

Chapter Listing | RCW Dispositions

Chapter 7.60 RCW

RECEIVERS

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7.60.005

Definitions.

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

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

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

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

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

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

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

(7) "Notice and a hearing" or any similar phrase means notice and opportunity for a hearing.

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

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

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

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

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

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

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

7.60.015

Types of receivers.

A receiver ~~must be either a general receiver or a custodial receiver. A receiver must be a general receiver if the receiver~~ is appointed to take possession and control of (1) 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; or (ii) limited or specific property of a person as generally described by order of the court appointing the receiver.

A receiver must be either a general receiver or a custodial receiver.

(a) A general receiver shall be appointed with authority to liquidate property and, in the case of a business over which the receiver is appointed, to wind up affairs. The authority to liquidate property shall be limited to the specific property that the receiver has taken possession and control over pursuant to the appointment order.

(b) A custodial receiver shall not be given authority to liquidate property. A receiver must be a custodial receiver if the receiver is appointed to take

~~charge of limited or specific property of a person or is not given authority to liquidate property.~~

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

7.60.025

Appointment of receiver.

(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 insolvency;

(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 applicable 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) 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) 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.

7.60.035

Eligibility to serve as receiver.

Except as provided in this chapter or otherwise by statute, any person, whether or not a resident of this state, may serve as a receiver, with the exception that a person may not be appointed as a receiver, and shall be replaced as receiver if already appointed, if it should appear to the court that the person:

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

(2) Is a party to the action, or is a parent, grandparent, child, grandchild, sibling, partner, director, officer, agent, attorney, employee, secured or unsecured creditor or lienor of, or holder of any equity interest in, or controls or is controlled by, the person whose property is to be held by the receiver, or who is the agent or attorney of any disqualified person;

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

(4) Is the sheriff of any county.

7.60.045

Receiver's bond.

Except as otherwise provided for by statute or court rule, before entering upon duties of receiver, a receiver shall execute a bond with one or more sureties that

are duly licensed to transact business in the State of Washington ~~approved by the~~

~~court~~, in the amount the court specifies, conditioned that the receiver will faithfully discharge the duties of receiver in accordance with orders of the court and state law.

Unless otherwise ordered by the court, the receiver's bond runs in favor of all persons having an interest in the receivership proceeding or property held by the receiver and in favor of state agencies. The receiver's bond must provide substantially as follows:

[Case Caption]

RECEIVER'S BOND TO
WHOM IT MAY CONCERN:

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

Dated this ... day of,

.....
[Signature of Receiver]

.....
[Signature of Surety]

The court, in lieu of a bond, may approve the posting of alternative security, such as a letter of credit or a deposit of funds with the clerk of the court, to be held by the clerk to secure the receiver's faithful performance of the receiver's duties in accordance with orders of the court and state law until the court authorizes the release or return of the deposited sums. No part of the property over which the receiver is appointed may be used in making the deposit; however, any interest that may accrue on a deposit ordered

by the court shall be remitted to the receiver upon the receiver's discharge. A claim against the bond shall be made prior to approval of the receiver's final report~~within one year from the date the receiver is discharged~~. Claims by state agencies against the bond shall have priority.

7.60.055

Powers of the court.

(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.

7.60.060

Powers and duties of receiver generally.

(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 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 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; provided that a custodial receiver shall not be given authority to liquidate property.

7.60.070

Turnover of property.

Upon demand by a receiver appointed under this chapter, any person shall turn over any property over which the receiver has been appointed that is within the possession or control of that person unless otherwise ordered by the court for good cause shown. A receiver by motion may seek to compel turnover of estate property unless there exists a bona fide dispute with respect to the existence or nature of the receiver's interest in the property, in which case turnover shall be sought by means of an action under RCW **7.60.160**. In the absence of a bona fide dispute with respect to the receiver's right to possession of estate property, the failure to relinquish possession and control to the receiver shall be punishable as a contempt of the court.

7.60.080

Duties of person over whose property the receiver is appointed.

The person over whose property the receiver is appointed shall:

- (1) Assist and cooperate fully with the receiver in the administration of the estate and the discharge of the receiver's duties, and comply with all orders of the court;
- (2) Supply to the receiver information necessary to enable the receiver to complete any schedules that the receiver may be required to file under RCW **7.60.090**, and otherwise assist the receiver in the completion of the schedules;
- (3) Upon the receiver's appointment, deliver into the receiver's possession all of the property of the estate in the person's possession, custody, or control, including, but not limited to, all accounts, books, papers, records, and other documents; and

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

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

7.60.090

Schedules of property and liabilities—Inventory of property—Appraisals.

(1) In the event of a general assignment of property for the benefit of creditors under chapter **7.08** RCW, the assignment shall have annexed as schedule A a true list of all of the person's known creditors, their mailing addresses, the amount and nature of their claims, and whether their claims are disputed; and as schedule B a true list of all property of the estate, including the estimated liquidation value and location of the property and, if real property, a legal description thereof, as of the date of the assignment.

(2) In all other cases, within thirty-five days after the date of appointment of a general receiver, the receiver shall file as schedule A a true list of all of the known creditors and applicable regulatory and taxing agencies of the person over whose assets the receiver is appointed, their mailing addresses, the amount and nature of their claims, and whether their claims are disputed; and as schedule B a true list of all

property of the estate identifiable by the receiver, including the estimated liquidation value and location of the property and, if real property, a legal description thereof, as of the date of appointment of the receiver.

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

SCHEDULE A—CREDITOR LIST

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

Name	Address	Amount	Collateral	Whether or not disputed
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2. List all wages, salaries, commissions, or contributions to an employee benefit plan owed, showing:

Name	Address	Amount	Whether or not disputed
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3. List all consumer deposits owed, showing:

Name	Address	Amount	Whether or not disputed
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4. List all taxes owed, showing:

Name	Address	Amount	Whether or not disputed
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5. List all unsecured claims, showing:

Name	Address	Amount	Whether or not disputed
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6. List all owners or shareholders, showing:

Name	Address	Percentage of Ownership
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7. List all applicable regulatory agencies, showing:

Name	Address
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SCHEDULE B—LIST OF PROPERTY

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

I. Nonexempt Property

	Description	Liquidation Value on Date of Assignment/Appointment of
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Location	Receiver
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1. Legal
Description and street address of real property, including leasehold interests:

2. Fixtures:
3. Cash and bank accounts:

4. Inventory:
5. Accounts receivable:
6. Equipment:
7. Prepaid expenses, including deposits, insurance, rents, and utilities:

8. Other, including loans to third parties, claims, and choses in action:

II. Exempt Property

Description	Liquidation Value on Date of and Assignment/Appointment of Location Receiver
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I DECLARE under penalty of perjury under the laws of the state of Washington that the foregoing is true, correct, and complete to the best of my knowledge. DATED this . . . day of,, at, state of

.
[SIGNATURE]

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

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

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

7.60.100

Receiver's reports.

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 balance sheet;
- (2) A statement of income and expenses;
- (3) A statement of cash receipts and disbursements;
- (4) A statement of accrued accounts receivable of the receiver. The

statement shall disclose amounts considered to be uncollectable;

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

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

7.60.110

Automatic stay of certain proceedings.

(1) Except as otherwise ordered by the court, the entry of an order appointing a general receiver or a custodial receiver ~~with respect to all of a person's property~~ shall operate as a stay as to all property over which the receiver is appointed, 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 a general receiver is appointed, or any estate property included in the receivership, ~~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, or to recover a claim against ~~such~~the person or estate property that arose before the entry of the order of appointment;

(b) The enforcement, against the person over whose property ~~a general~~the 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 ~~estate property~~the person that arose before the entry of the order of appointment.

(2) The stay provisions set forth in subsection (1) of this section ~~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 remain in effect throughout the pendency of the receivership case, however, 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.

(h) (4) Notwithstanding any other language herein, the stay provisions set forth in subsection (1) of this section do not apply to property that is abandoned or otherwise removed from the receivership estate.

7.60.120

Utility service.

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

7.60.130**Executory contracts and unexpired leases.**

(1) A general receiver may assume or reject any executory contract or unexpired lease of the person over whose property 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.

(7) If the receiver rejects an unexpired lease of real property, on which a cannabis producer, processor, or retail license has been issued by the Washington State Liquor and Cannabis Board under RCW 69.50.325, the rejection of that unexpired lease shall be considered an eviction, outside of the licensee's control and the licensee shall be eligible for a temporary discontinued business license status from the Washington State Liquor and Cannabis Board.

(7)(8) 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)(9)~~ Nothing in this chapter affects the enforceability of antiassignment prohibitions provided under contract or applicable law.

