AN ACT Relating to receiverships; amending RCW [ insert amended sections ] {if chapter 7.08 is amended to require disclosure of pre-assignment transfers, then a broader title will be necessary; probably either “relating to receiverships and assignments for creditors” or “relating to insolvency proceedings”}

Be it enacted by the Legislature of the State of Washington:

 NEW SECTION. **Sec. 1.** PURPOSE. [ purpose/preamble, if desired ]

 [Sec. \_\_\_. Reserved for addition to Chapter 7.08]

 **Sec. 2.** RCW 7.60.015 and 2004 c 165 s 3 are each amended to read as follows:

(1) A receiver must be either a general receiver or a custodial receiver

(a) A receiver must be a general receiver if the receiver is appointed to take possession and control of all or substantially all of a person's property with authority to liquidate that property and, in the case of a business over which the receiver is appointed, wind up affairs.

(b) A receiver must be a custodial receiver if the receiver:

(i) is appointed to take charge of limited or specific property of a person ((~~or~~)),

(ii) is not given authority to liquidate property, or

(iii) is given authority to sell real property only pursuant to RCW 7.60.260(2).

(c) When the sole basis for the appointment is the pendency of an action to foreclose upon a lien against real property, or the giving of a notice of a trustee's sale under RCW 61.24.040 or a notice of forfeiture under RCW 61.30.040, the court shall appoint the receiver as a custodial receiver.

(2) The court shall specify in the order appointing a receiver whether the receiver is appointed as a general receiver or as a custodial receiver. ((~~When the sole basis for the appointment is the pendency of an action to foreclose upon a lien against real property, or the giving of a notice of a trustee's sale under RCW 61.24.040 or a notice of forfeiture under RCW 61.30.040, the court shall appoint the receiver as a custodial receiver.~~))

(3) The court by order may convert either a general receivership or a custodial receivership into the other.

 **Sec. 3.** RCW 7.60.025 and 2011 c 214 s 27 are each amended to read as follows:

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

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

(b) Provisionally, after commencement of any judicial action or nonjudicial proceeding to foreclose upon any lien against or for forfeiture of any interest in real or personal property, on application of any person, when the interest in the property that is the subject of such an action or proceeding of the person seeking the receiver's appointment is determined to be probable and either:

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

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action or proceeding is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property. For purposes of this subsection (1)(b), a judicial action is commenced as provided in superior court civil rule 3(a), a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8), and a proceeding for forfeiture is commenced under chapter 61.30 RCW upon the recording of the notice of intent to forfeit described in RCW 61.30.060;

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

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

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

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

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

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

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

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

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

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

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

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

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

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

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

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

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under RCW 24.03.271, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

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

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

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW ap-plicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW. For purposes of this subsection (1)(ee), a judicial action is commenced as provided in superior court civil rule 3(a) and a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);

(ff) Under RCW 64.34.364(10), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units. For purposes of this subsection (1)(ff), a judicial action is commenced as provided in superior court civil rule (3)(a) and a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

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

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

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

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

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

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

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

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

(3) At least seven days' notice of any application for the appointment of a receiver must be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also must be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) If it appears to the court that the owner of property subject to an application for the appointment of a receiver has abandoned the property, the court may authorize that the notice required by subsection (3) of this section be provided by publication, consistent with the procedures prescribed by RCW 4.28.110 or by mail, consistent with the procedures prescribed in RCW 26.50.123, however, in advance of the return date for such service, the court shall have the ability to appoint a receiver if presented with exigent circumstances requesting such appointment, including those factors set forth in RCW 7.60.025(1)(g).

((~~4~~)) (5) The order appointing a receiver in all cases must reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

((~~5~~)) (6) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

 **Sec. 4.** RCW 7.60.055 and 2011 c 34 s 2 are each amended to read as follows:

(1) Except as otherwise provided for by this chapter, the court in all cases has exclusive authority over the receiver, and the exclusive possession and right of control with respect to all real property and all tangible and intangible personal property with respect to which the receiver is appointed, wherever located, and the exclusive jurisdiction to determine all controversies relating to the collection, preservation, application, and distribution of all the property, and all claims against the receiver arising out of the exercise of the receiver's powers or the performance of the receiver's duties. However, the court does not have exclusive jurisdiction over actions in which a state agency is a party and in which a statute expressly vests jurisdiction or venue elsewhere.

