIRECTED TRUST, TERMS OF THE TRUST THAT DESIGNATE THE PRINCIPAL
3 PLACE OF ADMINISTRATION OF THE TRUST ARE VALID AND CONTROLLING
4 IF:

5 (a) A TRUSTEE'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN OR
6 A TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION;

7 (b) A TRUST DIRECTOR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED
8 IN OR A TRUST DIRECTOR IS A RESIDENT OF THE DESIGNATED JURISDICTION;

9 (c) ALL OR PART OF THE ADMINISTRATION OCCURS IN THE
10 DESIGNATED JURISDICTION; OR

11 (d) THE TRUST IS DULY REGISTERED WITH A COURT IN THE
12 DESIGNATED JURISDICTION.

13 **15-16-804. Common law and principles of equity.** THE
14 COMMON LAW AND PRINCIPLES OF EQUITY SUPPLEMENT THIS PART 8,
15 EXCEPT TO THE EXTENT MODIFIED BY THIS PART 8 OR LAW OF THIS STATE
16 OTHER THAN THIS PART 8.

17 **15-16-805. Exclusions - definition.** (1) IN THIS SECTION, "POWER
18 OF APPOINTMENT" MEANS A POWER THAT ENABLES A PERSON ACTING IN A
19 NONFIDUCIARY CAPACITY TO DESIGNATE A RECIPIENT OF AN OWNERSHIP
20 INTEREST IN OR ANOTHER POWER OF APPOINTMENT OVER TRUST
21 PROPERTY.

22 (2) THIS ACT DOES NOT APPLY TO A:

23 (a) POWER OF APPOINTMENT;

24 (b) POWER TO APPOINT OR REMOVE A TRUSTEE OR TRUST
25 DIRECTOR;

26 (c) POWER OF A SETTLOR OVER A TRUST TO THE EXTENT THE
27 SETTLOR HAS A POWER TO REVOKE THE TRUST;

1 (d) POWER OF A BENEFICIARY OVER A TRUST TO THE EXTENT THE
2 EXERCISE OR NONEXERCISE OF THE POWER AFFECTS THE BENEFICIAL
3 INTEREST OF:

4 (I) THE BENEFICIARY; OR

5 (II) ANOTHER BENEFICIARY REPRESENTED BY THE BENEFICIARY
6 UNDER SECTIONS 15-5-301 TO 15-5-305 WITH RESPECT TO THE EXERCISE
7 OR NONEXERCISE OF THE POWER;

8 (e) POWER OVER A TRUST IF:

9 (I) THE TERMS OF THE TRUST PROVIDE THAT THE POWER IS HELD
10 IN A NONFIDUCIARY CAPACITY; AND

11 (II) THE POWER MUST BE HELD IN A NONFIDUCIARY CAPACITY TO
12 ACHIEVE THE SETTLOR'S TAX OBJECTIVES UNDER THE FEDERAL "INTERNAL
13 REVENUE CODE OF 1986", AS AMENDED, AND REGULATIONS ISSUED
14 THEREUNDER, AS AMENDED; OR

15 (f) A POWER UNDER SECTION 15-5-409.5 (1)(d) TO ENFORCE THE
16 INTENDED USE OF THE PRINCIPAL AND INCOME OF A TRUST AUTHORIZED BY
17 SECTION 15-5-408 FOR THE CARE OF DESIGNATED DOMESTIC OR PET
18 ANIMALS AND THE ANIMALS' OFFSPRING IN GESTATION, IF THE POWER IS
19 HELD BY A PERSON HAVING CUSTODY OF AN ANIMAL FOR WHICH CARE IS
20 PROVIDED BY THE TRUST OR BY A REMAINDER BENEFICIARY OF THE TRUST,
21 UNLESS THE TERMS OF THE TRUST SPECIFICALLY PROVIDE THAT THE
22 POWER HELD BY THE CUSTODIAN OR REMAINDER BENEFICIARY IS SUBJECT
23 TO THIS PART 8.

