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**SUBSTITUTE SENATE BILL 6189**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Esser and Roach)

READ FIRST TIME 02/05/04.

1       AN ACT Relating to receiverships; amending RCW 4.28.320, 6.32.100,  
2 6.32.150, 7.08.010, 7.08.030, 7.56.110, 11.64.022, 23B.14.320,  
3 24.06.305, 87.56.065, and 87.56.100; adding new sections to chapter  
4 7.60 RCW; adding a new section to chapter 31.12 RCW; adding a new  
5 section to chapter 35.07 RCW; adding a new section to chapter 35A.15  
6 RCW; creating new sections; and repealing RCW 4.28.081, 6.25.200,  
7 6.32.290, 6.32.300, 6.32.310, 6.32.320, 6.32.330, 6.32.340, 6.32.350,  
8 7.08.020, 7.08.050, 7.08.060, 7.08.070, 7.08.080, 7.08.090, 7.08.100,  
9 7.08.110, 7.08.120, 7.08.130, 7.08.140, 7.08.150, 7.08.170, 7.08.180,  
10 7.08.190, 7.08.200, 7.60.010, 7.60.020, 7.60.030, 7.60.040, 7.60.050,  
11 23.72.010, 23.72.020, 23.72.030, 23.72.040, 23.72.050, 23.72.060,  
12 24.03.275, 24.03.280, 24.03.285, 24.03.310, 24.03.315, 24.03.320,  
13 87.56.070, 87.56.080, 87.56.085, 87.56.090, 87.56.110, 87.56.120,  
14 87.56.130, 87.56.135, 87.56.140, 87.56.145, 87.56.150, and 87.56.155.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

16       NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this act is to  
17 create more comprehensive, streamlined, and cost-effective procedures  
18 applicable to proceedings in which property of a person is administered

1 by the courts of this state for the benefit of creditors and other  
2 persons having an interest therein.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.60 RCW  
4 to read as follows:

5 DEFINITIONS. The definitions in this section apply throughout this  
6 chapter unless the context requires otherwise.

7 (1) "Court" means the superior court of this state in which the  
8 receivership is pending.

9 (2) "Entity" means a person other than a natural person.

10 (3) "Estate" means the entirety of the property with respect to  
11 which a receiver's appointment applies, but does not include property  
12 of an individual person exempt from execution under the laws of this  
13 state. Estate property includes any nonexempt interest in property  
14 that is partially exempt, including fee title to property subject to a  
15 homestead exemption under chapter 6.13 RCW.

16 (4) "Executory contract" means a contract where the obligation of  
17 both the person over whose property the receiver is appointed and the  
18 other party to the contract are so far unperformed that the failure of  
19 either party to the contract to complete performance would constitute  
20 a material breach of the contract, thereby excusing the other party's  
21 performance of the contract.

22 (5) "Insolvent" or "insolvency" means a financial condition of a  
23 person such that the sum of the person's debts and other obligations is  
24 greater than all of that person's property, at a fair valuation,  
25 exclusive of (a) property transferred, concealed, or removed with  
26 intent to hinder, delay, or defraud any creditors of the person, and  
27 (b) any property exempt from execution under any statutes of this  
28 state.

29 (6) "Lien" means a charge against or interest in property to secure  
30 payment of a debt or the performance of an obligation.

31 (7) "Notice and a hearing" or any similar phrase means the notice  
32 and opportunity for a hearing as is appropriate in the particular  
33 circumstances.

34 (8) "Person" means an individual, corporation, limited liability  
35 company, general partnership, limited partnership, limited liability  
36 partnership, association, governmental entity, or other entity, of any  
37 kind or nature.

1 (9) "Property" includes all right, title, and interests, both legal  
2 and equitable, and including any community property interest, in or  
3 with respect to any property of a person with respect to which a  
4 receiver is appointed, regardless of the manner by which the property  
5 has been or is acquired. "Property" includes any proceeds, products,  
6 offspring, rents, or profits of or from property in the estate.  
7 "Property" does not include any power that a person may exercise solely  
8 for the benefit of another person.

9 (10) "Receiver" means a person appointed by the court as the  
10 court's agent, and subject to the court's direction, to take possession  
11 of, manage, or dispose of property of a person.

12 (11) "Receivership" means the case in which the receiver is  
13 appointed. "General receivership" means a receivership in which a  
14 general receiver is appointed. "Custodial receivership" means a  
15 receivership in which a custodial receiver is appointed.

16 (12) "Security interest" means a lien created by an agreement.

17 (13) "State agent" means any office, department, division, bureau,  
18 board, commission, or other agency of the state of Washington or of any  
19 subdivision thereof, or any individual acting in an official capacity  
20 on behalf of any state agent.

21 (14) "Utility" means a person providing any service regulated by  
22 the utilities and transportation commission.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.60 RCW  
24 to read as follows:

25 TYPES OF RECEIVERS. A receiver must be either a general receiver  
26 or a custodial receiver. A receiver must be a general receiver if the  
27 receiver is appointed to take possession and control of all or  
28 substantially all of a person's property with authority to liquidate  
29 that property and, in the case of a business over which the receiver is  
30 appointed, wind up affairs. A receiver must be a custodial receiver if  
31 the receiver is appointed to take charge of limited or specific  
32 property of a person or is not given authority to liquidate property.  
33 The court shall specify in the order appointing a receiver whether the  
34 receiver is appointed as a general receiver or as a custodial receiver.  
35 When the sole basis for the appointment is the pendency of an action to  
36 foreclose upon a lien against real property, or the giving of a notice  
37 of a trustee's sale under RCW 61.24.040 or a notice of forfeiture under

1 RCW 61.30.040, the court shall appoint the receiver as a custodial  
2 receiver. The court by order may convert either a general receivership  
3 or a custodial receivership into the other.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 7.60 RCW  
5 to read as follows:

6 APPOINTMENT OF RECEIVER. (1) A receiver may be appointed by the  
7 superior court of this state in the following instances, but except in  
8 any case in which a receiver's appointment is expressly required by  
9 statute, or any case in which a receiver's appointment is sought by a  
10 state agent whose authority to seek the appointment of a receiver is  
11 expressly conferred by statute, or any case in which a receiver's  
12 appointment with respect to real property is sought under (b)(ii) of  
13 this subsection, a receiver shall be appointed only if the court  
14 additionally determines that the appointment of a receiver is  
15 reasonably necessary and that other available remedies either are not  
16 available or are inadequate:

17 (a) On application of any party, when the party is determined to  
18 have a probable right to or interest in property that is a subject of  
19 the action and in the possession of an adverse party, or when the  
20 property or its revenue-producing potential is in danger of being lost  
21 or materially injured or impaired. A receiver may be appointed under  
22 this subsection (1)(a) whether or not the application for appointment  
23 of a receiver is combined with, or is ancillary to, an action seeking  
24 a money judgment or other relief;

25 (b) Provisionally, during the pendency of any action to foreclose  
26 upon any lien against or for forfeiture of any interest in real or  
27 personal property, or after notice of a trustee's sale has been given  
28 under RCW 61.24.040, or after notice of forfeiture has been given under  
29 RCW 61.30.040, on application of any person, when the interest in the  
30 property that is the subject of foreclosure or forfeiture of the person  
31 seeking the receiver's appointment is determined to be probable and  
32 either:

33 (i) The property or its revenue-producing potential is in danger of  
34 being lost or materially injured or impaired; or

35 (ii) The appointment of a receiver with respect to the real or  
36 personal property that is the subject of the action, the notice of

1 trustee's sale or notice of forfeiture is provided for by agreement or  
2 is reasonably necessary to effectuate or enforce an assignment of rents  
3 or other revenues from the property;

4 (c) After judgment, in order to give effect to the judgment;

5 (d) To dispose of property according to provisions of a judgment  
6 dealing with its disposition;

7 (e) To the extent that property is not exempt from execution, at  
8 the instance of a judgment creditor either before or after the issuance  
9 of any execution, to preserve or protect it, or prevent its transfer;

10 (f) If and to the extent that property is subject to execution to  
11 satisfy a judgment, to preserve the property during the pendency of an  
12 appeal, or when an execution has been returned unsatisfied, or when an  
13 order requiring a judgment debtor to appear for proceedings  
14 supplemental to judgment has been issued and the judgment debtor fails  
15 to submit to examination as ordered;

16 (g) Upon an attachment of real or personal property when the  
17 property attached is of a perishable nature or is otherwise in danger  
18 of waste, impairment, or destruction, or where the abandoned property's  
19 owner has absconded with, secreted, or abandoned the property, and it  
20 is necessary to collect, conserve, manage, control, or protect it, or  
21 to dispose of it promptly, or when the court determines that the nature  
22 of the property or the exigency of the case otherwise provides cause  
23 for the appointment of a receiver;

24 (h) In an action by a transferor of real or personal property to  
25 avoid or rescind the transfer on the basis of fraud, or in an action to  
26 subject property or a fund to the payment of a debt;

27 (i) In an action against any person who is not an individual if the  
28 object of the action is the dissolution of that person, or if that  
29 person has been dissolved, or if that person is insolvent or is not  
30 generally paying the person's debts as those debts become due unless  
31 they are the subject of bona fide dispute, or if that person is in  
32 imminent danger of insolvency;

33 (j) In accordance with RCW 7.08.030 (4) and (6), in cases in which  
34 a general assignment for the benefit of creditors has been made;

35 (k) In quo warranto proceedings under chapter 7.56 RCW;

36 (l) As provided under RCW 11.64.022;

37 (m) In an action by the department of licensing under RCW  
38 18.35.220(3) with respect to persons engaged in the business of

1 dispensing of hearing aids, RCW 18.85.350 in the case of persons  
2 engaged in the business of a real estate broker, associate real estate  
3 broker, or real estate salesperson, or RCW 19.105.470 with respect to  
4 persons engaged in the business of camping resorts;

5 (n) In an action under RCW 18.44.470 or 18.44.490 in the case of  
6 persons engaged in the business of escrow agents;

7 (o) Upon a petition with respect to a nursing home in accordance  
8 with and subject to receivership provisions under chapter 18.51 RCW;

9 (p) Under RCW 19.40.071(3), in connection with a proceeding for  
10 relief with respect to a transfer fraudulent as to a creditor or  
11 creditors;

12 (q) Under RCW 19.100.210(1), in an action by the attorney general  
13 or director of financial institutions to restrain any actual or  
14 threatened violation of the franchise investment protection act;

15 (r) In an action by the attorney general or by a prosecuting  
16 attorney under RCW 19.110.160 with respect to a seller of business  
17 opportunities;

18 (s) In an action by the director of financial institutions under  
19 RCW 21.20.390 in cases involving actual or threatened violations of the  
20 securities act of Washington or under RCW 21.30.120 in cases involving  
21 actual or threatened violations of chapter 21.30 RCW with respect to  
22 certain businesses and transactions involving commodities;

23 (t) In an action for dissolution of a business corporation under  
24 RCW 23B.14.310 or 23B.14.320, for dissolution of a nonprofit  
25 corporation under RCW 24.03.270, for dissolution of a mutual  
26 corporation under RCW 24.06.305, or in any other action for the  
27 dissolution or winding up of any other entity provided for by Title 23,  
28 23B, 24, or 25 RCW;

29 (u) In any action in which the dissolution of any public or private  
30 entity is sought, in any action involving any dispute with respect to  
31 the ownership or governance of such an entity, or upon the application  
32 of a person having an interest in such an entity when the appointment  
33 is reasonably necessary to protect the property of the entity or its  
34 business or other interests;

35 (v) Under RCW 25.05.215, in aid of a charging order with respect to  
36 a partner's interest in a partnership;

