

An Act

HOUSE BILL 25-1224

BY REPRESENTATIVE(S) Titone and Soper, Bacon, Lindstedt, Marshall,
Ricks, McCluskie, Joseph;
also SENATOR(S) Snyder, Kipp.

CONCERNING MODIFICATION OF THE "REVISED UNIFORM UNCLAIMED
PROPERTY ACT".

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

SECTION 1. In Colorado Revised Statutes, 10-15-111.7, **amend**
(2) introductory portion and (3) as follows:

**10-15-111.7. Disposition of unclaimed preneed funeral contracts
- unclaimed property trust fund.** (2) EXCEPT AS OTHERWISE SPECIFIED IN
SECTION 38-13-201 (1)(m) FOR A LEGACY PRENEED CONTRACT, AS DEFINED
IN SECTION 38-13-102 (13.3), a preneed contract for funeral services is
unclaimed at the earlier of the following:

(3) EXCEPT AS OTHERWISE SPECIFIED IN SECTION 38-13-406 (1) FOR
A LEGACY PRENEED CONTRACT, AS DEFINED IN SECTION 38-13-102 (13.3),
for purposes of this section, the amount reportable for an unclaimed preneed
contract is the amount paid by the ~~purchaser~~ CONTRACT BUYER to the

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes
through words or numbers indicate deletions from existing law and such material is not part of
the act.*

contract seller, less selling costs not to exceed fifteen percent of the total preneed contract price, liquidated damages, and contractual offsets, as authorized by law.

SECTION 2. In Colorado Revised Statutes, 38-13-102, **amend** (32) introductory portion, (32)(c), and (32)(d); and **add** (5.5), (13.3), (13.5), and (32)(e) as follows:

38-13-102. Definitions. As used in this article 13, unless the context otherwise requires:

(5.5) "CRYPTOCURRENCY" MEANS A DIGITAL CURRENCY IN WHICH TRANSACTIONS ARE VERIFIED AND RECORDS ARE MAINTAINED BY A DECENTRALIZED SYSTEM USING A BLOCKCHAIN RATHER THAN BY A CENTRALIZED AUTHORITY.

(13.3) "LEGACY PRENEED CONTRACT" MEANS A PRENEED CONTRACT, AS DEFINED IN SECTION 10-15-102 (13), INCLUDING BOTH A PRENEED CONTRACT FOR FUNERAL MERCHANDISE AND SERVICES AND A PRENEED CONTRACT FOR CEMETERY MERCHANDISE AND SERVICES, THAT WAS ENTERED INTO BEFORE AUGUST 10, 2022.

(13.5) "LEGACY PRENEED CONTRACT BENEFICIARY" MEANS, FOR ANY LEGACY PRENEED CONTRACT ENTERED INTO ON OR AFTER JULY 1, 1967, ANY PERSON SPECIFIED IN THE LEGACY PRENEED CONTRACT UPON WHOSE DEATH A FINAL RESTING PLACE, MERCHANDISE, AS DEFINED IN SECTION 10-15-102 (1), OR SERVICES, AS DEFINED IN SECTION 10-15-102 (16), SHALL BE PROVIDED, DELIVERED, OR PERFORMED.

(32) "Virtual currency" means ~~a~~ ANY TYPE OF digital representation of value, INCLUDING CRYPTOCURRENCY, THAT IS used as a medium of exchange, unit of account, or a store of value, but THAT does not have legal tender status as recognized by the United States. The term does not include:

(c) A loyalty card; ~~or~~

(d) A financial organization loyalty card; OR

(e) A GIFT CARD.