24 (3) UNLESS THE TERMS OF A TRUST PROVIDE OTHERWISE, A POWER
25 GRANTED TO A PERSON TO DESIGNATE A RECIPIENT OF AN OWNERSHIP
26 INTEREST IN OR POWER OF APPOINTMENT OVER TRUST PROPERTY THAT IS
27 EXERCISABLE WHILE THE PERSON IS NOT SERVING AS A TRUSTEE IS A

1 POWER OF APPOINTMENT AND NOT A POWER OF DIRECTION.

2 **15-16-806. Powers of trust director.** (1) SUBJECT TO SECTION
3 15-16-807, THE TERMS OF A TRUST MAY GRANT A POWER OF DIRECTION TO
4 A TRUST DIRECTOR.

5 (2) UNLESS THE TERMS OF A TRUST PROVIDE OTHERWISE:

6 (a) A TRUST DIRECTOR MAY EXERCISE ANY FURTHER POWER
7 APPROPRIATE TO THE EXERCISE OR NONEXERCISE OF A POWER OF
8 DIRECTION GRANTED TO THE DIRECTOR UNDER SUBSECTION (1) OF THIS
9 SECTION; AND

10 (b) TRUST DIRECTORS WITH JOINT POWERS MUST ACT BY MAJORITY
11 DECISION.

12 **15-16-807. Limitations on powers of trust director.** A TRUST
13 DIRECTOR IS SUBJECT TO THE SAME RULES AS A TRUSTEE IN A LIKE
14 POSITION AND UNDER SIMILAR CIRCUMSTANCES IN THE EXERCISE OR
15 NONEXERCISE OF A POWER OF DIRECTION REGARDING:

16 (1) A PAYBACK PROVISION IN THE TERMS OF THE TRUST
17 NECESSARY FOR COMPLIANCE WITH THE REIMBURSEMENT REQUIREMENTS
18 OF MEDICAID LAW IN SECTION 1917 OF THE FEDERAL "SOCIAL SECURITY
19 ACT", 42 U.S.C. SEC. 1396p (d)(4)(A), AS AMENDED, AND REGULATIONS
20 ISSUED THEREUNDER, AS AMENDED; AND

21 (2) A CHARITABLE INTEREST IN THE TRUST, INCLUDING NOTICE
22 REGARDING THE INTEREST TO THE ATTORNEY GENERAL.

23 **15-16-808. Duty and liability of trust director.** (1) SUBJECT TO
24 SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO A POWER OF
25 DIRECTION OR A FURTHER POWER UNDER SECTION 15-16-806 (2)(A):

26 (a) A TRUST DIRECTOR HAS THE SAME FIDUCIARY DUTY AND
27 LIABILITY IN THE EXERCISE OR NONEXERCISE OF THE POWER:

1 (I) IF THE POWER IS HELD INDIVIDUALLY, AS A SOLE TRUSTEE IN A
2 LIKE POSITION AND UNDER SIMILAR CIRCUMSTANCES; OR

3 (II) IF THE POWER IS HELD JOINTLY WITH A TRUSTEE OR ANOTHER
4 TRUST DIRECTOR, AS A COTRUSTEE IN A LIKE POSITION AND UNDER SIMILAR
5 CIRCUMSTANCES; AND

6 (b) THE TERMS OF THE TRUST MAY VARY THE DIRECTOR'S DUTY OR
7 LIABILITY TO THE SAME EXTENT THE TERMS OF THE TRUST COULD VARY
8 THE DUTY OR LIABILITY OF A TRUSTEE IN A LIKE POSITION AND UNDER
9 SIMILAR CIRCUMSTANCES.

10 (2) UNLESS THE TERMS OF A TRUST PROVIDE OTHERWISE, IF A
11 TRUST DIRECTOR IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED OR
12 PERMITTED BY LAW OTHER THAN THIS PART 8 TO PROVIDE HEALTH CARE
13 IN THE ORDINARY COURSE OF THE DIRECTOR'S BUSINESS OR PRACTICE OF
14 A PROFESSION, TO THE EXTENT THE DIRECTOR ACTS IN THAT CAPACITY,
15 THE DIRECTOR HAS NO DUTY OR LIABILITY UNDER THIS PART 8.

