

TITLE 1 - CODE OF CIVIL PROCEDURE

CHAPTER 1 - GENERAL PROVISIONS AS TO CIVIL ACTIONS

1-1-101. Provisions to be liberally construed.

The Code of Civil Procedure and all proceedings under it shall be liberally construed to promote its object and assist the parties in obtaining justice. The rule of common law that statutes in derogation thereof must be strictly construed has no application to the Code of Civil Procedure, but this shall not be so construed as to require a liberal construction of provisions affecting personal liberty, relating to amercement or of a penal nature.

1-1-102. Minors as parties to actions.

Every person over fourteen (14) years of age and under the age of majority, when subject to no disability other than being a minor, may sue or be sued. When plaintiff he shall sue by a next friend selected by him before suit is commenced. The next friend is liable for the cost chargeable to the plaintiff. When the minor is sued he shall appear by guardian nominated by him and appointed by the court before further proceedings are had in the case, but judgment shall be against the minor defendant only. In either case, if plaintiff or defendant neglects or refuses to nominate a next friend or guardian, the court shall appoint a next friend or guardian, who shall file his consent in writing, with the court.

1-1-103. Power of deputies.

A duty enjoined by statute upon a ministerial officer or an act permitted to be done by him may be performed by his lawful deputy.

1-1-104. Sureties; justification.

A court or an officer authorized by law to approve a surety may require such person to testify orally or in writing touching his sufficiency, but this in itself shall not exonerate the officer in an action for taking insufficient surety.

1-1-105. Sureties; qualifications.

Sureties shall be residents of this state, worth in the aggregate double the sum to be secured, beyond the amount of

their debts, and have property liable to execution in this state equal to the sum to be secured. Every person acting as surety for another shall file with the court his affidavit showing that he meets the requirements set forth herein.

1-1-106. Compensation of cross demands.

When cross demands exist between persons under circumstances that if one brought an action against the other, a counterclaim or setoff could be set up, neither can be deprived of the benefit thereof by assignment by the other, or by his death, but the two (2) demands will be deemed compensated so far as they equal each other.

1-1-107. Furnishing of transcripts.

Upon request and receipt of the lawful fees required, judges of judicial tribunals and the clerks of every court of record, shall furnish to any person an authenticated transcript of proceedings containing the judgment or final order in their court.

1-1-108. Voluntary partial payment of liability claims.

No voluntary partial payment of a claim based on alleged liability for injury or property damage shall be construed as an admission of fault or liability, or as a waiver or release of claim by the person receiving payment. Such payment is not admissible as evidence in any action for the purpose of determining the amount of any judgment, with respect to the parties to the occurrence from which the claim arose. Upon settlement of the claim, the parties may make any agreement they desire in respect to all voluntary partial payments. After entry of judgment, any such payment shall be treated as a credit and deducted from the amount of the judgment. If after partial voluntary payments are made it is determined by final judgment of a court of competent jurisdiction that the payor is liable for an amount less than the voluntary payments already made, the payor has no right of action for the recovery of amounts by which the voluntary payments exceed the final judgment. No voluntary partial payments shall be construed to reduce the amount of damages which may be pleaded and proved in a court proceeding between the parties.

1-1-109. Comparative fault.

(a) As used in this section:

(i) "Actor" means a person or other entity, including the claimant, whose fault is determined to be a proximate cause of the death, injury or damage, whether or not the actor is a party to the litigation;

(ii) "Claimant" means a natural person, including the personal representative of a deceased person, or any legal entity, including corporations, limited liability companies, partnerships or unincorporated associations, and includes a third party plaintiff and a counterclaiming defendant;

(iii) "Defendant" means a party to the litigation against whom a claim for damages is asserted, and includes third party defendants. Where there is a counterclaim, the claimant against whom the counterclaim is asserted is also a defendant;

(iv) "Fault" includes acts or omissions, determined to be a proximate cause of death or injury to person or property, that are in any measure negligent, or that subject an actor to strict tort or strict products liability, and includes breach of warranty, assumption of risk and misuse or alteration of a product;

(v) "Injury to person or property," in addition to bodily injury, includes, without limitation, loss of enjoyment of life, emotional distress, pain and suffering, disfigurement, physical or mental disability, loss of earnings or income, damage to reputation, loss of consortium, loss of profits and all other such claims and causes of action arising out of the fault of an actor;

(vi) "Wrongful death" means that cause of action authorized by Wyoming statute to recover money damages when the death of a person is caused by the fault of an actor such as would have entitled the party injured to maintain an action to recover damages if death had not ensued.

(b) Contributory fault shall not bar a recovery in an action by any claimant or the claimant's legal representative to recover damages for wrongful death or injury to person or property, if the contributory fault of the claimant is not more than fifty percent (50%) of the total fault of all actors. Any damages allowed shall be diminished in proportion to the amount of fault attributed to the claimant.

(c) Whether or not the claimant is free of fault, the court shall:

(i) If a jury trial:

(A) Direct the jury to determine the total amount of damages sustained by the claimant without regard to the percentage of fault attributed to the claimant, and the percentage of fault attributable to each actor; and

(B) Inform the jury of the consequences of its determination of the percentage of fault.

(ii) If a trial before the court without jury, make special findings of fact, determining the total amount of damages sustained by the claimant without regard to the percentage of fault attributed to the claimant, and the percentage of fault attributable to each actor.

(d) The court shall reduce the amount of damages determined under subsection (c) of this section in proportion to the percentage of fault attributed to the claimant and enter judgment against each defendant in the amount determined under subsection (e) of this section.

(e) Each defendant is liable only to the extent of that defendant's proportion of the total fault determined under paragraph (c)(i) or (ii) of this section.

1-1-110. Repealed by Laws 1986, ch. 24, § 2.

1-1-111. Repealed by Laws 1986, ch. 24, § 2.

1-1-112. Repealed by Laws 1986, ch. 24, § 2.

1-1-113. Repealed by Laws 1986, ch. 24, § 2.

1-1-114. Pleading of damages.

In all cases the court shall inform the jury of the consequences of its verdict.

1-1-115. Civil liability for unpaid checks.

(a) Any person who issues a check which is not paid because the check has been dishonored for any reason has thirty (30) days following the date of a written demand mailed to the

drawer of the check by United States postal service certificate of mailing at the address shown on the check or his last known address or personally served pursuant to the Wyoming Rules of Civil Procedure, to pay to the holder of the check the amount of the check and a collection fee not to exceed thirty dollars (\$30.00). The demand shall state that the drawer is required to pay the value of the check and the collection fee demanded and shall state the collection fee provided for in this section.

(b) Any person who fails to pay the amount of the check and the collection fee as set forth in subsection (a) of this section within thirty (30) days following the date of a written demand, mailed to or served on the drawer in accordance with subsection (a) of this section, is liable to the holder of the check for three (3) times the amount of the check, but in no case less than one hundred dollars (\$100.00), a collection fee of thirty dollars (\$30.00), and court costs.

(c) In extraordinary cases, including cases in which the court determines that the party who wrote the check has raised dilatory or bad faith defenses, the court may award the prevailing party reasonable attorney fees.

(d) Nothing in this section shall prevent the criminal prosecution of the person who issues the check. However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal case pursuant to W.S. 7-9-101 through 7-9-112 or 6-3-704(b), shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

(e) A cause of action under this section may be brought in small claims court, if the amount of the demand does not exceed the jurisdiction of that court, or in any other appropriate court.

(f) As used in this section, "check," "drawee," "drawer" and "issue" have the same meaning as defined in W.S. 6-3-701.

1-1-116. Civil liability for theft of services.

(a) Notwithstanding any criminal penalties which may apply, an owner or operator of a franchised or otherwise duly licensed provider of services may bring a civil action to enjoin or restrain any violation of W.S. 6-3-408 and may in the same action seek damages from the person violating W.S. 6-3-408.

(b) In order to maintain an action for injunctive relief under this section, it is not necessary for the plaintiff to show actual damages or the threat of actual damages.

(c) As used in this section "services" has the same meaning as specified in W.S. 6-3-408.

1-1-117. Affidavits of noninvolvement.

(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages, a party may, in lieu of answering or otherwise pleading, file an affidavit certifying that he was not directly or indirectly involved in the occurrence or occurrences alleged in the action. If an affidavit is filed, the court shall order the dismissal of the claim against the certifying party, except as provided for in subsection (b) of this section. The affidavit shall be filed within the time required for filing an answer, if no answer is filed; and, in any event, at least twenty (20) days prior to trial. Any order of dismissal based on the affidavit shall not be entered within ten (10) days after the affidavit is filed.