SECTION 3. In Colorado Revised Statutes, 38-13-201, **amend** (1)(l) and (1)(m); and **add** (1)(l.5) as follows:

38-13-201. When property presumed abandoned. (1) Subject to section 38-13-210, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified in this section:

(l) Except as otherwise provided for unclaimed utility deposits under section 40-8.5-106, a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; ~~and~~

(l.5) ANY VIRTUAL CURRENCY HELD OR OWING BY ANY BANKING ORGANIZATION, CORPORATION, CUSTODIAN, EXCHANGE, OR OTHER ENTITY ENGAGED IN VIRTUAL CURRENCY BUSINESS ACTIVITY, THREE YEARS AFTER THE LATEST INDICATION OF INTEREST IN THE PROPERTY, AS DESCRIBED IN SECTION 38-13-210 (2), BY THE APPARENT OWNER OF THE VIRTUAL CURRENCY; AND

(m) (I) All other property not specified in this section or sections 38-13-202 to 38-13-208 and 38-13-213 to 38-13-220, INCLUDING THE REPORTABLE AMOUNT OF A LEGACY PRENEED CONTRACT AS SET FORTH IN SECTION 38-13-406 (1), the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

(II) FOR PURPOSES OF SUBSECTION (1)(m)(I) OF THIS SECTION AND NOTWITHSTANDING SECTION 10-15-111.7 (2), THE OWNER OF A LEGACY PRENEED CONTRACT FIRST HAS A RIGHT TO DEMAND THE PROPERTY, THE OBLIGATION TO PAY OR DISTRIBUTE THE PROPERTY ARISES, AND THE THREE-YEAR PRESUMPTIVE ABANDONMENT PERIOD FOR THE LEGACY PRENEED CONTRACT COMMENCES ON THE EARLIER OF:

(A) THE CONFIRMED DATE OF DEATH OF THE LEGACY PRENEED CONTRACT BENEFICIARY; OR

(B) IN THE ABSENCE OF KNOWLEDGE OF THE DEATH OF THE LEGACY PRENEED CONTRACT BENEFICIARY, THE PRESUMED DATE OF DEATH, WHICH IS THE DATE ON WHICH THE LEGACY PRENEED CONTRACT BENEFICIARY REACHES ONE HUNDRED SEVEN YEARS OF AGE. THE DATE OF DEATH OF THE LEGACY PRENEED CONTRACT BENEFICIARY CAN BE OBTAINED THROUGH ANY

SOURCE, INCLUDING A DECLARATION OF DEATH, A DEATH CERTIFICATE, THE UNITED STATES SOCIAL SECURITY ADMINISTRATION OR OTHER GOVERNMENTAL DEATH RECORDS, OR OTHER EQUIVALENT RESOURCE.

SECTION 4. In Colorado Revised Statutes, 38-13-202, **amend** (1); and **repeal** (3) and (4) as follows:

38-13-202. When tax-deferred retirement account presumed abandoned. (1) Subject to section 38-13-210, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after ~~the later of:~~

~~(a) The following dates:~~

~~(I) Except as otherwise provided in subsection (1)(b)(II) of this section, the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or~~

~~(II) If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or~~

~~(b) The earlier of the following dates:~~

~~(I) The date the apparent owner becomes seventy and one-half years of age, if reasonably determinable by the holder; or~~

~~(II) If the federal "Internal Revenue Code of 1986", as amended, 26 U.S.C. sec. 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:~~

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

~~(B) Confirms the death of the apparent owner under subsection (2) of this section~~ IT BECOMES PAYABLE OR DISTRIBUTABLE IF THE OWNER HAS NOT ACCEPTED THE DISTRIBUTION, CORRESPONDED IN WRITING CONCERNING

THE DISTRIBUTION, OR OTHERWISE INDICATED AN INTEREST AS EVIDENCED BY A MEMORANDUM OR OTHER RECORD ON FILE WITH THE FIDUCIARY OF THE TRUST OR CUSTODIAL FUND OR THE ADMINISTRATOR OF THE PLAN UNDER WHICH THE TRUST OR FUND IS ESTABLISHED.