16 (3) THE TERMS OF A TRUST MAY IMPOSE A DUTY OR LIABILITY ON
17 A TRUST DIRECTOR IN ADDITION TO THE DUTIES AND LIABILITIES UNDER
18 THIS SECTION.

19 **15-16-809. Duty and liability of directed trustee.** (1) SUBJECT
20 TO SUBSECTION (2) OF THIS SECTION, A DIRECTED TRUSTEE SHALL TAKE
21 REASONABLE ACTION TO COMPLY WITH A TRUST DIRECTOR'S EXERCISE OR
22 NONEXERCISE OF A POWER OF DIRECTION OR FURTHER POWER UNDER
23 SECTION 15-16-806 (2)(a) AND THE TRUSTEE IS NOT LIABLE FOR THE
24 ACTION.

25 (2) A DIRECTED TRUSTEE MUST NOT COMPLY WITH A TRUST
26 DIRECTOR'S EXERCISE OR NONEXERCISE OF A POWER OF DIRECTION OR
27 FURTHER POWER UNDER SECTION 15-16-806 (2)(a) TO THE EXTENT THAT

1 BY COMPLYING THE TRUSTEE WOULD ENGAGE IN WILLFUL MISCONDUCT.

2 (3) AN EXERCISE OF A POWER OF DIRECTION UNDER WHICH A
3 TRUST DIRECTOR MAY RELEASE A TRUSTEE OR ANOTHER TRUST DIRECTOR
4 FROM LIABILITY FOR BREACH OF TRUST IS NOT EFFECTIVE IF:

5 (a) THE BREACH INVOLVED THE TRUSTEE'S OR OTHER DIRECTOR'S
6 WILLFUL MISCONDUCT;

7 (b) THE RELEASE WAS INDUCED BY IMPROPER CONDUCT OF THE
8 TRUSTEE OR OTHER DIRECTOR IN PROCURING THE RELEASE; OR

9 (c) AT THE TIME OF THE RELEASE, THE DIRECTOR DID NOT KNOW
10 THE MATERIAL FACTS RELATING TO THE BREACH.

11 (4) A DIRECTED TRUSTEE THAT HAS REASONABLE DOUBT ABOUT
12 ITS DUTY UNDER THIS SECTION MAY PETITION THE COURT FOR
13 INSTRUCTIONS.

14 (5) THE TERMS OF A TRUST MAY IMPOSE A DUTY OR LIABILITY ON
15 A DIRECTED TRUSTEE IN ADDITION TO THE DUTIES AND LIABILITIES UNDER
16 THIS SECTION.

17 **15-16-810. Duty to provide information to trust director or**
18 **trustee.** (1) SUBJECT TO SECTION 15-16-811, A TRUSTEE SHALL PROVIDE
19 INFORMATION TO A TRUST DIRECTOR TO THE EXTENT THE INFORMATION IS
20 REASONABLY RELATED BOTH TO:

21 (a) THE POWERS OR DUTIES OF THE TRUSTEE; AND

22 (b) THE POWERS OR DUTIES OF THE DIRECTOR.

23 (2) SUBJECT TO SECTION 15-16-811, A TRUST DIRECTOR SHALL
24 PROVIDE INFORMATION TO A TRUSTEE OR ANOTHER TRUST DIRECTOR TO
25 THE EXTENT THE INFORMATION IS REASONABLY RELATED BOTH TO:

26 (a) THE POWERS OR DUTIES OF THE DIRECTOR; AND

27 (b) THE POWERS OR DUTIES OF THE TRUSTEE OR OTHER DIRECTOR.

1 (3) A TRUSTEE THAT ACTS IN RELIANCE ON INFORMATION
2 PROVIDED BY A TRUST DIRECTOR IS NOT LIABLE FOR A BREACH OF TRUST
3 TO THE EXTENT THE BREACH RESULTED FROM THE RELIANCE, UNLESS BY
4 SO ACTING THE TRUSTEE ENGAGES IN WILLFUL MISCONDUCT.

5 (4) A TRUST DIRECTOR THAT ACTS IN RELIANCE ON INFORMATION
6 PROVIDED BY A TRUSTEE OR ANOTHER TRUST DIRECTOR IS NOT LIABLE FOR
7 A BREACH OF TRUST TO THE EXTENT THE BREACH RESULTED FROM THE
8 RELIANCE, UNLESS BY SO ACTING THE TRUST DIRECTOR ENGAGES IN
9 WILLFUL MISCONDUCT.

10 (5) A TRUSTEE SHALL PROVIDE A COPY OF THE TERMS OF THE
11 TRUST TO A TRUST DIRECTOR.

12 **15-16-811. No duty to monitor, inform, or advise.** (1) UNLESS
13 THE TERMS OF A TRUST PROVIDE OTHERWISE:

14 (a) A TRUSTEE DOES NOT HAVE A DUTY TO:

15 (I) MONITOR A TRUST DIRECTOR; OR

16 (II) INFORM OR GIVE ADVICE TO A SETTLOR, BENEFICIARY,
17 TRUSTEE, OR TRUST DIRECTOR CONCERNING AN INSTANCE IN WHICH THE
18 TRUSTEE MIGHT HAVE ACTED DIFFERENTLY THAN THE DIRECTOR; AND

19 (b) BY TAKING AN ACTION DESCRIBED IN SUBSECTION (1)(a) OF
20 THIS SECTION, A TRUSTEE DOES NOT ASSUME A DUTY EXCLUDED BY
21 SUBSECTION (1)(a) OF THIS SECTION.

22 (2) UNLESS THE TERMS OF A TRUST PROVIDE OTHERWISE:

23 (a) A TRUST DIRECTOR DOES NOT HAVE A DUTY TO:

24 (I) MONITOR A TRUSTEE OR ANOTHER TRUST DIRECTOR; OR

25 (II) INFORM OR GIVE ADVICE TO A SETTLOR, BENEFICIARY,
26 TRUSTEE, OR ANOTHER TRUST DIRECTOR CONCERNING AN INSTANCE IN
27 WHICH THE DIRECTOR MIGHT HAVE ACTED DIFFERENTLY THAN A TRUSTEE

1 OR ANOTHER TRUST DIRECTOR; AND

2 (b) BY TAKING AN ACTION DESCRIBED IN SUBSECTION (2)(a) OF
3 THIS SECTION, A TRUST DIRECTOR DOES NOT ASSUME THE DUTY EXCLUDED
4 BY SUBSECTION (2)(a) OF THIS SECTION.

5 (3) UNLESS THE TERMS OF A TRUST PROVIDE OTHERWISE, SECTION
6 15-5-1012 DOES NOT APPLY TO A TRUST DIRECTOR.

7 **15-16-812. Application to cotrustee.** THE TERMS OF A TRUST
8 MAY RELIEVE A COTRUSTEE FROM DUTY AND LIABILITY WITH RESPECT TO
9 ANOTHER COTRUSTEE'S EXERCISE OR NONEXERCISE OF A POWER OF THE
10 OTHER COTRUSTEE TO THE SAME EXTENT THAT IN A DIRECTED TRUST A
11 DIRECTED TRUSTEE IS RELIEVED FROM DUTY AND LIABILITY WITH RESPECT
12 TO A TRUST DIRECTOR'S POWER OF DIRECTION UNDER SECTIONS 15-16-809
13 TO 15-16-811.

14 **15-16-813. Limitations of action against trust director.** (1) AN
15 ACTION AGAINST A TRUST DIRECTOR FOR BREACH OF TRUST MUST BE
16 COMMENCED WITHIN THE SAME LIMITATIONS PERIOD AS AN ACTION
17 AGAINST A TRUSTEE FOR A SIMILAR BREACH OF TRUST AS PRESCRIBED BY
18 SECTION 15-5-1005.

19 (2) A REPORT OR ACCOUNTING HAS THE SAME EFFECT ON THE
20 LIMITATIONS PERIOD FOR AN ACTION AGAINST THE DIRECTOR THAT THE
21 REPORT OR ACCOUNTING WOULD HAVE IF THE DIRECTOR WERE A TRUSTEE
22 AS PRESCRIBED BY SECTION 15-5-1005.

23 **15-16-814. Defenses in action against trust director.** IN AN
24 ACTION AGAINST A TRUST DIRECTOR FOR BREACH OF TRUST, THE DIRECTOR
25 MAY ASSERT THE SAME DEFENSES A TRUSTEE IN A LIKE POSITION AND
26 UNDER SIMILAR CIRCUMSTANCES COULD ASSERT IN AN ACTION FOR
27 BREACH OF TRUST AGAINST THE TRUSTEE.

1 **15-16-815. Jurisdiction over trust director.** (1) BY ACCEPTING
2 APPOINTMENT AS A TRUST DIRECTOR OF A TRUST SUBJECT TO THIS PART 8,
3 THE DIRECTOR SUBMITS TO PERSONAL JURISDICTION OF THE COURTS OF
4 THIS STATE REGARDING ANY MATTER RELATED TO A POWER OR DUTY OF
5 THE DIRECTOR.

6 (2) THIS SECTION DOES NOT PRECLUDE OTHER METHODS OF
7 OBTAINING JURISDICTION OVER A TRUST DIRECTOR.

8 **15-16-816. Office of trust director.** UNLESS THE TERMS OF A
9 TRUST PROVIDE OTHERWISE, THE RULES APPLICABLE TO A TRUSTEE APPLY
10 TO A TRUST DIRECTOR REGARDING THE FOLLOWING MATTERS:

11 (1) ACCEPTANCE UNDER SECTION 15-5-701;

12 (2) GIVING OF BOND TO SECURE PERFORMANCE UNDER SECTION
13 15-5-702;

14 (3) REASONABLE COMPENSATION UNDER SECTIONS 15-5-1004,
15 15-10-501 (3), AND 15-10-601;

16 (4) RESIGNATION UNDER SECTION 15-5-705;

17 (5) REMOVAL UNDER SECTION 15-5-706;

18 (6) VACANCY AND APPOINTMENT OF SUCCESSOR UNDER SECTION
19 15-5-704; AND

20 (7) THE RIGHT TO PETITION THE COURT FOR INSTRUCTIONS UNDER
21 SECTION 15-5-201 (3).

22 **15-16-817. Uniformity of application and construction.** IN
23 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
24 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
25 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

26 **15-16-818. Relation to electronic signatures in global and**
27 **national commerce act.** THIS PART 8 MODIFIES, LIMITS, OR SUPERSEDES

1 THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
2 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,
3 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001
4 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
5 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

6 **SECTION 2.** In Colorado Revised Statutes, 15-5-105, **amend** (2)
7 introductory portion as follows:

8 **15-5-105. Default and mandatory rules.** (2) SUBJECT TO
9 SECTIONS 15-16-809, 15-16-810, AND 15-16-811, the terms of a trust
10 prevail over any provision of this code except:

11 **SECTION 3.** In Colorado Revised Statutes, 15-5-201, **amend**
12 (3)(a) and (3)(b) as follows:

13 **15-5-201. Role of court in administration of trust.** (3) A
14 judicial proceeding involving a trust may relate to any matter involving
15 the trust's administration. Such matters may include, but are not limited
16 to, proceedings involving:

- 17 (a) The appointment or removal of a trustee OR TRUST DIRECTOR;
18 (b) Review of a trustee's fees OR TRUST DIRECTOR'S FEES and
19 review and settling of interim or final accountings;

20 **SECTION 4.** In Colorado Revised Statutes, 15-5-203, **amend** (1)
21 as follows:

22 **15-5-203. Subject matter jurisdiction.** (1) The district court or,
23 in the city and county of Denver, the probate court, has exclusive
24 jurisdiction of proceedings in this state brought by a trustee, TRUST
25 DIRECTOR, or beneficiary concerning the administration of a trust.