(b) Any party may oppose the dismissal or move to vacate the order of dismissal and reinstate the certifying party, provided he can show that the certifying party was directly or indirectly involved in the occurrence or occurrences alleged in the action. After the filing of an affidavit under this section, the party opposing the dismissal may have discovery with respect to the involvement or noninvolvement of the party filing the affidavit, provided the discovery is completed within sixty (60) days of the filing of the affidavit.

1-1-118. Amateur rodeos; liability for injuries; consent to participate.

(a) No public school or nonprofit organization sponsoring an amateur rodeo is liable for injuries suffered by a contestant as a result of his voluntary participation in a rodeo event except for injuries caused by the willful, wanton or reckless act of the sponsoring organization or its employees.

(b) A minor shall be deemed to be a voluntary participant for purposes of this section if he has signed a written consent to participate in the rodeo event and the consent is also signed by one (1) of the minor's parents or by his legal guardian.

1-1-119. Release or covenant not to sue.

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one (1) of two (2) or more persons liable in tort for the same injury or the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide.

1-1-120. Persons rendering emergency assistance exempt from civil liability.

(a) Any person licensed as a physician and surgeon under the laws of the state of Wyoming, or any other person, who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident, is not liable for any civil damages for acts or omissions in good faith.

(b) Persons or organizations operating volunteer ambulances or rescue vehicles supported by public or private funds, staffed by unpaid volunteers, and which make no charge, or charge an incidental service or user fee, for services rendered during medical emergencies, and the unpaid volunteers who staff ambulances and rescue vehicles are not liable for any civil damages for acts or omissions in good faith in furnishing emergency medical services. This immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct. For purposes of this section, "unpaid volunteers" means persons who either receive incidental remuneration on a per call basis or receive no more than one thousand dollars (\$1,000.00) annually for volunteer ambulance and rescue activities. The immunity provided by this subsection shall extend to a physician while serving in his capacity as medical director of any ambulance service, to hospitals and hospital employees for activities directly related to providing clinical training as part of an emergency medical service class approved by the department of health, and to students while participating in emergency medical services training approved by the department of health. If an unpaid volunteer's, medical director's, hospital's or trainee's acts or omissions are subject to the provisions of the Wyoming Governmental Claims Act, immunity under this section is waived to the extent of the maximum liability provided under W.S. 1-39-118.

(c) Any person who provides assistance or advice without compensation other than reimbursement of out-of-pocket expenses in mitigating or attempting to mitigate the effects of an actual

or threatened discharge of hazardous materials, or in preventing, cleaning up or disposing of or in attempting to prevent, clean up or dispose of any discharge of hazardous materials, is not liable for any civil damages for acts or omissions in good faith in providing the assistance or advice. This immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct. As used in this subsection:

(i) "Discharge" includes leakage, seepage or other release;

(ii) "Hazardous materials" includes all materials and substances which are now or hereafter designated or defined as hazardous by any state or federal law or by the regulations of any state or federal government agency.

1-1-121. Recreation Safety Act; short title.

This act shall be known and may be cited as the "Recreation Safety Act".

1-1-122. Definitions.

(a) As used in this act:

(i) "Inherent risk" with regard to any sport or recreational opportunity means those dangers or conditions which are characteristic of, intrinsic to, or an integral part of any sport or recreational opportunity;

(ii) "Provider" means any person or governmental entity which for profit or otherwise, offers or conducts a sport or recreational opportunity or regulates an interscholastic sport or recreational opportunity. This act does not apply to a cause of action based upon the design or manufacture of sport or recreational equipment or products or safety equipment used incidental to or required by the sport or recreational opportunity;

(iii) "Sport or recreational opportunity" means commonly understood sporting activities including baseball, softball, football, soccer, basketball, swimming, hockey, wrestling, cheerleading, rodeo, dude ranching, nordic or alpine skiing and other alpine sports, snowboarding, mountain climbing, outdoor education programs, river floating, hunting, fishing, backcountry trips, horseback riding and any other equine

activity, snowmobiling and similar recreational opportunities and includes the use of private lands for vehicle parking and land access related to the sport or recreational opportunity. "Sport or recreational opportunity" does not include skiing in a ski area as defined by the Ski Safety Act;

(iv) "Equine activity" means:

(A) Equine shows, fairs, competitions, performances or parades that involve any or all breeds of equines;

(B) Any of the equine disciplines;

(C) Equine training or teaching activities, or both;

(D) Boarding equines;

(E) Riding, inspecting or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine;

(F) Rides, trips, hunts or other equine activities of any type however informal or impromptu;

(G) Day use rental riding, riding associated with a dude ranch or riding associated with outfitted pack trips; and

(H) Placing or replacing horseshoes on an equine.

(v) Repealed By Laws 1996, ch. 78, § 2.

(vi) "This act" means W.S. 1-1-121 through 1-1-123.

1-1-123. Assumption of risk.

(a) Any person who takes part in any sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity, whether those risks are known or unknown, and is legally responsible for any and all damage, injury or death to himself or other persons or property that

results from the inherent risks in that sport or recreational opportunity.

(b) A provider of any sport or recreational opportunity is not required to eliminate, alter or control the inherent risks within the particular sport or recreational opportunity.

(c) Actions based upon negligence of the provider wherein the damage, injury or death is not the result of an inherent risk of the sport or recreational opportunity shall be preserved pursuant to W.S. 1-1-109.

(d) The assumption of risk provisions in subsections (a) through (c) of this section apply irrespective of the age of the person assuming the risk.

(e) This act shall not apply to skiing in a ski area as defined by the Ski Safety Act.

1-1-123.1. Ski Safety Act; short title.

This act shall be known and may be cited as the "Ski Safety Act."

1-1-123.2. Definitions.

(a) As used in this act:

(i) "Freestyle terrain" includes terrain parks and terrain features such as jumps, rails, half pipes and other constructed and natural features found in terrain parks;

(ii) "Inherent risk" with regard to skiing in a ski area means those dangers or conditions which are part of the sport of skiing, including:

(A) Changing weather conditions;

(B) Falling or surface snow conditions, whether natural or man-made, as they exist or change;

(C) Surface or subsurface conditions including bare spots, forest growth, rocks, stumps, streambeds, cliffs, extreme terrain, trees or other natural objects;

(D) Collisions or impacts with natural objects such as the objects specified in subparagraph (C) of this paragraph including encounters with wildlife;

(E) Impact with ski lift towers, signs, posts, fences or enclosures, hydrants, water pipes or other man-made structures and their components subject to W.S. 1-1-123.3(k);

(F) Variations in steepness or terrain, whether natural or as a result of ski trail or feature design, or snowmaking or grooming operations such as roads, freestyle terrain, jumps and catwalks or other terrain modifications; and

(G) Collisions with other skiers.

(iii) "Ski area" means the ski trails and other places within the boundary of a ski area under the control of a ski area operator and administered as a single enterprise within the state;

(iv) "Ski area operator" means a person having the responsibility for the operations of a ski area and the owners, partners and members, managers, employees, agents, volunteers, board members, representatives, affiliates and assigns of the person. "Ski area operator" includes an agency of the state or a political subdivision thereof;

(v) "Ski area vehicle" means a vehicle used in the operation and maintenance of a ski area which is owned by or under the direction and control of the ski area operator such as a snowmobile, all-terrain vehicle, snow grooming vehicle, sled and other similar vehicle;

(vi) "Ski lift" means a chairlift, gondola, tramway, cable car or other aerial lift and any rope tow, conveyor, t-bar, j-bar, handle tow or other surface lift used by a ski area operator to transport skiers;

(vii) "Ski trail" means a trail, slope, run, freestyle terrain, competition terrain, tree skiing area, tubing park area or other area at or near a ski area designated by the ski area operator to be used by skiers for the purpose of skiing;

(viii) "Skier" means a person who is using a ski area for the purpose of skiing;

(ix) "Skiing" includes sliding downhill or jumping on snow or ice on skis or a toboggan, sled, tube, snowbike, snowboard or other device;

(x) "This act" means W.S. 1-1-123.1 through 1-1-123.5.

1-1-123.3. Duties of ski area operators; signs for trails; notices to skiers; duties of skiers.

(a) A ski area operator shall post and maintain a sign visible to skiers at or near the beginning of a trail that depicts and explains the degree of difficulty of the trail relative to each individual ski area.

(b) A ski area operator shall post and maintain a sign at or near the loading area of a ski lift that states the relative degree of difficulty of the trails serviced by the lift.

(c) A ski area operator shall print a warning notice on all ski lift tickets and season passes and shall post and maintain a warning sign at or near the ski area's ticket sales building that is no smaller than six (6) square feet in size and states the following:

WARNING. Under Wyoming law, a skier assumes the inherent risks of skiing and is legally responsible for damage, injury or death to person or property that results from the inherent risks of skiing.

(d) A ski area operator shall post and maintain a warning sign at the ski area's ticket sales building that is no smaller than six (6) square feet in size and that notifies the skier of the duties imposed on the skier by this act and the limitations on liability provided in this act.

(e) A ski area operator shall:

(i) Mark or identify on trail maps the ski area boundaries;

(ii) Post a sign notifying the public if a trail or portion thereof is closed at the identified entrance of the trail or portion thereof. A trail without an identified entrance may be closed with ropes or fences.

(f) A ski area operator shall have no duty arising out of the operator's status as a ski area operator to a skier skiing beyond a ski area boundary marked or identified as required by subsection (e) of this section or skiing in an area posted as closed or otherwise fenced or roped off in accordance with subsection (e) of this section.

(g) A ski area operator shall post signs in the ski area or on trail maps warning skiers of encounters with ski area vehicles.

(h) A ski area operator shall equip ski area vehicles with a light and a fluorescent flag mounted at least five (5) feet above the bottom of the vehicle's tracks visible at any time the vehicle is moving on or in the vicinity of a ski trail.

(j) A ski area operator shall annually inspect, operate and maintain ski lifts in accordance with the most current version of the American National Standards Institute B-77.1 aerial tramway standards. Notwithstanding any other provision of law, a ski lift shall not be deemed a common carrier.

(k) A ski area operator shall mark hydrants, water pipes and all other man-made structures on slopes and trails which are not visible to skiers under conditions of ordinary visibility from a distance of one hundred (100) feet and shall cover the structures with a shock-absorbent material typically used by ski area operators for the purpose. Any type of marker shall be sufficient under this subsection including but not limited to wooden poles, flags or signs if the marker is visible from a distance of one hundred (100) feet and if the marker itself does not constitute a serious hazard to skiers. As used in this subsection "man-made structures" shall not include variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads, catwalks and other terrain modifications.

(m) A skier shall have the responsibility to observe all posted information and other signs and warnings posted in accordance with this act and shall be presumed to have seen and understood all signs, warnings and other information posted in accordance with this act.

1-1-123.4. Assumption of risks; limitations on actions.

(a) A skier expressly accepts and assumes the inherent risks of skiing and is legally responsible for damage, injury or

death to himself or other persons or property that results from the inherent risks in skiing.

(b) A skier may not make any claim against or recover from any ski area operator for injury resulting from any inherent risk of skiing.

(c) A skier is not precluded under this act from suing another skier for any damage, injury or death to person or property that results from the other skiers' acts or omissions. Notwithstanding any other provision of law, the risk of collision with other skiers is not an inherent risk nor a risk assumed by a skier in an action by a skier against another skier.

1-1-123.5. Negligence; civil actions.

(a) A violation by any person or ski area operator of any provision of this act shall, to the extent the violation causes damage, injury or death to person or property, constitute evidence of negligence on the part of the person or ski area operator violating this act.

(b) Actions based upon negligence of a person or ski area operator wherein the damage, injury or death is not the result of an inherent risk of skiing shall be preserved pursuant to W.S. 1-1-109.

1-1-124. Pretrial screening.

(a) The supreme court may promulgate rules to provide a screening procedure to expedite the prelitigation resolution of claims arising from any alleged act, error or omission in the rendering of licensed or certified professional or health care services.

(b) The screening procedure authorized by this section shall be designed to reduce the burden of malpractice cases on the state judicial system and to encourage the prompt resolution of nonmeritorious claims. The expedited procedure may include the creation of professional review panels to review claims and to determine:

(i) Whether there is substantial evidence that the acts complained of occurred, constituted malpractice and resulted in injury to the claimant; and

(ii) A recommended award if requested by the parties.

(c) The supreme court shall annually report to the joint judiciary interim committee the costs of operating the expedited screening procedure and shall submit a recommendation for the proration and assessment of costs among the professions subject to the pretrial screening procedure.

1-1-125. Immunity for volunteers; volunteer firefighters; search and rescue.

(a) As used in this section:

(i) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services that the volunteer performs for a nonprofit organization and that are reimbursed to the volunteer or otherwise paid nor does it include any incidental personal privileges received by volunteers for their services;

(ii) "Nonprofit organization" means those nonprofit organizations exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code;

(iii) "Volunteer" means:

(A) An officer, director, trustee or other person who performs services for a nonprofit organization but does not receive compensation, either directly or indirectly, for those services;

(B) A volunteer firefighter who performs services for a volunteer fire department under W.S. 35-9-616(a)(ix) whether or not the firefighter receives compensation or a pension;

(C) An individual engaged in search and rescue operations under a county sheriff's coordination pursuant to W.S. 18-3-609(a)(iii) or supervision pursuant to W.S. 19-16-101 whether or not the individual receives compensation.

(b) Except as provided in subsection (c) of this section, a volunteer who provides services or performs duties on behalf of a nonprofit organization, a volunteer fire department or a sheriff as part of a search and rescue operation is personally immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission:

(i) The person was acting within the scope of his duties as a volunteer for the nonprofit organization, volunteer fire department or a sheriff as part of a search and rescue operation; and

(ii) The act or omission did not constitute willful or wanton misconduct or gross negligence.

(c) This section does not grant immunity to any person causing damage as a result of the negligent operation of a motor vehicle.

(d) In any suit against a nonprofit organization, a volunteer fire department or a sheriff as part of a search and rescue operation for civil damages based upon the negligent act or omission of a volunteer, proof of the act or omission shall be sufficient to establish the responsibility of the organization, department or sheriff under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection (b) of this section.

1-1-126. Civil liability for stalking.

(a) A person who is the victim of stalking as defined by W.S. 6-2-506 may maintain a civil action against an individual who engages in a course of conduct that is prohibited under W.S. 6-2-506 for damages incurred by the victim as a result of that conduct. The aggrieved party may also seek and be awarded exemplary damages, reasonable attorney's fees and costs of the action.

(b) A civil action may be maintained under this section whether or not the individual who is alleged to have engaged in a course of conduct prohibited under W.S. 6-2-506 has been charged or convicted under W.S. 6-2-506 for the alleged crime.

(c) Neither the pendency nor the termination of a civil action under this section shall prevent the criminal prosecution of a person who violates W.S. 6-2-506.

1-1-127. Civil liability for shoplifting.

(a) A person over ten (10) years of age who violates W.S. 6-3-404(a) or (b) is civilly liable to the merchant of the property in an amount consisting of:

(i) Return of the property in original condition or actual damages equal to the full marked or listed price of the property; plus

(ii) A civil liability of twice the amount of the full marked or listed price of the property but not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00); plus

(iii) Reasonable attorney's fees and court costs.

(b) If an unemancipated minor violates W.S. 6-3-404(a) or (b), the parents or guardian of the child shall be civilly liable as provided by subsection (a) of this section, provided liability under this subsection shall not apply to foster parents, to parents whose parental custody and control of the child have been terminated by court order prior to the violation or to any governmental or private agency that has been appointed guardian for the minor child pursuant to court order or action of the department of family services. Civil liability under this subsection is not subject to the limitation on liability provided by W.S. 14-2-203 or any other law that limits the liability of parents for damages caused by an unemancipated minor.

(c) A conviction or a plea of guilty to a violation of W.S. 6-3-404(a) or (b) is not a prerequisite to the bringing of a civil suit under this section.

(d) An action to recover damages and any civil liability under this section may be brought in small claims court if the total amount of the demand for damages and any civil liability does not exceed the jurisdiction of that court, or in any other appropriate court.

(e) In order to recover damages and any civil liability under this act, the merchant of the property shall also notify law enforcement officials.

1-1-128. Civil liability for theft of identity.

(a) A person who is the victim of theft of identity as defined by W.S. 6-3-901 may maintain a civil action to enjoin or restrain any violation of W.S. 6-3-901 and may in the same action seek damages from the person violating W.S. 6-3-901. In order to maintain an action for injunctive relief under this

section, it is not necessary for the plaintiff to show actual damages or the threat of actual damages. A prevailing party in an action under this section may recover court costs and reasonable attorney fees.

(b) A conviction or plea of guilty is not a prerequisite to the bringing of a civil action under this section.

(c) A cause of action for theft of identity is not deemed to have accrued until the wrongdoer is discovered.

(d) Nothing in this section shall prevent the criminal prosecution of a person for theft of identity. However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal case pursuant to W.S. 6-3-901 and 7-9-101 through 7-9-115, shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

1-1-129. Immunity from liability for volunteer health care professionals; insurance required of nonprofit health care facility.

(a) As used in this section:

(i) "Health care professional" means any of the following who provide medical or dental diagnosis, care or treatment:

(A) Physicians, osteopaths and physician assistants licensed to practice as provided in title 33, chapter 26 of the Wyoming statutes;

(B) All nurses licensed to practice as provided in title 33, chapter 21 of the Wyoming statutes;

(C) Pharmacists licensed to practice as provided in title 33, chapter 24 of the Wyoming statutes;

(D) Dentists and dental hygienists licensed to practice as provided in title 33, chapter 15 of the Wyoming statutes; and

(E) Optometrists licensed to practice as provided in title 33, chapter 23 of the Wyoming statutes.

(ii) "Low income uninsured person" means a person who meets all of the following requirements:

(A) The person's income is not greater than two hundred percent (200%) of the current poverty line as defined by federal law, as amended;

(B) The person currently is not receiving medical, disability or other assistance under any federal or state government health care program; and

(C) Either of the following applies:

(I) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan; or

(II) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan, but the insurer, policy, contract or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(iii) "Nonprofit health care facility" means a charitable nonprofit corporation or association organized and operated under title 17, chapters 19 or 22 of the Wyoming statutes, or any charitable organization not organized and not operated for profit, that exclusively provides health care services to low income uninsured persons, except that "health care facility" does not include a hospital, including a swing bed hospital, facility or center defined under W.S. 35-2-901 or any other medical facility that is operated for profit;

(iv) "Operation" means an invasive procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection;

(v) "Tort action" means a civil action for damages for injury, death or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities;

(vi) "Volunteer" means an individual who provides any medical, dental or other health care related diagnosis, care or treatment without the expectation of receiving, and without receipt of, any compensation or other form of remuneration from a low income uninsured person, another person on behalf of a low income uninsured person, any health care facility or any other person or government entity.

(b) Subject to subsection (d) of this section, a health care professional who is a volunteer and complies with subsection (c) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental or other health-related claim for injury, death or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit health care facility to a low income uninsured person of medical, dental or other health-related diagnosis, care or treatment, including the provision of samples of medicine and other medical or dental products, unless the action or omission constitutes willful or wanton misconduct.

(c) To qualify for immunity under subsection (b) of this section, a volunteer health care professional shall do all of the following prior to the initial diagnosis, care or treatment:

(i) Inform the person of the provisions of this section either personally or by means of a writing so stating provided by the nonprofit health care facility and signed by the person, or by another individual on behalf of, and in the presence of, the person; and

(ii) Obtain the informed consent of the person and a written waiver, signed by the person, or by another individual on behalf of, and in the presence of, the person.

(d) Except as provided in this subsection, the immunities provided by subsection (b) of this section are not available to a volunteer health care professional, if at the time of an alleged injury, death or loss to person or property, the volunteer health care professional involved was performing an operation or delivering a baby. This subsection does not apply to a volunteer health care professional who provides diagnosis,

care or treatment or performs an operation or delivers a baby when necessary to preserve the life of a person in a medical emergency.

(e) In order for the immunity under subsection (b) of this section to apply and before the rendering of any services by the volunteer health care professional at the nonprofit health care facility, there must be a written agreement between the volunteer health care professional and the facility pursuant to which the volunteer health care professional will provide medical, dental or health care related diagnosis, care or treatment under the control of the facility to patients of the facility.

(f) A nonprofit health care facility entering into a written agreement under subsection (e) of this section shall maintain liability coverage of not less than one million dollars (\$1,000,000.00) per occurrence, except that no such coverage shall be required to be maintained by the facility if such coverage is maintained by all volunteer health care professionals rendering services at the facility. A nonprofit health care facility shall be liable for the negligent acts of a volunteer health care professional providing diagnosis, care or treatment at the facility only in the circumstances and to the extent the facility is required to maintain liability coverage under this subsection.

1-1-130. Actions against health care providers; admissibility of evidence.

(a) In any civil action or arbitration brought by an alleged victim of an unanticipated outcome of medical care against a health care provider, any and all statements, affirmations, gestures or conduct expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence that are made by a health care provider or an employee of a health care provider to the alleged victim, or to a relative or representative of the alleged victim, and that relate to the discomfort, pain, suffering, injury or death of the alleged victim as the result of the unanticipated outcome of medical care, are inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(b) For purposes of this section:

(i) "Health care provider" means a person who is licensed, certified or otherwise authorized or permitted by the

laws of this state to administer health care in the ordinary course of business or practice of a profession;

(ii) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister or parent of a spouse, and includes those relationships established by adoption;

(iii) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney or any person recognized in law or custom as a patient's agent;

(iv) "Unanticipated outcome" means the result of a medical treatment or procedure that differs from an expected result.

1-1-131. Short title.

This act shall be known and may be cited as the "Successor Corporation Asbestos-Related Liability Fairness Act."

1-1-132. Definitions.

(a) As used in this act:

(i) "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution or other relief arising out of, based on or in any way related to asbestos, including:

(A) The health effects of exposure to asbestos, including a claim for personal injury or death, mental or emotional injury, risk of disease or other injury, or the costs of medical monitoring or surveillance;

(B) Any claim made by or on behalf of any person exposed to asbestos, or a representative, spouse, parent, child or other relative of the person; and

(C) Any claim for damage or loss caused by the installation, presence or removal of asbestos.

(ii) "Corporation" means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than the laws of this state;

(iii) "Successor" means a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities that is a successor and became a successor before May 13, 1968, or is any of that successor corporation's successors;

(iv) "Successor asbestos-related liabilities" means any liability, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated or due or to become due, which is related to asbestos claims and was assumed or incurred by a corporation as a result of or in connection with a merger or consolidation or the plan of merger or consolidation related to the merger or consolidation with or into another corporation, or that is related in any way to asbestos claims based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. The term includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under W.S. 1-1-135, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation or by a successor of the corporation or by or on behalf of a transferor, in connection with settlements, judgments or other discharges in this state or another jurisdiction;

(v) "Transferor" means a corporation from which successor asbestos-related liabilities are or were assumed or incurred.

1-1-133. Applicability.

(a) The limitations in W.S. 1-1-134 shall apply to any successor corporation.

(b) The limitations of W.S. 1-1-134 shall not apply to:

(i) Workers' compensation benefits paid by or on behalf of an employer to an employee under the provisions of Wyoming statutes, title 27, chapter 14 or a comparable workers' compensation law of another jurisdiction;

(ii) Any claim against a corporation that does not constitute a successor asbestos-related liability;

(iii) Any obligation under the National Labor Relations Act, 29 U.S.C. Section 151, et seq., as amended, or under any collective bargaining agreement;

(iv) A successor that, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing or installing asbestos-containing products; or

(v) Any claim against a corporation that was filed in a court of competent jurisdiction prior to the effective date of this act.

1-1-134. Limitations on successor asbestos-related liabilities.

(a) Except as further limited in subsection (b) of this section, the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation shall not have responsibility for successor asbestos-related liabilities in excess of this limitation.

(b) If the transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (a) of this section for purposes of determining the limitation of liability of a successor corporation.

1-1-135. Establishing fair market value of total assets.

(a) A successor corporation may establish the fair market value of total gross assets for the purpose of the limitations under W.S. 1-1-134 through any method reasonable under the circumstances, including:

(i) By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction; or

(ii) In the absence of other readily available information from which the fair market value can be determined,

by reference to the value of the assets recorded on a balance sheet.

(b) Total gross assets include intangible assets.

(c) To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section the applicability, terms, conditions and limits of such insurance shall not be affected by this section, nor shall this section otherwise affect the rights and obligations of an insurer, transferor or successor under any insurance contract or any related agreements, including, without limitation, preenactment settlements resolving coverage-related disputes, and the rights of an insurer to seek payment for applicable deductibles, retrospective premiums or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable. Without limiting the foregoing, to the extent total gross assets include any such liability insurance, a settlement of a dispute concerning any such liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before July 1, 2011 shall be determinative of the total coverage of such liability insurance to be included in the calculation of the transferor's total gross assets.

1-1-136. Adjustment.

(a) Except as provided in subsections (b) through (d) of this section, the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of:

(i) The prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the year may be used; and

(ii) One percent (1%).

(b) The rate found in subsection (a) of this section shall not be compounded.

(c) The adjustment of the fair market value of total gross assets shall continue as provided in subsection (a) of this section until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(d) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the definition of total gross assets by W.S. 1-1-135(c).

1-1-137. Scope of act.

(a) The courts of this state shall construe the provisions of this act liberally with regard to successors.

(b) This act shall apply to all asbestos claims filed against a successor on or after July 1, 2011.

1-1-138. Donation of emergency responder equipment; exemption from civil and criminal liability; definitions; relation to other law.

(a) Any person who donates surplus emergency response equipment to any emergency responder shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the nature, age, condition or packaging of such equipment; except that this exemption shall not apply to the grossly negligent, willful, wanton or reckless acts of donors.

(b) As used in this section:

(i) "Emergency responder" means as provided in W.S. 35-9-152(a)(i);

(ii) "Emergency response equipment" means all equipment designed for or typically used in the course of performing the duties required of an emergency responder.

(c) Should any grant of immunity, exception or imposition of liability within the Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-39-120, conflict with any provision of this section, the Wyoming Governmental Claims Act shall prevail.

CHAPTER 2 - OATHS

1-2-101. Form.

A person may be sworn by any form he deems binding on his conscience.

1-2-102. Officers authorized to administer.

(a) The following officers are authorized to administer oaths:

- (i) Justices of the Wyoming supreme court;
- (ii) Judges of the Wyoming district courts;
- (iii) Judge of the United States district court for the district of Wyoming;
- (iv) Clerks of the Wyoming supreme court, Wyoming district courts and Wyoming circuit courts;
- (v) Clerk of the United States district court for the district of Wyoming;
- (vi) Commissioners and magistrates appointed by authority of the laws of the United States or of Wyoming;
- (vii) Repealed By Laws 2011, Ch. 113, § 3.
- (viii) County clerks;
- (ix) County treasurers;
- (x) Clerks of school districts in Wyoming;
- (xi) Clerks of any incorporated city or town in Wyoming;
- (xii) County commissioners within their respective counties;
- (xiii) Repealed by Laws 2009, Ch. 168, § 202.
- (xiv) Judges of the Wyoming circuit courts;

(xv) Notarial officers.

(b) Except for notarial officers, officers listed in this section are authorized to administer oaths, but are not authorized to perform other notarial acts as defined in W.S. 34-26-101(b)(iii), unless specified otherwise in W.S. 34-26-103(a).

1-2-103. Affirmation in lieu of oath; manner of administering.

Persons conscientiously opposed to swearing or to taking any oath may affirm, and are subject to the penalties of perjury as in the case of swearing an oath. Whenever any person is required to take an oath in any court, or before any person or officer authorized by law to administer oaths, it is lawful for the court, officer or person administering the same, to administer it in the following manner: the person taking the oath or swearing shall, with his or her right hand uplifted, swear or take the oath, concluding with the words "so help me God".

1-2-104. Certification of documents.

(a) A matter required or authorized to be supported, evidenced, established or proven by the sworn statement, declaration, verification, certificate, oath or affidavit, in writing of the person making it, other than a deposition, an acknowledgment, an oath of office or an oath required to be taken before a specified official other than a notary public, may be supported, evidenced, established or proven by the person certifying in writing "under penalty of false swearing" that the matter is true. The certification shall state the date and place of execution and the following:

"I certify under penalty of false swearing that the foregoing is true".

(b) A person who knowingly makes a false certification under subsection (a) of this section is guilty of false swearing in violation of W.S. 6-5-303(c).

CHAPTER 3 - LIMITATION OF ACTIONS

1-3-101. Applicability of provisions.

This chapter shall not apply in the case of a continuing and subsisting trust, nor to an action by a vendee of real property in possession thereof to obtain a conveyance of it.

1-3-102. When actions may be commenced.

Civil actions can only be commenced within the periods prescribed in this chapter, after the cause of action accrues, but where a different limitation is prescribed by statute, that shall govern.

1-3-103. Recovery of real property; generally.

An action for the recovery of the title or possession of lands, tenements or hereditaments can only be brought within ten (10) years after the cause of such action accrues.

1-3-104. Recovery of real property; legal disability.

Any person entitled to bring an action for the recovery of real property who is under any legal disability when the cause of action accrues may bring his action within ten (10) years after the disability is removed.

1-3-105. Actions other than recovery of real property.

(a) Civil actions other than for the recovery of real property can only be brought within the following periods after the cause of action accrues:

(i) Within ten (10) years, an action upon a specialty or any contract, agreement or promise in writing;

(ii) Within eight (8) years, an action:

(A) Upon a contract not in writing, either express or implied; or

(B) Upon a liability created by statute other than a forfeiture or penalty.

(iii) Within five (5) years after the debtor establishes residence in Wyoming, an action on a foreign claim, judgment or contract, express or implied, contracted or incurred and accrued before the debtor became a resident of Wyoming;

(iv) Within four (4) years, an action for:

(A) Trespass upon real property;

(B) The recovery of personal property or for taking, detaining or injuring personal property;

(C) An injury to the rights of the plaintiff, not arising on contract and not herein enumerated; and

(D) For relief on the ground of fraud.

(v) Within one (1) year, an action for:

(A) Libel or slander;

(B) Assault or battery not including sexual assault;

(C) Malicious prosecution or false imprisonment; or

(D) Upon a statute for a penalty or forfeiture, except that if a different limitation is prescribed in the statute by which the remedy is given the action shall be brought within the period prescribed by the statute.

(b) Notwithstanding subsection (a) of this section, a civil action based upon sexual assault as defined by W.S. 6-2-301(a) (v) against a minor may be brought within the later of:

(i) Eight (8) years after the minor's eighteenth birthday; or

(ii) Three (3) years after the discovery.

1-3-106. When certain causes of action accrue.

A cause of action for the wrongful taking of personal property is not deemed to have accrued until the wrongdoer is discovered. A cause of action on the ground of fraud is not deemed to have accrued until the discovery of the fraud.

1-3-107. Act, error or omission in rendering professional or health care services.

(a) A cause of action arising from an act, error or omission in the rendering of licensed or certified professional or health care services shall be brought within the greater of the following times:

(i) Within two (2) years of the date of the alleged act, error or omission, except that a cause of action may be instituted not more than two (2) years after discovery of the alleged act, error or omission, if the claimant can establish that the alleged act, error or omission was:

(A) Not reasonably discoverable within a two (2) year period; or

(B) The claimant failed to discover the alleged act, error or omission within the two (2) year period despite the exercise of due diligence.

(ii) For injury to the rights of a minor, by his eighth birthday or within two (2) years of the date of the alleged act, error or omission, whichever period is greater, except that a cause of action may be instituted not more than two (2) years after discovery of the alleged act, error or omission, if the claimant can establish that the alleged act, error or omission was:

(A) Not reasonably discoverable within the two (2) year period; or

(B) That the claimant failed to discover the alleged act, error or omission within the two (2) year period despite the exercise of due diligence.

(iii) For injury to the rights of a plaintiff suffering from a legal disability other than minority, within one (1) year of the removal of the disability;

(iv) If under paragraph (i) or (ii) of this subsection, the alleged act, error or omission is discovered during the second year of the two (2) year period from the date of the act, error or omission, the period for commencing a lawsuit shall be extended by six (6) months.

(b) This section applies to all persons regardless of minority or other legal disability.

1-3-108. Official bonds and statutory undertakings.

An action upon the official bond of an officer, assignee, trustee, executor, administrator or guardian, or upon a bond given in pursuance of a statute can only be brought within ten (10) years after the cause of action accrues.

1-3-109. Actions not otherwise limited.

An action for relief, not hereinbefore provided for, can only be brought within ten (10) years after the cause of action accrues.

1-3-110. "Substantial completion" defined.

As used in this act "substantial completion" means the degree of completion at which the owner can utilize the improvement for the purpose for which it was intended.

1-3-111. Improvements to real property; generally.

(a) Unless the parties to the contract agree otherwise, no action to recover damages, whether in tort, contract, indemnity or otherwise, shall be brought more than ten (10) years after substantial completion of an improvement to real property, against any person constructing, altering or repairing the improvement, manufacturing or furnishing materials incorporated in the improvement, or performing or furnishing services in the design, planning, surveying, supervision, observation or management of construction, or administration of construction contracts for:

(i) Any deficiency in the design, planning, supervision, construction, surveying, manufacturing or supplying of materials or observation or management of construction;

(ii) Injury to any property arising out of any deficiency listed in paragraph (i) of this subsection; or

(iii) Injury to the person or wrongful death arising out of any deficiency listed in paragraph (i) of this subsection.

(b) Notwithstanding the provisions of subsection (a) of this section, if an injury to property or person or an injury causing wrongful death occurs during the ninth year after substantial completion of the improvement to real property, an action to recover damages for the injury or wrongful death may

be brought within one (1) year after the date on which the injury occurs.

(c) This section shall not be construed to extend the period for bringing an action allowed by the laws of this state.

1-3-112. Improvements to real property; exception as to persons in possession or control.

The limitation prescribed by this act shall not be asserted by way of defense by any person in actual possession or control, as owner, tenant or otherwise, of the improvement at the time any deficiency in the improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

1-3-113. Improvements to real property; extension of limitations precluded.