~~(3) If the holder does not send communications to the apparent owner of an account described in subsection (1) of this section by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property; except that the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:~~

~~(a) The holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;~~

~~(b) The holder receives notification that the electronic-mail communication was not received; or~~

~~(c) The apparent owner does not respond to the electronic-mail communication not later than thirty days after the communication was sent.~~

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

~~(a) Except as otherwise provided in subsection (4)(b) of this section, the date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;~~

~~(b) If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or~~

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

SECTION 5. In Colorado Revised Statutes, 38-13-404, **amend** (1) introductory portion as follows:

38-13-404. Retention of records by holder. (1) A holder required to file a report under section 38-13-401 shall retain records for ~~ten~~ SIX years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator. A holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

SECTION 6. In Colorado Revised Statutes, **add** 38-13-406 as follows:

38-13-406. Clarification of reporting requirements for unclaimed legacy preneed contracts - amount reportable - identification of purchaser and beneficiary. (1) THE AMOUNT OF AN UNCLAIMED LEGACY PRENEED CONTRACT THAT IS REPORTABLE AS UNCLAIMED PROPERTY IS THE PURCHASE PRICE PAID BY THE CONTRACT BUYER, AS DEFINED IN SECTION 10-15-102 (5), EXCLUSIVE OF ANY FINANCE CHARGES OR LATE PAYMENT FEES, LESS THE AMOUNT OF ANY LIQUIDATED DAMAGES FOR NONPERFORMANCE PAID BY OR ON BEHALF OF THE CONTRACT SELLER, AS DEFINED IN SECTION 10-15-102 (6), OR ANY CANCELLATION FEES PAID AS REQUIRED BY THE LEGACY PRENEED CONTRACT, WHICH CANCELLATION FEES CANNOT EXCEED FIFTEEN PERCENT OF THE PURCHASE PRICE. THE CONTRACT SELLER IS ENTITLED TO RETAIN ALL INTEREST EARNED ON THE MONEY PAID TO PURCHASE THE LEGACY PRENEED CONTRACT.

(2) IN ADDITION TO COMPLYING WITH THE OTHER REPORTING REQUIREMENTS SET FORTH IN THIS ARTICLE 13, IN REPORTING A LEGACY PRENEED CONTRACT TO THE ADMINISTRATOR, THE HOLDER SHALL IDENTIFY BY NAME BOTH THE CONTRACT BUYER, AS DEFINED IN SECTION 10-15-102 (5), AND THE LEGACY PRENEED CONTRACT BENEFICIARY.

(3) A HOLDER OF A LEGACY PRENEED CONTRACT WHO COMPLIES WITH THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION AND SATISFIES THE REQUIREMENTS SET FORTH IN SECTION 38-13-604 IS RELIEVED OF RESPONSIBILITY ARISING THEREAFTER WITH RESPECT TO PAYMENT OR DELIVERY OF THE PROPERTY TO THE ADMINISTRATOR.

SECTION 7. In Colorado Revised Statutes, 38-13-501, **add** (3) as follows:

38-13-501. Notice to apparent owner by holder. (3) THE NOTICE

REQUIREMENTS SET FORTH IN SUBSECTIONS (1) AND (2) OF THIS SECTION REQUIRE NOTICE TO THE APPARENT OWNER OF A LEGACY PRENEED CONTRACT NOTWITHSTANDING THE DEATH OR PRESUMED DEATH OF THE CONTRACT BUYER, AS DEFINED IN SECTION 10-15-102 (5).

SECTION 8. In Colorado Revised Statutes, 38-13-603, **add** (4.5) as follows:

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

(4.5) (a) IF PROPERTY IN A REPORT UNDER SECTION 38-13-401 IS VIRTUAL CURRENCY, THE HOLDER SHALL LIQUIDATE THE VIRTUAL CURRENCY WITHIN THIRTY DAYS OF FILING THE REPORT AND REMIT THE LIQUIDATION PROCEEDS TO THE ADMINISTRATOR. THE OWNER SHALL HAVE NO RECOURSE AGAINST EITHER THE HOLDER OR THE ADMINISTRATOR FOR ANY GAIN IN VALUE OF THE VIRTUAL CURRENCY AFTER LIQUIDATION.