7.60.140

Receivership financing.

(1) If a receiver is authorized to operate the business of a person or manage a person's property, the receiver may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under RCW **7.60.230(1)(a)** as an administrative expense of the receiver without order of the court.

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

7.60.150

Abandonment of property.

The receiver, or any party in interest, upon order of the court following notice and a hearing, and upon the conditions or terms the court considers just and proper, may abandon any estate property that is burdensome to the receiver or is of inconsequential value or benefit. However, a receiver may not abandon property that

is a hazard or potential hazard to the public in contravention of a state statute or rule that is reasonably designed to protect the public health or safety from identified hazards, including but not limited to chapters **70.105** and **70.105D** RCW. Property that is abandoned no longer constitutes estate property.

7.60.160

Actions by and against the receiver or affecting property held by receiver.

(1) The receiver has the right to sue and be sued in the receiver's capacity as such, without leave of court, in all cases necessary or proper for the conduct of the receivership. However, action seeking to dispossess the receiver of any estate property or otherwise to interfere with the receiver's management or control of any estate property may not be maintained or continued unless permitted by order of the court obtained upon notice and a hearing.

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

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

(4) Venue for adjunct litigation by or against the receiver shall lie in the court in which the receivership is pending, if the courts of this state have jurisdiction over the cause. Actions in other courts in this state shall be transferred to the court upon the receiver's filing of a motion for change of venue, provided that the receiver files the motion within thirty days following service of original process upon the receiver. However, actions in other courts or forums in which a state agency is a party shall not be transferred on request of the receiver absent consent of the affected state agency or grounds provided under other applicable law.

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

(6) Whenever the assets of any domestic or foreign corporation, that has been doing business in this state, has been placed in the hands of any general receiver and the receiver is in possession of its assets, service of all process upon the corporation may be made upon the receiver.

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

and a hearing.

7.60.170

Personal liability of receiver.

(1)(a) The receiver is personally liable to the person over whose property the receiver is appointed or its record or beneficial owners, or to the estate, for loss or diminution in value of or damage to estate property, only if (i) the loss or damage is caused by a failure on the part of the receiver to comply with an order of the court, or (ii) the loss or damage is caused by an act or omission for which members of a board of directors of a business corporation organized and existing under the laws of this state who vote to approve the act or omission are liable to the corporation in cases in which the liability of directors is limited to the maximum extent permitted by RCW

23B.08.320.

(b) A general receiver is personally liable to state agencies for failure to remit sales tax collected after appointment. A custodial receiver is personally liable to state agencies for failure to remit sales tax collected after appointment with regard to assets administered by the receiver.

(2) The receiver has no personal liability to a person other than the person over whose property the receiver is appointed or its record or beneficial owners for any loss or damage occasioned by the receiver's performance of the duties imposed by the appointment, or out of the receiver's authorized operation of any business of a person, except loss or damage occasioned by fraud on the part of the receiver, by acts intended by the receiver to cause loss or damage to the specific claimant, or by acts or

omissions for which an officer of a business corporation organized and existing under the laws of this state are liable to the claimant under the same circumstances.

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

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

7.60.180

Employment and compensation of professionals.

(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.

~~(4)(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.

7.60.190

Participation of creditors and parties in interest in receivership proceeding—

Effect of court orders on nonparties.

(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. The receiver shall make a copy of the current master mailing list available to any person on that list upon the person's request~~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)(7) 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.~~

7.60.200

Notice to creditors and other parties in interest.

(1) A general receiver shall give notice of the receivership 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 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 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 proof of claim with the court within 30 days after the date of this notice. If you are a state agency, you must file proof of claim with 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: _____

7.60.205

(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, to such person and to all persons who have served and filed 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~~ Notice of the hearing of any motion or other proceeding involving any proposed:

(a) Allowance or disallowance of any claim or claims shall be given to all persons on the master mailing list and to any person whose claim may be allowed or disallowed at such hearing;

(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, shall be given to all persons on the master mailing list and to any person who has asserted a security interest in the estate property to be abandoned, disposed of, or distributed;

(c) Compromise or settlement of a controversy that might affect the distribution to creditors from the estate shall be given to all persons on the master mailing list;

~~;~~ and

(d) Application for termination of the receivership or discharge of the receiver shall be given to all persons on the master mailing list and to ~~;~~ Notice of the application shall also be sent to state taxing and applicable regulatory agencies.

Notice of the hearing of a motion under this subsection shall be given by mail at least thirty days before such hearing.

Any ~~opposition~~ response to any motion to authorize any of the actions under (a) through (ed) of this subsection must be filed and served by mail upon the receiver, ~~and~~ the receiver's attorney, ~~if any~~ (if any), and all persons entitled to notice of the motion ~~at least three days before the date of the proposed action~~. 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, and regardless of whether or not the person is entitled to notice of a hearing under this section. ~~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 and served 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.

7.60.210

Submission of claims in general receiverships.

(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.

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

7.60.220

Objection to and allowance of claims.

(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) 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.

7.60.230

Priorities.

(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.

7.60.240

Secured claims against after-acquired property.

Except as otherwise provided for by statute, property acquired by the estate or by the person over whose property the receiver is appointed after the date of appointment of the receiver is subject to an allowed secured claim to the same extent as would be the case in the absence of a receivership.

7.60.250

Interest on claims.

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. 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.

7.60.260

Receiver's disposition of property—Sales free and clear.

(1) The general receiver, with the court's approval after notice and a hearing, may use, sell, or lease estate property which the receiver has taken possession and control of, 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, e~~ Estate property ~~consisting of real property~~ may not be sold by a custodial receiver ~~other than in the ordinary course of business~~. The general receiver shall provide notice of the sale of property to any one or more of the guarantors of a loan secured by the property being sold at the same time as notice is given to the grantor. Guarantors of a loan secured by the property to be sold shall have standing to object to the proposed sale. If a guarantor objects, the Court shall determine the fair value of the property, as set forth in RCW 61.24.100(5) and 61.12.060, and shall also determine the correlating amount of any loan deficiency, assuming the proposed sale of property is closed on the terms approved by the Court.

(2) The court may order that a general receiver's sale of estate property either (a) under subsection (1) of this section, or (b) consisting of real 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 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; 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) At a public sale of property under subsection (1) 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 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) 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) 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 an entity 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.

7.60.270

Ancillary receiverships.

(1) A receiver appointed in any action pending in the courts of this state, without first seeking approval of the court, may apply to any court outside of this state for appointment as receiver with respect to any property or business of the person over whose property the receiver is appointed constituting estate property which is located in any other jurisdiction, if the appointment is necessary to the receiver's possession, control, management, or disposition of property in accordance with orders of the court.

(2) A receiver appointed by a court of another state, or by a federal court in any district outside of this state, or any other person having an interest in that proceeding, may obtain appointment by a superior court of this state of that same receiver with respect to any property or business of the person over whose property the receiver is appointed constituting property of the foreign receivership that is located in this jurisdiction, if the person is eligible under RCW **7.60.035** to serve as receiver, and if the appointment is necessary to the receiver's possession, control, or disposition of the property in accordance with orders of the court in the foreign proceeding. The superior court upon the receiver's request shall enter the orders, not offensive to the laws and public policy of this state, necessary to effectuate orders

entered by the court in the foreign receivership proceeding. A receiver appointed in an ancillary receivership in this state is required to comply with this chapter requiring notice to creditors or other parties in interest only as may be required by the superior court in the ancillary receivership.

7.60.280

Resignation or removal of receiver.

(1) The court shall remove or replace the receiver on application of the person over whose property the receiver is appointed, the receiver, or any creditor, or on the court's own motion, if the receiver fails to execute and file the bond required by RCW **7.60.045**, or if the receiver resigns or refuses or fails to serve for any reason, or for other good cause.

(2) Upon removal, resignation, or death of the receiver, the court shall appoint a successor receiver if the court determines that further administration of the estate is required. Upon executing and filing a bond under RCW **7.60.045**, the successor receiver shall immediately take possession of the estate and assume the duties of receiver.

(3) Whenever the court is satisfied that the receiver so removed or replaced has fully accounted for and turned over to the successor receiver appointed by the court all of the property of the estate and has filed a report of all receipts and disbursements during the person's tenure as receiver, the court shall enter an order discharging that person from all further duties and responsibilities as receiver after

notice and a hearing.

7.60.290

Termination of receivership.

(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.

(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.

7.60.300

Applicability.

This chapter applies to receivers and receiverships otherwise provided for by the laws of this state except as otherwise expressly provided for by statute or as necessary to give effect to the laws of this state. This chapter does not apply to any proceeding authorized by or commenced under Title **48** RCW.