(2) For good cause shown, the court has the power to shorten or expand the time frames specified in this chapter.

(3) On motion by the receiver, and after notice and a hearing, the court may approve the receiver’s compromise or settlement of controversies. Notice of such motion shall be given to creditors, the person over whose property the receiver is appointed, and other interested parties as the court may direct. In deciding whether to approve any proposed settlement or compromise of a controversy, the court shall consider:

(a) The probability of the receiver’s success in the matter to be settled,

(b) If the matter involves a claim by the receiver, the receiver’s ability to collect or otherwise enforce a judgment in favor of the receiver, or otherwise realize upon the claim,

(c) If the matter involves the receiver’s defense of or opposition to a claim, the consequences to the receivership estate if the matter were to be resolved adversely to the receiver;

(d) The complexity of the litigation, including the expense, inconvenience, and delay attendant to further proceedings in the receivership action, and

(e) The interests otherwise of creditors generally, with appropriate deference to their reasonable views.

 **Sec. 5.** RCW 7.60.060 and 2004 c 165 s 8 are each amended to read as follows

(1) A receiver has the following powers and authority in addition to those specifically conferred by this chapter or otherwise by statute, court rule, or court order:

(a) The power to incur or pay expenses incidental to the receiver's preservation and use of the property with respect to which the appointment applies, and otherwise in the performance of the receiver's duties, including the power to pay obligations incurred prior to the receiver's appointment if and to the extent that payment is determined by the receiver to be prudent in order to preserve the value of property in the receiver's possession and, subject to the provision of RCW 7.60.180 (5), the funds used for this purpose are not subject to any lien or right of setoff in favor of a creditor who has not consented to the payment and whose interest is not otherwise adequately protected;

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

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

(d) The power to intervene in any action in which a claim is asserted against the person over whose property the receiver is appointed relating thereto, for the purpose of prosecuting or defending the claim and requesting the transfer of venue of the action to the court. However, the court shall not transfer actions in which both a state agency is a party and as to which a statute expressly vests jurisdiction or venue elsewhere. This power is exercisable with court approval in the case of a ((~~liquidating~~)) custodial receiver, and with or without court approval in the case of a general receiver;

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

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

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

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

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

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

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

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

(b) The duty to comply with state law;

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

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

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

 **Sec. 6.** RCW 7.60.100 and 2004 c 165 s 12 are each amended to read as follows:

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

((~~1~~)) (a) A balance sheet;

((~~2~~)) (b) A statement of income and expenses;

((~~3~~)) (c) A statement of cash receipts and disbursements;

((~~4~~)) (d) A statement of accrued accounts receivable of the receiver. The statement shall disclose amounts considered to be uncollectable;

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

((~~6~~)) (f) A tax disclosure statement, which shall list taxes due or tax deposits required since the entry of the order appointing the receiver, the name of the taxing agency, the amount due, the date due, and an explanation for any failure to make payments or deposits.

(2) A custodial receiver shall file with the court all such reports the court may require.

**Sec. 7.** RCW 7.60.110 and 2011 c 34 s 4 are each amended to read as follows:

(1) Except as otherwise ordered by the court, the entry of an order appointing a general receiver or a custodial receiver shall operate as a stay, applicable to all persons, of:

(a) The commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the person over whose property the receiver is appointed that was or could have been commenced before the entry of the order of appointment to the extent it affects or concerns estate property, or to recover a claim against the person that arose before the entry of the order of appointment against the property the receiver is appointed over;

(b) The enforcement, against the person over whose property ((~~the~~)) a general receiver is appointed or any estate property included in the receivership, of a judgment obtained before the order of appointment;

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

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

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

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

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

(a) The continuation of a judicial action or nonjudicial proceeding of the type described in RCW 7.60.025(1) (b), (ee), or (ff), if the action or proceeding was initiated by the party seeking the receiver's appointment;

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

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

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

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

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

(g) The exercise of a right of setoff, including but not limited to (i) any right of a commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to set off a claim for a margin payment or settlement payment arising out of a commodity contract, forward contract, or securities contract against cash, securities, or other property held or due from the commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to margin, guarantee, secure, or settle the commodity contract, forward contract, or securities contract, and (ii) any right of a swap participant to set off a claim for a payment due to the swap participant under or in connection with a swap agreement against any payment due from the swap participant under or in connection with the swap agreement or against cash, securities, or other property of the debtor held by or due from the swap participant to guarantee, secure, or settle the swap agreement; or

(h) The establishment by a governmental unit of any tax liability and any appeal thereof.