(b) IF A HOLDER CANNOT LIQUIDATE VIRTUAL CURRENCY AND CANNOT OTHERWISE CAUSE VIRTUAL CURRENCY TO BE LIQUIDATED, THE HOLDER SHALL PROMPTLY NOTIFY THE ADMINISTRATOR IN WRITING AND EXPLAIN THE REASONS WHY THE VIRTUAL CURRENCY CANNOT BE LIQUIDATED. THE ADMINISTRATOR, IN THE ADMINISTRATOR'S ABSOLUTE AND SOLE DISCRETION, MAY DIRECT THE HOLDER TO EITHER:

(I) TRANSFER THE VIRTUAL CURRENCY THAT CANNOT BE LIQUIDATED TO A CUSTODIAN SELECTED BY THE ADMINISTRATOR; OR

(II) CONTINUE TO HOLD THE VIRTUAL CURRENCY UNTIL THE ADMINISTRATOR OR THE HOLDER DETERMINES THAT THE VIRTUAL CURRENCY CAN BE LIQUIDATED PURSUANT TO THIS ARTICLE 13 OR THAT THERE IS AN INDICATION OF APPARENT OWNER INTEREST.

SECTION 9. In Colorado Revised Statutes, 38-13-605, **amend** (1) introductory portion, (2), (3), and (4)(a) introductory portion as follows:

38-13-605. Recovery of property by holder from administrator.

(1) A holder that pays money to the administrator under this article 13 may file a claim for reimbursement from the administrator of the amount paid WITHIN TWO YEARS OF REMITTING AND REPORTING THE MONEY PAID if the holder:

(2) If a claim for reimbursement under subsection (1) of this section is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder must submit proof that the instrument was presented and that payment was made to a person the holder reasonably believed to be entitled to payment. The holder may claim reimbursement WITHIN TWO YEARS OF REMITTING AND REPORTING THE PAYMENT even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.

(3) If a holder is reimbursed by the administrator under subsection (1)(b) of this section, the holder may also recover from the administrator income or gain under section 38-13-606 WITHIN TWO YEARS OF REMITTING AND REPORTING THE MONEY that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.

(4) (a) A holder that delivers property other than money to the administrator under this article 13 may file a claim WITHIN TWO YEARS OF DELIVERING THE PROPERTY for return of the property from the administrator if:

SECTION 10. In Colorado Revised Statutes, 38-13-609, **amend** (3) as follows:

38-13-609. Periods of limitation and repose. (3) The administrator shall not commence an action, proceeding, or examination with respect to a duty of a holder under this article 13 more than ~~ten~~ SIX years after the duty arose.

SECTION 11. In Colorado Revised Statutes, 38-13-702, **amend** (2); and **add** (3) as follows:

38-13-702. Disposal of securities - definition. (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, the administrator shall not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

(3) (a) THE ADMINISTRATOR MAY SELL A THINLY TRADED SECURITY THAT IS LISTED ON AN ESTABLISHED STOCK EXCHANGE FOR LESS THAN THE PRICE PREVAILING ON THE EXCHANGE AT THE TIME OF SALE BY ANY COMMERCIALY REASONABLE METHOD AND AT ANY TIME AFTER THE THREE-YEAR PERIOD SET FORTH IN SUBSECTION (1) OF THIS SECTION HAS PASSED IF THE ADMINISTRATOR DETERMINES, IN THE ADMINISTRATOR'S SOLE DISCRETION, THAT THERE ARE NO BUYERS FOR THE THINLY TRADED SECURITY AT THE PRICE PREVAILING ON THE EXCHANGE AT THE TIME OF SALE. IF THE ADMINISTRATOR DETERMINES THAT THE THINLY TRADED SECURITY HAS NO SUBSTANTIAL COMMERCIAL VALUE OR THAT THE COSTS OF DISPOSING OF IT WILL EXCEED ITS VALUE, THE ADMINISTRATOR MAY RETURN IT TO THE HOLDER OR DESTROY OR OTHERWISE DISPOSE OF IT AS AUTHORIZED BY SECTION 38-13-608.