37 (w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030,

1 in the case of a bank or trust company or, under and subject to RCW  
2 32.24.070 through 32.24.090, in the case of a mutual savings bank;  
3 (x) Under and subject to RCW 31.12.637 and 31.12.671 through  
4 31.12.724, in the case of credit unions;  
5 (y) Upon the application of the director of financial institutions  
6 under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable  
7 to agricultural lenders, under RCW 31.40.120 in actions to enforce  
8 chapter 31.40 RCW applicable to entities engaged in federally  
9 guaranteed small business loans, under RCW 31.45.160 in actions to  
10 enforce chapter 31.45 RCW applicable to persons licensed as check  
11 cashers or check sellers, or under RCW 19.230.230 in actions to enforce  
12 chapter 19.230 RCW applicable to persons licensed under the uniform  
13 money services act;  
14 (z) Under RCW 35.82.090 or 35.82.180, with respect to a housing  
15 project;  
16 (aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce  
17 rights under any revenue bonds issued for the purpose of financing  
18 industrial development facilities or bonds of the Washington state  
19 housing finance commission, or any financing document securing any such  
20 bonds;  
21 (bb) Under and subject to RCW 43.70.195, in an action by the  
22 secretary of health or by a local health officer with respect to a  
23 public water system;  
24 (cc) As contemplated by RCW 61.24.030, with respect to real  
25 property that is the subject of nonjudicial foreclosure proceedings  
26 under chapter 61.24 RCW;  
27 (dd) As contemplated by RCW 61.30.030(3), with respect to real  
28 property that is the subject of judicial or nonjudicial forfeiture  
29 proceedings under chapter 61.30 RCW;  
30 (ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien  
31 for common expenses against a dwelling unit subject to the horizontal  
32 property regimes act, chapter 64.32 RCW;  
33 (ff) Under RCW 64.34.364(10), in an action by a unit owners'  
34 association to foreclose a lien for nonpayment of delinquent  
35 assessments against condominium units;  
36 (gg) Upon application of the attorney general under RCW  
37 64.36.220(3), in aid of any writ or order restraining or enjoining  
38 violations of chapter 64.36 RCW applicable to timeshares;

1 (hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment  
2 or performance of municipal bonds issued with respect to facilities  
3 used to abate, control, or prevent pollution;

4 (ii) Upon the application of the department of social and health  
5 services under RCW 74.42.580, in cases involving nursing homes;

6 (jj) Upon the application of the utilities and transportation  
7 commission under RCW 80.28.040, with respect to a water company that  
8 has failed to comply with an order of such commission within the time  
9 deadline specified therein;

10 (kk) Under RCW 87.56.065, in connection with the dissolution of an  
11 irrigation district;

12 (ll) Upon application of the attorney general or the department of  
13 licensing, in any proceeding that either of them are authorized by  
14 statute to bring to enforce Title 18 or 19 RCW; the securities act of  
15 Washington, chapter 21.20 RCW; the Washington commodities act, chapter  
16 21.30 RCW; the land development act, chapter 58.19 RCW; or under  
17 chapter 64.36 RCW relating to the regulation of timeshares;

18 (mm) Upon application of the director of financial institutions in  
19 any proceeding that the director of financial institutions is  
20 authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

21 (nn) In such other cases as may be provided for by law, or when, in  
22 the discretion of the court, it may be necessary to secure ample  
23 justice to the parties.

24 (2) The superior courts of this state shall appoint as receiver of  
25 property located in this state a person who has been appointed by a  
26 federal or state court located elsewhere as receiver with respect to  
27 the property specifically or with respect to the owner's property  
28 generally, upon the application of the person or of any party to that  
29 foreign proceeding, and following the appointment shall give effect to  
30 orders, judgments, and decrees of the foreign court affecting the  
31 property in this state held by the receiver, unless the court  
32 determines that to do so would be manifestly unjust or inequitable.  
33 The venue of such a proceeding may be any county in which the person  
34 resides or maintains any office, or any county in which any property  
35 over which the receiver is to be appointed is located at the time the  
36 proceeding is commenced.

37 (3) At least seven days' notice of any application for the  
38 appointment of a receiver shall be given to the owner of property to be

1 subject thereto and to all other parties in the action, and to other  
2 parties in interest as the court may require. If any execution by a  
3 judgment creditor under Title 6 RCW or any application by a judgment  
4 creditor for the appointment of a receiver, with respect to property  
5 over which the receiver's appointment is sought, is pending in any  
6 other action at the time the application is made, then notice of the  
7 application for the receiver's appointment also shall be given to the  
8 judgment creditor in the other action. The court may shorten or expand  
9 the period for notice of an application for the appointment of a  
10 receiver upon good cause shown.

11 (4) The order appointing a receiver in all cases shall reasonably  
12 describe the property over which the receiver is to take charge, by  
13 category, individual items, or both if the receiver is to take charge  
14 of less than all of the owner's property. If the order appointing a  
15 receiver does not expressly limit the receiver's authority to  
16 designated property or categories of property of the owner, the  
17 receiver is a general receiver with the authority to take charge over  
18 all of the owner's property, wherever located.

19 (5) The court may condition the appointment of a receiver upon the  
20 giving of security by the person seeking the receiver's appointment, in  
21 such amount as the court may specify, for the payment of costs and  
22 damages incurred or suffered by any person should it later be  
23 determined that the appointment of the receiver was wrongfully  
24 obtained.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.60 RCW  
26 to read as follows:

27 ELIGIBILITY TO SERVE AS RECEIVER. Except as provided in this  
28 chapter or otherwise by statute, any person, whether or not a resident  
29 of this state, may serve as a receiver, with the exception that a  
30 person may not be appointed as a receiver, and shall be replaced as  
31 receiver if already appointed, if it should appear to the court that  
32 the person:

33 (1) Has been convicted of a felony or other crime involving moral  
34 turpitude or is controlled by a person who has been convicted of a  
35 felony or other crime involving moral turpitude;

36 (2) Is a party to the action, or is a parent, grandparent, child,  
37 grandchild, sibling, partner, director, officer, agent, attorney,

1 employee, secured or unsecured creditor or lienor of, or holder of any  
2 equity interest in, or controls or is controlled by, the person whose  
3 property is to be held by the receiver, or who is the agent or attorney  
4 of any disqualified person;

5 (3) Has an interest materially adverse to the interest of persons  
6 to be affected by the receivership generally; or

7 (4) Is the sheriff of any county.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 7.60 RCW  
9 to read as follows:

10 RECEIVER'S BOND. Except as otherwise provided for by statute or  
11 court rule, before entering upon duties of receiver, a receiver shall  
12 execute a bond with one or more sureties approved by the court, in the  
13 amount the court specifies, conditioned that the receiver will  
14 faithfully discharge the duties of receiver in accordance with orders  
15 of the court. Unless otherwise ordered by the court, the receiver's  
16 bond runs in favor of all persons having an interest in the  
17 receivership proceeding or property held by the receiver. The  
18 receiver's bond must provide substantially as follows:

19 [Case Caption]

20 RECEIVER'S BOND

21 TO WHOM IT MAY CONCERN:

22 KNOW ALL BY THESE PRESENTS, that . . . . ., as  
23 Principal, and . . . . ., as Surety, are held and firmly  
24 bound in the amount of . . . . . Dollars  
25 (\$ . . . . .) for the faithful performance by Principal  
26 of the Principal's duties as receiver with respect to property  
27 of . . . . . in accordance with order(s) of such court  
28 previously or hereafter entered in the above-captioned  
29 proceeding. If the Principal faithfully discharges the duties  
30 of receiver in accordance with such orders, this obligation  
31 shall be void, but otherwise it will remain in full force and  
32 effect.

33 Dated this . . . day of . . . . ., . . . . .

34 . . . . .

35 [Signature of Receiver]

1 . . . . .  
2 [Signature of Surety]

3 The court, in lieu of a bond, may approve the posting of alternative  
4 security, such as a letter of credit or a deposit of funds with the  
5 clerk of the court, to be held by the clerk to secure the receiver's  
6 faithful performance of the receiver's duties in accordance with orders  
7 of the court until the court authorizes the release or return of the  
8 deposited sums. No part of the property over which the receiver is  
9 appointed may be used in making the deposit; however, any interest that  
10 may accrue on a deposit ordered by the court shall be remitted to the  
11 receiver upon the receiver's discharge.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 7.60 RCW  
13 to read as follows:

14 POWERS OF THE COURT. Except as otherwise provided for by this  
15 chapter, the court in all cases has exclusive authority over the  
16 receiver, and the exclusive possession and right of control with  
17 respect to all real property and all tangible and intangible personal  
18 property with respect to which the receiver is appointed, wherever  
19 located, and the exclusive jurisdiction to determine all controversies  
20 relating to the collection, preservation, application, and distribution  
21 of all the property, and all claims against the receiver arising out of  
22 the exercise of the receiver's powers or the performance of the  
23 receiver's duties.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 7.60 RCW  
25 to read as follows:

26 POWERS AND DUTIES OF RECEIVER GENERALLY. (1) A receiver has the  
27 following powers and authority in addition to those specifically  
28 conferred by this chapter or otherwise by statute, court rule, or court  
29 order:

30 (a) The power to incur or pay expenses incidental to the receiver's  
31 preservation and use of the property with respect to which the  
32 appointment applies, and otherwise in the performance of the receiver's  
33 duties, including the power to pay obligations incurred prior to the  
34 receiver's appointment if and to the extent that payment is determined  
35 by the receiver to be prudent in order to preserve the value of  
36 property in the receiver's possession and the funds used for this

1 purpose are not subject to any lien or right of setoff in favor of a  
2 creditor who has not consented to the payment and whose interest is not  
3 otherwise adequately protected;

4 (b) If the appointment applies to all or substantially all of the  
5 property of an operating business or any revenue-producing property of  
6 any person, to do all things which the owner of the business or  
7 property might do in the ordinary course of the operation of the  
8 business as a going concern or use of the property including, but not  
9 limited to, the purchase and sale of goods or services in the ordinary  
10 course of such business, and the incurring and payment of expenses of  
11 the business or property in the ordinary course;

12 (c) The power to assert any rights, claims, or choses in action of  
13 the person over whose property the receiver is appointed relating  
14 thereto, if and to the extent that the claims are themselves property  
15 within the scope of the appointment or relate to any property, to  
16 maintain in the receiver's name or in the name of such a person any  
17 action to enforce any right, claim, or chose in action, and to  
18 intervene in actions in which the person over whose property the  
19 receiver is appointed is a party for the purpose of exercising the  
20 powers under this subsection (1)(c);

21 (d) The power to intervene in any action in which a claim is  
22 asserted against the person over whose property the receiver is  
23 appointed relating thereto, for the purpose of prosecuting or defending  
24 the claim and requesting the transfer of venue of the action to the  
25 court. This power is exercisable with court approval in the case of a  
26 liquidating receiver, and with or without court approval in the case of  
27 a general receiver;

28 (e) The power to assert rights, claims, or choses in action of the  
29 receiver arising out of transactions in which the receiver is a  
30 participant;

31 (f) The power to pursue in the name of the receiver any claim under  
32 chapter 19.40 RCW assertable by any creditor of the person over whose  
33 property the receiver is appointed, if pursuit of the claim is  
34 determined by the receiver to be appropriate;

35 (g) The power to seek and obtain advice or instruction from the  
36 court with respect to any course of action with respect to which the  
37 receiver is uncertain in the exercise of the receiver's powers or the  
38 discharge of the receiver's duties;

1 (h) The power to obtain appraisals with respect to property in the  
2 hands of the receiver;

3 (i) The power by subpoena to compel any person to submit to an  
4 examination under oath, in the manner of a deposition in a civil case,  
5 with respect to estate property or any other matter that may affect the  
6 administration of the receivership; and

7 (j) Other powers as may be conferred upon the receiver by the court  
8 or otherwise by statute or rule.

9 (2) A receiver has the following duties in addition to those  
10 specifically conferred by this chapter or otherwise by statute or court  
11 rule:

12 (a) The duty to notify all federal and state taxing authorities of  
13 the receiver's appointment in accordance with any applicable laws  
14 imposing this duty, including but not limited to 26 U.S.C. Sec. 6036  
15 and RCW 51.14.073, 51.16.160, and 82.32.240, or any successor statutes;

16 (b) If the receiver is appointed with respect to any real property,  
17 the duty to file with the auditor of the county in which the real  
18 property is located, or the registrar of lands in accordance with RCW  
19 65.12.600 in the case of registered lands, a certified copy of the  
20 order of appointment, together with a legal description of the real  
21 property if one is not included in that order; and

22 (c) Other duties as the receiver may be directed to perform by the  
23 court or as may be provided for by statute or rule.

24 (3) The various powers and duties of a receiver provided for by  
25 this chapter may be expanded, modified, or limited by order of the  
26 court for good cause shown.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 7.60 RCW  
28 to read as follows:

29 **TURNOVER OF PROPERTY.** Upon demand by a receiver appointed under  
30 this chapter, any person shall turn over any property over which the  
31 receiver has been appointed that is within the possession or control of  
32 that person unless otherwise ordered by the court for good cause shown.  
33 A receiver by motion may seek to compel turnover of estate property  
34 unless there exists a bona fide dispute with respect to the existence  
35 or nature of the receiver's interest in the property, in which case  
36 turnover shall be sought by means of an action under section 18 of this  
37 act. In the absence of a bona fide dispute with respect to the

1 receiver's right to possession of estate property, the failure to  
2 relinquish possession and control to the receiver shall be punishable  
3 as a contempt of the court.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 7.60 RCW  
5 to read as follows:

6 DUTIES OF PERSON OVER WHOSE PROPERTY THE RECEIVER IS APPOINTED.

7  
8 The person over whose property the receiver is appointed shall:

9 (1) Assist and cooperate fully with the receiver in the  
10 administration of the estate and the discharge of the receiver's  
11 duties, and comply with all orders of the court;

12 (2) Supply to the receiver information necessary to enable the  
13 receiver to complete any schedules that the receiver may be required to  
14 file under section 11 of this act, and otherwise assist the receiver in  
15 the completion of the schedules;

16 (3) Upon the receiver's appointment, deliver into the receiver's  
17 possession all of the property of the estate in the person's  
18 possession, custody, or control, including, but not limited to, all  
19 accounts, books, papers, records, and other documents; and

20 (4) Following the receiver's appointment, submit to examination by  
21 the receiver, or by any other person upon order of the court, under  
22 oath, concerning the acts, conduct, property, liabilities, and  
23 financial condition of that person or any matter relating to the  
24 receiver's administration of the estate.

25 When the person over whose property the receiver is appointed is an  
26 entity, each of the officers, directors, managers, members, partners,  
27 or other individuals exercising or having the power to exercise control  
28 over the affairs of the entity are subject to the requirements of this  
29 section.

30 NEW SECTION. **Sec. 11.** A new section is added to chapter 7.60 RCW  
31 to read as follows:

32 SCHEDULES OF PROPERTY AND LIABILITIES--INVENTORY OF PROPERTY--  
33 APPRAISALS. (1) In the event of a general assignment of property for  
34 the benefit of creditors under chapter 7.08 RCW, the assignment shall  
35 have annexed as schedule a true list of all of the person's known  
36 creditors, their mailing addresses, the amount and nature of their

1 claims, and whether their claims are disputed; and as schedule B a true  
2 list of all property of the estate, including the estimated liquidation  
3 value and location of the property and, if real property, a legal  
4 description thereof, as of the date of the assignment.

5 (2) In all other cases, within twenty days after the date of  
6 appointment of a general receiver, the receiver shall file as schedule  
7 A a true list of all of the known creditors of the person over whose  
8 assets the receiver is appointed, their mailing addresses, the amount  
9 and nature of their claims, and whether their claims are disputed; and  
10 as schedule B a true list of all property of the estate identifiable by  
11 the receiver, including the estimated liquidation value and location of  
12 the property and, if real property, a legal description thereof, as of  
13 the date of appointment of the receiver.

14 (3) The schedules must be in substantially the following forms:

15 SCHEDULE A--CREDITOR LIST

16 1. List all creditors having security interests or liens, showing:

17 Name Address Amount Collateral Whether or not disputed

18 2. List all wages, salaries, commissions, or contributions to an employee benefit plan owed, showing:

19 Name Address Amount Whether or not disputed

20 3. List all consumer deposits owed, showing:

21 Name Address Amount Whether or not disputed

22 4. List all taxes owed, showing:

23 Name Address Amount Whether or not disputed

24 5. List all unsecured claims, showing:

25 Name Address Amount Whether or not disputed

26 6. List all owners or shareholders, showing:

27 Name Address Percentage of Ownership

28 SCHEDULE B--LIST OF PROPERTY

29 List each category of property and for each give approximate value obtainable for the asset on the date of  
30 assignment/appointment of the receiver, and address where asset is located.

31 I. Nonexempt Property

32 Description Liquidation Value on Date of  
33 and Location Assignment/Appointment of Receiver

- 1 1. Legal Description and
- 2 street address of real
- 3 property, including
- 4 leasehold interests:
- 5 2. Fixtures:
- 6 3. Cash and bank
- 7 accounts:
- 8 4. Inventory:
- 9 5. Accounts receivable:
- 10 6. Equipment:
- 11 7. Prepaid expenses,
- 12 including deposits,
- 13 insurance, rents, and
- 14 utilities:
- 15 8. Other, including loans
- 16 to third parties,
- 17 claims, and choses in
- 18 action:

19 II. Exempt Property

Description	Liquidation Value on Date of
and Location	Assignment/Appointment of Receiver

23 I DECLARE under penalty of perjury under the laws of the state of Washington that the foregoing is true, correct,  
 24 and complete to the best of my knowledge. DATED this ... day of ....., at ....., state of .....

25 .....  
 26 [SIGNATURE]

27 (4) When schedules are filed by a person making a general  
 28 assignment of property for the benefit of creditors under chapter 7.08  
 29 RCW, the schedules shall be duly verified upon oath by such person.

30 (5) The receiver shall obtain an appraisal or other independent  
 31 valuation of the property in the receiver's possession if ordered by  
 32 the court.

33 (6) The receiver shall file a complete inventory of the property in  
 34 the receiver's possession if ordered by the court.

35 NEW SECTION. **Sec. 12.** A new section is added to chapter 7.60 RCW  
 36 to read as follows:

1 RECEIVER'S REPORTS. A general receiver shall file with the court  
2 a monthly report of the receiver's operations and financial affairs  
3 unless otherwise ordered by the court. Except as otherwise ordered by  
4 the court, each report of a general receiver shall be due by the last  
5 day of the subsequent month and shall include the following:

6 (1) A balance sheet;

7 (2) A statement of income and expenses;

8 (3) A statement of cash receipts and disbursements;

9 (4) A statement of accrued accounts receivable of the receiver.

10 The statement shall disclose amounts considered to be uncollectable;

11 (5) A statement of accounts payable of the receiver, including  
12 professional fees. The statement shall list the name of each creditor  
13 and the amounts owing and remaining unpaid over thirty days; and

14 (6) A tax disclosure statement, which shall list postfiling taxes  
15 due or tax deposits required, the name of the taxing agency, the amount  
16 due, the date due, and an explanation for any failure to make payments  
17 or deposits.

18 A custodial receiver shall file with the court all such reports the  
19 court may require.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 7.60 RCW  
21 to read as follows:

22 AUTOMATIC STAY OF CERTAIN PROCEEDINGS. (1) Except as otherwise  
23 ordered by the court, the entry of an order appointing a general  
24 receiver or a custodial receiver with respect to all of a person's  
25 property shall operate as a stay, applicable to all persons, of:

26 (a) The commencement or continuation, including the issuance or  
27 employment of process, of a judicial, administrative, or other action  
28 or proceeding against the person over whose property the receiver is  
29 appointed that was or could have been commenced before the entry of the  
30 order of appointment, or to recover a claim against the person that  
31 arose before the entry of the order of appointment;

32 (b) The enforcement, against the person over whose property the  
33 receiver is appointed or any estate property, of a judgment obtained  
34 before the order of appointment;

35 (c) Any act to obtain possession of estate property from the  
36 receiver, or to interfere with, or exercise control over, estate  
37 property;

1 (d) Any act to create, perfect, or enforce any lien or claim  
2 against estate property except by exercise of a right of setoff, to the  
3 extent that the lien secures a claim against the person that arose  
4 before the entry of the order of appointment; or

5 (e) Any act to collect, assess, or recover a claim against the  
6 person that arose before the entry of the order of appointment.

7 (2) The stay shall automatically expire as to the acts specified in  
8 subsection (1)(a), (b), and (e) of this section sixty days after the  
9 entry of the order of appointment unless before the expiration of the  
10 sixty-day period the receiver, for good cause shown, obtains an order  
11 of the court extending the stay, after notice and a hearing. A person  
12 whose action or proceeding is stayed by motion to the court may seek  
13 relief from the stay for good cause shown. Any judgment obtained  
14 against the person over whose property the receiver is appointed or  
15 estate property following the entry of the order of appointment is not  
16 a lien against estate property unless the receivership is terminated  
17 prior to a conveyance of the property against which the judgment would  
18 otherwise constitute a lien.

19 (3) The entry of an order appointing a receiver does not operate as  
20 a stay of:

21 (a) The commencement or continuation of a criminal proceeding  
22 against the person over whose property the receiver is appointed;

23 (b) The commencement or continuation of an action or proceeding to  
24 establish paternity, or to establish or modify an order for alimony,  
25 maintenance, or support, or to collect alimony, maintenance, or support  
26 under any order of a court;

27 (c) Any act to perfect, or to maintain or continue the perfection  
28 of, an interest in estate property if the interest perfected would be  
29 effective against a creditor of the person over whose property the  
30 receiver is appointed holding at the time of the entry of the order of  
31 appointment either a perfected nonpurchase money security interest  
32 under chapter 62A.9A RCW against the property involved, or a lien by  
33 attachment, levy, or the like, whether or not such a creditor exists.  
34 If perfection of an interest would require seizure of the property  
35 involved or the commencement of an action, the perfection shall instead  
36 be accomplished by filing, and by serving upon the receiver, or  
37 receiver's counsel, if any, notice of the interest within the time  
38 fixed by law for seizure or commencement;

1 (d) The commencement or continuation of an action or proceeding by  
2 a governmental unit to enforce its police or regulatory power;

3 (e) The enforcement of a judgment, other than a money judgment,  
4 obtained in an action or proceeding by a governmental unit to enforce  
5 its police or regulatory power, or with respect to any licensure of the  
6 person over whose property the receiver is appointed;

7 (f) The exercise of a right of setoff, including but not limited to  
8 (i) any right of a commodity broker, forward contract merchant,  
9 stockbroker, financial institution, or securities clearing agency to  
10 set off a claim for a margin payment or settlement payment arising out  
11 of a commodity contract, forward contract, or securities contract  
12 against cash, securities, or other property held or due from the  
13 commodity broker, forward contract merchant, stockbroker, financial  
14 institution, or securities clearing agency to margin, guarantee,  
15 secure, or settle the commodity contract, forward contract, or  
16 securities contract, and (ii) any right of a swap participant to set  
17 off a claim for a payment due to the swap participant under or in  
18 connection with a swap agreement against any payment due from the swap  
19 participant under or in connection with the swap agreement or against  
20 cash, securities, or other property of the debtor held by or due from  
21 the swap participant to guarantee, secure, or settle the swap  
22 agreement; or

23 (g) The issuance by a governmental unit of a notice of a tax  
24 deficiency.

25 NEW SECTION. **Sec. 14.** A new section is added to chapter 7.60 RCW  
26 to read as follows:

27 UTILITY SERVICE. A utility providing service to estate property  
28 may not alter, refuse, or discontinue service to the property without  
29 first giving the receiver fifteen days' notice of any default or  
30 intention to alter, refuse, or discontinue service to estate property.  
31 This section does not prohibit the court, upon motion by the receiver,  
32 to prohibit the alteration or cessation of utility service if the  
33 receiver can furnish adequate assurance of payment, in the form of  
34 deposit or other security, for service to be provided after entry of  
35 the order appointing the receiver.

1        NEW SECTION.    **Sec. 15.**    A new section is added to chapter 7.60 RCW  
2 to read as follows:

3        EXECUTORY CONTRACTS AND UNEXPIRED LEASES.    (1) A general receiver  
4 may assume or reject any executory contract or unexpired lease of the  
5 person over whose property the receiver is appointed upon order of the  
6 court following notice to the other party to the contract or lease upon  
7 notice and a hearing. The court may condition assumption or rejection  
8 of any executory contract or unexpired lease on the terms and  
9 conditions the court believes are just and proper under the particular  
10 circumstances of the case. A general receiver's performance of an  
11 executory contract or unexpired lease prior to the court's  
12 authorization of its assumption or rejection shall not constitute an  
13 assumption of the contract or lease, or an agreement by the receiver to  
14 assume it, nor otherwise preclude the receiver thereafter from seeking  
15 the court's authority to reject it.

16        (2) Any obligation or liability incurred by a general receiver on  
17 account of the receiver's assumption of an executory contract or  
18 unexpired lease shall be treated as an expense of the receivership. A  
19 general receiver's rejection of an executory contract or unexpired  
20 lease shall be treated as a breach of the contract or lease occurring  
21 immediately prior to the receiver's appointment; and the receiver's  
22 right to possess or use property pursuant to any executory contract or  
23 lease shall terminate upon rejection of the contract or lease. The  
24 other party to an executory contract or unexpired lease that is  
25 rejected by a general receiver may take such steps as may be necessary  
26 under applicable law to terminate or cancel the contract or lease. The  
27 claim of a party to an executory contract or unexpired lease resulting  
28 from a general receiver's rejection of it shall be served upon the  
29 receiver in the manner provided for by section 23 of this act within  
30 thirty days following the rejection.

31        (3) A general receiver's power under this section to assume an  
32 executory contract or unexpired lease shall not be affected by any  
33 provision in the contract or lease that would effect or permit a  
34 forfeiture, modification, or termination of it on account of either the  
35 receiver's appointment, the financial condition of the person over  
36 whose property the receiver is appointed, or an assignment for the  
37 benefit of creditors by that person.

1 (4) A general receiver may not assume an executory contract or  
2 unexpired lease of the person over whose property the receiver is  
3 appointed without the consent of the other party to the contract or  
4 lease if:

5 (a) Applicable law would excuse a party, other than the person over  
6 whose property the receiver is appointed, from accepting performance  
7 from or rendering performance to anyone other than the person even in  
8 the absence of any provisions in the contract or lease expressly  
9 restricting or prohibiting an assignment of the person's rights or the  
10 performance of the person's duties;

11 (b) The contract or lease is a contract to make a loan or extend  
12 credit or financial accommodations to or for the benefit of the person  
13 over whose property the receiver is appointed, or to issue a security  
14 of the person; or

15 (c) The executory contract or lease expires by its own terms, or  
16 under applicable law prior to the receiver's assumption thereof.

17 (5) A receiver may not assign an executory contract or unexpired  
18 lease without assuming it, absent the consent of the other parties to  
19 the contract or lease.

20 (6) If the receiver rejects an executory contract or unexpired  
21 lease for:

22 (a) The sale of real property under which the person over whose  
23 property the receiver is appointed is the seller and the purchaser is  
24 in possession of the real property;

25 (b) The sale of a real property timeshare interest under which the  
26 person over whose property the receiver is appointed is the seller;

27 (c) The license of intellectual property rights under which the  
28 person over whose property the receiver is appointed is the licensor;  
29 or

30 (d) The lease of real property in which the person over whose  
31 property the receiver is appointed is the lessor;

32 then the purchaser, licensee, or lessee may treat the rejection as a  
33 termination of the contract, license agreement, or lease, or  
34 alternatively, the purchaser, licensee, or lessee may remain in  
35 possession in which case the purchaser, licensee, or lessee shall  
36 continue to perform all obligations arising thereunder as and when they  
37 may fall due, but may offset against any payments any damages occurring  
38 on account of the rejection after it occurs. The purchaser of real

1 property in such a case is entitled to receive from the receiver any  
2 deed or any other instrument of conveyance which the person over whose  
3 property the receiver is appointed is obligated to deliver under the  
4 executory contract when the purchaser becomes entitled to receive it,  
5 and the deed or instrument has the same force and effect as if given by  
6 the person. A purchaser, licensee, or lessee who elects to remain in  
7 possession under the terms of this subsection has no rights against the  
8 receiver on account of any damages arising from the receiver's  
9 rejection except as expressly provided for by this subsection. A  
10 purchaser of real property who elects to treat rejection of an  
11 executory contract as a termination has a lien against the interest in  
12 that real property of the person over whose property the receiver is  
13 appointed for the recovery of any portion of the purchase price that  
14 the purchaser has paid.

15 NEW SECTION. **Sec. 16.** A new section is added to chapter 7.60 RCW  
16 to read as follows:

17 RECEIVERSHIP FINANCING. (1) If a receiver is authorized to operate  
18 the business of a person or manage a person's property, the receiver  
19 may obtain unsecured credit and incur unsecured debt in the ordinary  
20 course of business allowable under section 25(1)(a) of this act as an  
21 administrative expense of the receiver without order of the court.

22 (2) The court, after notice and a hearing, may authorize a receiver  
23 to obtain credit or incur indebtedness other than in the ordinary  
24 course of business. The court may allow the receiver to mortgage,  
25 pledge, hypothecate, or otherwise encumber estate property as security  
26 for repayment of any indebtedness that the receiver may incur.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 7.60 RCW  
28 to read as follows:

29 ABANDONMENT OF PROPERTY. The receiver, or any party in interest,  
30 upon order of the court following notice and a hearing, and upon the  
31 conditions or terms the court considers just and proper, may abandon  
32 any estate property that is burdensome to the receiver or is of  
33 inconsequential value or benefit. Property that is abandoned no longer  
34 constitutes estate property.

1        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 7.60 RCW  
2 to read as follows:

3        ACTIONS BY AND AGAINST THE RECEIVER OR AFFECTING PROPERTY HELD BY  
4 RECEIVER.    (1) The receiver has the right to sue and be sued in the  
5 receiver's capacity as such, without leave of court, in all cases  
6 necessary or proper for the conduct of the receivership.    However,  
7 action seeking to dispossess the receiver of any estate property or  
8 otherwise to interfere with the receiver's management or control of any  
9 estate property may not be maintained or continued unless permitted by  
10 order of the court obtained upon notice and a hearing.

11        (2) Litigation by or against a receiver is adjunct to the  
12 receivership case.    The clerk of the court shall assign a cause number  
13 that reflects the relationship of any litigation to the receivership  
14 case.    All pleadings in adjunct litigation shall include the cause  
15 number of the receivership case as well as the adjunct litigation  
16 number assigned by the clerk of the court.    All adjunct litigation  
17 shall be referred to the judge, if any, assigned to the receivership  
18 case.

19        (3) The receiver may be joined or substituted as a party in any  
20 suit or proceeding that was pending at the time of the receiver's  
21 appointment and in which the person over whose property the receiver is  
22 appointed is a party, upon application by the receiver to the court or  
23 agency before which the action is pending.

24        (4) Venue for adjunct litigation by or against the receiver shall  
25 lie in the court in which the receivership is pending, if the courts of  
26 this state have jurisdiction over the cause.    Actions in other courts  
27 in this state shall be transferred to the court upon the receiver's  
28 filing of a motion for change of venue, provided that the receiver  
29 files the motion within thirty days following service of original  
30 process upon the receiver.

31        (5) Action by or against a receiver does not abate by reason of  
32 death or resignation of the receiver, but continues against the  
33 successor receiver or against the entity in receivership, if a  
34 successor receiver is not appointed.

35        (6) Whenever the assets of any domestic or foreign corporation,  
36 that has been doing business in this state, has been placed in the  
37 hands of any general receiver and the receiver is in possession of its

1 assets, service of all process upon the corporation may be made upon  
2 the receiver.

3 (7) A judgment against a general receiver is not a lien on the  
4 property or funds of the receivership, nor shall any execution issue  
5 thereon, but upon entry of the judgment in the court in which a general  
6 receivership is pending, or upon filing in a general receivership of a  
7 certified copy of the judgment from another jurisdiction, the judgment  
8 shall be treated as an allowed claim in the receivership. A judgment  
9 against a custodial receiver shall be treated and has the same effect  
10 as a judgment against the person over whose property the receiver is  
11 appointed, except that the judgment is not enforceable against estate  
12 property unless otherwise ordered by the court upon notice and a  
13 hearing.

14 NEW SECTION. **Sec. 19.** A new section is added to chapter 7.60 RCW  
15 to read as follows:

16 PERSONAL LIABILITY OF RECEIVER. (1) The receiver is personally  
17 liable to the person over whose property the receiver is appointed or  
18 its record or beneficial owners, or to the estate, for loss or  
19 diminution in value of or damage to estate property, only if (a) the  
20 loss or damage is caused by a failure on the part of the receiver to  
21 comply with an order of the court, or (b) the loss or damage is caused  
22 by an act or omission for which members of a board of directors of a  
23 business corporation organized and existing under the laws of this  
24 state who vote to approve the act or omission are liable to the  
25 corporation in cases in which the liability of directors is limited to  
26 the maximum extent permitted by RCW 23B.08.320.

27 (2) The receiver has no personal liability to a person other than  
28 the person over whose property the receiver is appointed or its record  
29 or beneficial owners for any loss or damage occasioned by the  
30 receiver's performance of the duties imposed by the appointment, or out  
31 of the receiver's authorized operation of any business of a person,  
32 except loss or damage occasioned by fraud on the part of the receiver,  
33 by acts intended by the receiver to cause loss or damage to the  
34 specific claimant, or by acts or omissions for which an officer of a  
35 business corporation organized and existing under the laws of this  
36 state are liable to the claimant under the same circumstances.

1 (3) Notwithstanding subsections (1) and (2) of this section, a  
2 receiver has no personal liability to any person for acts or omissions  
3 of the receiver specifically contemplated by any order of the court.

4 (4) A person other than a successor receiver duly appointed by the  
5 court does not have a right of action against a receiver under this  
6 section to recover property or the value thereof for or on behalf of  
7 the estate.

8 NEW SECTION. **Sec. 20.** A new section is added to chapter 7.60 RCW  
9 to read as follows:

10 EMPLOYMENT AND COMPENSATION OF PROFESSIONALS. (1) The receiver,  
11 with the court's approval, may employ one or more attorneys,  
12 accountants, appraisers, auctioneers, or other professional persons  
13 that do not hold or represent an interest adverse to the estate to  
14 represent or assist the receiver in carrying out the receiver's duties.

15 (2) A person is not disqualified for employment under this section  
16 solely because of the person's employment by, representation of, or  
17 other relationship with a creditor or other party in interest, if the  
18 relationship is disclosed in the application for the person's  
19 employment and if the court determines that there is no actual conflict  
20 of interest.

21 (3) This section does not preclude the court from authorizing the  
22 receiver to act as attorney or accountant if the authorization is in  
23 the best interests of the estate.