Nothing in this act shall be construed as extending the period prescribed by law for the bringing of any action.

1-3-114. Legal disabilities.

If a person entitled to bring any action except for an action arising from error or omission in the rendering of licensed or certified professional or health care services or for a penalty or forfeiture, is, at the time the cause of action accrues, a minor or subject to any other legal disability, the person may bring the action within three (3) years after the disability is removed or within any other statutory period of limitation, whichever is greater.

1-3-115. Liability created by federal statute.

All actions upon a liability created by a federal statute, other than a forfeiture or penalty, for which no period of limitations is provided in such statute, shall be commenced within two (2) years after the cause of action has accrued.

1-3-116. Absence from state, abscondence or concealment.

If a cause of action accrues against a person when he is out of the state, or has absconded or concealed himself, the period limited for the commencement of the action does not begin to run until he comes into the state or while he is so absconded or concealed. If after the cause of action accrues he departs from the state or absconds or conceals himself, the time of his

absence or concealment is not computed as a part of the period within which the action shall be brought.

1-3-117. Effect of foreign law.

If by the laws of the state or country where the cause of action arose the action is barred, it is also barred in this state.

1-3-118. Right to commence new action.

If in an action commenced in due time a judgment for the plaintiff is reversed, or if the plaintiff fails otherwise than upon the merits and the time limited for the commencement of the action has expired at the date of the reversal or failure, the plaintiff, or his representatives if he dies and if the cause of action survives, may commence a new action within one (1) year after the date of the failure or reversal. This provision also applies to any claim asserted in any pleading by a defendant.

1-3-119. Effect of partial payment or new promise in writing.

When payment has been made upon any demand founded on contract or a written acknowledgment thereof, or promise to pay the same has been made and signed by the party to be charged, the time for commencing an action runs from the date of such payment, acknowledgment or promise.

CHAPTER 4 - ABATEMENT AND SURVIVAL

1-4-101. Causes of action that survive.

In addition to the causes of action which survive at common law, causes of action for mesne profits, injuries to the person, an injury to real or personal estate, or any deceit or fraud also survive. An action may be brought notwithstanding the death of the person entitled or liable to the same, but in actions for personal injury damages, if the person entitled thereto dies recovery is limited to damages for wrongful death.

1-4-102. Abatement of actions by death.

No action or proceeding pending in any court abates by the death of either or both of the parties thereto except as herein provided; an action for libel, slander, malicious prosecution, assault, assault and battery or nuisance shall abate by the death of either party.

CHAPTER 5 - VENUE

1-5-101. Actions to be brought where real property situated; exceptions.

(a) Actions for the following causes shall be brought in the county in which the subject of the action is situate, except as provided in W.S. 1-5-102 and 1-5-103:

(i) For the recovery of real property, or of an estate or interest therein;

(ii) For the partition of real property;

(iii) For the sale of real property under a mortgage, lien or other encumbrance or charge.

1-5-102. Property situate in more than a single county.

When the property is situate in more than one (1) county, the action may be brought in either, but in actions to recover real property, this can only be done when the property is an entire tract.

1-5-103. Specific performance of sale contract for realty.

An action to compel the specific performance of a contract of sale of real estate may be brought in the county where any of the defendants reside.

1-5-104. Actions to be brought where cause of action arose.

(a) Actions for the following causes shall be brought in the county where the cause or some part thereof arose:

(i) For the recovery of a fine, forfeiture or penalty imposed by a statute. When it is imposed for an offense committed on a river or other water course or a road which is the boundary of the state or of two (2) or more counties, the action may be brought in any county bordering on the river, water course or road, and opposite to the place where the offense was committed;

(ii) Against a public officer for an act done by virtue or under color of his office, or for a neglect of his official duty;

(iii) On the official bond or undertaking of a public officer.

1-5-105. Actions against domestic corporations.

An action, other than those mentioned in W.S. 1-5-101 through 1-5-103, against a corporation created under the laws of this state may be brought in the county in which the corporation is situate or has its principal office or place of business. If the corporation is an insurance company the action may be brought in the county wherein the cause of action or some part thereof arose.

1-5-106. Actions against public carriers and railroad companies.

An action for an injury to person or property upon a liability as a public carrier, or an action against a railroad company, may be brought in any county through or into which the carrier or railroad line passes.

1-5-107. Actions against nonresidents and foreign corporations.

An action, other than one (1) of those mentioned in W.S. 1-5-101 through 1-5-104, against a nonresident of this state or a foreign corporation, whether or not codefendants reside in Wyoming, may be brought in any county where the cause of action arose or where the plaintiff resides.

1-5-108. Actions not otherwise provided for; exception.

Every action not otherwise provided for in this chapter shall be brought in the county in which a defendant resides or may be summoned, except actions against an executor, administrator, guardian or trustee, which may be brought in the county where he was appointed or resides. If the action involves two (2) or more defendants, the action may be brought against all defendants in any county in which one (1) of the defendants resides or may be summoned.

1-5-109. Actions for personal injuries or wrongful death.

An action for personal injuries or wrongful death may be brought in the county in which the cause of action arose or in the county in which the defendant resides or may be summoned.

CHAPTER 6 - PROCESS, NOTICE AND LIS PENDENS

ARTICLE 1 - IN GENERAL

1-6-101. Endorsement by sheriff required.

The sheriff shall endorse upon every writ or order, the day and hour it was received by him.

1-6-102. Service of process when sheriff is an interested party.

When the sheriff is a party or is interested in an action, process shall be directed to and executed by a person over the age of eighteen (18) years, not a party to the action, appointed for that purpose by the court.

1-6-103. Appointment to serve particular process or order.

For good cause the court may appoint a person to serve a particular process or order, who has the same power as the sheriff to execute it. The person may be appointed on the motion of the party who obtains the process or order, and the return must be verified by affidavit. He is entitled to the fees allowed the sheriff for similar services.

1-6-104. Duties of sheriff.

The sheriff shall execute every summons, order or other process, return the same as required by law, and exercise the powers conferred and perform the duties enjoined upon him by statute and by the common law.

1-6-105. Proceedings when defendants not all served.

(a) When service has been made on one (1) or more defendants, but not on all, the plaintiff may proceed as follows:

(i) If the action is against defendants jointly indebted upon contract, he may proceed against the defendants served, unless the court otherwise directs; or

(ii) If the action is against defendants severally liable, he may without prejudice to his rights against those not served, proceed against the defendants served.

1-6-106. Lis pendens; generally.

When a summons has been served or publication made, the action is pending so as to charge third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's title.

1-6-107. Lis pendens; recordation when real property situate in other counties; constructive notice.

After filing an action in a court of competent jurisdiction the subject matter of which is the title to real property located in one (1) or more counties in this state, the plaintiff may file a certified copy of the complaint or a sworn notice of the pendency of the action in the office of the county clerk in the county or counties in which the real property is located. The notice shall contain the names of the parties, the object of the action and a description of the property before it shall operate as constructive notice to third parties in such counties. Notice shall be effective in the county where the action is filed without filing a document with the county clerk of that county. Constructive notice shall be effective as to property in the county in which the complaint is filed as of the date the complaint is filed and shall be effective as to property in any other county as of the date on which the notice is filed in the clerk's office of that county.

1-6-108. Lis pendens; notice of pendency of action affecting real property or action between husband and wife.

In an action in a state court or in a United States district court affecting the title or right of possession of real property, or in an action between husband and wife, the plaintiff at the time of filing the complaint and the defendant at the time of filing his pleading when affirmative relief is claimed or at any time afterward, may file in the office of the county clerk in which the property is situate a notice of pendency of the action containing the names of the parties, the object of the action or defense and a description of the property in that county affected thereby as provided by W.S. 1-6-107. From the time of filing the notice a subsequent

purchaser or encumbrancer of the property shall have constructive notice of the pendency of the action.

1-6-109. Lis pendens; record of notice.

The county clerk upon the filing of such notice shall record the same in a book kept for that purpose.

1-6-110. Transmission of process by telecommunications.

Any summons, writ or order in any civil proceeding, and all other papers requiring service may be transmitted by any form of telecommunication for service in any place, and the copy of such writ, order or paper so transmitted may be served or executed by the officer or person to whom it is sent for that purpose and returned by him, if any return be requisite, in the same manner and with the same force and effect as the original thereof might be if delivered to him. The officer or person serving or executing the same has the same authority and is subject to the same liabilities as if the copy were the original. The original, when a writ or order, must also be filed in the court from which it was issued and a certified copy thereof shall be preserved in the telecommunication office from which it is sent. In sending it, either the original or certified copy may be used by the operator for that purpose. Whenever any document to be sent by telecommunication bears a seal, either private or official, it is not necessary for the operator to communicate a description of the seal or any words or device thereon, but the same may be expressed in the telecommunication by the letters "L. S." or by the word "Seal".