(b) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "THINLY TRADED SECURITY" MEANS A SECURITY THAT CANNOT BE EASILY SOLD OR EXCHANGED FOR CASH WITHOUT CAUSING A SIGNIFICANT CHANGE IN THE PRICE OF THE SECURITY.

SECTION 12. In Colorado Revised Statutes, **amend** 38-13-902.4 as follows:

38-13-902.4. Claim of the state, a county, a municipality, or a governmental agency. At any time after property has been paid or delivered to the administrator under this article 13, if the administrator determines that the state, A COUNTY, A MUNICIPALITY, or a state governmental agency owns the property, the administrator may ISSUE A WARRANT TO OR transfer the property to an operating account of the state, THE COUNTY, THE MUNICIPALITY, or the STATE GOVERNMENTAL agency.

SECTION 13. In Colorado Revised Statutes, 38-13-904, **amend** (1) as follows:

38-13-904. When administrator must honor claim for property.
(1) The administrator shall pay or deliver property to a claimant under section 38-13-903 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property. THE GENERAL ASSEMBLY RECOGNIZES AND REAFFIRMS THAT THE ADMINISTRATOR MAY REQUIRE A CLAIMANT TO PROVIDE ANY DOCUMENTS THAT ARE NECESSARY TO ESTABLISH OWNERSHIP

BEFORE MAKING PAYMENT, INCLUDING BUT NOT LIMITED TO NONPUBLIC OR NONREDACTED DOCUMENTS.

SECTION 14. In Colorado Revised Statutes, 38-13-1304, **amend** (1)(b)(IV) as follows:

38-13-1304. Agreements to locate reported property - overbids from foreclosure sales. (1) Notwithstanding any provision of section 38-13-1303 to the contrary, an agreement to pay compensation to recover or assist in recovering an unclaimed overbid transferred to the administrator under section 38-38-111 is:

(b) Enforceable if:

(IV) The compensation to be paid under the terms of the agreement does not exceed

~~(A) Twenty~~ TEN percent of the amount of the overbid if entered into at least two years ~~but not more than three years, after the date of the transfer; or~~

~~(B) Thirty percent of the amount of the overbid if entered into more than three years after the date of the transfer; and~~

SECTION 15. In Colorado Revised Statutes, 38-13-1402, **amend** (1)(b); and **add** (1)(b.5) as follows:

38-13-1402. Confidential information. (1) Except as otherwise provided in this article 13, the following are confidential and exempt from public inspection or disclosure:

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

(b.5) ALL RECORDS, DOCUMENTS, AND INFORMATION SUBMITTED BY A CLAIMANT TO THE ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT TO ENABLE THE ADMINISTRATOR OR THE ADMINISTRATOR'S AGENT TO DETERMINE WHETHER THE CLAIMANT IS THE OWNER OF THE PROPERTY; AND

SECTION 16. In Colorado Revised Statutes, **repeal** 38-13-1504 as

follows:

38-13-1504. Application of article - local government - exemption - notice of property. ~~(1) Except as otherwise provided in this section, the provisions of this article 13 do not apply to a local government that is a holder of property if:~~

~~(a) The local government has a local ordinance or resolution relating to the disposition of property that conflicts with this article 13;~~

~~(b) The local ordinance or resolution described in subsection (1)(a) of this section requires the local government to hold the property for the owner for at least five years after the date it is presumed abandoned under section 38-13-201 (1)(j); and~~

~~(c) The local government provides the administrator with the information described in subsection (2) of this section in the same electronic format as a holder is required to use to report unclaimed property.~~

~~(2) To satisfy subsection (1)(c) of this section, a local government must provide the administrator with the following information on or before November 1 of each year:~~

~~(a) An alphabetical list of the owners for whom the local government holds property that is presumed abandoned under section 38-13-201 (1)(j); and~~

~~(b) The value of the abandoned property that the exempt local government holds for each owner.~~

~~(3) The administrator shall include the information received in accordance with subsection (2) of this section, along with a statement that a person claiming to be the owner must file a claim for the property with the specific local government that has the property, as part of the website or database maintained under section 38-13-503 (3).~~

SECTION 17. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
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Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO