

ESSB 5531 - H COMM AMD
By Committee on Finance

ADOPTED 03/09/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART 1
4 GENERAL PROVISIONS

5 NEW SECTION. **Sec. 101.** SHORT TITLE. This chapter may be cited
6 as the revised uniform unclaimed property act.

7 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

10 (1) "Administrator" means the department of revenue established
11 under RCW 82.01.050.

12 (2) "Administrator's agent" means a person with which the
13 administrator contracts to conduct an examination under sections 1001
14 through 1013 of this act on behalf of the administrator. The term
15 includes an independent contractor of the person and each individual
16 participating in the examination on behalf of the person or
17 contractor.

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

21 (4) "Business association" means a corporation, joint stock
22 company, investment company other than an investment company
23 registered under the investment company act of 1940, as amended, 15
24 U.S.C. Secs. 80a-1 through 80a-64, partnership, unincorporated
25 association, joint venture, limited liability company, business
26 trust, trust company, land bank, safe deposit company, safekeeping
27 depository, financial organization, insurance company, federally
28 chartered entity, utility, sole proprietorship, or other business
29 entity, whether or not for profit.

1 (5) "Confidential information" means records, reports, and
2 information that are confidential under section 1402 of this act.

3 (6) "Domicile" means:

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

5 (b) For a business association whose formation requires a filing
6 with a state, other than a corporation, the state of the principal
7 place of business of such a business association, if formed under the
8 laws of a state other than the state in which its principal place of
9 business is located, unless determined to be otherwise by a court of
10 competent jurisdiction;

11 (c) For a federally chartered entity or an investment company
12 registered under the investment company act of 1940, as amended, 15
13 U.S.C. Secs. 80a-1 through 80a-64, the state of its home office; and

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

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

19 (8) "Email" means a communication by electronic means which is
20 automatically retained and stored and may be readily accessed or
21 retrieved.

22 (9) "Financial organization" means a savings and loan
23 association, building and loan association, savings bank, industrial
24 bank, bank, banking organization, or credit union.

25 (10) "Game-related digital content" means digital content that
26 exists only in an electronic game or electronic game platform. The
27 term:

28 (a) Includes:

29 (i) Game-play currency such as a virtual wallet, even if
30 denominated in United States currency; and

31 (ii) The following if for use or redemption only within the game
32 or platform or another electronic game or electronic game platform:

33 (A) Points sometimes referred to as gems, tokens, gold, and
34 similar names; and

35 (B) Digital codes; and

36 (b) Does not include an item that the issuer:

37 (i) Permits to be redeemed for use outside a game or platform
38 for:

39 (A) Money; or

40 (B) Goods or services that have more than minimal value; or

1 (ii) Otherwise monetizes for use outside a game or platform.

2 (11) "Gift certificate" means a record described in RCW
3 19.240.010, and includes both gift cards and gift certificates,
4 including both tangible instruments and electronic records.

5 (12) "Holder" means a person obligated to hold for the account
6 of, or to deliver or pay to, the owner, property subject to this
7 chapter.

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

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

21 (15) "Mineral" means gas, oil, coal, oil shale, other gaseous
22 liquid or solid hydrocarbon, cement material, sand and gravel, road
23 material, building stone, chemical raw material, gemstone,
24 fissionable and nonfissionable ores, colloidal and other clay, steam
25 and other geothermal resources, and any other substance defined as a
26 mineral by law of this state other than this chapter.

27 (16) "Mineral proceeds" means an amount payable for extraction,
28 production, or sale of minerals, or, on the abandonment of the
29 amount, an amount that becomes payable after abandonment. The term
30 includes an amount payable:

31 (a) For the acquisition and retention of a mineral lease,
32 including a bonus, royalty, compensatory royalty, shut-in royalty,
33 minimum royalty, and delay rental;

34 (b) For the extraction, production, or sale of minerals,
35 including a net revenue interest, royalty, overriding royalty,
36 extraction payment, and production payment; and

37 (c) Under an agreement or option, including a joint operating
38 agreement, unit agreement, pooling agreement, and farm-out agreement.

1 (17) "Money order" means a payment order for a specified amount
2 of money. The term includes an express money order and a personal
3 money order on which the remitter is the purchaser.

4 (18) "Municipal bond" means a bond or evidence of indebtedness
5 issued by a municipality or other political subdivision of a state.

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

10 (20) "Nonfreely transferable security" means a security that
11 cannot be delivered to the administrator by the depository trust
12 clearing corporation or similar custodian of securities providing
13 posttrade clearing and settlement services to financial markets or
14 cannot be delivered because there is no agent to effect transfer. The
15 term includes a worthless security.

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

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

25 (22) "Payroll card" means a record that evidences a payroll card
26 account as defined in Regulation E, 12 C.F.R. Part 1005, as it
27 existed on the effective date of this section.

28 (23) "Person" means an individual, estate, business association,
29 public corporation, government or governmental subdivision, agency,
30 or instrumentality, or other legal entity.

31 (24) "Property" means tangible property described in section 205
32 of this act or a fixed and certain interest in intangible property
33 held, issued, or owed in the course of a holder's business or by a
34 government, governmental subdivision, agency, or instrumentality. The
35 term:

- 36 (a) Includes all income from or increments to the property;
37 (b) Includes property referred to as or evidenced by:
38 (i) Money, virtual currency, interest, or a dividend, check,
39 draft, deposit, or payroll card;

1 (ii) A credit balance, customer's overpayment, stored value card,
2 security deposit, refund, credit memorandum, unpaid wage, unused
3 ticket for which the issuer has an obligation to provide a refund,
4 mineral proceeds, or unidentified remittance;

5 (iii) A security except for:

6 (A) A worthless security; or

7 (B) A security that is subject to a lien, legal hold, or
8 restriction evidenced on the records of the holder or imposed by
9 operation of law, if the lien, legal hold, or restriction restricts
10 the holder's or owner's ability to receive, transfer, sell, or
11 otherwise negotiate the security;

12 (iv) A bond, debenture, note, or other evidence of indebtedness;

13 (v) Money deposited to redeem a security, make a distribution, or
14 pay a dividend;

15 (vi) An amount due and payable under an annuity contract or
16 insurance policy; and

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

22 (c) Does not include:

23 (i) Property held in a plan described in section 529A of the
24 internal revenue code, as it existed on the effective date of this
25 section, 26 U.S.C. Sec. 529A;

26 (ii) Game-related digital content;

27 (iii) A loyalty card;

28 (iv) A gift certificate complying with chapter 19.240 RCW;

29 (v) Store credit for returned merchandise; and

30 (vi) A premium paid by an agricultural fair by check. For the
31 purposes of this subsection, the following definitions apply:

32 (A) "Agricultural fair" means a fair or exhibition that is
33 intended to promote agriculture by including a balanced variety of
34 exhibits of livestock and agricultural products, as well as related
35 manufactured products and arts, including products of the farm home
36 and educational contests, displays, and demonstrations designed to
37 train youth and to promote the welfare of farmers and rural living;
38 and

39 (B) "Premium" means an amount paid for exhibits and educational
40 contests, displays, and demonstrations of an educational nature. A

1 "premium" does not include judges' fees and expenses; livestock sale
2 revenues; or prizes or amounts paid for promotion or entertainment
3 activities such as queen contests, parades, dances, rodeos, and
4 races.

5 (25) "Putative holder" means a person believed by the
6 administrator to be a holder, until the person pays or delivers to
7 the administrator property subject to this chapter or the
8 administrator or a court makes a final determination that the person
9 is or is not a holder.

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

13 (27) "Security" means:

14 (a) A security as defined in RCW 62A.8-102;

15 (b) A security entitlement as defined in RCW 62A.8-102, including
16 a customer security account held by a registered broker-dealer, to
17 the extent the financial assets held in the security account are not:

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

20 (ii) Payable to the order of the person; or

21 (iii) Specifically indorsed to the person; or

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

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

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

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

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

33 (30) "Stored value card" means a record evidencing a promise made
34 for consideration by the seller or issuer of the record that goods,
35 services, or money will be provided to the owner of the record to the
36 value or amount shown in the record. The term:

37 (a) Includes:

38 (i) A record that contains or consists of a microprocessor chip,
39 magnetic strip, or other means for the storage of information, which

1 is prefunded and whose value or amount is decreased on each use and
2 increased by payment of additional consideration; and

3 (ii) A payroll card; and

4 (b) Does not include a loyalty card, gift certificate, or game-
5 related digital content.

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

9 (a) Transmission of communications or information;

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

12 (c) Provision of sewage or septic services, or trash, garbage, or
13 recycling disposal.

14 (32) "Virtual currency" means a digital representation of value
15 used as a medium of exchange, unit of account, or store of value,
16 which does not have legal tender status recognized by the United
17 States. The term does not include:

18 (a) The software or protocols governing the transfer of the
19 digital representation of value;

20 (b) Game-related digital content; or

21 (c) A loyalty card or gift certificate.

22 (33) "Worthless security" means a security whose cost of
23 liquidation and delivery to the administrator would exceed the value
24 of the security on the date a report is due under this chapter.

25 NEW SECTION. **Sec. 103.** INAPPLICABILITY TO FOREIGN TRANSACTION.

26 This chapter does not apply to property held, due, and owing in a
27 foreign country if the transaction out of which the property arose
28 was a foreign transaction.

29 NEW SECTION. **Sec. 104.** RULE MAKING. The administrator may adopt

30 rules under chapter 34.05 RCW to implement and administer this
31 chapter.

32 **PART 2**

33 **PRESUMPTION OF ABANDONMENT**

34 NEW SECTION. **Sec. 201.** WHEN PROPERTY PRESUMED ABANDONED.

35 Subject to section 209 of this act, the following property is

1 presumed abandoned if it is unclaimed by the apparent owner during
2 the period specified below:

3 (1) A traveler's check, 15 years after issuance;

4 (2) A money order, five years after issuance;

5 (3) A state or municipal bond, bearer bond, or original issue
6 discount bond, three years after the earliest of the date the bond
7 matures or is called or the obligation to pay the principal of the
8 bond arises;

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

11 (5) A demand, savings, or time deposit, including a deposit that
12 is automatically renewable, three years after the later of maturity,
13 if applicable, of the deposit or the owner's last indication of
14 interest in the deposit, except a deposit that is automatically
15 renewable is deemed matured on its initial date of maturity unless
16 the apparent owner consented in a record on file with the holder to
17 renewal at or about the time of the renewal;

18 (6) Money or a credit owed to a customer as a result of a retail
19 business transaction, three years after the obligation arose;

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

26 (a) With respect to an amount owed on a life or endowment
27 insurance policy, three years after the earlier of the date:

28 (i) The insurance company has knowledge of the death of the
29 insured; or

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

33 (b) With respect to an amount owed on an annuity contract, three
34 years after the date the insurance company has knowledge of the death
35 of the annuitant;

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

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

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

8 (11) Wages, commissions, bonuses, or reimbursements to which an
9 employee is entitled, or other compensation for personal services,
10 one year after the amount becomes payable;

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

13 (13) Payroll card, one year after the amount becomes payable; and

14 (14) Property not specified in this section or section 202
15 through 207 of this act, the earlier of three years after the owner
16 first has a right to demand the property or the obligation to pay or
17 distribute the property arises.

18 NEW SECTION. **Sec. 202.** WHEN TAX DEFERRED RETIREMENT ACCOUNT

19 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property
20 held in a pension account or retirement account that qualifies for
21 tax deferral under the income tax laws of the United States is
22 presumed abandoned if it is unclaimed by the apparent owner three
23 years after the later of:

24 (a) The following dates:

25 (i) Except as in (a)(ii) of this subsection, the date a second
26 consecutive communication sent by the holder by first-class United
27 States mail to the apparent owner is returned to the holder
28 undelivered by the United States postal service; or

29 (ii) If the second communication is sent later than 30 days after
30 the date the first communication is returned undelivered, the date
31 the first communication was returned undelivered by the United States
32 postal service; or

33 (b) The earlier of the following dates:

34 (i) The date the apparent owner becomes 72 years of age, if
35 determinable by the holder; or

36 (ii) If the internal revenue code, as it existed on the effective
37 date of this section, 26 U.S.C. Sec. 1 et seq., requires distribution
38 to avoid a tax penalty, two years after the date the holder:

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

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

5 (2) If a holder in the ordinary course of its business receives
6 notice or an indication of the death of an apparent owner and
7 subsection (1)(b) of this section applies, the holder shall attempt
8 not later than 90 days after receipt of the notice or indication to
9 confirm whether the apparent owner is deceased.

10 (3) If the holder does not send communications to the apparent
11 owner of an account described in subsection (1) of this section by
12 first-class United States mail, the holder shall attempt to confirm
13 the apparent owner's interest in the property by sending the apparent
14 owner an email communication not later than two years after the
15 apparent owner's last indication of interest in the property.
16 However, the holder promptly shall attempt to contact the apparent
17 owner by first-class United States mail if:

18 (a) The holder does not have information needed to send the
19 apparent owner an email communication or the holder believes that the
20 apparent owner's email address in the holder's records is not valid;

21 (b) The holder receives notification that the email communication
22 was not received; or

23 (c) The apparent owner does not respond to the email
24 communication not later than 30 days after the communication was
25 sent.

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

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

33 (b) If the second communication is sent later than 30 days after
34 the date the first communication is returned undelivered, the date
35 the first communication was returned undelivered; or

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

37 (5) This section does not apply to property held in a pension
38 account or retirement account established by the state of Washington
39 or any local governmental entity under chapter 41.28 RCW.

1 NEW SECTION. **Sec. 203.** WHEN OTHER TAX DEFERRED ACCOUNT PRESUMED
2 ABANDONED. Subject to section 209 of this act and except for property
3 described in section 202 of this act and property held in a plan
4 described in section 529A of the internal revenue code, as it existed
5 on the effective date of this section, 26 U.S.C. Sec. 529A, property
6 held in an account or plan, including a health savings account, that
7 qualifies for tax deferral under the income tax laws of the United
8 States is presumed abandoned if it is unclaimed by the apparent owner
9 three years after the earlier of:

10 (1) The date, if determinable by the holder, specified in the
11 income tax laws and regulations of the United States by which
12 distribution of the property must begin to avoid a tax penalty, with
13 no distribution having been made; or

14 (2) Thirty years after the date the account was opened.

15 NEW SECTION. **Sec. 204.** WHEN CUSTODIAL ACCOUNT FOR MINOR
16 PRESUMED ABANDONED. (1) Subject to section 209 of this act, property
17 held in an account established under a state's uniform gifts to
18 minors act or uniform transfers to minors act is presumed abandoned
19 if it is unclaimed by or on behalf of the minor on whose behalf the
20 account was opened three years after the later of:

21 (a) Except as in (b) of this subsection, the date a second
22 consecutive communication sent by the holder by first-class United
23 States mail to the custodian of the minor on whose behalf the account
24 was opened is returned undelivered to the holder by the United States
25 postal service;

26 (b) If the second communication is sent later than 30 days after
27 the date the first communication is returned undelivered, the date
28 the first communication was returned undelivered; or

29 (c) The date on which the custodian is required to transfer the
30 property to the minor or the minor's estate in accordance with the
31 uniform gifts to minors act or uniform transfers to minors act of the
32 state in which the account was opened.

33 (2) If the holder does not send communications to the custodian
34 of the minor on whose behalf an account described in subsection (1)
35 of this section was opened by first-class United States mail, the
36 holder shall attempt to confirm the custodian's interest in the
37 property by sending the custodian an email communication not later
38 than two years after the custodian's last indication of interest in

1 the property. However, the holder promptly shall attempt to contact
2 the custodian by first-class United States mail if:

3 (a) The holder does not have information needed to send the
4 custodian an email communication or the holder believes that the
5 custodian's email address in the holder's records is not valid;

6 (b) The holder receives notification that the email communication
7 was not received; or

8 (c) The custodian does not respond to the email communication not
9 later than 30 days after the communication was sent.

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

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

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

18 (4) When the property in the account described in subsection (1)
19 of this section is transferred to the minor on whose behalf an
20 account was opened or to the minor's estate, the property in the
21 account is no longer subject to this section.

22 NEW SECTION. **Sec. 205.** WHEN CONTENTS OF SAFE DEPOSIT BOX
23 PRESUMED ABANDONED. Tangible property held in a safe deposit box and
24 proceeds from a sale of the property by the holder permitted by law
25 of this state other than this chapter are presumed abandoned if the
26 property remains unclaimed by the apparent owner five years after the
27 earlier of the:

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

29 (2) Earliest date when the lessor of the box is authorized by law
30 of this state other than this chapter to enter the box and remove or
31 dispose of the contents without consent or authorization of the
32 lessee.

33 NEW SECTION. **Sec. 206.** WHEN STORED VALUE CARD PRESUMED
34 ABANDONED. (1) Subject to section 209 of this act, the net card value
35 of a stored value card, other than a payroll card, is presumed
36 abandoned on the latest of three years after:

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

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

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

5 (2) The amount presumed abandoned in a stored value card is the
6 net card value at the time it is presumed abandoned.

7 NEW SECTION. **Sec. 207.** WHEN SECURITY PRESUMED ABANDONED. (1)
8 Subject to section 209 of this act, a security is presumed abandoned
9 three years after:

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

14 (b) If the second communication is made later than 30 days after
15 the first communication is returned, the date the first communication
16 is returned undelivered to the holder by the United States postal
17 service.

18 (2) If the holder does not send communications to the apparent
19 owner of a security by first-class United States mail, the holder
20 shall attempt to confirm the apparent owner's interest in the
21 security by sending the apparent owner an email communication not
22 later than two years after the apparent owner's last indication of
23 interest in the security. However the holder promptly shall attempt
24 to contact the apparent owner by first-class United States mail if:

25 (a) The holder does not have information needed to send the
26 apparent owner an email communication or the holder believes that the
27 apparent owner's email address in the holder's records is not valid;

28 (b) The holder receives notification that the email communication
29 was not received; or

30 (c) The apparent owner does not respond to the email
31 communication not later than 30 days after the communication was
32 sent.

33 (3) If first-class United States mail sent under subsection (2)
34 of this section is returned to the holder undelivered by the United
35 States postal service, the security is presumed abandoned three years
36 after the date the mail is returned.

37 NEW SECTION. **Sec. 208.** WHEN RELATED PROPERTY PRESUMED
38 ABANDONED. At and after the time property is presumed abandoned under

1 this chapter, any other property right or interest accrued or
2 accruing from the property and not previously presumed abandoned is
3 also presumed abandoned.

4 NEW SECTION. **Sec. 209.** INDICATION OF APPARENT OWNER INTEREST IN
5 PROPERTY. (1) The period after which property is presumed abandoned
6 is measured from the later of:

7 (a) The date the property is presumed abandoned under this
8 section and sections 201 through 208, 210, and 211 of this act; or

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

11 (2) Under this chapter, an indication of an apparent owner's
12 interest in property includes:

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

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

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

26 (d) Activity directed by an apparent owner in the account in
27 which the property is held, including accessing the account or
28 information concerning the account, or a direction by the apparent
29 owner to increase, decrease, or otherwise change the amount or type
30 of property held in the account;

31 (e) A deposit into or withdrawal from an account at a financial
32 organization, including an automatic deposit or withdrawal previously
33 authorized by the apparent owner other than an automatic reinvestment
34 of dividends or interest;

35 (f) Subject to subsection (5) of this section, payment of a
36 premium on an insurance policy; and

37 (g) Any other action by the apparent owner which reasonably
38 demonstrates to the holder that the apparent owner knows that the
39 property exists.

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

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

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

15 NEW SECTION. **Sec. 210.** KNOWLEDGE OF DEATH OF INSURED OR
16 ANNUITANT. (1) In this section, "death master file" means the United
17 States social security administration death master file or other
18 database or service that is at least as comprehensive as the United
19 States social security administration death master file for
20 determining that an individual reportedly has died.

21 (2) With respect to a life or endowment insurance policy or
22 annuity contract for which an amount is owed on proof of death, but
23 which has not matured by proof of death of the insured or annuitant,
24 the company has knowledge of the death of an insured or annuitant
25 when:

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

28 (b) Due diligence, performed as required under chapter 48.23 RCW
29 and rules promulgated thereunder to maintain contact with the insured
30 or annuitant or determine whether the insured or annuitant has died,
31 validates the death of the insured or annuitant;

32 (c) The company conducts a comparison for any purpose between a
33 death master file and the names of some or all of the company's
34 insureds or annuitants, finds a match that provides notice that the
35 insured or annuitant has died, and validates the death;

36 (d) (i) The administrator or the administrator's agent conducts a
37 comparison for the purpose of finding matches during an examination
38 conducted under sections 1001 through 1013 of this act between a
39 death master file and the names of some or all of the company's

1 insureds or annuitants, finds a match that provides notice that the
2 insured or annuitant has died, and the company validates the death.

3 (ii) The administrator or the administrator's agent may not
4 exercise the authority provided in (d)(i) of this subsection (2) when
5 the company has conducted a death master file comparison, relevant to
6 the period under examination, in accordance with (c) of this
7 subsection (2) and subsection (3) of this section; or

8 (e) The company:

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

13 (ii) Validates the death of the insured or annuitant.

14 (3) The following rules apply under this section:

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

18 (i) Law of this state other than this chapter;

19 (ii) A rule or policy adopted by the office of the insurance
20 commissioner; or

21 (iii) Absent a law, rule, or policy under (a)(i) or (ii) of this
22 subsection standards in the national conference of insurance
23 legislators' "model unclaimed life insurance benefits act" as
24 published in 2014.

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

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

33 (d) If no provision in Title 48 RCW or rules promulgated
34 thereunder establishes a time for validation of a death of an insured
35 or annuitant, the insurance company shall make a good faith effort
36 using other available records and information to validate the death
37 and document the effort taken not later than 90 days after the
38 insurance company has notice of the death.

39 (4) This chapter does not affect the determination of the extent
40 to which an insurance company before the effective date of this

1 section had knowledge of the death of an insured or annuitant or was
2 required to conduct a death master file comparison to determine
3 whether amounts owed by the company on a life or endowment insurance
4 policy or annuity contract were presumed abandoned or unclaimed.

5 NEW SECTION. **Sec. 211.** DEPOSIT ACCOUNT FOR PROCEEDS OF
6 INSURANCE POLICY OR ANNUITY CONTRACT. If proceeds payable under a
7 life or endowment insurance policy or annuity contract are deposited
8 into an account with check or draft writing privileges for the
9 beneficiary of the policy or contract and, under a supplementary
10 contract not involving annuity benefits other than death benefits,
11 the proceeds are retained by the insurance company or the financial
12 organization where the account is held, the policy or contract
13 includes the assets in the account.

14 **PART 3**

15 **RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED**

16 NEW SECTION. **Sec. 301.** ADDRESS OF APPARENT OWNER TO ESTABLISH
17 PRIORITY. In this section and sections 302 through 307 of this act,
18 the following rules apply:

19 (1) The last known address of an apparent owner is any
20 description, code, or other indication of the location of the
21 apparent owner which identifies the state, even if the description,
22 code, or indication of location is not sufficient to direct the
23 delivery of first-class United States mail to the apparent owner.

24 (2) If the United States postal zip code associated with the
25 apparent owner is for a post office located in this state, this state
26 is deemed to be the state of the last known address of the apparent
27 owner unless other records associated with the apparent owner
28 specifically identify the physical address of the apparent owner to
29 be in another state.

30 (3) If the address under subsection (2) of this section is in
31 another state, the other state is deemed to be the state of the last
32 known address of the apparent owner.

33 (4) The address of the apparent owner of a life or endowment
34 insurance policy or annuity contract or its proceeds is presumed to
35 be the address of the insured or annuitant if a person other than the
36 insured or annuitant is entitled to the amount owed under the policy
37 or contract and the address of the other person is not known by the

1 insurance company and cannot be determined under section 302 of this
2 act.

3 NEW SECTION. **Sec. 302.** ADDRESS OF APPARENT OWNER IN THIS STATE.

4 The administrator may take custody of property that is presumed
5 abandoned, whether located in this state, another state, or a foreign
6 country if:

7 (1) The last known address of the apparent owner in the records
8 of the holder is in this state; or

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

13 NEW SECTION. **Sec. 303.** IF RECORDS SHOW MULTIPLE ADDRESSES OF

14 APPARENT OWNER. (1) Except as in subsection (2) of this section, if
15 records of a holder reflect multiple addresses for an apparent owner
16 and this state is the state of the most recently recorded address,
17 this state may take custody of property presumed abandoned, whether
18 located in this state or another state.

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

25 NEW SECTION. **Sec. 304.** HOLDER DOMICILED IN THIS STATE. (1)

26 Except as in subsection (2) of this section or section 302 or 303 of
27 this act, the administrator may take custody of property presumed
28 abandoned, whether located in this state, another state, or a foreign
29 country, if the holder is domiciled in this state or is this state or
30 a governmental subdivision, agency, or instrumentality of this state,
31 and:

32 (a) Another state or foreign country is not entitled to the
33 property because there is no last known address of the apparent owner
34 or other person entitled to the property in the records of the
35 holder; or

1 (b) The state or foreign country of the last known address of the
2 apparent owner or other person entitled to the property does not
3 provide for custodial taking of the property.

4 (2) Property is not subject to custody of the administrator under
5 subsection (1) of this section if the property is specifically exempt
6 from custodial taking under the law of this state or the state or
7 foreign country of the last known address of the apparent owner.

8 (3) If a holder's state of domicile has changed since the time
9 property was presumed abandoned, the holder's state of domicile in
10 this section is deemed to be the state where the holder was domiciled
11 at the time the property was presumed abandoned.

12 NEW SECTION. **Sec. 305.** CUSTODY IF TRANSACTION TOOK PLACE IN
13 THIS STATE. Except as in section 302, 303, or 304 of this act, the
14 administrator may take custody of property presumed abandoned whether
15 located in this state or another state if:

16 (1) The transaction out of which the property arose took place in
17 this state;

18 (2) The holder is domiciled in a state that does not provide for
19 the custodial taking of the property, except that if the property is
20 specifically exempt from custodial taking under the law of the state
21 of the holder's domicile, the property is not subject to the custody
22 of the administrator; and

23 (3) The last known address of the apparent owner or other person
24 entitled to the property is unknown or in a state that does not
25 provide for the custodial taking of the property, except that if the
26 property is specifically exempt from custodial taking under the law
27 of the state of the last known address, the property is not subject
28 to the custody of the administrator.

29 NEW SECTION. **Sec. 306.** TRAVELER'S CHECK, MONEY ORDER, OR
30 SIMILAR INSTRUMENT. The administrator may take custody of sums
31 payable on a traveler's check, money order, or similar instrument
32 presumed abandoned to the extent permissible under 12 U.S.C. Secs.
33 2501 through 2503, as it existed on the effective date of this
34 section.

35 NEW SECTION. **Sec. 307.** BURDEN OF PROOF TO ESTABLISH
36 ADMINISTRATOR'S RIGHT TO CUSTODY. If the administrator asserts a

1 right to custody of unclaimed property, the administrator has the
2 burden to prove:

- 3 (1) The existence and amount of the property;
- 4 (2) The property is presumed abandoned; and
- 5 (3) The property is subject to the custody of the administrator.

6 **PART 4**
7 **REPORT BY HOLDER**

8 NEW SECTION. **Sec. 401.** REPORT REQUIRED BY HOLDER. (1) A holder
9 of property presumed abandoned and subject to the custody of the
10 administrator shall report in a record to the administrator
11 concerning the property.

12 (2) A holder may contract with a third party to make the report
13 required under subsection (1) of this section.

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

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

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

20 (4) (a) Reports due under this section must be filed
21 electronically in a form or manner provided or authorized by the
22 administrator. However, the administrator, upon request or its own
23 initiative, may relieve any holder or class of holders from the
24 electronic filing requirement under this subsection for good cause as
25 determined by the administrator.

26 (b) For purposes of this subsection, "good cause" means:

27 (i) A circumstance or condition exists that, in the
28 administrator's judgment, prevents the holder from electronically
29 filing the report due under this section; or

30 (ii) The administrator determines that relief from the electronic
31 filing requirement under this subsection supports the efficient or
32 effective administration of this chapter.

33 NEW SECTION. **Sec. 402.** CONTENT OF REPORT. (1) The report
34 required under section 401 of this act must:

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

1 (b) If filed electronically, be in a secure format approved by
2 the administrator which protects confidential information of the
3 apparent owner in the same manner as required of the administrator
4 and the administrator's agent under sections 1401 through 1408 of
5 this act;

6 (c) Describe the property;

7 (d) Except for a traveler's check, money order, or similar
8 instrument, contain the name, if known, last known address, if known,
9 and social security number or taxpayer identification number, if
10 known or readily ascertainable, of the apparent owner of property
11 with a value of \$50 or more;

12 (e) For an amount held or owing under a life or endowment
13 insurance policy or annuity contract, contain the name and last known
14 address of the insured, annuitant, or other apparent owner of the
15 policy or contract and of the beneficiary;

16 (f) For property held in or removed from a safe deposit box,
17 indicate the location of the property, where it may be inspected by
18 the administrator, and any amounts owed to the holder under section
19 606 of this act;

20 (g) Contain the commencement date for determining abandonment
21 under sections 201 through 211 of this act;

22 (h) State that the holder has complied with the notice
23 requirements of section 501 of this act;

24 (i) Identify property that is a nonfreely transferable security
25 and explain why it is a nonfreely transferable security; and

26 (j) Contain other information the administrator prescribes by
27 rules.

28 (2) A report under section 401 of this act may include in the
29 aggregate items valued under \$50 each. If the report includes items
30 in the aggregate valued under \$50 each, the administrator may not
31 require the holder to provide the name and address of an apparent
32 owner of an item unless the information is necessary to verify or
33 process a claim in progress by the apparent owner.

34 (3) A report under section 401 of this act may include personal
35 information as defined in section 1401(1) of this act about the
36 apparent owner or the apparent owner's property to the extent not
37 otherwise prohibited by federal law.

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

1 include in the report under section 401 of this act its former name
2 or the name of the previous holder, if any, and the known name and
3 address of each previous holder of the property.

4 NEW SECTION. **Sec. 403.** WHEN REPORT TO BE FILED. (1) Except as
5 otherwise provided in subsection (2) of this section and subject to
6 subsection (3) of this section, the report under section 401 of this
7 act must be filed before November 1st of each year and cover the 12
8 months preceding July 1st of that year.

9 (2) Subject to subsection (3) of this section, the report under
10 section 401 of this act to be filed by an insurance company must be
11 filed before May 1st of each year for the immediately preceding
12 calendar year.

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

20 NEW SECTION. **Sec. 404.** RETENTION OF RECORDS BY HOLDER. A holder
21 required to file a report under section 401 of this act must retain
22 records for six years after the later of the date the report was
23 filed or the last date a timely report was due to be filed, unless a
24 shorter period is provided by rule of the administrator. The holder
25 may satisfy the requirement to retain records under this section
26 through an agent. The records must contain:

- 27 (1) The information required to be included in the report;
28 (2) The date, place, and nature of the circumstances that gave
29 rise to the property right;
30 (3) The amount or value of the property;
31 (4) The last address of the apparent owner, if known to the
32 holder; and
33 (5) If the holder sells, issues, or provides to others for sale
34 or issue in this state traveler's checks, money orders, or similar
35 instruments, other than third-party bank checks, on which the holder
36 is directly liable, a record of the instruments while they remain
37 outstanding indicating the state and date of issue.

1 sufficient to direct the delivery of first-class United States mail
2 to the apparent owner; and

3 (b) The value of the property is \$75 or more.

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

10 NEW SECTION. **Sec. 502.** CONTENTS OF NOTICE BY HOLDER. (1) Notice
11 under section 501 of this act must contain a heading that reads
12 substantially as follows:

13 "Notice

14 The state of Washington requires us to notify you that your
15 property may be transferred to the custody of the department of
16 revenue if you do not contact us before (insert date that is 30 days
17 after the date of this notice)."

18 (2) The notice under section 501 of this act must:

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

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

24 (c) State that after the property is turned over to the
25 administrator an apparent owner that seeks return of the property
26 must file a claim with the administrator;

27 (d) State that property that is not legal tender of the United
28 States may be sold by the administrator; and

29 (e) Provide instructions that the apparent owner must follow to
30 prevent the holder from reporting and paying or delivering the
31 property to the administrator.

32 NEW SECTION. **Sec. 503.** NOTICE BY ADMINISTRATOR. (1) The
33 administrator shall give notice to an apparent owner that property
34 presumed abandoned and appears to be owned by the apparent owner is
35 held by the administrator under this chapter.

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

1 (a) Except as otherwise provided in (b) of this subsection, send
2 written notice by first-class United States mail to each apparent
3 owner of property valued at \$75 or more held by the administrator,
4 unless the administrator determines that a mailing by first-class
5 United States mail would not be received by the apparent owner, and,
6 in the case of a security held in an account for which the apparent
7 owner had consented to receiving email from the holder, send notice
8 by email if the email address of the apparent owner is known to the
9 administrator instead of by first-class United States mail; or

10 (b) Send the notice to the apparent owner's email address if the
11 administrator does not have a valid United States mail address for an
12 apparent owner, but has an email address that the administrator does
13 not know to be invalid.

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

16 (a) Publish every 12 months in the printed or online version of a
17 newspaper of general circulation within this state, which the
18 administrator determines is most likely to give notice to the
19 apparent owner of the property, notice of property held by the
20 administrator which must include:

21 (i) The total value of property received by the administrator
22 during the preceding 12-month period, taken from the reports under
23 section 401 of this act;

24 (ii) The total value of claims paid by the administrator during
25 the preceding 12-month period;

26 (iii) The internet web address of the unclaimed property website
27 maintained by the administrator;

28 (iv) A telephone number and email address to contact the
29 administrator to inquire about or claim property; and

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

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

37 (4) The website or database maintained under subsection (3)(b) of
38 this section must include instructions for filing with the
39 administrator a claim to property and a printable claim form with
40 instructions for its use.

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

8 NEW SECTION. **Sec. 504.** COOPERATION AMONG STATE OFFICERS AND
9 AGENCIES TO LOCATE APPARENT OWNER. Unless prohibited by law of this
10 state other than this chapter, on request of the administrator, each
11 officer, agency, board, commission, division, and department of this
12 state, any body politic and corporate created by this state for a
13 public purpose, and each political subdivision of this state shall
14 make its books and records available to the administrator and
15 cooperate with the administrator to determine the current address of
16 an apparent owner of property held by the administrator under this
17 chapter.

18 **PART 6**

19 **TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

20 NEW SECTION. **Sec. 601.** DEFINITION OF GOOD FAITH. In this
21 section and sections 602 through 610 of this act, payment or delivery
22 of property is made in good faith if a holder:

23 (1) Had a reasonable basis for believing, based on the facts then
24 known, that the property was required or permitted to be paid or
25 delivered to the administrator under this chapter; or

26 (2) Made payment or delivery:

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

29 (b) Under a guidance or ruling issued by the administrator which
30 the holder reasonably believed required or permitted the property to
31 be paid or delivered.

32 NEW SECTION. **Sec. 602.** DORMANCY CHARGE. (1) A holder may deduct
33 a dormancy charge from property required to be paid or delivered to
34 the administrator if:

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

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

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

12 NEW SECTION. **Sec. 603.** PAYMENT OR DELIVERY OF PROPERTY TO

13 ADMINISTRATOR. (1)(a) Except as otherwise provided in this section,
14 on filing a report under section 401 of this act, the holder shall
15 pay or deliver to the administrator the property described in the
16 report. Holders who are required to file a report electronically
17 under this chapter must remit payments under this section by
18 electronic funds transfer or other form of electronic payment
19 acceptable to the administrator. However, the administrator, upon
20 request or its own initiative, may relieve any holder or class of
21 holders from the electronic payment requirement under this subsection
22 for good cause as determined by the administrator.

23 (b) For purposes of this subsection, "good cause" means:

24 (i) A circumstance or condition exists that, in the
25 administrator's judgment, prevents the holder from remitting payments
26 due under this section electronically; or

27 (ii) The administrator determines that relief from the electronic
28 payment requirement under this subsection supports the efficient or
29 effective administration of this chapter.

30 (2) If property in a report under section 401 of this act is an
31 automatically renewable deposit and a penalty or forfeiture in the
32 payment of interest would result from paying the deposit to the
33 administrator at the time of the report, the date for payment of the
34 property to the administrator is extended until a penalty or
35 forfeiture no longer would result from payment, if the holder informs
36 the administrator of the extended date.

37 (3) Tangible property in a safe deposit box may not be delivered
38 to the administrator until 180 days after filing the report under
39 section 401 of this act.

1 (4) If property reported to the administrator under section 401
2 of this act is a security, the administrator may:

3 (a) Make an endorsement, instruction, or entitlement order on
4 behalf of the apparent owner to invoke the duty of the issuer, its
5 transfer agent, or the securities intermediary to transfer the
6 security; or

7 (b) Dispose of the security under section 702 of this act.

8 (5) If the holder of that property reported to the administrator
9 under section 401 of this act is the issuer of a certificated
10 security, the administrator may obtain a replacement certificate in
11 physical or book-entry form under RCW 62A.8-405. An indemnity bond is
12 not required.

13 (6) The administrator shall establish procedures for the
14 registration, issuance, method of delivery, transfer, and maintenance
15 of securities delivered to the administrator by a holder.

16 (7) An issuer, holder, and transfer agent or other person acting
17 under this section under instructions of and on behalf of the issuer
18 or holder is not liable to the apparent owner for, and must be
19 indemnified by the state against, a claim arising with respect to
20 property after the property has been delivered to the administrator.

21 (8) A holder is not required to deliver to the administrator a
22 security identified by the holder as a nonfreely transferable
23 security. If the administrator or holder determines that a security
24 is no longer a nonfreely transferable security, the holder shall
25 deliver the security on the next regular date prescribed for delivery
26 of securities under this chapter. The holder shall make a
27 determination annually whether a security identified in a report
28 filed under section 401 of this act as a nonfreely transferable
29 security is no longer a nonfreely transferable security.

30 NEW SECTION. **Sec. 604.** EFFECT OF PAYMENT OR DELIVERY OF
31 PROPERTY TO ADMINISTRATOR. (1) On payment or delivery of property to
32 the administrator under this chapter, the administrator as agent for
33 the state assumes custody and responsibility for safekeeping the
34 property. A holder that pays or delivers property to the
35 administrator in good faith and substantially complies with sections
36 501 and 502 of this act is relieved of liability arising thereafter
37 with respect to payment or delivery of the property to the
38 administrator.

1 (2) This state shall defend and indemnify a holder against
2 liability on a claim against the holder resulting from the payment or
3 delivery of property to the administrator made in good faith and
4 after the holder substantially complied with sections 501 and 502 of
5 this act.

6 NEW SECTION. **Sec. 605.** RECOVERY OF PROPERTY BY HOLDER FROM
7 ADMINISTRATOR. (1) A holder that under this chapter pays money to the
8 administrator may file a claim for reimbursement from the
9 administrator of the amount paid if the holder:

- 10 (a) Paid the money in error; or
- 11 (b) After paying the money to the administrator, paid money to a
12 person the holder reasonably believed was entitled to the money.

13 (2) If a claim for reimbursement under subsection (1) of this
14 section is made for a payment made on a negotiable instrument,
15 including a traveler's check, money order, or similar instrument, the
16 holder must submit proof that the instrument was presented and
17 payment was made to a person the holder reasonably believed was
18 entitled to payment. The holder may claim reimbursement even if the
19 payment was made to a person whose claim was made after expiration of
20 a period of limitation on the owner's right to receive or recover
21 property, whether specified by contract, 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 from
24 the administrator income or gain under section 607 of this act that
25 would have been paid to the owner if the money had been claimed from
26 the administrator by the owner to the extent the income or gain was
27 paid by the holder to the owner.

28 (4) A holder that under this chapter delivers property other than
29 money to the administrator may file a claim for return of the
30 property from the administrator if:

- 31 (a) The holder delivered the property in error; or
- 32 (b) The apparent owner has claimed the property from the holder.

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

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

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

6 (8) Not later than 90 days after a claim is filed under
7 subsection (1) or (4) of this section, the administrator shall allow
8 or deny the claim and give the claimant notice of the decision in a
9 record. If the administrator does not take action on a claim during
10 the 90-day period, the claim is deemed denied.

11 (9) Decisions under this section are subject to review under
12 sections 1103 and 1104 of this act.

13 NEW SECTION. **Sec. 606.** PROPERTY REMOVED FROM SAFE DEPOSIT BOX.
14 Property removed from a safe deposit box and delivered to the
15 administrator under this chapter is subject to the holder's right to
16 reimbursement for the cost of opening the box and a lien or contract
17 providing reimbursement to the holder for unpaid rent charges for the
18 box. The administrator shall reimburse the holder from the proceeds
19 remaining after deducting the expense incurred by the administrator
20 in selling the property.

21 NEW SECTION. **Sec. 607.** CREDITING INCOME OR GAIN TO OWNER'S
22 ACCOUNT. If property other than money is delivered to the
23 administrator, the owner is entitled to receive from the
24 administrator income or gain realized or accrued on the property
25 before the property is sold. If the property was an interest-bearing
26 demand, savings, or time deposit, the administrator shall pay
27 interest at the rate the property earned while in possession of the
28 holder. Interest begins to accrue when the property is delivered to
29 the administrator and ends on the earlier of the expiration of 10
30 years after its delivery or the date on which payment is made to the
31 owner.

32 NEW SECTION. **Sec. 608.** ADMINISTRATOR'S OPTIONS AS TO CUSTODY.
33 (1) The administrator may decline to take custody of property
34 reported under section 401 of this act if the administrator
35 determines that:

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

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

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

5 (a) Sends the apparent owner of the property notice required by
6 section 501 of this act and provides the administrator evidence of
7 the holder's compliance with this subsection (2)(a);

8 (b) Includes with the payment or delivery a report regarding the
9 property conforming to section 402 of this act; and

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

12 (3) A holder's request for the administrator's consent under
13 subsection (2)(c) of this section must be in a record. If the
14 administrator fails to respond to the request not later than 30 days
15 after receipt of the request, the administrator is deemed to consent
16 to the payment or delivery of the property and the payment or
17 delivery is considered to have been made in good faith.

18 (4) On payment or delivery of property under subsection (2) of
19 this section, the property is presumed abandoned.

20 NEW SECTION. **Sec. 609.** DISPOSITION OF PROPERTY HAVING NO
21 SUBSTANTIAL VALUE—IMMUNITY FROM LIABILITY. (1) If the administrator
22 takes custody of property delivered under this chapter and later
23 determines that the property has no substantial commercial value or
24 that the cost of disposing of the property will exceed the value of
25 the property, the administrator may return the property to the holder
26 or destroy or otherwise dispose of the property.

27 (2) An action or proceeding may not be commenced against the
28 state, an agency of the state, the administrator, another officer,
29 employee, or agent of the state, or a holder for or because of an act
30 of the administrator under this section, except for intentional
31 misconduct or malfeasance.

32 NEW SECTION. **Sec. 610.** PERIODS OF LIMITATION AND REPOSE. (1)
33 Expiration, before, on, or after the effective date of this section,
34 of a period of limitation on an owner's right to receive or recover
35 property, whether specified by contract, statute, or court order,
36 does not prevent the property from being presumed abandoned or affect
37 the duty of a holder under this chapter to file a report or pay or
38 deliver property to the administrator.

1 (2) The administrator may not commence an action or proceeding to
2 enforce this chapter with respect to the reporting, payment, or
3 delivery of property more than six years after the holder filed a
4 nonfraudulent report under section 401 of this act with the
5 administrator. The parties may agree in a record to extend the
6 limitation in this subsection.

7 (3) The administrator may not commence an action, proceeding, or
8 examination with respect to a duty of a holder under this chapter
9 more than 10 years after the duty arose.

10 **PART 7**

11 **SALE OF PROPERTY BY ADMINISTRATOR**

12 NEW SECTION. **Sec. 701.** PUBLIC SALE OF PROPERTY. (1) Except as
13 otherwise provided in section 702 of this act, the administrator may
14 sell the property (a) not earlier than two years after receipt of
15 property stored in a safe deposit box and presumed abandoned; and (b)
16 not earlier than three years after receipt of all other property
17 presumed abandoned.

18 (2) Before selling property under subsection (1) of this section,
19 the administrator shall give notice to the public of:

20 (a) The date of the sale; and

21 (b) A reasonable description of the property.

22 (3) A sale under subsection (1) of this section must be to the
23 highest bidder:

24 (a) At public sale at a location in this state which the
25 administrator determines to be the most favorable market for the
26 property;

27 (b) On the internet; or

28 (c) On another forum the administrator determines is likely to
29 yield the highest net proceeds of sale.

30 (4) The administrator may decline the highest bid at a sale under
31 this section and reoffer the property for sale if the administrator
32 determines the highest bid is insufficient.

33 (5) The administrator must publish at least one notice of the
34 sale, at least three weeks but not more than five weeks before the
35 sale, in a newspaper of general circulation in the county in which
36 the property is sold.

1 NEW SECTION. **Sec. 702.** DISPOSAL OF SECURITIES. (1) Except as
2 otherwise provided in this subsection, the administrator must sell
3 all securities delivered to the administrator as required by this
4 chapter as soon as practicable after taking custody, in the judgment
5 of the administrator, after receipt by the administrator. However,
6 this subsection does not apply with respect to any securities that,
7 in the judgment of the administrator, cannot be sold, are worthless,
8 or are not cost-effective to sell.

9 (2) Securities listed on an established stock exchange must be
10 sold at prices prevailing at the time of sale on the exchange. Other
11 securities may be sold over the counter at prices prevailing at the
12 time of sale or by any other method the administrator considers
13 advisable. All securities may be sold over the counter at prices
14 prevailing at the time of the sale, or by any other method the
15 administrator deems advisable.

16 NEW SECTION. **Sec. 703.** RECOVERY OF SECURITIES OR VALUE BY
17 OWNER. (1) Except as otherwise provided in this section, a person
18 making a claim under this chapter with respect to securities is only
19 entitled to receive the proceeds received from sale, even if the sale
20 of the securities has not been completed at the time the
21 administrator receives the claim. However, if the administrator
22 receives a claim for securities and the administrator has not ordered
23 those securities to be sold as of the time the claim is received by
24 the administrator, the claimant is entitled to receive either the
25 securities delivered to the administrator by the holder, or the
26 proceeds received from the sale, less any amounts deducted pursuant
27 to section 803 of this act.

28 (2) With respect to securities that, in the judgment of the
29 administrator, cannot be sold or are not cost-effective to sell and
30 that remain in the possession of the administrator, a person making a
31 claim under this chapter is only entitled to receive the securities
32 delivered to the administrator by the holder.

33 NEW SECTION. **Sec. 704.** PURCHASER OWNS PROPERTY AFTER SALE. A
34 purchaser of property at a sale conducted by the administrator under
35 this chapter takes the property free of all claims of the owner, a
36 previous holder, or a person claiming through the owner or holder.
37 The administrator shall execute documents necessary to complete the
38 transfer of ownership to the purchaser.

1 NEW SECTION. **Sec. 705.** MILITARY MEDAL OR DECORATION. (1) The
2 administrator may not sell a medal or decoration awarded for military
3 service in the armed forces of the United States.

4 (2) The administrator, with the consent of the respective
5 organization under (a) of this subsection, agency under (b) of this
6 subsection, or entity under (c) of this subsection, may deliver a
7 medal or decoration described in subsection (1) of this section to be
8 held in custody for the owner, to:

9 (a) A military veterans organization qualified under the internal
10 revenue code, as it existed on the effective date of this section, 26
11 U.S.C. Sec. 501(c)(19);

12 (b) The agency that awarded the medal or decoration; or

13 (c) A governmental entity.

14 (3) On delivery under subsection (2) of this section, the
15 administrator is not responsible for safekeeping the medal or
16 decoration.

17 **PART 8**

18 **ADMINISTRATION OF PROPERTY**

19 NEW SECTION. **Sec. 801.** DEPOSIT OF FUNDS BY ADMINISTRATOR. (1)
20 Except as otherwise provided by this section, the administrator shall
21 promptly deposit in the general fund of this state all funds received
22 under this chapter, including the proceeds from the sale of property
23 under sections 701 through 705 of this act. The administrator shall
24 retain in a separate trust fund, the nonappropriated unclaimed
25 personal property account, an amount not less than \$750,000 from
26 which prompt payment of claims duly allowed must be made by the
27 administrator.

28 (2) The administrator may pay from the trust fund provided in
29 subsection (1) of this section any costs of administering this
30 chapter including those costs set forth in section 803 of this act.
31 Such amounts may be expended without appropriation.

32 (3) The department may periodically transfer from the general
33 fund of this state to the unclaimed personal property account amounts
34 necessary to accommodate the requirements of this section.

35 NEW SECTION. **Sec. 802.** ADMINISTRATOR TO RETAIN RECORDS OF
36 PROPERTY. The administrator shall:

1 (1) Record and retain the name and last known address of each
2 person shown on a report filed under section 401 of this act to be
3 the apparent owner of property delivered to the administrator;

4 (2) Record and retain the name and last known address of each
5 insured or annuitant and beneficiary shown on the report;

6 (3) For each policy of insurance or annuity contract listed in
7 the report of an insurance company, record and retain the policy or
8 account number, the name of the company, and the amount due or paid;
9 and

10 (4) For each apparent owner listed in the report, record and
11 retain the name of the holder that filed the report and the amount
12 due or paid.

13 NEW SECTION. **Sec. 803.** EXPENSES AND SERVICE CHARGES OF
14 ADMINISTRATOR. The administrator may expend from the unclaimed
15 personal property account for the following purposes:

16 (1) Expenses of disposition of property delivered to the
17 administrator under this chapter;

18 (2) Costs of mailing and publication in connection with property
19 delivered to the administrator under this chapter;

20 (3) Reasonable service charges; and

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

23 NEW SECTION. **Sec. 804.** ADMINISTRATOR HOLDS PROPERTY AS
24 CUSTODIAN FOR OWNER. Property received by the administrator under
25 this chapter is held in custody for the benefit of the owner and is
26 not owned by the state.

27 **PART 9**

28 **CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

29 NEW SECTION. **Sec. 901.** CLAIM OF ANOTHER STATE TO RECOVER
30 PROPERTY. (1) If the administrator knows that property held by the
31 administrator under this chapter is subject to a superior claim of
32 another state, the administrator shall:

33 (a) Report and pay or deliver the property to the other state; or

34 (b) Return the property to the holder so that the holder may pay
35 or deliver the property to the other state.

1 (2) The administrator is not required to enter into an agreement
2 to transfer property to the other state under subsection (1) of this
3 section.

4 NEW SECTION. **Sec. 902.** WHEN PROPERTY SUBJECT TO RECOVERY BY
5 ANOTHER STATE. (1) Property held under this chapter by the
6 administrator is subject to the right of another state to take
7 custody of the property if:

8 (a) The property was paid or delivered to the administrator
9 because the records of the holder did not reflect a last known
10 address in the other state of the apparent owner and:

11 (i) The other state establishes that the last known address of
12 the apparent owner or other person entitled to the property was in
13 the other state; or

14 (ii) Under the law of the other state, the property has become
15 subject to a claim by the other state of abandonment;

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

20 (c) The property was subject to the custody of the administrator
21 of this state under section 305 of this act and, under the law of the
22 state of domicile of the holder, the property has become subject to a
23 claim by the state of domicile of the holder of abandonment; or

24 (d) The property:

25 (i) Is a sum payable on a traveler's check, money order, or
26 similar instrument that was purchased in the other state and
27 delivered to the administrator under section 306 of this act; and

28 (ii) Under the law of the other state, has become subject to a
29 claim by the other state of abandonment.

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

33 (3) The administrator shall decide a claim under this section not
34 later than 90 days after it is presented. If the administrator
35 determines that the other state is entitled under subsection (1) of
36 this section to custody of the property, the administrator shall
37 allow the claim and pay or deliver the property to the other state.

38 (4) The administrator may require another state, before
39 recovering property under this section, to agree to indemnify this

1 state and its agents, officers, and employees against any liability
2 on a claim to the property.

3 NEW SECTION. **Sec. 903.** CLAIM FOR PROPERTY BY PERSON CLAIMING TO
4 BE OWNER. (1) A person claiming to be the owner of property held
5 under this chapter by the administrator may file a claim for the
6 property on a form prescribed by the administrator. The claimant must
7 verify the claim as to its completeness and accuracy.

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

11 (a) The person receiving the property or payment is shown to be
12 the apparent owner included on a report filed under section 401 of
13 this act; and

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

16 NEW SECTION. **Sec. 904.** WHEN ADMINISTRATOR MUST HONOR CLAIM FOR
17 PROPERTY. (1) The administrator shall pay or deliver property to a
18 claimant under section 903(1) of this act if the administrator
19 receives evidence sufficient to establish to the satisfaction of the
20 administrator that the claimant is the owner of the property.

21 (2) Not later than 90 days after a claim is filed under section
22 903(1) of this act, the administrator shall allow or deny the claim
23 and give the claimant notice in a record of the decision.

24 (3) If the claim is denied under subsection (2) of this section:

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

28 (b) The claimant may file an amended claim with the administrator
29 or commence an action under section 906 of this act; and

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

32 (4) If the administrator does not take action on a claim during
33 the 90-day period following the filing of a claim under section
34 903(1) of this act, the claim is deemed denied.

35 NEW SECTION. **Sec. 905.** ALLOWANCE OF CLAIM FOR PROPERTY. (1) Not
36 later than 30 days after a claim is allowed under section 904(2) of
37 this act, the administrator shall pay or deliver to the owner the

1 property or pay to the owner the net proceeds of a sale of the
2 property, together with income or gain to which the owner is entitled
3 under section 607 of this act. On request of the owner, the
4 administrator may sell or liquidate a security and pay the net
5 proceeds to the owner, even if the security had been held by the
6 administrator for less than three years or the administrator has not
7 complied with the notice requirements under section 702 of this act.

8 (2) Property held under this chapter by the administrator is
9 subject to a claim for the payment of an enforceable debt the owner
10 owes in this state for:

11 (a) Child support arrearages, including child support collection
12 costs and child support arrearages that are combined with
13 maintenance;

14 (b) A civil or criminal fine or penalty, court costs, a
15 surcharge, or restitution imposed by a final order of an
16 administrative agency or a final court judgment; or

17 (c) State or local taxes, penalties, and interest that have been
18 determined to be delinquent.

19 (3) Before delivery or payment to an owner under subsection (1)
20 of this section of property or payment to the owner of net proceeds
21 of a sale of the property, the administrator first shall apply the
22 property or net proceeds to a debt under subsection (2) of this
23 section the administrator determines is owed by the owner. The
24 administrator shall pay the amount to the appropriate state or local
25 agency and notify the owner of the payment.

26 (4) The administrator may make periodic inquiries of state and
27 local agencies in the absence of a claim filed under section 903 of
28 this act to determine whether an apparent owner included in the
29 unclaimed property records of this state has enforceable debts
30 described in subsection (2) of this section. The administrator first
31 shall apply the property or net proceeds of a sale of property held
32 by the administrator to a debt under subsection (2) of this section
33 of an apparent owner which appears in the records of the
34 administrator and deliver the amount to the appropriate state or
35 local agency. The administrator shall notify the apparent owner of
36 the payment.

37 NEW SECTION. **Sec. 906.** ACTION BY PERSON WHOSE CLAIM IS DENIED.
38 Not later than one year after filing a claim under section 904(1) of
39 this act, the claimant may commence an action against the
Code Rev/AI:eab 38 H-2853.3/22 3rd draft

1 administrator in Thurston county superior court to establish a claim
2 that has been denied or deemed denied under section 904 of this act.

3 **PART 10**

4 **VERIFIED REPORT OF PROPERTY—EXAMINATION OF RECORDS**

5 NEW SECTION. **Sec. 1001.** VERIFIED REPORT OF PROPERTY. If a
6 person does not file a report required by section 401 of this act or
7 the administrator believes that a person may have filed an
8 inaccurate, incomplete, or false report, the administrator may
9 require the person to file a verified report in a form prescribed by
10 the administrator. The verified report must:

11 (1) State whether the person is holding property reportable under
12 this chapter;

13 (2) Describe property not previously reported or about which the
14 administrator has inquired;

15 (3) Specifically identify property described under subsection (2)
16 of this section about which there is a dispute whether it is
17 reportable under this section; and

18 (4) State the amount or value of the property.

19 NEW SECTION. **Sec. 1002.** EXAMINATION OF RECORDS TO DETERMINE
20 COMPLIANCE. The administrator, at reasonable times and on reasonable
21 notice, may:

22 (1) Examine the records of a person, including examination of
23 appropriate records in the possession of an agent of the person under
24 examination, if the records are reasonably necessary to determine
25 whether the person has complied with this chapter;

26 (2) Issue an administrative subpoena requiring the person or
27 agent of the person to make records available for examination; and

28 (3) Bring an action seeking judicial enforcement of the subpoena.

29 NEW SECTION. **Sec. 1003.** RULES FOR CONDUCTING EXAMINATION. (1)
30 The administrator shall adopt rules governing procedures and
31 standards for an examination under section 1002 of this act,
32 including rules for use of an estimation, extrapolation, and
33 statistical sampling in conducting an examination.

34 (2) An examination under section 1002 of this act must be
35 performed under rules adopted under subsection (1) of this section

1 and with generally accepted examination practices and standards
2 applicable to an unclaimed property examination.

3 (3) If a person subject to examination under section 1002 of this
4 act has filed the reports required under sections 401 and 1001 of
5 this act and has retained the records required by section 404 of this
6 act, the following rules apply:

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

9 (b) The examination may not be based on an estimate unless the
10 person expressly consents in a record to the use of an estimate or
11 the person has failed to make its records available to the
12 administrator for examination.

13 (c) The person conducting the examination shall consider the
14 evidence presented in good faith by the person in preparing the
15 findings of the examination under section 1007 of this act.

16 NEW SECTION. **Sec. 1004.** RECORDS OBTAINED IN EXAMINATION.

17 Records obtained and records, including work papers, compiled by the
18 administrator in the course of conducting an examination under
19 section 1002 of this act:

20 (1) Are subject to the confidentiality and security provisions of
21 sections 1401 through 1408 of this act and are not public records;

22 (2) May be used by the administrator in an action to collect
23 property or otherwise enforce this chapter;

24 (3) May be used in a joint examination conducted with another
25 state, the United States, a foreign country or subordinate unit of a
26 foreign country, or any other governmental entity if the governmental
27 entity conducting the examination is legally bound to maintain the
28 confidentiality and security of information obtained from a person
29 subject to examination in a manner substantially equivalent to
30 sections 1401 through 1408 of this act;

31 (4) Must be disclosed, on request, to the person that administers
32 the unclaimed property law of another state for that state's use in
33 circumstances equivalent to circumstances described in this section
34 and sections 1001 through 1003 and 1005 through 1013 of this act, if
35 the other state is required to maintain the confidentiality and
36 security of information obtained in a manner substantially equivalent
37 to sections 1401 through 1408 of this act;

38 (5) Must be produced by the administrator under an administrative
39 or judicial subpoena or administrative or court order; and

1 (6) Must be produced by the administrator on request of the
2 person subject to the examination in an administrative or judicial
3 proceeding relating to the property.

4 NEW SECTION. **Sec. 1005.** EVIDENCE OF UNPAID DEBT OR UNDISCHARGED
5 OBLIGATION. (1) A record of a putative holder showing an unpaid debt
6 or undischarged obligation is prima facie evidence of the debt or
7 obligation.

8 (2) A putative holder may establish by a preponderance of the
9 evidence that there is no unpaid debt or undischarged obligation for
10 a debt or obligation described in subsection (1) of this section or
11 that the debt or obligation was not, or no longer is, a fixed and
12 certain obligation of the putative holder.

13 (3) A putative holder may overcome prima facie evidence under
14 subsection (1) of this section by establishing by a preponderance of
15 the evidence that a check, draft, or similar instrument was:

16 (a) Issued as an unaccepted offer in settlement of an
17 unliquidated amount;

18 (b) Issued but later was replaced with another instrument because
19 the earlier instrument was lost or contained an error that was
20 corrected;

21 (c) Issued to a party affiliated with the issuer;

22 (d) Paid, satisfied, or discharged;

23 (e) Issued in error;

24 (f) Issued without consideration;

25 (g) Issued but there was a failure of consideration;

26 (h) Voided within a reasonable time after issuance for a valid
27 business reason set forth in a contemporaneous record; or

28 (i) Issued but not delivered to the third-party payee for a
29 sufficient reason recorded within a reasonable time after issuance.

30 (4) In asserting a defense under this section, a putative holder
31 may present evidence of a course of dealing between the putative
32 holder and the apparent owner or of custom and practice.

33 NEW SECTION. **Sec. 1006.** FAILURE OF PERSON EXAMINED TO RETAIN
34 RECORDS. If a person subject to examination under section 1002 of
35 this act does not retain the records required by section 404 of this
36 act, the administrator may determine the value of property due using
37 a reasonable method of estimation based on all information available
38 to the administrator, including extrapolation and use of statistical

1 sampling when appropriate and necessary, consistent with examination
2 procedures and standards adopted under section 1003(1) of this act
3 and in accordance with section 1003(2) of this act.

4 NEW SECTION. **Sec. 1007.** REPORT TO PERSON WHOSE RECORDS WERE
5 EXAMINED. At the conclusion of an examination under section 1002 of
6 this act, the administrator shall provide to the person whose records
7 were examined a complete and unredacted examination report that
8 specifies:

- 9 (1) The work performed;
- 10 (2) The property types reviewed;
- 11 (3) The methodology of any estimation technique, extrapolation,
12 or statistical sampling used in conducting the examination;
- 13 (4) Each calculation showing the value of property determined to
14 be due; and
- 15 (5) The findings of the person conducting the examination.

16 NEW SECTION. **Sec. 1008.** COMPLAINT TO ADMINISTRATOR ABOUT
17 CONDUCT OF PERSON CONDUCTING EXAMINATION. (1) If a person subject to
18 examination under section 1002 of this act believes the person
19 conducting the examination has made an unreasonable or unauthorized
20 request or is not proceeding expeditiously to complete the
21 examination, the person in a record may ask the administrator to
22 intervene and take appropriate remedial action, including
23 countermanding the request of the person conducting the examination,
24 imposing a time limit for completion of the examination, or
25 reassigning the examination to another person.

26 (2) If a person in a record requests a conference with the
27 administrator to present matters that are the basis of a request
28 under subsection (1) of this section, the administrator shall hold
29 the conference not later than 30 days after receiving the request.
30 The administrator may hold the conference in person, by telephone, or
31 by electronic means.

32 (3) If a conference is held under subsection (2) of this section,
33 not later than 30 days after the conference ends, the administrator
34 shall provide a report in a record of the conference to the person
35 that requested the conference.

1 NEW SECTION. **Sec. 1009.** ADMINISTRATOR'S CONTRACT WITH ANOTHER
2 TO CONDUCT EXAMINATION. (1) In this section, "related to the
3 administrator" refers to an individual who is:

4 (a) The administrator's spouse, partner in a civil union,
5 domestic partner, or reciprocal beneficiary;

6 (b) The administrator's child, stepchild, grandchild, parent,
7 stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece,
8 or nephew;

9 (c) A spouse, partner in a civil union, domestic partner, or
10 reciprocal beneficiary of an individual under (b) of this subsection;
11 or

12 (d) Any individual residing in the administrator's household.

13 (2) The administrator may contract with a person to conduct an
14 examination under this section and sections 1001 through 1008 and
15 1010 through 1013 of this act. The contract may be awarded only under
16 chapter 39.26 RCW.

17 (3) If the person with which the administrator contracts under
18 subsection (2) of this section is:

19 (a) An individual, the individual may not be related to the
20 administrator; or

21 (b) A business entity, the entity may not be owned in whole or in
22 part by the administrator or an individual related to the
23 administrator.

24 (4) At least 60 days before assigning a person under contract
25 with the administrator under subsection (2) of this section to
26 conduct an examination, the administrator shall demand in a record
27 that the person to be examined submit a report and deliver property
28 that is previously unreported.

29 (5) If the administrator contracts with a person under subsection
30 (2) of this section:

31 (a) The contract may provide for compensation of the person based
32 on a fixed fee, hourly fee, or contingent fee;

33 (b) A contingent fee arrangement may not provide for a payment
34 that exceeds 10 percent of the amount or value of property paid or
35 delivered as a result of the examination; and

36 (c) On request by a person subject to examination by a
37 contractor, the administrator shall deliver to the person a complete
38 and unredacted copy of the contract.

39 (6) A contract under subsection (2) of this section is subject to
40 public disclosure without redaction under chapter 42.56 RCW.

1 NEW SECTION. **Sec. 1010.** LIMIT ON FUTURE EMPLOYMENT. The
2 administrator or an individual employed by the administrator who
3 participates in, recommends, or approves the award of a contract
4 under section 1009(2) of this act on or after the effective date of
5 this section may not be employed by, contracted with, or compensated
6 in any capacity by the contractor or an affiliate of the contractor
7 for two years after the latest of participation in, recommendation
8 of, or approval of the award or conclusion of the contract.

9 NEW SECTION. **Sec. 1011.** REPORT BY ADMINISTRATOR TO STATE
10 OFFICIAL. (1) Not later than three months after the end of the state
11 fiscal year, the administrator shall compile and submit a report to
12 the governor and legislature. The report must contain the following
13 information about property presumed abandoned for the preceding
14 fiscal year for the state:

15 (a) The total amount and value of all property paid or delivered
16 under this chapter to the administrator, separated into:

17 (i) The part voluntarily paid or delivered; and

18 (ii) The part paid or delivered as a result of an examination
19 under section 1002 of this act, separated into the part recovered as
20 a result of an examination conducted by:

21 (A) A state employee; and

22 (B) A contractor under section 1009 of this act;

23 (b) The name of and amount paid to each contractor under section
24 1009 of this act and the percentage the total compensation paid to
25 all contractors under section 1009 of this act bears to the total
26 amount paid or delivered to the administrator as a result of all
27 examinations performed under section 1009 of this act;

28 (c) The total amount and value of all property paid or delivered
29 by the administrator to persons that made claims for property held by
30 the administrator under this chapter and the percentage the total
31 payments made and value of property delivered to claimants bears to
32 the total amounts paid and value delivered to the administrator; and

33 (d) The total amount of claims made by persons claiming to be
34 owners which:

35 (i) Were denied;

36 (ii) Were allowed; and

37 (iii) Are pending.

1 (2) The report under subsection (1) of this section is a public
2 record subject to public disclosure without redaction under chapter
3 42.56 RCW.

4 NEW SECTION. **Sec. 1012.** DETERMINATION OF LIABILITY FOR
5 UNREPORTED REPORTABLE PROPERTY. If the administrator determines from
6 an examination conducted under section 1002 of this act that a
7 putative holder failed or refused to pay or deliver to the
8 administrator property which is reportable under this chapter, the
9 administrator shall issue a determination of the putative holder's
10 liability to pay or deliver and give notice in a record to the
11 putative holder of the determination.

12 NEW SECTION. **Sec. 1013.** INTEREST AND PENALTIES. (1) A person
13 who fails to pay or deliver property when due is required to pay to
14 the administrator interest at the rate as computed under RCW
15 82.32.050(1)(c) and set under RCW 82.32.050(2). However, the
16 administrator must waive or cancel interest imposed under this
17 subsection if:

18 (a) The administrator finds that the failure to pay or deliver
19 the property within the time prescribed by this chapter was the
20 result of circumstances beyond the person's control sufficient for
21 waiver or cancellation of interest under RCW 82.32.105;

22 (b) The failure to timely pay or deliver the property within the
23 time prescribed by this chapter was the direct result of written
24 instructions given to the person by the administrator; or

25 (c) The extension of a due date for payment or delivery under an
26 assessment issued by the administrator was not at the person's
27 request and was for the sole convenience of the administrator.

28 (2) If a person fails to file any report or to pay or deliver any
29 amounts or property when due under a report required under this
30 chapter, there is assessed a penalty equal to 10 percent of the
31 amount unpaid and the value of any property not delivered.

32 (3) If an examination results in an assessment for amounts unpaid
33 or property not delivered, there is assessed a penalty equal to 10
34 percent of the amount unpaid and the value of any property not
35 delivered.

36 (4) If a person fails to pay or deliver to the administrator by
37 the due date any amounts or property due under an assessment issued
38 by the administrator to the person, there is assessed an additional

1 penalty of five percent of the amount unpaid and the value of any
2 property not delivered.

3 (5) If a holder makes a fraudulent report under this chapter, the
4 administrator may require the holder to pay the administrator, in
5 addition to interest under this section, a civil penalty of \$1,000
6 for each day from the date the report was made until corrected, up to
7 a cumulative maximum amount of \$25,000, plus 25 percent of the amount
8 or value of any property that should have been reported or was
9 underreported.

10 (6) Penalties under subsections (2) through (4) of this section
11 may be waived or canceled only if the administrator finds that the
12 failure to pay or deliver within the time prescribed by this chapter
13 was the result of circumstances beyond the person's control
14 sufficient for waiver or cancellation of penalties under RCW
15 82.32.105.

16 (7) If a person willfully fails to file a report or to provide
17 written notice to apparent owners as required under this chapter, the
18 administrator may assess a civil penalty of \$100 for each day the
19 report is withheld or the notice is not sent, but not more than
20 \$5,000.

21 (8) If a holder, having filed a report, failed to file the report
22 electronically as required by RCW 63.29.170, or failed to pay
23 electronically any amounts due under the report as required by RCW
24 63.29.190, the administrator must assess a penalty equal to five
25 percent of the amount payable or deliverable under the report, unless
26 the administrator grants the taxpayer relief from the electronic
27 filing and payment requirements. Total penalties assessed under this
28 subsection may not exceed five percent of the amount payable and
29 value of property deliverable under the report.

30 (9) If a holder enters into a contract or other arrangement for
31 the purpose of evading an obligation under this chapter or otherwise
32 willfully fails to perform a duty imposed on the holder under this
33 chapter, the administrator may require the holder to pay the
34 administrator, in addition to interest as provided in this section, a
35 civil penalty of \$1,000 for each day the obligation is evaded or the
36 duty not performed, up to a cumulative maximum amount of \$25,000,
37 plus 25 percent of the amount or value of property that should have
38 been but was not reported, paid, or delivered as a result of the
39 evasion or failure to perform.

40 (10) The penalties imposed in this section are cumulative.

1 with the administrator and the person that examined the records of
2 the putative holder to:

3 (a) Discuss the determination made under section 1012 of this
4 act; 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)(a) or (g) of this section, the failure
9 does not affect a right of the administrator, except that interest
10 does not accrue on the amount for which the putative holder was
11 determined to be liable under section 1012 of this act during the
12 period in which the administrator failed to act until the earlier of:

13 (a) The date under section 1103 of this act the putative holder
14 initiates administrative review or files an action under section 1104
15 of this act; or

16 (b) Ninety days after the putative holder received notice of the
17 administrator's determination under section 1012 of this act if no
18 review was initiated under section 1103 of this act and no action was
19 filed under section 1104 of this act.

20 (6) The administrator may hold an informal conference with a
21 putative holder about a determination under section 1012 of this act
22 without a request at any time before the putative holder initiates
23 administrative review under section 1103 of this act or files an
24 action under section 1104 of this act.

25 (7) Interest and penalties under section 1013 of this act
26 continue to accrue on property not reported, paid, or delivered as
27 required by this chapter after the initiation, and during the
28 pendency, of an informal conference under this section.

29 NEW SECTION. **Sec. 1102.** REVIEW OF ADMINISTRATOR'S
30 DETERMINATION. A putative holder may seek relief from a determination
31 under section 1012 of this act by:

32 (1) Administrative review under section 1103 of this act; or

33 (2) Judicial review under section 1104 of this act.

34 NEW SECTION. **Sec. 1103.** ADMINISTRATIVE REVIEW. Any person
35 having been issued a determination by the administrator, or a denial
36 of an application for a refund or return of property, under the
37 provisions of this chapter is entitled to a review by the
38 administrator conducted in accordance with the provisions of RCW

1 34.05.410 through 34.05.494, subject to judicial review under RCW
2 34.05.510 through 34.05.598. A petition for review under this section
3 is timely if received in writing by the administrator on or before 90
4 days after the holder receives the determination from the
5 administrator pursuant to section 1012 of this act or from any
6 extension of the due date granted by the administrator, or in the
7 case of a refund or return application, 30 days after the
8 administrator rejects the application in writing, regardless of any
9 subsequent action by the administrator to reconsider its initial
10 decision. The period for filing a petition for review under this
11 section may be extended as provided in a rule adopted by the
12 administrator under chapter 34.05 RCW or upon a written agreement
13 signed by the holder and the administrator.

14 NEW SECTION. **Sec. 1104.** JUDICIAL REMEDY. (1) Any person who has
15 paid or delivered property to the administrator under the provisions
16 of this chapter, except one who has failed to keep and preserve
17 records as required in this chapter, feeling aggrieved by such
18 payment or delivery, may appeal to the Thurston county superior
19 court. The person filing a notice of appeal under this section is
20 deemed the plaintiff, and the administrator, the defendant.

21 (2) An appeal under this section must be made within 30 days
22 after the administrator rejects in writing an application for refund
23 or return of property, regardless of any subsequent action by the
24 administrator to reconsider its initial decision.

25 (3) (a) In an appeal filed under this section, the plaintiff must
26 set forth the amount or property, if any, payable or deliverable on
27 the report or assessment that the plaintiff is contesting, which the
28 holder concedes to be the correct amount payable or deliverable, and
29 the reason why the amount payable or deliverable should be reduced or
30 abated.

31 (b) The appeal is perfected only by serving a copy of the notice
32 of appeal upon the administrator and filing the original with proof
33 of service with the clerk of the superior court of Thurston county,
34 within the time specified in subsection (2) of this section.

35 (4) (a) The trial in the superior court on appeal must be de novo
36 and without the necessity of any pleadings other than the notice of
37 appeal. At trial, the burden is on the plaintiff to (i) prove that
38 the amount paid by that person is incorrect, either in whole or in
39 part, or the property in question was delivered in error to the

1 administrator, and (ii) establish the correct amount payable or the
2 property required to be delivered to the administrator, if any.

3 (b) Both parties are entitled to subpoena the attendance of
4 witnesses as in other civil actions and to produce evidence that is
5 competent, relevant, and material to determine the correct amount
6 due, if any, that should be paid by the plaintiff.

7 (c) Either party may seek appellate review in the same manner as
8 other civil actions are appealed to the appellate courts.

9 (5) An appeal may be maintained under this section without the
10 need for the plaintiff to first:

11 (a) Protest against the payment of any amount due or reportable
12 under this chapter or to make any demand to have such amount refunded
13 or returned; or

14 (b) Petition the administrator for a refund, return of property,
15 or a review of its action as authorized in section 1103 of this act.

16 (6) No court action or proceeding of any kind may be maintained
17 by the plaintiff to recover any amount paid, delivered, or reported
18 to the administrator under this chapter, except as provided in this
19 section or as may be available to the plaintiff under RCW 34.05.510
20 through 34.05.598.

21 (7) No appeal may be maintained under this section with respect
22 to matters reviewed by the administrator under the provisions of
23 chapter 34.05 RCW.

24 PART 12

25 ENFORCEMENT BY ADMINISTRATOR

26 NEW SECTION. **Sec. 1201.** JUDICIAL ACTION TO ENFORCE LIABILITY.

27 (1) If a determination under section 1012 of this act becomes final
28 and is not subject to administrative or judicial review, the
29 administrator may commence an action in superior court or in an
30 appropriate court of another state to enforce the determination and
31 secure payment or delivery of past due, unpaid, or undelivered
32 property. The action must be brought not later than one year after
33 the determination becomes final.

34 (2) In an action under subsection (1) of this section, if no
35 court in this state has jurisdiction over the defendant, the
36 administrator may commence an action in any court having jurisdiction
37 over the defendant.

1 NEW SECTION. **Sec. 1202.** INTERSTATE AND INTERNATIONAL AGREEMENT—
2 COOPERATION. (1) Subject to subsection (2) of this section, the
3 administrator may:

4 (a) Exchange information with another state or foreign country
5 relating to property presumed abandoned or relating to the possible
6 existence of property presumed abandoned; and

7 (b) Authorize in a record another state or foreign country or a
8 person acting on behalf of the other state or country to examine its
9 records of a putative holder as provided in sections 1001 through
10 1013 of this act.

11 (2) An exchange or examination under subsection (1) of this
12 section may be done only if the state or foreign country has
13 confidentiality and security requirements substantially equivalent to
14 those in sections 1401 through 1408 of this act or agrees in a record
15 to be bound by this state's confidentiality and security
16 requirements.

17 NEW SECTION. **Sec. 1203.** ACTION INVOLVING ANOTHER STATE OR
18 FOREIGN COUNTRY. (1) The administrator may join another state or
19 foreign country to examine and seek enforcement of this chapter
20 against a putative holder.

21 (2) On request of another state or foreign country, the attorney
22 general may commence an action on behalf of the other state or
23 country to enforce, in this state, the law of the other state or
24 country against a putative holder subject to a claim by the other
25 state or country, if the other state or country agrees to pay costs
26 incurred by the attorney general in the action.

27 (3) The administrator may request the official authorized to
28 enforce the unclaimed property law of another state or foreign
29 country to commence an action to recover property in the other state
30 or country on behalf of the administrator. This state shall pay the
31 costs, including reasonable attorneys' fees and expenses, incurred by
32 the other state or foreign country in an action under this
33 subsection.

34 (4) The administrator may pursue an action on behalf of this
35 state to recover property subject to this chapter but delivered to
36 the custody of another state if the administrator believes the
37 property is subject to the custody of the administrator.

38 (5) The administrator may retain an attorney in this state,
39 another state, or a foreign country to commence an action to recover

1 property on behalf of the administrator and may agree to pay
2 attorneys' fees based in whole or in part on a fixed fee, hourly fee,
3 or a percentage of the amount or value of property recovered in the
4 action.

5 (6) Expenses incurred by this state in an action under this
6 section may be paid from property received under this chapter or the
7 net proceeds of the property. Expenses paid to recover property may
8 not be deducted from the amount that is subject to a claim under this
9 chapter by the owner.

10 **PART 13**

11 **AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR**

12 NEW SECTION. **Sec. 1301.** WHEN AGREEMENT TO LOCATE PROPERTY
13 ENFORCEABLE. An agreement by an apparent owner and another person,
14 the primary purpose of which is to locate, deliver, recover, or
15 assist in the location, delivery, or recovery of property held by the
16 administrator, is enforceable only if the agreement:

- 17 (1) Is in a record that clearly states the nature of the property
18 and the services to be provided;
19 (2) Is signed by or on behalf of the apparent owner; and
20 (3) States the amount or value of the property reasonably
21 expected to be recovered, computed before and after a fee or other
22 compensation to be paid to the person has been deducted.

23 NEW SECTION. **Sec. 1302.** WHEN AGREEMENT TO LOCATE PROPERTY VOID.
24 (1) Subject to subsection (2) of this section, an agreement under
25 section 1301 of this act is void if it is entered into during the
26 period beginning on the date the property was paid or delivered by a
27 holder to the administrator and ending 24 months after the payment or
28 delivery.

29 (2) If a provision in an agreement described in subsection (1) of
30 this section applies to mineral proceeds for which compensation is to
31 be paid to the other person based in whole or in part on a part of
32 the underlying minerals or mineral proceeds not then presumed
33 abandoned, the provision is void regardless of when the agreement was
34 entered into.

35 (3) An agreement under subsection (1) of this section which
36 provides for compensation in an amount that is unconscionable is
37 unenforceable except by the apparent owner. An apparent owner that

1 believes the compensation the apparent owner has agreed to pay is
2 unconscionable or the administrator, acting on behalf of an apparent
3 owner, or both, may file an action in superior court to reduce the
4 compensation to the maximum amount that is not unconscionable.

5 (4) An apparent owner or the administrator may assert that an
6 agreement described in this section is void on a ground other than it
7 provides for payment of unconscionable compensation.

8 (5) This section does not apply to an apparent owner's agreement
9 with an attorney to pursue a claim for recovery of specifically
10 identified property held by the administrator or to contest the
11 administrator's denial of a claim for recovery of the property.

12 NEW SECTION. **Sec. 1303.** RIGHT OF AGENT OF APPARENT OWNER TO
13 RECOVER PROPERTY HELD BY ADMINISTRATOR. (1) An apparent owner that
14 contracts with another person to locate, deliver, recover, or assist
15 in the location, delivery, or recovery of property of the apparent
16 owner which is held by the administrator may designate the person as
17 the agent of the apparent owner. The designation must be in a record
18 signed by the apparent owner.

19 (2) The administrator shall give the agent of the apparent owner
20 all information concerning the property which the apparent owner is
21 entitled to receive, including information that otherwise is
22 confidential information under section 1402 of this act.

23 (3) If authorized by the apparent owner, the agent of the
24 apparent owner may bring an action against the administrator on
25 behalf of and in the name of the apparent owner.

26 **PART 14**

27 **CONFIDENTIALITY AND SECURITY OF INFORMATION**

28 NEW SECTION. **Sec. 1401.** DEFINITIONS—APPLICABILITY. (1) In this
29 section and sections 1402 through 1408 of this act, "personal
30 information" means:

31 (a) Information that identifies or reasonably can be used to
32 identify an individual, such as first and last name in combination
33 with the individual's:

34 (i) Social security number or other government-issued number or
35 identifier;

36 (ii) Date of birth;

37 (iii) Home or physical address;

1 (iv) Email address or other online contact information or
2 internet provider address;

3 (v) Financial account number or credit or debit card number;

4 (vi) Biometric data, health or medical data, or insurance
5 information; or

6 (vii) Passwords or other credentials that permit access to an
7 online or other account;

8 (b) Personally identifiable financial or insurance information,
9 including nonpublic personal information defined by applicable
10 federal law; and

11 (c) Any combination of data that, if accessed, disclosed,
12 modified, or destroyed without authorization of the owner of the data
13 or if lost or misused, would require notice or reporting under
14 chapter 19.255 RCW and federal privacy and data security law, whether
15 or not the administrator or the administrator's agent is subject to
16 the law.

17 (2) A provision of this section or sections 1402 through 1408 of
18 this act that applies to the administrator or the administrator's
19 records applies to an administrator's agent.

20 NEW SECTION. **Sec. 1402.** CONFIDENTIAL INFORMATION. (1) Except as
21 otherwise provided in this chapter, the following are confidential
22 and exempt from public inspection or disclosure:

23 (a) Reports and records of a holder in the possession of the
24 administrator or the administrator's agent; and

25 (b) Personal information and other information derived or
26 otherwise obtained by or communicated to the administrator or the
27 administrator's agent from an examination under this chapter of the
28 records of a person.

29 (2) A record or other information that is confidential under law
30 of this state other than this chapter, another state, or the United
31 States continues to be confidential when disclosed or delivered under
32 this chapter to the administrator or administrator's agent.

33 NEW SECTION. **Sec. 1403.** WHEN CONFIDENTIAL INFORMATION MAY BE
34 DISCLOSED. (1) When reasonably necessary to enforce or implement this
35 chapter, the administrator may disclose confidential information
36 concerning property held by the administrator or the administrator's
37 agent only to:

1 (a) An apparent owner or the apparent owner's personal
2 representative, attorney, other legal representative, relative, or
3 agent designated under section 1303 of this act to have the
4 information;

5 (b) The personal representative, other legal representative,
6 relative of a deceased apparent owner, agent designated under section
7 1303 of this act by the deceased apparent owner, or a person entitled
8 to inherit from the deceased apparent owner;

9 (c) Another department or agency of this state or the United
10 States;

11 (d) The person that administers the unclaimed property law of
12 another state, if the other state accords substantially reciprocal
13 privileges to the administrator of this state if the other state is
14 required to maintain the confidentiality and security of information
15 obtained in a manner substantially equivalent to this section and
16 sections 1401, 1402, and 1404 through 1408 of this act; or

17 (e) A person subject to an examination as required by section
18 1004(6) of this act.

19 (2) Except as otherwise provided in section 1402(1) of this act,
20 the administrator shall include on the website or in the database
21 required by section 503(3)(b) of this act the name of each apparent
22 owner of property held by the administrator. The administrator may
23 include in published notices, printed publications,
24 telecommunications, the internet, or other media and on the website
25 or in the database additional information concerning the apparent
26 owner's property if the administrator believes the information will
27 assist in identifying and returning property to the owner and does
28 not disclose personal information except the home or physical address
29 of an apparent owner.

30 (3) The administrator and the administrator's agent may not use
31 confidential information provided to them or in their possession
32 except as expressly authorized by this chapter or required by law
33 other than this chapter.

34 NEW SECTION. **Sec. 1404.** CONFIDENTIALITY AGREEMENT. A person to
35 be examined under section 1002 of this act may require, as a
36 condition of disclosure of the records of the person to be examined,
37 that each person having access to the records disclosed in the
38 examination execute and deliver to the person to be examined a
39 confidentiality agreement that:

1 (1) Is in a form that is reasonably satisfactory to the
2 administrator; and

3 (2) Requires the person having access to the records to comply
4 with the provisions of this section and sections 1401 through 1403
5 and 1405 through 1408 of this act applicable to the person.

6 NEW SECTION. **Sec. 1405.** NO CONFIDENTIAL INFORMATION IN NOTICE.
7 Except as otherwise provided in sections 501 and 502 of this act, a
8 holder is not required under this chapter to include confidential
9 information in a notice the holder is required to provide to an
10 apparent owner under this chapter.

11 NEW SECTION. **Sec. 1406.** SECURITY OF INFORMATION. (1) If a
12 holder is required to include confidential information in a report to
13 the administrator, the information must be provided by a secure
14 means.

15 (2) If confidential information in a record is provided to and
16 maintained by the administrator or administrator's agent as required
17 by this chapter, the administrator or agent shall:

18 (a) Implement administrative, technical, and physical safeguards
19 to protect the security, confidentiality, and integrity of the
20 information required by chapter 19.255 RCW and federal privacy and
21 data security law whether or not the administrator or the
22 administrator's agent is subject to the law;

23 (b) Protect against reasonably anticipated threats or hazards to
24 the security, confidentiality, or integrity of the information; and

25 (c) Protect against unauthorized access to or use of the
26 information which could result in substantial harm or inconvenience
27 to a holder or the holder's customers, including insureds,
28 annuitants, and policy or contract owners and their beneficiaries.

29 (3) The administrator:

30 (a) After notice and comment, shall adopt and implement a
31 security plan that identifies and assesses reasonably foreseeable
32 internal and external risks to confidential information in the
33 administrator's possession and seeks to mitigate the risks; and

34 (b) Shall ensure that an administrator's agent adopts and
35 implements a similar plan with respect to confidential information in
36 the agent's possession.

1 (4) The administrator and the administrator's agent shall educate
2 and train their employees regarding the plan adopted under subsection
3 (3) of this section.

4 (5) The administrator and the administrator's agent shall in a
5 secure manner return or destroy all confidential information no
6 longer reasonably needed under this chapter.

7 NEW SECTION. **Sec. 1407.** SECURITY BREACH. (1) Except to the
8 extent prohibited by law other than this chapter, the administrator
9 or administrator's agent shall notify a holder as soon as practicable
10 of:

11 (a) A suspected loss, misuse, or unauthorized access, disclosure,
12 modification, or destruction of confidential information obtained
13 from the holder in the possession of the administrator or an
14 administrator's agent; and

15 (b) Any interference with operations in any system hosting or
16 housing confidential information which:

17 (i) Compromises the security, confidentiality, or integrity of
18 the information; or

19 (ii) Creates a substantial risk of identity fraud or theft.

20 (2) Except as necessary to inform an insurer, attorney,
21 investigator, or others as required by law, the administrator and an
22 administrator's agent may not disclose, without the express consent
23 in a record of the holder, an event described in subsection (1) of
24 this section to a person whose confidential information was supplied
25 by the holder.

26 (3) If an event described in subsection (1) of this section
27 occurs, the administrator and the administrator's agent shall:

28 (a) Take action necessary for the holder to understand and
29 minimize the effect of the event and determine its scope; and

30 (b) Cooperate with the holder with respect to:

31 (i) Any notification required by law concerning a data or other
32 security breach; and

33 (ii) A regulatory inquiry, litigation, or similar action.

34 NEW SECTION. **Sec. 1408.** INDEMNIFICATION FOR BREACH. (1) If a
35 claim is made or action commenced arising out of an event described
36 in section 1407(1) of this act relating to confidential information
37 possessed by the administrator, this state shall indemnify, defend,

1 and hold harmless a holder and the holder's affiliates, officers,
2 directors, employees, and agents as to:

3 (a) Any claim or action; and

4 (b) A liability, obligation, loss, damage, cost, fee, penalty,
5 fine, settlement, charge, or other expense, including reasonable
6 attorneys' fees and costs, established by the claim or action.

7 (2) If a claim is made or action commenced arising out of an
8 event described in section 1407(1) of this act relating to
9 confidential information possessed by an administrator's agent, the
10 administrator's agent shall indemnify, defend, and hold harmless a
11 holder and the holder's affiliates, officers, directors, employees,
12 and agents as to:

13 (a) Any claim or action; and

14 (b) A liability, obligation, loss, damage, cost, fee, penalty,
15 fine, settlement, charge, or other expense, including reasonable
16 attorneys' fees and costs, established by the claim or action.

17 (3) The administrator shall require an administrator's agent that
18 will receive confidential information required under this chapter to
19 maintain adequate insurance for indemnification obligations of the
20 administrator's agent under subsection (2) of this section. The agent
21 required to maintain the insurance shall provide evidence of the
22 insurance to:

23 (a) The administrator not less frequently than annually; and

24 (b) The holder on commencement of an examination and annually
25 thereafter until all confidential information is returned or
26 destroyed under section 1406(5) of this act.

27 **PART 15**

28 **MISCELLANEOUS PROVISIONS**

29 NEW SECTION. **Sec. 1501.** UNIFORMITY OF APPLICATION AND
30 CONSTRUCTION. In applying and construing this uniform chapter and
31 this act, consideration must be given to the need to promote
32 uniformity of the law with respect to its subject matter among states
33 that enact it.

34 NEW SECTION. **Sec. 1502.** RELATION TO ELECTRONIC SIGNATURES IN
35 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or
36 supersedes the electronic signatures in global and national commerce
37 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or

1 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
2 authorize electronic delivery of any of the notices described in
3 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

4 NEW SECTION. **Sec. 1503.** TRANSITIONAL PROVISION. (1) An initial
5 report filed under this chapter for property that was not required to
6 be reported before the effective date of this section, but that is
7 required to be reported under this chapter, must include all items of
8 property that would have been presumed abandoned during the six-year
9 period preceding the effective date of this section as if this
10 chapter had been in effect during that period.

11 (2) This chapter does not relieve a holder of a duty that arose
12 before the effective date of this section to report, pay, or deliver
13 property. Subject to section 610 (2) and (3) of this act, a holder
14 that did not comply with the law governing unclaimed property before
15 the effective date of this section is subject to applicable
16 provisions for enforcement and penalties in effect before the
17 effective date of this section.

18 NEW SECTION. **Sec. 1504.** SEVERABILITY. If any provision of this
19 act or its application to any person or circumstance is held invalid,
20 the remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 1505.** REPEALS. The following acts or parts of
23 acts are each repealed:

24 (1) RCW 63.29.010 (Definitions and use of terms) and 2012 c 117 s
25 177, 2005 c 285 s 1, 2004 c 168 s 13, & 1983 c 179 s 1;

26 (2) RCW 63.29.020 (Property presumed abandoned—General rule—
27 Exceptions) and 2015 3rd sp.s. c 6 s 2101, 2011 c 116 s 1, & 2010 c
28 29 s 1;

29 (3) RCW 63.29.030 (General rules for taking custody of intangible
30 unclaimed property) and 1983 c 179 s 3;

31 (4) RCW 63.29.040 (Travelers checks and money orders) and 1983 c
32 179 s 4;

33 (5) RCW 63.29.050 (Checks, drafts, and similar instruments issued
34 or certified by banking and financial organizations) and 2003 1st
35 sp.s. c 13 s 2 & 1983 c 179 s 5;

36 (6) RCW 63.29.060 (Bank deposits and funds in financial
37 organizations) and 2003 1st sp.s. c 13 s 3 & 1983 c 179 s 6;

1 (7) RCW 63.29.070 (Funds owing under life insurance policies) and
2 2012 c 117 s 178, 2003 1st sp.s. c 13 s 4, & 1983 c 179 s 7;
3 (8) RCW 63.29.080 (Deposits held by utilities) and 1983 c 179 s
4 8;
5 (9) RCW 63.29.090 (Refunds held by business associations) and
6 1983 c 179 s 9;
7 (10) RCW 63.29.100 (Stock and other intangible interests in
8 business associations) and 2003 1st sp.s. c 13 s 5, 1996 c 45 s 1, &
9 1983 c 179 s 10;
10 (11) RCW 63.29.110 (Property of business associations held in
11 course of dissolution) and 1983 c 179 s 11;
12 (12) RCW 63.29.120 (Property held by agents and fiduciaries) and
13 2012 c 117 s 179, 2003 1st sp.s. c 13 s 6, & 1983 c 179 s 12;
14 (13) RCW 63.29.130 (Property held by courts and public agencies—
15 When abandoned—Overpayments) and 2007 c 183 s 1, 1993 c 498 s 2, &
16 1983 c 179 s 13;
17 (14) RCW 63.29.133 (Property held by landlord) and 1992 c 38 s 9;
18 (15) RCW 63.29.135 (Abandoned intangible property held by local
19 government) and 1990 2nd ex.s. c 1 s 301;
20 (16) RCW 63.29.140 (Gift certificates and credit memos) and 2015
21 3rd sp.s. c 6 s 2102, 2004 c 168 s 15, 2003 1st sp.s. c 13 s 7, &
22 1983 c 179 s 14;
23 (17) RCW 63.29.150 (Wages) and 1983 c 179 s 15;
24 (18) RCW 63.29.160 (Contents of safe deposit box or other
25 safekeeping repository) and 1983 c 179 s 16;
26 (19) RCW 63.29.165 (Property in self-storage facility) and 1993 c
27 498 s 4 & 1988 c 240 s 21;
28 (20) RCW 63.29.170 (Report of abandoned property) and 2015 3rd
29 sp.s. c 6 s 2103, 2004 c 168 s 16, 2003 c 237 s 1, 1996 c 45 s 2,
30 1993 c 498 s 7, & 1983 c 179 s 17;
31 (21) RCW 63.29.180 (Notice and publication of information about
32 unclaimed property) and 2015 3rd sp.s. c 6 s 2104, 2005 c 367 s 2,
33 2003 c 237 s 2, 1993 c 498 s 9, 1986 c 84 s 1, & 1983 c 179 s 18;
34 (22) RCW 63.29.190 (Payment or delivery of abandoned property)
35 and 2015 3rd sp.s. c 6 s 2105;
36 (23) RCW 63.29.192 (Penalty and interest paid in excess—Refunds—
37 Returns) and 2015 3rd sp.s. c 6 s 2110;
38 (24) RCW 63.29.193 (Petition for review—Denied application for
39 refund or return) and 2015 3rd sp.s. c 6 s 2111;

- 1 (25) RCW 63.29.194 (Appeal of payment or delivered property) and
2 2015 3rd sp.s. c 6 s 2112;
- 3 (26) RCW 63.29.195 (Agreement—Established between a holder and
4 the department) and 2015 3rd sp.s. c 6 s 2113;
- 5 (27) RCW 63.29.200 (Custody by state—Holder relieved from
6 liability—Reimbursement of holder paying claim—Reclaiming for owner
7 —Defense of holder—Payment of safe deposit box or repository
8 charges) and 2012 c 117 s 180 & 1983 c 179 s 20;
- 9 (28) RCW 63.29.210 (Crediting of dividends, interest, or
10 increments to owner's account) and 1983 c 179 s 21;
- 11 (29) RCW 63.29.220 (Public sale of abandoned property) and 2011
12 2nd sp.s. c 8 s 1, 2005 c 367 s 4, 1996 c 45 s 3, 1993 c 498 s 10, &
13 1983 c 179 s 22;
- 14 (30) RCW 63.29.230 (Deposit of funds) and 1983 c 179 s 23;
- 15 (31) RCW 63.29.240 (Filing of claim with department) and 2011 2nd
16 sp.s. c 8 s 2 & 1983 c 179 s 24;
- 17 (32) RCW 63.29.250 (Claim of another state to recover property—
18 Procedure) and 1983 c 179 s 25;
- 19 (33) RCW 63.29.260 (Action to establish claim) and 1983 c 179 s
20 26;
- 21 (34) RCW 63.29.270 (Election to take payment or delivery) and
22 1983 c 179 s 27;
- 23 (35) RCW 63.29.280 (Destruction or disposition of property having
24 insubstantial commercial value—Immunity from liability) and 2005 c
25 367 s 5 & 1983 c 179 s 28;
- 26 (36) RCW 63.29.290 (Periods of limitation) and 2015 3rd sp.s. c 6
27 s 2106 & 1983 c 179 s 29;
- 28 (37) RCW 63.29.300 (Requests for reports and examination of
29 records) and 2015 3rd sp.s. c 6 s 2107 & 1983 c 179 s 30;
- 30 (38) RCW 63.29.310 (Retention of records) and 1983 c 179 s 31;
- 31 (39) RCW 63.29.320 (Enforcement) and 1983 c 179 s 32;
- 32 (40) RCW 63.29.330 (Interstate agreements and cooperation—Joint
33 and reciprocal actions with other states) and 1983 c 179 s 33;
- 34 (41) RCW 63.29.340 (Interest and penalties) and 2015 3rd sp.s. c
35 6 s 2108 & 2011 c 96 s 45;
- 36 (42) RCW 63.29.350 (Penalty for excessive fee for locating
37 abandoned property—Consumer protection act application) and 2012 c
38 117 s 181, 2010 c 29 s 2, & 1983 c 179 s 35;
- 39 (43) RCW 63.29.360 (Foreign transactions) and 1983 c 179 s 36;

- 1 (44) RCW 63.29.370 (Rules) and 1983 c 179 s 38;
2 (45) RCW 63.29.380 (Information and records confidential) and
3 1983 c 179 s 39;
4 (46) RCW 63.29.900 (Effect of new provisions—Clarification of
5 application) and 1983 c 179 s 37;
6 (47) RCW 63.29.902 (Uniformity of application and construction)
7 and 1983 c 179 s 41;
8 (48) RCW 63.29.903 (Short title) and 1983 c 179 s 42;
9 (49) RCW 63.29.905 (Effective date—1983 c 179) and 1983 c 179 s
10 47; and
11 (50) RCW 63.29.906 (Effective date—1996 c 45) and 1996 c 45 s 5.

12 NEW SECTION. **Sec. 1506.** CODIFICATION. Sections 101 through 1503
13 and 1507 of this act constitute a new chapter in Title 63 RCW.

14 NEW SECTION. **Sec. 1507.** EFFECTIVE DATE. This act takes effect
15 January 1, 2023.

16 NEW SECTION. **Sec. 1508.** SEVERABILITY. If any part of this act
17 is found to be in conflict with federal requirements that are a
18 prescribed condition to the allocation of federal funds to the state,
19 the conflicting part of this act is inoperative solely to the extent
20 of the conflict and with respect to the agencies directly affected,
21 and this finding does not affect the operation of the remainder of
22 this act in its application to the agencies concerned. Rules adopted
23 under this act must meet federal requirements that are a necessary
24 condition to the receipt of federal funds by the state."

25 Correct the title.

EFFECT: (1) Provides an option for determining the presumption of abandonment for a demand, savings, or time deposit, of either: From the later of maturity, if applicable, of the deposit; or the owner's last indication of interest in the deposit.

(2) Changes the age of the apparent owner from 70.5 years to 72 years to align with the age for mandatory withdrawals when calculating the presumption of abandonment for tax deferred retirement accounts.

(3) Removes the \$250 limit on the Department of Revenue's (DOR) authority to return unclaimed property in the absence of a claim when the DOR reasonably believes the apparent owner, as identified in a holder report filed with the DOR, is entitled to receive the property.

(4) Modifies the provisions for a timely petition for administrative review.

--- END ---