1-6-111. Substitution of certified mail for registered mail.

Wherever required by statute, rule of court or otherwise that service be made or notice given by registered mail, such requirement may be satisfied by use of certified mail and proof of mailing.

ARTICLE 2 - PUBLICATION OF NOTICE

1-6-201. Manner of publishing generally.

All notices by law directed, authorized or permitted to be made by publication may be published once each week during the period of time for which the notice is required by law to be published. All such weekly publications made in a newspaper issued more

than once each week shall be published in the same issue in each succeeding week for the required publication period.

1-6-202. Notice for certain number of days.

Whenever the law requires or permits the publication of a notice for a certain number of days prior to any action, unless otherwise provided by law the publication may be made weekly as provided in W.S. 1-6-201, and as often as such weekly publication can be made during the period of time for which such publication is required by law to be made, the first publication to be made as many days prior to such action as the law requires.

1-6-203. Notice for specified number of weeks.

In all cases where under the laws a notice is required or permitted to be published for a specified number of weeks, it is sufficient that the publication be made once each week for the number of issues corresponding to the number of weeks for which such publication is required to be made, provided that not more than twenty (20) days shall intervene between the date of the last publication and the time set for the intended action. In no case shall the notice given for a longer time than required by law be held defective for that reason.

1-6-204. Publication of real property; descriptions used.

All notices directed, authorized or permitted to be made by publication that require a legal description of real property on the notice shall include the street address for the property used by the United States postal service when available, or the street address used by the county or municipality if available.

ARTICLE 3 - SERVICE ON NONRESIDENT MOTORISTS

1-6-301. Secretary of state deemed attorney for service; continuance of action; costs; record of process; jurisdiction; direction of summons.

(a) The use and operation of a motor vehicle on any street or highway within Wyoming by any person upon whom service of process cannot be made within Wyoming either personally or by service upon a duly appointed resident agent is deemed an appointment of the secretary of state of Wyoming as the operator's lawful attorney upon whom may be served all legal processes in any proceeding against him, or his personal

representative if he be deceased, due to damage or injury to person or property resulting from the operation of a motor vehicle on the streets or highways within this state. Such operation constitutes the operator's agreement that any process served in any action against him or his personal representative has the same legal force and validity as if served upon him or his personal representative personally within this state. Service shall be made by serving a copy of the process upon the secretary of state or by filing such copy in his office, together with payment of a fee of three dollars (\$3.00). Within ten (10) days after the date of service, notice of such service and a copy of the process shall be served upon the defendant or his personal representative either personally or by certified mail addressed to the last known address of the defendant or his personal representative. The plaintiff shall file with the clerk of the court in which the action is brought an affidavit that he has complied with such requirement.

(b) The court in which the action is pending shall order such continuance as necessary to afford the defendant or his personal representative reasonable opportunity to defend the action. The fee of three dollars (\$3.00) paid by the plaintiff to the secretary of state at the time of service of process shall be taxed as costs in the suit.

(c) The secretary of state shall keep a record of all processes served showing the date and hour of service and shall arrange and index the record to make it readily accessible and convenient for inspection. The district court of the county in which the cause of action arose or the district court of the county in which the plaintiff resides shall have jurisdiction over the action. The clerk of the district court in which the action is commenced may issue summons directed to the sheriff of Laramie county, Wyoming for service upon the secretary of state of Wyoming.

CHAPTER 7 - CHANGE OF VENUE

1-7-101. Liability for expenses in civil actions.

When a change of venue is directed in a civil action in the district court, the county from which the change of venue is taken shall be liable to pay to the county to which the change is taken the fees paid to the jury trying the case and any of the regular panel not engaged in the trial but held in waiting as an incident thereto, allowance to bailiffs, and all other jury expenses necessarily incurred by such county because of the

change of venue. Such expenses shall be audited and allowed by the court to which the action is changed and the court shall certify such allowance to the county clerk of the county from which the change of venue was first taken. The allowance shall be paid by the county from which the change of venue was first taken.

1-7-102. Venue in criminal cases generally.

(a) Every criminal case shall be tried in the county in which the indictment or offense charged is found, except as otherwise provided by law.

(b) When the location of a criminal offense cannot be established with certainty, venue may be placed in the county or district where the corpus delicti is found, or in any county or district in which the victim was transported.

CHAPTER 8 - TIME FOR TRIAL

1-8-101. Trial docket.

The clerk shall make a trial docket on the first day of each term, on which shall appear all cases in which the issues have been joined. The cases shall be set for trial in the order in which they stand on the appearance docket. The clerk shall not place upon the trial docket any case in which nothing remains to be done except to execute an order for the sale of real or personal property, and to distribute the proceeds as directed by the order, but if it becomes necessary, the case may be redocketed upon the application of either party, whereupon it shall stand in all respects as if it had remained on the docket.

1-8-102. Order of hearing.

All cases shall be heard in the order in which they stand on the trial docket unless the court otherwise directs. The court may hear a motion at any time and may prescribe by rule the time of hearing motions.

1-8-103. Copy of docket for bar.

The clerk shall make a copy of the trial docket for the use of the bar before the first day of the term.

CHAPTER 9 - CONTINUANCES

1-9-101. Contents of affidavit showing lack of evidence or absent witness; procedure if evidence admitted.

(a) A motion to postpone the trial of a case because of the lack of evidence shall be supported by affidavit showing:

- (i) The materiality of the evidence expected to be obtained;
- (ii) That due diligence has been used to obtain the evidence; and
- (iii) Where it is expected the evidence may be found.

(b) If the postponement is because of an absent witness, the affidavit shall also state:

- (i) Where the witness resides, if known;
- (ii) The probability of procuring the testimony within a reasonable time;
- (iii) That absence of the witness was not procured by the act or connivance of the party seeking the postponement, nor by others at his request or with his knowledge or consent;
- (iv) The facts the witness is expected to prove and that affiant believes the facts as stated to be true; and
- (v) Such facts cannot be proven by any other witness whose testimony can be as readily procured.

(c) If the adverse party consents that, on the trial, the facts stated in the affidavit will be taken as true, if the evidence is written or documentary, or in case of an absent witness that the witness will testify to the facts stated in the affidavit as true, the trial shall not be postponed for that cause. The party against whom the evidence is offered may impeach the evidence of an absent witness the same as when the witness is present or his deposition is used.

1-9-102. Continuance for good cause.

Any court, for good cause shown may continue any action at any stage of the proceedings at the cost of the applicant, to be paid as the court shall direct.

CHAPTER 10 - TENDER AND OFFER TO CONFESS JUDGMENT

1-10-101. Tender of money before action.

In an action on contract for the payment of money, if the defendant answers and proves that he tendered payment of the money due before commencement of the action, and pays to the clerk before trial the money so tendered, the plaintiff shall not have judgment for more than the money so tendered and due, without costs, and shall pay the defendant his costs.

1-10-102. Tender of payment other than money or performance of labor.

If, in an action on a contract for the payment of anything other than money or for the performance of labor, the defendant answers that he did tender payment or performance of the contract at such time and place, and in such things or labor as by the contract he was bound to pay or perform, and the court or jury finds that he did tender as alleged in his pleading, they shall assess the value of the property or labor so tendered, and judgment shall be rendered in favor of the plaintiff for the value found, without interest or costs. If the defendant forthwith performs his contract, or gives to the plaintiff such assurance as the court approves that he will perform within such time as the court directs, judgment shall be rendered for the defendant. If any article so tendered is perishable it shall, from the time of tender, be kept at the risk and expense of the plaintiff, provided the defendant takes reasonable care of the same.

1-10-103. Offer to confess judgment before action brought.

Before an action for recovery of money is brought against any person, he may go into the court of competent jurisdiction in the county of his residence or the county in which the person having the cause of action resides, and offer to confess judgment in favor of the claimant for a specified sum. If the claimant, having such notice as the court deems reasonable that the offer will be made, its amount, and the time and place of making it fails to attend and accept the confession, or if he attends and refuses to accept it and afterwards commences an action upon the cause and fails to recover more than the amount offered to be confessed, with interest from the date of the offer, he shall pay all the costs of the action.

1-10-104. Offer in court to confess for part of claim or causes.

The defendant in an action for the recovery of money may offer in court to confess judgment for part of the amount claimed, or part of the causes involved in the action. If the plaintiff, being present, refuses to accept such confession of judgment in full satisfaction of his demands in the action, or having had such notice as the court deems reasonable that the offer would be made, its amount, and the time of making it, fails to attend, and, on the trial, does not recover more than was offered to be confessed, with interest from the date of the offer, the plaintiff shall pay all costs of the defendant incurred after the offer was made.