 **Sec. 8.** RCW 7.60.130 and 2011 c 34 s 5 are each amended to read as follows:

(1) A general receiver or a custodial receiver with power of sale may assume or reject any executory contract or unexpired lease with respect to such property over which the receiver is appointed, upon order of the court following notice to the other party to the contract or lease upon notice and a hearing. The court may condition assumption or rejection of any executory contract or unexpired lease on the terms and conditions the court believes are just and proper under the particular circumstances of the case. A ((~~general~~)) receiver's performance of an executory contract or unexpired lease prior to the court's authorization of its assumption or rejection shall not constitute an assumption of the contract or lease, or an agreement by the receiver to assume it, nor otherwise preclude the receiver thereafter from seeking the court's authority to reject it.

(2) Any obligation or liability incurred by a ((~~general~~)) receiver on account of the receiver's assumption of an executory contract or unexpired lease shall be treated as an expense of the receivership. A ((~~general~~)) receiver's rejection of an executory contract or unexpired lease shall be treated as a breach of the contract or lease occurring immediately prior to the receiver's appointment; and the receiver's right to possess or use property pursuant to any executory contract or lease shall terminate upon rejection of the contract or lease. The other party to an executory contract or unexpired lease that is rejected by a ((~~general~~)) receiver may take such steps as may be necessary under applicable law to terminate or cancel the contract or lease. The claim of a party to an executory contract or unexpired lease resulting from a ((~~general~~)) receiver's rejection of it shall be served upon the receiver in the manner provided for by RCW 7.60.210 within thirty days following the rejection.

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

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

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

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

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

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

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

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

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

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

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

then the purchaser, licensee, or lessee may treat the rejection as a termination of the contract, license agreement, or lease, or alternatively, the purchaser, licensee, or lessee may remain in possession in which case the purchaser, licensee, or lessee shall continue to perform all obligations arising thereunder as and when they may fall due, but may offset against any payments any damages occurring on account of the rejection after it occurs. The purchaser of real property in such a case is entitled to receive from the receiver any deed or any other instrument of conveyance which the person over whose property the receiver is appointed is obligated to deliver under the executory contract when the purchaser becomes entitled to receive it, and the deed or instrument has the same force and effect as if given by the person. A purchaser, licensee, or lessee who elects to remain in possession under the terms of this subsection has no rights against the receiver on account of any damages arising from the receiver's rejection except as expressly provided for by this subsection. A purchaser of real property who elects to treat rejection of an executory contract as a termination has a lien against the interest in that real property of the person over whose property the receiver is appointed for the recovery of any portion of the purchase price that the purchaser has paid. The rights and responsibilities of the tenant or a purchaser arising pursuant to RCW 61.24 *et. seq.* shall not be affected by this section.

(7) Any contract with the state shall be deemed rejected if not assumed within sixty days of appointment of a ((~~general~~)) receiver unless the receiver and state agency agree to its assumption or as otherwise ordered by the court for good cause shown.

(8) Nothing in this chapter affects the enforceability of antiassignment prohibitions provided under contract or applicable law.

 **Sec. 9** RCW 7.60.180 and 2004 c 165 s 20 are each amended to read as follows:

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

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

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

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

(5) Any secured creditor who has been served with actual notice of the receivership in the same manner as a summons under RCW 4.28.080 and fails to seek the removal of the receiver pursuant to RCW 7.08.030(5), seek the dismissal of the receivership or file an objection to the compensation of the receiver, within 30 days following the date upon which notice is served on it, shall be deemed to have consented to the receivership for purposes of RCW 7.60.230(b) if so indicated in the order appointing the receiver.

**NOTE: This is a new addition from Task Force and addresses the issue of non-consenting secured creditors who are potentially benefiting from the Receivership, however, they did not consent to the Receivership and under the current law may be able to avoid being surcharged for the Receivership estate’s professionals. Thus, a fair noticing procedure is recommended.**

 **Sec. 10.** RCW 7.60.190 and 2011 c 34 s 7 are each amended to read as follows:

(1) Creditors and parties in interest to whom written notice of the pendency of the receivership is given in accordance with RCW 7.60.210, and creditors or other persons submitting written claims in the receivership or otherwise appearing and participating in the receivership, are bound by the acts of the receiver with regard to management and disposition of estate property whether or not they are formally joined as parties.

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

(3) Any request for relief against a state agency shall be mailed to or otherwise served on the agency and on the office of the attorney general.

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

(( ~~(5) The receiver shall give not less than ten days' written notice by mail of any examination by the receiver of the person with respect to whose property the receiver has been appointed and to persons who serve and file an appearance in the proceeding.~~))

(( ~~(6) Persons on the master mailing list are entitled to not less than thirty days' written notice of the hearing of any motion or other proceeding involving any proposed:~~))

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

(( ~~(b) Abandonment, disposition, or distribution of estate property, other than an emergency disposition of property subject to eroding value or a disposition of property in the ordinary course of business;~~ ))

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

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

(( ~~(e) Application for termination of the receivership or discharge of the receiver. Notice of the application shall also be sent to state taxing and applicable regulatory agencies.~~ ))

((~~Any opposition to any motion to authorize any of the actions under (a) through (e) of this subsection must be filed and served upon the receiver and the receiver's attorney, if any, at least three days before the date of the proposed action. Persons on the master mailing list shall be served with all pleadings or in opposition to any motion. The court may require notice to be given to persons on the master mailing list of additional matters the court deems appropriate. The receiver shall make a copy of the current master mailing list available to any person on that list upon the person's request.~~ ))

(( ~~(7) All persons duly notified by the receiver of any hearing to approve or authorize an action or a proposed action by the receiver is bound by any order of the court with respect to the action, whether or not the persons have appeared or objected to the action or proposed action or have been joined formally as parties to the particular action.~~ ))

((~~(8) Whenever notice is not specifically required to be given under this chapter, the court may consider motions and grant or deny relief without notice or hearing, if it appears that no person joined as a party or who has appeared in the receivership would be prejudiced or harmed by the relief requested.~~))

 **Sec. 11.** RCW 7.60.200 and 2011 c 34 s 7 are each amended to read as follows:

(1) A general receiver and a custodial receiver with power of sale shall give notice of the receivership: (a) by publication in a newspaper of general circulation published in the county or counties in which estate property is known to be located once a week for three consecutive weeks, the first notice to be published within thirty days after the date of appointment of the receiver; and (b) by mailing notice to all known creditors and other known parties in interest within thirty days after the date of appointment of the receiver. The notice of the receivership shall include the date of appointment of the receiver; the name of the court and the case number; the last day on which claims may be ((~~filed with the court~~)) provided to the receiver and mailed to or served upon the receiver; and the name and address of the debtor, the receiver, and the receiver's attorney, if any. For purposes of this section, all intangible property of a person is deemed to be located in the county in which an individual owner thereof resides, or in which any entity owning the property maintains its principal administrative offices.

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

|  |
| --- |
| IN THE SUPERIOR COURT, IN AND FOR |
| \_\_\_\_\_\_\_\_\_\_ COUNTY, WASHINGTON |
| [Case Name] |   | ) |   | Case No. |
|   |  | ) |   |  |
|  |  | ) |   | NOTICE OF RECEIVERSHIP |
|   |  | ) |   |  |
|  |  | ) |   |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |   | ) |   |  |
|  |  |  |  |   |
|  | TO CREDITORS AND OTHER PARTIES IN INTEREST: |
|   |   |
|  | PLEASE TAKE NOTICE that a receiver was appointed for \_\_\_\_\_\_\_\_, whose last known address is \_\_\_\_\_\_\_\_\_\_\_\_, on \_\_\_\_\_\_, \_\_\_. |
|   |   |
|  | YOU ARE HEREBY FURTHER NOTIFIED that in order to receive any dividend in this proceeding you must ((~~file~~)) deliver a proof of claim ((~~with the court~~)) to the receiver within 30 days after the date of this notice. If you are a state agency, you must ((~~file~~)) deliver a proof of claim ((~~with~~)) to the receiver within 180 days after the date of this notice. ((~~A copy of your claim must also be either mailed to or served upon the receiver.~~)) |
|   |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|   |  | RECEIVER |
| Attorney for receiver (if any): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |   |
| Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |   |

NEW SECTION **Sec. 12.** RCW 7.60.205: Notice Requirements in Receiverships

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

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

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

(b) Abandonment, disposition, or distribution of estate property, other than an emergency disposition of property subject to eroding value or a disposition of property in the ordinary course of business;

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

; or

(d) Application for termination of the receivership or discharge of the receiver. Notice of the application shall also be sent to state taxing and applicable regulatory agencies.

Any opposition to any motion to authorize any of the actions under (a) through (e) of this subsection must be filed and served upon the receiver and the receiver's attorney, if any, at least three days before the date of the proposed action. Persons on the master mailing list shall be served with all pleadings or in opposition to any motion. The court may require notice to be given to persons on the master mailing list of additional matters the court deems appropriate. The receiver shall make a copy of the current master mailing list available to any person on that list upon the person's request.

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

(4) Notice of any motion not expressly provided for herein shall be made on such notice given in such manner as required under the applicable rules for non-dispositive motions in the superior court having jurisdiction over the receivership.

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

(6) Whenever a thirty (30) day notice is required under any provision of RCW 7.60, responses shall be filed eleven (11) calendar days prior to the hearing, and the moving party may file a brief in strict reply five (5) days prior to the hearing. For good cause shown, the court has the power to shorten or expand these time frames.

 **Sec. 13.** RCW 7.60.210 and 2004 c 165 s 23 are each amended to read as follows:

(1) All claims, whether contingent, liquidated, unliquidated, or disputed, other than claims of creditors with security interests in or other liens against property of the estate, arising prior to the receiver's appointment, must be served in accordance with this chapter, and any claim not so filed is barred from participating in any distribution to creditors in any general receivership or a custodial receivership when the court has granted the custodial receiver the power of sale. Custodial receivers shall not be required to solicit and administer claims unless surplus funds are received from such a sale. The court may relieve a custodial receiver from being required to solicit and administer claims upon a showing that the surplus funds would provide a *de minimus* distribution in relation to the administrative costs of administering claims.

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

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

(4) The receiver must provide all known creditors with a proof of claim form, [place holder – insert standard form or rulemaking delegation – consider Deskbook form]

((~~4~~)) (5) A claim, executed and served in accordance with this section, constitutes prima facie evidence of the validity and amount of the claim.

 **Sec. 14.** RCW 7.60.220 and 2004 c 165 s 24 are each amended to read as follows:

(1) At any time prior to the entry of an order approving the general receiver's final report, the ((~~general~~)) receiver or any party in interest may file with the court an objection to a claim, which objection must be in writing and must set forth the grounds for the objection. A copy of the objection, together with notice of hearing, must be mailed to the creditor at least thirty days prior to the hearing. Claims properly served upon the general receiver and not disallowed by the court are entitled to share in distributions from the estate in accordance with the priorities provided for by this chapter or otherwise by law.

(2) Upon the request of a creditor, the ((~~general~~)) receiver, or any party in interest objecting to the creditor's claim, or upon order of the court, an objection is subject to mediation prior to adjudication of the objection, under the rules or orders adopted or issued with respect to mediations. However, state claims are not subject to mediation absent agreement of the state.

(3) For a creditor to offset its claim against the purchase price at a sale described in RCW 7.60.260(4), the court must have, prior to such sale, following notice and a hearing enter an order allowing the creditor’s offsetting claim and fixing the amount thereof. {as written, this requires a *motion* prior the sale; should the actual order be required? And should this section or 7.60.260 establish more specific default timelines (i.e., for the sale process or the claims-allowance process)?}

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

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

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

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

 **Sec. 15.** RCW 7.60.230 and 2011 c 34 s 8 are each amended to read as follows:

(1) Allowed claims in a ((~~general~~)) receivership shall receive distribution under this chapter in the order of priority under (a) through (h) of this subsection and, with the exception of (a) and (c) of this subsection, on a pro rata basis.

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

(b) Actual, necessary costs and expenses incurred during the administration of the estate, other than those expenses allowable under (a) of this subsection, including allowed fees and reimbursement of reasonable charges and expenses of the receiver and professional persons employed by the receiver under RCW 7.60.180. Notwithstanding (a) of this subsection, expenses incurred during the administration of the estate have priority over the secured claim of any creditor obtaining or consenting to the appointment of the receiver.

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

(d) Claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within one hundred eighty days of the date of appointment of the receiver or the cessation of the estate's business, whichever occurs first, but only to the extent of ten thousand nine hundred fifty dollars.

(e) Allowed unsecured claims, to the extent of two thousand four hundred twenty-five dollars for each individual, arising from the deposit with the person over whose property the receiver is appointed before the date of appointment of the receiver of money in connection with the purchase, lease, or rental of property or the purchase of services for personal, family, or household use by individuals that were not delivered or provided.

(f) Claims for a support debt as defined in RCW 74.20A.020(10), but not to the extent that the debt (i) is assigned to another entity, voluntarily, by operation of law, or otherwise; or (ii) includes a liability designated as a support obligation unless that liability is actually in the nature of a support obligation.

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

(h) Other unsecured claims.

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

 **Sec. 16.** RCW 7.60.250 and 2004 c 165 s 27 are each amended to read as follows:

To the extent. If there are sufficient funds in the estate to fully pay all interest owing to all members of the class, then interest shall be paid proportionately to each member of the class.

To the extent ((~~that funds are available in the estate for distribution to creditors in a general receivership, the holder of an allowed noncontingent, liquidated claim is entitled to receive interest at the legal rate or other applicable rate from the date of appointment of the receiver or the date on which the claim became a noncontingent, liquidated claim~~)) that an allowed secured claim is secured by property the value of which, after payment of any administrative expenses that are senior to such secured claim pursuant to RCW 7.60.230(1)(b), is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement or statute under which such claim arose. If there are sufficient funds in the estate to fully pay all interest owing to all members of the class, then interest shall be paid proportionately to each member of the class.

 **Sec. 17.** RCW 7.60.260 and 2011 c 34 s 9 are each amended to read as follows:

(1) ((~~The~~)) A general receiver, with the court's approval after notice and a hearing, may use, sell, or lease estate property other than in the ordinary course of business. ((~~Except in the case of a leasehold estate with a remaining term of less than two years or a vendor's interest in a real estate contract, estate property consisting of real property may not be sold by a custodial receiver other than in the ordinary course of business.~~))

(2) When the basis for the appointment of a custodial receiver is either (i) the pendency of an action to foreclose upon a lien against or the forfeiture of an interest in personal or real property, or (ii) after judgment, in order to give effect to the judgment against personal or real property, the court may grant the custodial receiver the power of sale, provided that the custodial receiver with power of sale complies with the notice requirements in RCW 7.60.200, and the real property is not owner-occupied residential real property. In all other cases, a custodial receiver may not sell real property other than in the ordinary course of business or in the case of a leasehold estate with a remaining term of less than two years or a vendor’s interest in a real estate contract, unless otherwise ordered pursuant to RCW 7.60.060(3).

((~~2~~)) (3) The court may order that a ((~~general~~)) receiver's sale of estate property either (a) under subsection (1) or (2) of this section, or (b) consisting of property which the debtor intended to sell in its ordinary course of business be effected free and clear of liens and of all rights of redemption, whether or not the sale will generate proceeds sufficient to fully satisfy all claims secured by the property, unless either:

(i) The real property is real property used principally in the production of crops, livestock, or aquaculture, or the property is a homestead under RCW 6.13.010(1), and the owner of the property has not consented to the sale following the appointment of the receiver provided, however, that if the receivership is initiated pursuant to an assignment for the benefit of creditors, the assignee shall be deemed to have consented for purposes of this subsection; or

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

Upon any sale free and clear of liens authorized by this section, all security interests and other liens encumbering the property conveyed transfer and attach to the proceeds of the sale, net of reasonable expenses incurred in the disposition of the property, in the same order, priority, and validity as the liens had with respect to the property immediately before the conveyance. The court may authorize the receiver at the time of sale to satisfy, in whole or in part, any allowed claim secured by the property out of the proceeds of its sale if the interest of any other creditor having a lien against the proceeds of the sale would not thereby be impaired.