24 (4) The receiver, and any professionals employed by the receiver,  
25 is permitted to file an itemized billing statement with the court  
26 indicating both the time spent, billing rates of all who perform work  
27 to be compensated, and a detailed list of expenses and serve copies on  
28 any person who has been joined as a party in the action, or any person  
29 requesting the same, advising that unless objections are filed with the  
30 court, the receiver may make the payments specified in the notice. If  
31 an objection is filed, the receiver or professional whose compensation  
32 is affected may request the court to hold a hearing on the objection on  
33 five days' notice to the persons who have filed objections. If the  
34 receiver is a custodial receiver appointed in aid of foreclosure,  
35 payment of fees and expenses may be allowed upon the stipulation of any  
36 creditor holding a security interest in the property for whose benefit  
37 the receiver is appointed.

1        NEW SECTION.    **Sec. 21.**    A new section is added to chapter 7.60 RCW  
2 to read as follows:

3        PARTICIPATION OF CREDITORS AND PARTIES IN INTEREST IN RECEIVERSHIP  
4 PROCEEDING--EFFECT OF COURT ORDERS ON NONPARTIES.    (1) Creditors and  
5 parties in interest to whom written notice of the pendency of the  
6 receivership is given in accordance with section 23 of this act, and  
7 creditors or other persons submitting written claims in the  
8 receivership or otherwise appearing and participating in the  
9 receivership, are bound by the acts of the receiver with regard to  
10 management and disposition of estate property whether or not they are  
11 formally joined as parties.

12        (2) Any person having a claim against or interest in any estate  
13 property or in the receivership proceedings may appear in the  
14 receivership, either in person or by an attorney. Appearance must be  
15 made by filing a written notice of appearance, including the name and  
16 mailing address of the party in interest, and the name and address of  
17 the person's attorney, if any, with the clerk, and by serving a copy of  
18 the notice upon the receiver and the receiver's attorney of record, if  
19 any. The receiver shall maintain a master mailing list of all persons  
20 joined as parties in the receivership and of all persons serving and  
21 filing notices of appearance in the receivership in accordance with  
22 this section. A creditor or other party in interest has a right to be  
23 heard with respect to all matters affecting the person, whether or not  
24 the person is joined as a party to the action.

25        (3) Orders of the court with respect to the treatment of claims and  
26 disposition of estate property, including but not limited to orders  
27 providing for sales of property free and clear of liens, are effective  
28 as to any person having a claim against or interest in the receivership  
29 estate and who has actual knowledge of the receivership, whether or not  
30 the person receives written notice from the receiver and whether or not  
31 the person appears or participates in the receivership.

32        (4) The receiver shall give not less than ten days' written notice  
33 by mail of any examination by the receiver of the person with respect  
34 to whose property the receiver has been appointed and to persons who  
35 serve and file an appearance in the proceeding.

36        (5) Persons on the master mailing list are entitled to not less  
37 than twenty days' written notice of the hearing of any motion or other  
38 proceeding involving any proposed:

1 (a) Allowance or disallowance of any claim or claims;

2 (b) Abandonment, disposition, or distribution of estate property,  
3 other than an emergency disposition of perishable property or a  
4 disposition of property in the ordinary course of business;

5 (c) Compromise or settlement of a controversy that might affect the  
6 distribution to creditors from the estate;

7 (d) Compensation of the receiver or any professional employed by  
8 the receiver; or

9 (e) Application for discharge of the receiver and exoneration of  
10 the receiver's bond.

11 Any opposition to any motion to authorize any of the actions under  
12 (a) through (e) of this subsection must be filed and served upon the  
13 receiver and the receiver's attorney, if any, at least three days  
14 before the date of the proposed action. Persons on the master mailing  
15 list shall be served with all pleadings or in opposition to any motion.  
16 The court may require notice to be given to persons on the master  
17 mailing list of additional matters the court deems appropriate, and may  
18 enlarge or reduce any time period provided for by this section for good  
19 cause shown. The receiver shall make a copy of the current master  
20 mailing list available to any person on that list upon the person's  
21 request.

22 (6) All persons duly notified by the receiver of any hearing to  
23 approve or authorize an action or a proposed action by the receiver is  
24 bound by any order of the court with respect to the action, whether or  
25 not the persons have appeared or objected to the action or proposed  
26 action or have been joined formally as parties to the particular  
27 action.

28 (7) Whenever notice is not specifically required to be given under  
29 this chapter, the court may consider motions and grant or deny relief  
30 without notice or hearing, if it appears that no person joined as a  
31 party or who has appeared in the receivership would be prejudiced or  
32 harmed by the relief requested.

33 NEW SECTION. **Sec. 22.** A new section is added to chapter 7.60 RCW  
34 to read as follows:

35 NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST. (1) A general  
36 receiver shall give notice of the receivership by publication in a  
37 newspaper of general circulation published in the county or counties in

1 which estate property is known to be located once a week for three  
2 consecutive weeks, the first notice to be published within twenty days  
3 after the date of appointment of the receiver; and by mailing notice to  
4 all known creditors and other known parties in interest within twenty  
5 days after the date of appointment of the receiver. The notice of the  
6 receivership shall include the date of appointment of the receiver; the  
7 name of the court and the case number; the last day on which claims may  
8 be filed and served upon the receiver; and the name and address of the  
9 debtor, the receiver, and the receiver's attorney, if any. For  
10 purposes of this section, all intangible property of a person is deemed  
11 to be located in the county in which an individual owner thereof  
12 resides, or in which any entity owning the property maintains its  
13 principal administrative offices.

14 (2) The notice of the receivership shall be in substantially the  
15 following form:

16 IN THE SUPERIOR COURT, IN AND FOR  
17 \_\_\_\_\_ COUNTY, WASHINGTON  
18 [Case Name] ) Case No.  
19 )  
20 ) NOTICE OF RECEIVERSHIP  
21 )  
22 )  
23 \_\_\_\_\_ )

24 TO CREDITORS AND OTHER PARTIES IN INTEREST:  
25 PLEASE TAKE NOTICE that a receiver was appointed for \_\_\_\_\_, whose last known  
26 address is \_\_\_\_\_, on \_\_\_\_\_, \_\_\_\_.  
27 YOU ARE HEREBY FURTHER NOTIFIED that in order to receive any dividend in this proceeding you  
28 must file proof of claim with the receiver on or before \_\_\_\_\_, \_\_\_\_ (120 days from the date of  
29 appointment of the receiver).

30 \_\_\_\_\_  
31 RECEIVER

32 Attorney for receiver (if any): \_\_\_\_\_  
33 Address: \_\_\_\_\_

34 NEW SECTION. **Sec. 23.** A new section is added to chapter 7.60 RCW  
35 to read as follows:

1 SUBMISSION OF CLAIMS IN GENERAL RECEIVERSHIPS. (1) All claims,  
2 whether contingent, liquidated, unliquidated, or disputed, other than  
3 claims of creditors with security interests in or other liens against  
4 property of the estate, arising prior to the receiver's appointment,  
5 must be served in accordance with this chapter, and any claim not so  
6 filed is barred from participating in any distribution to creditors in  
7 any general receivership.

8 (2) Claims must be served by delivering the claim to the general  
9 receiver within thirty days from the date notice is given by mail under  
10 this section, unless the court reduces or extends the period for cause  
11 shown, except that a claim arising from the rejection of an executory  
12 contract or an unexpired lease of the person over whose property the  
13 receiver is appointed may be filed within thirty days after the  
14 rejection. Claims need not be filed.

15 (3) Claims must be in written form entitled "Proof of Claim,"  
16 setting forth the name and address of the creditor and the nature and  
17 amount of the claim, and executed by the creditor or the creditor's  
18 authorized agent. When a claim, or an interest in estate property of  
19 securing the claim, is based on a writing, the original or a copy of  
20 the writing must be included as a part of the proof of claim, together  
21 with evidence of perfection of any security interest or other lien  
22 asserted by the claimant.

23 (4) A claim, executed and served in accordance with this section,  
24 constitutes prima facie evidence of the validity and amount of the  
25 claim.

26 NEW SECTION. **Sec. 24.** A new section is added to chapter 7.60 RCW  
27 to read as follows:

28 OBJECTION TO AND ALLOWANCE OF CLAIMS. (1) At any time prior to the  
29 entry of an order approving the general receiver's final report, the  
30 general receiver or any party in interest may file with the court an  
31 objection to a claim, which objection must be in writing and must set  
32 forth the grounds for the objection. A copy of the objection, together  
33 with notice of hearing, must be mailed to the creditor at least twenty  
34 days prior to the hearing. Claims properly served upon the general  
35 receiver and not disallowed by the court are entitled to share in  
36 distributions from the estate in accordance with the priorities  
37 provided for by this chapter or otherwise by law.

1 (2) Upon the request of a creditor, the general receiver, or any  
2 party in interest objecting to the creditor's claim, or upon order of  
3 the court, an objection is subject to mediation prior to adjudication  
4 of the objection, under the rules or orders adopted or issued with  
5 respect to mediations.

6 (3) Upon motion of the general receiver or other party in interest,  
7 the following claims may be estimated for purpose of allowance under  
8 this section under the rules or orders applicable to the estimation of  
9 claims under this subsection:

10 (a) Any contingent or unliquidated claim, the fixing or liquidation  
11 of which, as the case may be, would unduly delay the administration of  
12 the case; or

13 (b) Any right to payment arising from a right to an equitable  
14 remedy for breach of performance.

15 Claims subject to this subsection shall be allowed in the estimated  
16 amount thereof.

17 NEW SECTION. **Sec. 25.** A new section is added to chapter 7.60 RCW  
18 to read as follows:

19 PRIORITIES. (1) Allowed claims in a general receivership shall  
20 receive distribution under this chapter in the order of priority under  
21 (a) through (g) of this subsection and, with the exception of (a) and  
22 (c) of this subsection, on a pro rata basis.

23 (a) Creditors with liens on property of the estate, which liens are  
24 duly perfected under applicable law, shall receive the proceeds from  
25 the disposition of their collateral. However, the receiver may recover  
26 from property securing an allowed secured claim the reasonable,  
27 necessary expenses of preserving, protecting, or disposing of the  
28 property to the extent of any benefit to the creditors. If and to the  
29 extent that the proceeds are less than the amount of a creditor's  
30 allowed claim or a creditor's lien is avoided on any basis, the  
31 creditor is an unsecured claim under (g) of this subsection. Secured  
32 claims shall be paid from the proceeds in accordance with their  
33 respective priorities under otherwise applicable law.

34 (b) Actual, necessary costs and expenses incurred during the  
35 administration of the estate, other than those expenses allowable under  
36 (a) of this subsection, including allowed fees and reimbursement of  
37 reasonable charges and expenses of the receiver and professional

1 persons employed by the receiver under section 20 of this act.  
2 Notwithstanding (a) of this subsection, expenses incurred during the  
3 administration of the estate have priority over the secured claim of  
4 any creditor obtaining or consenting to the appointment of the  
5 receiver.

6 (c) Creditors with liens on property of the estate, which liens  
7 have not been duly perfected under applicable law, shall receive the  
8 proceeds from the disposition of their collateral if and to the extent  
9 that unsecured claims are made subject to those liens under applicable  
10 law.

11 (d) Claims for wages, salaries, or commissions, including vacation,  
12 severance, and sick leave pay, or contributions to an employee benefit  
13 plan, earned by the claimant within ninety days of the date of  
14 appointment of the receiver or the cessation of the estate's business,  
15 whichever occurs first, but only to the extent of two thousand dollars.

16 (e) Allowed unsecured claims, to the extent of nine hundred dollars  
17 for each individual, arising from the deposit with the person over  
18 whose property the receiver is appointed before the date of appointment  
19 of the receiver of money in connection with the purchase, lease, or  
20 rental of property or the purchase of services for personal, family, or  
21 household use by individuals that were not delivered or provided.

22 (f) Unsecured claims of governmental units for taxes which accrued  
23 prior to the date of appointment of the receiver.

24 (g) Other unsecured claims.

25 (2) If all of the classes under subsection (1) of this section have  
26 been paid in full, any residue shall be paid to the person over whose  
27 property the receiver is appointed.