26 **SECTION 5.** In Colorado Revised Statutes, 15-5-204, **amend**
27 (2)(b) as follows:

1 **15-5-204. Venue.** (2) If a trust has no trustee, a judicial
2 proceeding for the appointment of a trustee must be commenced in the
3 following order of priority:

4 (b) ~~Either~~ ANY OF THE FOLLOWING:

5 (I) A county in which a beneficiary resides; ~~or~~

6 (II) A county in which the trust property, or some portion of the
7 trust property, is located; OR

8 (III) A COUNTY IN WHICH A TRUST DIRECTOR RESIDES OR HAS A
9 PRINCIPAL PLACE OF BUSINESS.

10 **SECTION 6.** In Colorado Revised Statutes, **amend** 15-5-417 as
11 follows:

12 **15-5-417. Combination and division of trusts.** After notice to
13 the qualified beneficiaries AND TRUST DIRECTORS, a trustee may combine
14 two or more trusts into a single trust or divide a trust into two or more
15 separate trusts, if the result does not impair the rights of any beneficiary
16 or adversely affect achievement of the purposes of the trust.

17 **SECTION 7.** In Colorado Revised Statutes, **amend** 15-5-603 as
18 follows:

19 **15-5-603. Settlor's powers.** ~~Unless the terms of the trust~~
20 ~~expressly provide otherwise, while a trust is revocable, the rights of the~~
21 ~~beneficiaries are subject to the control of, and the duties of the trustee are~~
22 ~~owed exclusively to, the settlor.~~ (1) TO THE EXTENT A TRUST IS
23 REVOCABLE BY A SETTLOR, A TRUSTEE MAY FOLLOW A DIRECTION OF THE
24 SETTLOR THAT IS CONTRARY TO THE TERMS OF THE TRUST. TO THE EXTENT
25 A TRUST IS REVOCABLE BY A SETTLOR IN CONJUNCTION WITH A PERSON
26 OTHER THAN A TRUSTEE OR PERSON HOLDING AN ADVERSE INTEREST, THE
27 TRUSTEE MAY FOLLOW A DIRECTION FROM THE SETTLOR AND THE OTHER

1 PERSON HOLDING THE POWER TO REVOKE, EVEN IF THE DIRECTION IS
2 CONTRARY TO THE TERMS OF THE TRUST.

3 (2) TO THE EXTENT A TRUST IS REVOCABLE, RIGHTS OF THE
4 BENEFICIARIES ARE SUBJECT TO THE CONTROL OF, AND THE DUTIES OF THE
5 TRUSTEE ARE OWED EXCLUSIVELY TO, THE SETTLOR.

6 (3) DURING THE PERIOD THE POWER MAY BE EXERCISED, THE
7 HOLDER OF A POWER OF WITHDRAWAL HAS THE RIGHTS OF A SETTLOR OF
8 A REVOCABLE TRUST UNDER THIS SECTION TO THE EXTENT OF THE
9 PROPERTY SUBJECT TO THE POWER.

10 **SECTION 8.** In Colorado Revised Statutes, 15-5-703, **amend** (3)
11 and (7) introductory portion as follows:

12 **15-5-703. Cotrustees.** (3) SUBJECT TO SECTION 15-16-812, a
13 cotrustee shall participate in the performance of a trustee's function unless
14 the cotrustee is unavailable to perform the function because of absence,
15 illness, disqualification, or other temporary incapacity or the cotrustee has
16 properly delegated the performance of the function to another trustee.

17 (7) SUBJECT TO SECTION 15-16-812, each trustee shall exercise
18 reasonable care to:

19 **SECTION 9.** In Colorado Revised Statutes, 15-10-201, **amend**
20 the introductory portion and (27) as follows:

21 **15-10-201. General definitions.** Subject to additional definitions
22 contained in this ~~article~~ ARTICLE 10 and the subsequent articles that are
23 applicable to specific articles, parts, or sections, and unless the context
24 otherwise requires, in this code:

25 (27) "Interested person" includes heirs, devisees, children,
26 spouses, creditors, beneficiaries, TRUST DIRECTORS, and any others having
27 a property right in or claim against a trust estate or the estate of a

1 decedent, ward, or protected person, which may be affected by the
2 proceeding. It also includes persons having priority for an appointment as
3 a personal representative and other fiduciaries representing the interested
4 person. The meaning as it relates to particular persons may vary from time
5 to time and shall be determined according to the particular purposes of,
6 and matter involved in, any proceeding.

7 **SECTION 10.** In Colorado Revised Statutes, 15-10-501, **amend**
8 (3) as follows:

9 **15-10-501. Court powers - definitions - application.**

10 (3) **Application.** The provisions of this part 5 shall apply to any fiduciary
11 over whom a court has obtained jurisdiction, including but not limited to
12 a personal representative, special administrator, guardian, conservator,
13 special conservator, trustee, TRUST DIRECTOR, agent under a power of
14 attorney, and custodian, including a custodian of assets or accounts
15 created under the "Colorado Uniform Transfers to Minors Act", article 50
16 of title 11. ~~C.R.S.~~

17 **SECTION 11.** In Colorado Revised Statutes, 15-10-504, **amend**
18 (2) and (4); and **add** (5) as follows:

19 **15-10-504. Surcharge - contempt - sanctions against**
20 **fiduciaries.** (2) **Surcharge.** (a) If a court, after a hearing, determines
21 that a breach of fiduciary duty has occurred or an exercise of power by a
22 fiduciary has been improper, AFTER APPLYING THE STANDARDS OF CARE
23 APPLICABLE TO EACH FIDUCIARY IN A PROCEEDING, the court may
24 surcharge the fiduciary for any damage or loss to the estate, beneficiaries,
25 or interested persons. Such damages may include compensatory damages,
26 interest, and attorney fees and costs. WHEN ALLOCATING ANY SUCH
27 DAMAGES AMONG FIDUCIARIES, THE COURT SHALL CONSIDER THE

1 STANDARDS OF CARE APPLICABLE TO THE FIDUCIARIES IN THE
2 PROCEEDING.

3 (b) In awarding attorney fees and costs pursuant to this section, a
4 court may consider the provisions of part 6 of this ~~article~~ ARTICLE 10 AND
5 SHALL CONSIDER THE STANDARDS OF CARE APPLICABLE TO THE
6 FIDUCIARIES IN THE PROCEEDING.

7 (4) **Sanctions.** If a court determines that a breach of fiduciary duty
8 has occurred or an exercise of power by a fiduciary has been improper,
9 the court, after a hearing, may order such other sanctions as the court
10 deems appropriate, BUT THE COURT SHALL TAKE INTO ACCOUNT THE
11 STANDARDS OF CARE APPLICABLE TO EACH FIDUCIARY IN THE
12 PROCEEDING.

13 (5) **Remedies.** IF REMEDIES ARE SOUGHT AGAINST A DIRECTED
14 TRUSTEE FOR COMPLYING WITH THE DIRECTION OF A TRUST DIRECTOR
15 UNDER THE "COLORADO UNIFORM DIRECTED TRUST ACT", PART 8 OF
16 ARTICLE 16 OF THIS TITLE 15, OR COMPARABLE ARRANGEMENT CREATED
17 UNDER THE TERMS OF A TRUST, THE COURT SHALL TAKE INTO ACCOUNT
18 THE STANDARDS OF CARE APPLICABLE TO EACH FIDUCIARY IN THE
19 PROCEEDING WHEN APPORTIONING DAMAGES, FEES, COSTS, OR FAULT
20 AMONG THE FIDUCIARIES.

21 **SECTION 12.** In Colorado Revised Statutes, 15-10-601, **amend**
22 (2)(a) as follows:

23 **15-10-601. Definitions.** As used in this part 6, unless the context
24 otherwise requires:

25 (2) "Fiduciary" means:

26 (a) A personal representative, guardian, conservator, TRUST
27 DIRECTOR, or trustee;

1 **SECTION 13. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.