((~~3~~)) (4) At a public sale of property under subsection (1) or (2) of this section, a creditor with an allowed claim secured by a lien against the property to be sold may bid at the sale of the property. A secured creditor who purchases the property from a receiver may offset against the purchase price its allowed secured claim against the property, provided that claim has been allowed pursuant to RCW 7.60.220(3) and the secured creditor tenders cash sufficient to satisfy in full all secured claims payable out of the proceeds of sale having priority over the secured creditor's secured claim. If the lien or the claim it secures is the subject of a bona fide dispute, the court may order the holder of the claim to provide the receiver with adequate security to assure full payment of the purchase price in the event the lien, the claim, or any part thereof is determined to be invalid or unenforceable.

((~~4~~)) (5) If estate property includes an interest as a co-owner of property, the receiver shall have the rights and powers of a co-owner afforded by applicable state or federal law, including but not limited to any rights of partition.

((~~5~~)) (6) The reversal or modification on appeal of an authorization to sell or lease estate property under this section does not affect the validity of a sale or lease under that authorization to a buyer that purchased or leased the property in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and sale or lease were stayed pending the appeal.

 **Sec. 18.** RCW 7.60.290 and 2004 c 165 s 31 are each amended to read as follows:

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

(2) The ((~~receiver's final report and accounting setting forth all receipts and disbursements of the estate shall be annexed to the petition for discharge and filed with the court~~)) receiver’s final report and accounting setting forth all receipts and disbursements of the estate shall be annexed to the motion for the receiver’s discharge and termination of the receivership.

(3) Upon approval of the final report, the court shall discharge the receiver.

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

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

 {**Sec. 19.** [if necessary, insert effective date clause; otherwise effective 90 days after adjournment *sine die*]}

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| --- |
|  |

EXHIBIT A – PROOF OF CLAIM FORM

SUPERIOR COURT, COUNTY,

STATE OF WASHINGTON

|  |  |
| --- | --- |
| In re:  | Case No. **PROOF OF CLAIM** |

|  |  |
| --- | --- |
| **Name of Creditor** (The person or other entity to whom the debtor owes money or property): | 🞏 Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.🞏 Check box if you have never received any notices from the court in this case.🞏 Check box if the address differs from the address on the envelope sent to you with this Proof of Claim. |
| Name and address where notices should be sent:Telephone number: |
| Account or other number by which creditor identifies debtor: | Check here if this claim:🞏 Replaces 🞏 Amends a previously filed claim dated: \_\_\_\_\_\_\_\_ |
| 1. **Basis for Claim:*** Goods sold 🞏 Retiree benefits
* Services performed 🞏 Wages, salaries, benefits and commissions
* Money loaned
* Personal injury/wrongful death
* Taxes Unpaid compensation for services performed from

🞏 Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) (date) |
| 2. **Date debt was incurred:**  | 3. **If court judgment, date obtained:**  |
| 4. **Total amount of Claim at Time Case Filed:** **$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. 🞏 Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges. |
| 5. **Secured Claim.**  🞏 Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: 🞏 Real Estate 🞏 Motor Vehicle 🞏 Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Value of Collateral: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Amount of arrearage and other charges at time case filed included in secured claim, if any: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | 6. **Unsecured Priority Claim.**🞏 Check this box if you have an unsecured priority claim. Amount entitled to priority: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Specify the priority of the claim:🞏 Wages, salaries, or commissions, including vacation, severance, and sick leave pay🞏 Contributions to an employee benefit plan🞏 Deposits toward purchase, lease, or rental of property or purchase of services for personal, family, or household use🞏 Obligation to provide for the necessary care, support, and maintenance of a dependent child or other person as required by law🞏 Taxes or penalties owed to governmental units🞏 Other – Specify applicable law: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 7. **Credits:** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.8. **Supporting Documents: *Attach copies of supporting documents***, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.9. **Date-Stamped Copy:** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim. |
| Date: | **Sign** and **print** the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): |

GSB: 7244563.1

LPPC: 6694209.1