28 NEW SECTION. **Sec. 26.** A new section is added to chapter 7.60 RCW  
29 to read as follows:

30 SECURED CLAIMS AGAINST AFTER-ACQUIRED PROPERTY. Except as  
31 otherwise provided for by statute, property acquired by the estate or  
32 by the person over whose property the receiver is appointed after the  
33 date of appointment of the receiver is subject to an allowed secured  
34 claim to the same extent as would be the case in the absence of a  
35 receivership.

1        NEW SECTION.    **Sec. 27.**    A new section is added to chapter 7.60 RCW  
2 to read as follows:

3        INTEREST ON CLAIMS.    To the extent that funds are available in the  
4 estate for distribution to creditors in a general receivership, the  
5 holder of an allowed noncontingent, liquidated claim is entitled to  
6 receive interest at the legal rate or other applicable rate from the  
7 date of appointment of the receiver or the date on which the claim  
8 became a noncontingent, liquidated claim.    If there are sufficient  
9 funds in the estate to fully pay all interest owing to all members of  
10 the class, then interest shall be paid proportionately to each member  
11 of the class.

12       NEW SECTION.    **Sec. 28.**    A new section is added to chapter 7.60 RCW  
13 to read as follows:

14       RECEIVER'S DISPOSITION OF PROPERTY--SALES FREE AND CLEAR.    (1) The  
15 receiver, with the court's approval after notice and a hearing, may  
16 use, sell, or lease estate property other than in the ordinary course  
17 of business.    Except in the case of a leasehold estate with a remaining  
18 term of less than two years or a vendor's interest in a real estate  
19 contract, estate property consisting of real property may not be sold  
20 by a custodial receiver other than in the ordinary course of business.

21       (2) The court may order that a general receiver's sale of estate  
22 property under subsection (1) of this section be effected free and  
23 clear of liens and of all rights of redemption, whether or not the sale  
24 will generate proceeds sufficient to fully satisfy all claims secured  
25 by the property, unless either:

26       (a) The property is real property used principally in the  
27 production of crops, livestock, or aquaculture, or the property is a  
28 homestead under RCW 6.13.010(1), and the owner of the property has not  
29 consented to the sale following the appointment of the receiver; or

30       (b) The owner of the property or a creditor with an interest in the  
31 property serves and files a timely opposition to the receiver's sale,  
32 and the court determines that the amount likely to be realized by the  
33 objecting person from the receiver's sale is less than the person would  
34 realize within a reasonable time in the absence of the receiver's sale.

35       Upon any sale free and clear of liens authorized by this section,  
36 all security interests and other liens encumbering the property  
37 conveyed transfer and attach to the proceeds of the sale, net of

1 reasonable expenses incurred in the disposition of the property, in the  
2 same order, priority, and validity as the liens had with respect to the  
3 property immediately before the conveyance. The court may authorize  
4 the receiver at the time of sale to satisfy, in whole or in part, any  
5 allowed claim secured by the property out of the proceeds of its sale  
6 if the interest of any other creditor having a lien against the  
7 proceeds of the sale would not thereby be impaired.

8 (3) At a public sale of property under subsection (1) of this  
9 section, a creditor with an allowed claim secured by a lien against the  
10 property to be sold may bid at the sale of the property. A secured  
11 creditor who purchases the property from a receiver may offset against  
12 the purchase price its allowed secured claim against the property,  
13 provided that the secured creditor tenders cash sufficient to satisfy  
14 in full all secured claims payable out of the proceeds of sale having  
15 priority over the secured creditor's secured claim. If the lien or the  
16 claim it secures is the subject of a bona fide dispute, the court may  
17 order the holder of the claim to provide the receiver with adequate  
18 security to assure full payment of the purchase price in the event the  
19 lien, the claim, or any part thereof is determined to be invalid or  
20 unenforceable.

21 (4) If estate property includes an interest as a coowner of  
22 property, the receiver shall have the rights and powers of a coowner  
23 afforded by applicable state or federal law, including but not limited  
24 to any rights of partition.

25 (5) The reversal or modification on appeal of an authorization to  
26 sell or lease estate property under this section does not affect the  
27 validity of a sale or lease under that authorization to an entity that  
28 purchased or leased the property in good faith, whether or not the  
29 entity knew of the pendency of the appeal, unless the authorization and  
30 sale or lease were stayed pending the appeal.

31 NEW SECTION. **Sec. 29.** A new section is added to chapter 7.60 RCW  
32 to read as follows:

33 ANCILLARY RECEIVERSHIPS. (1) A receiver appointed in any action  
34 pending in the courts of this state, without first seeking approval of  
35 the court, may apply to any court outside of this state for appointment  
36 as receiver with respect to any property or business of the person over  
37 whose property the receiver is appointed constituting estate property

1 which is located in any other jurisdiction, if the appointment is  
2 necessary to the receiver's possession, control, management, or  
3 disposition of property in accordance with orders of the court.

4 (2) A receiver appointed by a court of another state, or by a  
5 federal court in any district outside of this state, or any other  
6 person having an interest in that proceeding, may obtain appointment by  
7 a superior court of this state of that same receiver with respect to  
8 any property or business of the person over whose property the receiver  
9 is appointed constituting property of the foreign receivership that is  
10 located in this jurisdiction, if the person is eligible under section  
11 5 of this act to serve as receiver, and if the appointment is necessary  
12 to the receiver's possession, control, or disposition of the property  
13 in accordance with orders of the court in the foreign proceeding. The  
14 superior court upon the receiver's request shall enter the orders, not  
15 offensive to the laws and public policy of this state, necessary to  
16 effectuate orders entered by the court in the foreign receivership  
17 proceeding. A receiver appointed in an ancillary receivership in this  
18 state is required to comply with this chapter requiring notice to  
19 creditors or other parties in interest only as may be required by the  
20 superior court in the ancillary receivership.

21 NEW SECTION. **Sec. 30.** A new section is added to chapter 7.60 RCW  
22 to read as follows:

23 RESIGNATION OR REMOVAL OF RECEIVER. (1) The court shall remove or  
24 replace the receiver on application of the person over whose property  
25 the receiver is appointed, the receiver, or any creditor, or on the  
26 court's own motion, if the receiver fails to execute and file the bond  
27 required by section 6 of this act, or if the receiver resigns or  
28 refuses or fails to serve for any reason, or for other good cause.

29 (2) Upon removal, resignation, or death of the receiver, the court  
30 shall appoint a successor receiver if the court determines that further  
31 administration of the estate is required. Upon executing and filing a  
32 bond under section 6 of this act, the successor receiver shall  
33 immediately take possession of the estate and assume the duties of  
34 receiver.

35 (3) Whenever the court is satisfied that the receiver so removed or  
36 replaced has fully accounted for and turned over to the successor  
37 receiver appointed by the court all of the property of the estate and

1 has filed a report of all receipts and disbursements during the  
2 person's tenure as receiver, the court shall enter an order discharging  
3 that person from all further duties, liabilities, and responsibilities  
4 as receiver after notice and a hearing, and upon finding that the  
5 receiver so removed or replaced has fully complied with this  
6 subsection, shall release any bond filed by such receiver under section  
7 6 of this act.

8 NEW SECTION. **Sec. 31.** A new section is added to chapter 7.60 RCW  
9 to read as follows:

10 **TERMINATION OF RECEIVERSHIP.** (1) Upon distribution or disposition  
11 of all property of the estate, or the completion of the receiver's  
12 duties with respect to estate property, the receiver shall move the  
13 court to be discharged upon notice and a hearing.

14 (2) The receiver's final report and accounting setting forth all  
15 receipts and disbursements of the estate shall be annexed to the  
16 petition for discharge and filed with the court.

17 (3) Upon approval of the final report, the court shall discharge  
18 the receiver and release the receiver's bond.

19 (4) The receiver's discharge releases the receiver from any further  
20 duties, liabilities, and responsibilities as receiver under this  
21 chapter.

22 (5) Upon motion of any party in interest, or upon the court's own  
23 motion, the court has the power to discharge the receiver and terminate  
24 the court's administration of the property over which the receiver was  
25 appointed. If the court determines that the appointment of the  
26 receiver was wrongfully procured or procured in bad faith, the court  
27 may assess against the person who procured the receiver's appointment  
28 (a) all of the receiver's fees and other costs of the receivership and  
29 (b) any other sanctions the court determines to be appropriate.

30 (6) Notice of any motion for termination of a receivership or  
31 discharge of a receiver shall be given to all persons interested in the  
32 receivership as far as they can conveniently be ascertained.

33 NEW SECTION. **Sec. 32.** A new section is added to chapter 7.60 RCW  
34 to read as follows:

35 **APPLICABILITY.** This chapter applies to receivers and receiverships  
36 otherwise provided for by the laws of this state except as otherwise

1 expressly provided for by statute or as necessary to give effect to the  
2 laws of this state. This chapter does not apply to any proceeding  
3 authorized by or commenced under Title 48 RCW.

4 **Sec. 33.** RCW 4.28.320 and 1999 c 233 s 1 are each amended to read  
5 as follows:

6 ~~((In an action affecting the title to real property the plaintiff,~~  
7 ~~at the time of filing the complaint, or at any time afterwards, or~~  
8 ~~whenever a writ of attachment of property shall be issued, or at any~~  
9 ~~time afterwards, the plaintiff or a defendant, when he sets up an~~  
10 ~~affirmative cause of action in his answer, and demands substantive~~  
11 ~~relief at the time of filing his answer, or at any time afterwards, if~~  
12 ~~the same be intended to affect real property,)) At any time after an~~

13 action affecting title to real property has been commenced, or after a  
14 writ of attachment with respect to real property has been issued in an  
15 action, or after a receiver has been appointed with respect to any real  
16 property, the plaintiff, the defendant, or such a receiver may file  
17 with the auditor of each county in which the property is situated a  
18 notice of the pendency of the action, containing the names of the  
19 parties, the object of the action, and a description of the real  
20 property in that county affected thereby. From the time of the filing  
21 only shall the pendency of the action be constructive notice to a  
22 purchaser or encumbrancer of the property affected thereby, and every  
23 person whose conveyance or encumbrance is subsequently executed or  
24 subsequently recorded shall be deemed a subsequent purchaser or  
25 encumbrancer, and shall be bound by all proceedings taken after the  
26 filing of such notice to the same extent as if he or she were a party  
27 to the action. For the purpose of this section an action shall be  
28 deemed to be pending from the time of filing such notice: PROVIDED,  
29 HOWEVER, That such notice shall be of no avail unless it shall be  
30 followed by the first publication of the summons, or by the personal  
31 service thereof on a defendant within sixty days after such filing.  
32 And the court in which the said action was commenced may, at its  
33 discretion, at any time after the action shall be settled, discontinued  
34 or abated, on application of any person aggrieved and on good cause  
35 shown and on such notice as shall be directed or approved by the court,  
36 order the notice authorized in this section to be canceled of record,

1 in whole or in part, by the county auditor of any county in whose  
2 office the same may have been filed or recorded, and such cancellation  
3 shall be evidenced by the recording of the court order.

4 **Sec. 34.** RCW 6.32.100 and 1893 c 133 s 10 are each amended to read  
5 as follows:

6 ~~((After a receiver has been appointed or a receivership has been  
7 extended to the special proceedings, the judge must, by order, direct  
8 the sheriff to pay the money, or the proceeds of the property,  
9 deducting his fees, to the receiver; or if the case so requires to  
10 deliver to the receiver the property in his hands. But if it appears  
11 to the satisfaction of the judge that an order appointing a receiver or  
12 extending a receivership is not necessary, he may, by an order reciting  
13 that fact,))~~ Unless a receiver has been appointed or extended with  
14 respect to money or property in the hands of the sheriff, the judge may  
15 direct the sheriff to apply the money ~~((so paid))~~, the property, or the  
16 proceeds of the property ~~((so delivered))~~, upon an execution in favor  
17 of the judgment creditor issued either before or after the payment or  
18 delivery to the sheriff.

19 **Sec. 35.** RCW 6.32.150 and 1893 c 133 s 15 are each amended to read  
20 as follows:

21 A special proceeding instituted as prescribed in this chapter may  
22 be discontinued at any time upon such terms as justice requires, by an  
23 order of the judge made upon the application of the judgment creditor.  
24 Where the judgment creditor unreasonably delays or neglects to proceed,  
25 or where it appears that ~~((his))~~ the judgment has been satisfied,  
26 ~~((his))~~ the special proceedings may be dismissed upon like terms by a  
27 like order made upon the application of the judgment debtor, or of  
28 plaintiff in a judgment creditor's action against the debtor, or of a  
29 judgment creditor who has instituted either of the special proceedings  
30 authorized by this chapter. ~~((Where an order appointing a receiver or  
31 extending a receivership has been made in the course of the special  
32 proceeding, notice of the application for an order specified in this  
33 section must be given in such manner as the judge deems proper, to all  
34 persons interested in the receivership as far as they can conveniently  
35 be ascertained.))~~



1        NOW, THEREFORE, the assignor, in consideration of the assignee's  
2 acceptance of this assignment, and for other good and valuable  
3 consideration, hereby grants, assigns, conveys, transfers, and sets  
4 over, unto the assignee, and the assignee's successors and assigns, all  
5 of assignor's property, except such property as is exempt by law from  
6 levy and sale under an execution (and then only to the extent of such  
7 exemption), including, but not limited to, all real property, fixtures,  
8 goods, stock, inventory, equipment, furniture, furnishings, accounts  
9 receivable, general intangibles, bank deposits, cash, promissory notes,  
10 cash value and proceeds of insurance policies, claims, and demands  
11 belonging to the assignor, wherever such property may be located  
12 (hereinafter collectively the "estate"), which property is, to the best  
13 knowledge and belief of the assignor, fully and accurately set forth on  
14 Schedule B annexed hereto.

15        By making this assignment, the assignor consents to the appointment  
16 of the assignee as a general receiver with respect to the assignee's  
17 property in accordance with Chapter 7.60 RCW.

18        The assignee shall take possession and administer the estate, and  
19 shall liquidate the estate with reasonable dispatch and convert the  
20 estate into money, collect all claims and demands hereby assigned as  
21 and to the extent they may be collectible, and pay and discharge all  
22 reasonable expenses, costs, and disbursements in connection with the  
23 execution and administration of this assignment from the proceeds of  
24 such liquidations and collections.

25        The assignee shall then pay and discharge in full, to the extent  
26 that funds are available in the estate after payment of administrative  
27 expenses, costs, and disbursements, all of the debts and liabilities  
28 now due from the assignor, including interest on such debts and  
29 liabilities in full, according to their priority as established by law,  
30 and on a pro rata basis within each class.

31        In the event that all debts and liabilities are paid in full, the  
32 remainder of the estate shall be returned to the assignor.

33        To accomplish the purposes of this assignment, the assignor hereby  
34 irrevocably appoints the assignee as the assignor's true and lawful  
35 attorney in fact, with full power and authority to do all acts and  
36 things which may be necessary to execute and fulfill the assignment



1 superior court in the county of the assignor's residence if the  
2 assignor is an individual or a marital community, or in the county of  
3 the assignor's principal place of business or registered office within  
4 this state if the assignor is any other person. A petition shall set  
5 forth the name and address of the assignor and the name and address of  
6 the assignee, and shall include a copy of the assignment and the  
7 schedules affixed thereto, and a request that the court fix the amount  
8 of the receiver's bond to be filed with the clerk of the court.

9 (4) A person to whom a general assignment of property for the  
10 benefit of creditors has been made shall be appointed as general  
11 receiver with respect to the assignor's property by the superior court  
12 upon the filing of a petition under subsection (3) of this section.  
13 Except as provided for by subsection (5) of this section, following the  
14 assignee's appointment as general receiver, all proceedings involving  
15 the administration of the assignor's property and the claims of the  
16 assignee's creditors shall be governed by the provisions of chapter  
17 7.60 RCW applicable to general receiverships and court rules applicable  
18 thereto.

19 (5) Upon ~~((the application))~~ motion of two or more creditors of  
20 ~~((said debtor therefor, by petition to the judge of the superior court~~  
21 ~~of the county in which such assignment is or should be recorded,))~~ the  
22 assignor served and filed at any time within thirty days ~~((from the~~  
23 ~~making or recording of such assignment))~~ following the date upon which  
24 notice is mailed to all known creditors under section 22 of this act,  
25 it shall be the duty of ~~((said superior judge))~~ the court to direct the  
26 clerk of ~~((said superior))~~ the court to order a meeting of the  
27 creditors of ~~((said debtors))~~ the assignor, to ~~((choose an assignee of~~  
28 ~~the estate of said debtor in lieu of))~~ determine whether a person other  
29 than the assignee named ~~((by the debtor in his))~~ in the assignment  
30 should be appointed as general receiver with respect to the property of  
31 the assignor; and thereupon the clerk of ~~((said))~~ the court shall  
32 ~~((forthwith))~~ immediately give notice to all the creditors ~~((of said~~  
33 ~~debtor))~~ identified in the schedules affixed to the assignment to meet  
34 at ~~((his))~~ the clerk's office or at such other location within the  
35 county as the clerk may specify, at a time stated~~((7))~~ not to exceed  
36 fifteen days from the date of such notice, to ~~((select one or more~~  
37 ~~assignees in the place of the assignee named by the debtor in his~~  
38 ~~assignment))~~ determine whether a person other than the assignee named

1 in the assignment should be appointed as general receiver with respect  
2 to the property of the assignor. ((Such)) The assignor's creditors may  
3 appear in person or by proxy at the meeting, and a majority in both  
4 number and value of ~~((said))~~ claims of the creditors attending ~~((such))~~  
5 or represented at the meeting ~~((shall))~~ may select ~~((one or more~~  
6 ~~assignees; and in the event that no one shall receive a majority vote~~  
7 ~~of said creditors who represent at least one half in amount of all~~  
8 ~~claims represented at such meeting, then, and in that event, said clerk~~  
9 ~~shall certify that fact to the judge of the superior court aforesaid,~~  
10 ~~and thereupon said superior judge shall select and appoint an assignee.~~

11 ~~When such assignee shall have been selected by such creditors, or~~  
12 ~~appointed by the superior judge as herein provided, then the assignee~~  
13 ~~named in the debtor's assignment shall forthwith make to the assignee~~  
14 ~~elected by the creditors or appointed by the superior judge, an~~  
15 ~~assignment and conveyance of all the estate, real and personal, that~~  
16 ~~has been assigned or conveyed to him by said debtor; and such assignee~~  
17 ~~so elected by the creditors or appointed by the superior judge, upon~~  
18 ~~giving the bond required of an assignee by RCW 7.08.010 through~~  
19 ~~7.08.170, shall possess all the powers, and be subject to all the~~  
20 ~~duties imposed by RCW 7.08.010 through 7.08.170, as fully to all~~  
21 ~~intents and purposes as though named in the debtor's assignment.))~~ a  
22 person other than the assignee named in the assignment to serve as  
23 general receiver with respect to the assignor's property, whereupon the  
24 court shall appoint the selected person as receiver under subsection  
25 (4) of this section if a receiver has not already been appointed, and  
26 shall appoint the person to replace the original assignee as receiver  
27 if the appointment already has been made, unless the court determines  
28 upon good cause shown that the appointment as receiver of the person  
29 selected by the creditors would not be in the best interests of  
30 creditors in general, in which event the court shall appoint or  
31 substitute as the receiver a person selected by the court other than  
32 the original assignee. If at least one-third of the number or amount  
33 of claims represented in person or by proxy at the meeting of creditors  
34 vote for the appointment as receiver of a person or persons other than  
35 the assignee named in the assignment, then the court upon motion of any  
36 creditor served and filed within ten days following the meeting shall  
37 appoint as receiver a person selected by the court other than the  
38 original assignee, discharging the original assignee if the person

1 previously was appointed as receiver. A creditor may not vote at any  
2 meeting of creditors called for the purpose of determining whether a  
3 person other than the assignee named in the assignment should be  
4 appointed as receiver, until the creditor has presented to the clerk,  
5 who presides at the meeting, a proof of claim in accordance with  
6 section 23 of this act.

7 ~~(6) From the time ((of the pending of an application to elect an~~  
8 ~~assignee by the creditors, and until the time shall be terminated by an~~  
9 ~~election or appointment as herein provided)) a motion is made to elect~~  
10 ~~a new assignee in accordance with subsection (5) of this section, and~~  
11 ~~until either the meeting of creditors occurs without a selection of a~~  
12 ~~new assignee, or until the court enters an order appointing as receiver~~  
13 ~~a person other than the original assignee if the creditors vote to~~  
14 ~~select a new assignee at that meeting, no property of the ((debtor))~~  
15 ~~assignor, except perishable property, ((shall)) may be sold or disposed~~  
16 ~~of by ((any)) the assignee, whether or not the assignee has been~~  
17 ~~appointed as receiver; but the same shall be safely and securely kept~~  
18 ~~until ((the election or appointment of an assignee as herein provided.~~  
19 ~~No creditor shall be entitled to vote at any such meeting called for~~  
20 ~~the purpose of electing an assignee, until he shall have presented to~~  
21 ~~the clerk of the superior court, who shall preside at such meeting, a~~  
22 ~~verified statement of his claim against the debtor)) then.~~

23 **Sec. 38.** RCW 7.56.110 and Code 1881 s 712 are each amended to read  
24 as follows:

25 If judgment be rendered against any corporation or against any  
26 persons claiming to be a corporation, the court may cause the costs to  
27 be collected by executions against the persons claiming to be a  
28 corporation or by attachment against the directors or other officers of  
29 the corporation, and shall restrain the corporation, ~~((appoint a~~  
30 ~~receiver of its property and effects,)) take an account, and make a~~  
31 distribution thereof among the creditors. The prosecuting attorney  
32 shall immediately institute proceedings for that purpose.

33 **Sec. 39.** RCW 11.64.022 and 1989 c 373 s 15 are each amended to  
34 read as follows:

35 If the surviving partner or partners fail or refuse to furnish an  
36 inventory or list of liabilities, to permit an appraisal, or to account

1 to the personal representative, or to furnish a bond when required  
2 pursuant to RCW 11.64.016, the court shall order a citation to issue  
3 requiring the surviving partner or partners to appear and show cause  
4 why they have not furnished an inventory list of liabilities, or  
5 permitted an appraisal or why they should not account to the personal  
6 representative or file a bond. The citation shall be served not less  
7 than ten days before the return day designated therein, or such shorter  
8 period as the court upon a showing of good cause deems appropriate. If  
9 the surviving partner or partners neglect or refuse to file an  
10 inventory or list of liabilities, or to permit an appraisal, or fail to  
11 account to the court or to file a bond, after they have been directed  
12 to do so, they may be punished for a contempt of court as provided in  
13 chapter 7.21 RCW. Where the surviving partner or partners fail to file  
14 a bond after being ordered to do so by the court, the court may also  
15 appoint a receiver of the partnership estate (~~with like powers and~~  
16 ~~duties of receivers in equity~~) under chapter 7.60 RCW, and may order  
17 the costs and expenses of the proceedings to be paid out of the  
18 partnership estate or out of the estate of the decedent, or by the  
19 surviving partner or partners personally, or partly by each of the  
20 parties.

21 **Sec. 40.** RCW 23B.14.320 and 1989 c 165 s 165 are each amended to  
22 read as follows:

23 (1) A court in a judicial proceeding brought to dissolve a  
24 corporation may appoint one or more receivers to wind up and liquidate,  
25 or one or more custodians to manage, the business and affairs of the  
26 corporation. The court shall hold a hearing, after notifying all  
27 parties to the proceeding and any interested persons designated by the  
28 court, before appointing a receiver or custodian. (~~The court~~  
29 ~~appointing a receiver or custodian has exclusive jurisdiction over the~~  
30 ~~corporation and all of its property wherever located.~~)

31 (2) The court may appoint an individual or a domestic or foreign  
32 corporation, authorized to transact business in this state, as a  
33 receiver or custodian. The court may require the receiver or custodian  
34 to post bond, with or without sureties, in an amount the court directs.

35 (3) The (~~court shall describe the powers and duties of the~~  
36 ~~receiver or custodian in its appointing order, which may be amended~~  
37 ~~from time to time. Among other powers:~~

1       ~~(a) The receiver (i) may dispose of all or any part of the assets~~  
2 ~~of the corporation wherever located, at a public or private sale, if~~  
3 ~~authorized by the court, and (ii) may sue and defend in the receiver's~~  
4 ~~own name as receiver of the corporation in all courts of this state;~~  
5 ~~and~~

6       ~~(b) The~~) receiver or custodian may exercise all of the powers of  
7 the corporation, through or in place of its board of directors or  
8 officers, to the extent necessary to manage the affairs of the  
9 corporation in the best interests of its shareholders and creditors.

10       (4) The court, during a receivership, may redesignate the receiver  
11 a custodian, and during a custodianship may redesignate the custodian  
12 a receiver, if doing so is in the best interests of the corporation,  
13 its shareholders, and creditors.

14       (5) The court from time to time during the receivership or  
15 custodianship may order compensation paid and expense disbursements or  
16 reimbursements made to the receiver or custodian and counsel from the  
17 assets of the corporation or proceeds from the sale of the assets.

18       **Sec. 41.** RCW 24.06.305 and 1969 ex.s. c 120 s 61 are each amended  
19 to read as follows:

20       (1) In proceedings to liquidate the assets and affairs of a  
21 corporation the court shall have the power to:

22       (a) Issue injunctions;

23       (b) Appoint a receiver or receivers pendente lite, with such powers  
24 and duties as the court may, from time to time, direct;

25       (c) Take such other proceedings as may be requisite to preserve the  
26 corporate assets wherever situated; and

27       (d) Carry on the affairs of the corporation until a full hearing  
28 can be had.

29       After a hearing had upon such notice as the court may direct to be  
30 given to all parties to the proceedings, and to any other parties in  
31 interest designated by the court, the court may appoint a receiver  
32 (~~with authority to collect the assets of the corporation. Such~~  
33 ~~receiver shall have authority, subject to the order of the court, to~~  
34 ~~sell, convey and dispose of all or any part of the assets of the~~  
35 ~~corporation wherever situated, either at public or private sale. The~~  
36 ~~order appointing such receiver shall state his powers and duties. Such~~

1 ~~powers and duties may be increased or diminished at any time during the~~  
2 ~~proceedings)).~~

3 (2) The assets of the corporation or the proceeds resulting from  
4 the sale, conveyance, or other disposition thereof shall be applied and  
5 distributed as follows:

6 (a) All costs and expenses of the court proceedings, and all  
7 liabilities and obligations of the corporation shall be paid, satisfied  
8 and discharged, or adequate provision made therefor;

9 (b) Assets held by the corporation upon condition requiring return,  
10 transfer, or conveyance, which condition occurs by reason of the  
11 dissolution or liquidation, shall be returned, transferred, or conveyed  
12 in accordance with such requirements;

13 (c) Remaining assets, if any, shall be distributed to the members,  
14 shareholders, or others in accordance with the provisions of the  
15 articles of incorporation.

16 (3) The court shall have power to make periodic allowances, as  
17 expenses of the liquidation and compensation to the receivers and  
18 attorneys in the proceeding accrue, and to direct the payment thereof  
19 from the assets of the corporation or from the proceeds of any sale or  
20 disposition of such assets.

21 ~~((A receiver appointed under the provisions of this section shall~~  
22 ~~have authority to sue and defend in all courts in his own name, as~~  
23 ~~receiver of such corporation. The court appointing such receiver shall~~  
24 ~~have exclusive jurisdiction of the corporation and its property,~~  
25 ~~wherever situated.))~~

26 NEW SECTION. Sec. 42. A new section is added to chapter 31.12 RCW  
27 to read as follows:

28 Except in cases in which a receiver is appointed by a court on a  
29 temporary basis under RCW 31.12.721, the provisions of Title 7 RCW  
30 generally applicable to receivers and receiverships do not apply to  
31 receivers elected or appointed under this chapter.

32 NEW SECTION. Sec. 43. A new section is added to chapter 35.07 RCW  
33 to read as follows:

34 The provisions of Title 7 RCW generally applicable to receivers and  
35 receiverships do not apply to receivers elected or appointed under this  
36 chapter.



1 (3) RCW 6.32.290 (Appointment of receiver--Notice) and 1893 c 133  
2 s 28;  
3 (4) RCW 6.32.300 (Effect on pending supplemental proceedings) and  
4 1893 c 133 s 29;  
5 (5) RCW 6.32.310 (Only one receiver may be appointed--Extending  
6 receivership) and 1893 c 133 s 30;  
7 (6) RCW 6.32.320 (Order, where to be filed) and 1893 c 133 s 31;  
8 (7) RCW 6.32.330 (Property vested in receiver) and 1893 c 133 s 32;  
9 (8) RCW 6.32.340 (Receiver's title extends back by relation) and  
10 1893 c 133 s 33;  
11 (9) RCW 6.32.350 (Records to be kept by clerk) and 2002 c 30 s 2 &  
12 1893 c 133 s 34;  
13 (10) RCW 7.08.020 (Assent of creditors presumed) and 1890 p 83 s 2;  
14 (11) RCW 7.08.050 (Inventory by assignee--Bond) and 1890 p 85 s 4;  
15 (12) RCW 7.08.060 (Notice to creditors) and 1890 p 85 s 5;  
16 (13) RCW 7.08.070 (List of creditors' claims) and 1890 p 85 s 6;  
17 (14) RCW 7.08.080 (Exceptions to claims) and 1957 c 9 s 7 & 1890 p  
18 85 s 7;  
19 (15) RCW 7.08.090 (Dividends--Final account--Compensation) and 1893  
20 c 26 s 1 & 1890 p 86 s 8;  
21 (16) RCW 7.08.100 (Assignee subject to court's control) and 1890 p  
22 86 s 9;  
23 (17) RCW 7.08.110 (Assignment not void, when) and 1957 c 9 s 8 &  
24 1890 p 86 s 10;  
25 (18) RCW 7.08.120 (Additional inventory) and 1890 p 86 s 11;  
26 (19) RCW 7.08.130 (Procedure on claims not due--Limitation on  
27 presentment of claims) and 1890 p 86 s 12;  
28 (20) RCW 7.08.140 (Authority of assignee to dispose of assets) and  
29 1890 p 87 s 13;  
30 (21) RCW 7.08.150 (Procedure when assignee dies, fails to act,  
31 misapplies estate, or if bond insufficient) and 1890 p 87 s 14;  
32 (22) RCW 7.08.170 (Discharge of assignor) and 1895 c 151 s 1 & 1890  
33 p 88 s 15;  
34 (23) RCW 7.08.180 (Sheriff disqualified from acting) and 1893 c 137  
35 s 1;  
36 (24) RCW 7.08.190 (Right of assignor to exemption) and 1897 c 6 s  
37 1;

1 (25) RCW 7.08.200 (Exemption, how claimed--Objections) and 1897 c  
2 6 s 2;  
3 (26) RCW 7.60.010 (Receiver defined) and 1891 c 52 s 1;  
4 (27) RCW 7.60.020 (Grounds for appointment) and 1998 c 295 s 18,  
5 1937 c 47 s 1, Code 1881 s 193, 1877 p 40 s 197, 1869 p 48 s 196, &  
6 1854 p 162 s 171;  
7 (28) RCW 7.60.030 (Oath--Bond) and Code 1881 s 194, 1877 p 41 s  
8 198, 1869 p 48 s 198, & 1854 p 162 s 173;  
9 (29) RCW 7.60.040 (Powers of receiver) and Code 1881 s 198, 1877 p  
10 41 s 202, 1869 p 49 s 202, & 1854 p 163 s 177;  
11 (30) RCW 7.60.050 (Order when part of claim admitted) and Code 1881  
12 s 199, 1877 p 41 s 203, 1869 p 49 s 203, & 1854 p 163 s 178;  
13 (31) RCW 23.72.010 (Definitions) and 1959 c 219 s 1 & 1941 c 103 s  
14 1;  
15 (32) RCW 23.72.020 (Action to recover--Limitation) and 1941 c 103  
16 s 2;  
17 (33) RCW 23.72.030 (Preference voidable, when--Recovery) and 1959  
18 c 219 s 2 & 1941 c 103 s 3;  
19 (34) RCW 23.72.040 (Mutual debts and credits) and 1941 c 103 s 4;  
20 (35) RCW 23.72.050 (Attorney's fees--Reexamination) and 1941 c 103  
21 s 5;  
22 (36) RCW 23.72.060 (Setoffs and counterclaims) and 1941 c 103 s 6;  
23 (37) RCW 24.03.275 (Qualification of receivers--Bond) and 1967 c  
24 235 s 56;  
25 (38) RCW 24.03.280 (Filing of claims in liquidation proceedings)  
26 and 1967 c 235 s 57;  
27 (39) RCW 24.03.285 (Discontinuance of liquidation proceedings) and  
28 1967 c 235 s 58;  
29 (40) RCW 24.03.310 (Powers of foreign corporation) and 1967 c 235  
30 s 63;  
31 (41) RCW 24.03.315 (Corporate name of foreign corporation--  
32 Fictitious name) and 1982 c 35 s 98 & 1967 c 235 s 64;  
33 (42) RCW 24.03.320 (Change of name by foreign corporation) and 1986  
34 c 240 s 44 & 1967 c 235 s 65;  
35 (43) RCW 87.56.070 (Qualifications, duties, compensation of  
36 receiver) and 1925 ex.s. c 124 s 8;  
37 (44) RCW 87.56.080 (Notice to creditors) and 1985 c 469 s 93 & 1925  
38 ex.s. c 124 s 9;

1 (45) RCW 87.56.085 (Notice to creditors--Contents) and 1925 ex.s.  
2 c 124 s 10;  
3 (46) RCW 87.56.090 (Unfiled claims barred--Effect of not filing  
4 claim of bond lien) and 1925 ex.s. c 124 s 11;  
5 (47) RCW 87.56.110 (Collection and disbursement of funds) and 1925  
6 ex.s. c 124 s 13;  
7 (48) RCW 87.56.120 (Receiver's report--Plan of liquidation) and  
8 1925 ex.s. c 124 s 14;  
9 (49) RCW 87.56.130 (Time for hearing receiver's report to be  
10 fixed--Notice) and 1985 c 469 s 94 & 1925 ex.s. c 124 s 15;  
11 (50) RCW 87.56.135 (Time for hearing receiver's report to be  
12 fixed--Contents) and 1925 ex.s. c 124 s 16;  
13 (51) RCW 87.56.140 (Objections to report) and 1925 ex.s. c 124 s  
14 17;  
15 (52) RCW 87.56.145 (Objections to report--Fee) and 1925 ex.s. c 124  
16 s 18;  
17 (53) RCW 87.56.150 (Hearing--Court's powers and duties) and 1925  
18 ex.s. c 124 s 19; and  
19 (54) RCW 87.56.155 (Decree--Plan of liquidation) and 1925 ex.s. c  
20 124 s 20.

21 NEW SECTION. **Sec. 48.** Captions used in this act are not part of  
22 the law.

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