1-10-105. Offer to confess not to affect trial.

An offer to confess judgment is not an admission of the cause of action nor of the amount to which the plaintiff is entitled. It is not a cause of continuance of the action, or a postponement of the trial, and may not be offered or admitted in evidence or mentioned at the trial.

1-10-106. Applicability of confession of judgment provisions.

The provisions relating to confessions of judgment shall apply so far as practicable to an offer made by the plaintiff, and in the discretion of the court, may be applied to one (1) or more of several causes of action, counterclaims, cross-claims or setoffs, and the court shall make such order as to costs as it deems proper.

CHAPTER 11 - TRIAL BY JURY

ARTICLE 1 - QUALIFICATIONS, SELECTION AND EMPANELING OF JURIES

1-11-101. Qualifications of juror.

(a) A person is competent to act as juror if he is:

(i) An adult citizen of the United States who has been a resident of the state and of the county ninety (90) days before being selected and returned;

(ii) In possession of his natural faculties, of ordinary intelligence and without mental or physical infirmity preventing satisfactory jury service;

(iii) Possessed of sufficient knowledge of the English language.

(b) No citizen shall be excluded from service as a juror on account of race, color, religion, sex, age, national origin or economic status.

1-11-102. Convicted felon disqualified.

A person who has been convicted of any felony is disqualified to act as a juror unless his conviction is reversed or annulled, he receives a pardon or his rights are restored pursuant to W.S. 7-13-105(a).

1-11-103. Persons exempt as juror; duty to discharge.

(a) A person is exempt from liability to act as juror if the court finds that the provisions of W.S. 1-11-104 apply or for any other compelling reasons or if a person is:

(i) A salaried and active member of an organized fire department or an active member of a police department of a city, town or law enforcement agency of the county or state; or

(ii) An elected public official.

(b) The court shall discharge a person from serving as a trial juror if it satisfactorily appears that the person is not competent or the person is exempt and specifically claims the benefit of the exemption.

1-11-104. Causes for excusal.

A juror may not be excused for a trivial cause or for hardship or inconvenience to his business, but only when material injury or destruction to his property or property entrusted to him is threatened, or when his health or the sickness or death of a member of his family requires his absence. A person may be excused at his request if he is over seventy-two (72) years of age. A person may be excused from jury duty when the care of that person's young children requires his absence. Any person who has served on a jury shall, upon request, be excused from further jury service in that court for the remainder of that

jury term and in the discretion of the court may be excused from jury service for the following jury term.

1-11-105. Exemption affidavit required; failure to file.

If a person exempt from jury duty is summoned as a juror, he may file his affidavit with the clerk of the court for which he is summoned stating his office, occupation or employment. The affidavit must be delivered by the clerk to the judge of the court where the person is summoned, and if sufficient in substance, must be received as evidence of his right to exemption and as an excuse for nonattendance in person. The affidavit must then be filed by the clerk. Failure of any person who is exempt to file the affidavit is a waiver of his exemption, and he is required to appear upon the day for which the jury is summoned and serve as a juror the same as if he were not entitled to exemption.

1-11-106. Jury lists; preparation of base jury lists; selecting jury panel; certificate and summons.

(a) The list of persons qualified to serve as trial jurors, compiled pursuant to W.S. 1-11-129, is the base jury list for the district court and the circuit court from April 1 of the year in which the list is certified and delivered through March 31 of the following year. Upon order of the court, the clerk of the district court shall select a panel of prospective trial jurors from the base jury list for the county. The clerk shall select the number of prospective jurors as specified by the court.

(b) The clerk shall prepare a certificate containing the names constituting the panel of trial jurors, and summon them to appear in court for a trial whenever ordered by the court.

1-11-107. Repealed By Laws 2014, Ch. 53, § 2.

1-11-108. Jury panel in circuit courts; functions, powers and duties of judges thereof.

(a) Repealed By Laws 2014, Ch. 53, § 2.

(b) In conducting jury trials, judges of the circuit courts shall exercise and perform the same functions, powers and duties as are prescribed for both the judge and the clerk of the district court in W.S. 1-11-101 through 1-11-401, insofar as practicable.

(c) Repealed by Laws 1983, ch. 138, § 3.

1-11-109. Procedure for selecting jury; contents of certificate; summons.

(a) The clerk shall choose the prospective jurors from the base jury list using a random method of selection.

(b) Repealed By Laws 2014, Ch. 53, § 2.

(c) If any person selected is not competent to serve as a trial juror, and the incompetence shall be made to appear to the satisfaction of the court, the name of the person shall be stricken from the jury list.

(d) When the necessary number of jurors has been randomly selected, the clerk shall make and certify a list of the names selected. The certificate shall state:

(i) The date of the court order for the selection;

(ii) The date of the selection;

(iii) The number of jurors selected;

(iv) The names and addresses of the competent jurors;
and

(v) The time and place where the jurors are required to appear.

(e) The jurors on the certified list shall be summoned to appear.

1-11-110. Repealed by Laws 1983, ch. 138, § 3.

1-11-111. Repealed by Laws 1983, ch. 138, § 3.

1-11-112. Jurors to appear at time specified.

Each grand juror and petit juror summoned shall appear before the court on the day and at the hour specified in the summons, and depart only with permission of the court.

1-11-113. Completion of jury panel.

(a) The persons summoned by the clerk shall appear in answer to the summons and be examined as to their qualifications. If after all qualified trial jurors have been accepted it appears that there are not enough in attendance, the court shall order the clerk to randomly select the necessary number of names from the base jury list to complete the jury panel, and the clerk shall continue to randomly select names until a sufficient number of jurors are obtained. The persons so selected shall be summoned to appear.

(b) Repealed by Laws 1983, ch. 138, § 3.

1-11-114. Service of summons; proof of service.

(a) Service of a summons may be made by such means as the court may order. If service is accomplished through the sheriff's office, the sheriff's costs shall be paid by the county.

(b) If necessary the court may require proof of service.

1-11-115. Failure of juror to attend.

Any juror summoned who willfully and without reasonable excuse fails to attend may be arrested and compelled to attend and is subject to contempt of court.

1-11-116. Empaneling of jury.

At the opening of court on the day that trial jurors are summoned to appear, the clerk shall call the names of those summoned. The court shall hear the jurors summoned, and shall excuse those whom the court finds are exempt, disqualified or have material cause for being excused.

1-11-117. Repealed By Laws 2014, Ch. 53, § 2.

1-11-118. Procedure upon exhaustion of prospective jurors during empaneling.

If at any time during the empaneling of a jury all the names selected for the panel are exhausted, the court shall enter an order directing that such additional number of names as necessary be randomly selected from the base jury list. The court may excuse any jurors so selected if it appears that, because of distance, the delay occasioned by summoning the juror and requiring his presence would unduly prolong empaneling the

trial jury. The clerk shall summon the persons selected and not excused to appear in court immediately. The process shall continue from time to time when necessary until a jury is obtained.

1-11-119. Number of jurors; fees and mileage.

Trial juries in circuit courts shall be composed of six (6) persons. Trial juries in civil cases and all other proceedings in the district courts except criminal cases shall be composed of six (6) jurors unless one (1) of the parties to the action files a written demand for twelve (12) jurors within the time a demand for jury may be filed, in which event the number of jurors shall be twelve (12). Jurors in all courts shall be allowed the same fees and mileage as jurors in district court.

1-11-120. Persons sworn to constitute jury; generally.

The first six (6) persons, or twelve (12) if demanded, who appear as their names are randomly selected and are approved as indifferent between the parties and not discharged or excused shall be sworn and constitute the jury to try the issue.

1-11-121. Repealed By Laws 2014, Ch. 53, § 2.

1-11-122. Discharge of jurors.

After the jury is discharged the jurors, upon request, shall be excused from jury service for the remainder of the calendar year.

1-11-123. Discharge of jurors; absent or excused jurors.

The name of a juror who is absent when his name is selected, or is set aside, or excused from serving on that trial shall remain on the base jury list.

1-11-124. Repealed By Laws 2014, Ch. 53, § 2.

1-11-125. Procedure when sufficient number of jurors fail to attend.

If a sufficient number of jurors duly selected and notified do not attend to form a jury the court shall direct the clerk to select a sufficient number of names from the base jury list to complete the jury and shall summon the persons selected to attend immediately or at a time fixed by the court. If for any

reason a sufficient number of jurors to try the issue is not obtained from the persons notified, the court may make successive orders until a sufficient number is obtained. The court may excuse any juror so selected if it appears that, because of distance, the delay occasioned by summoning the juror and requiring his presence would unduly prolong empaneling the trial jury. Each person so notified, unless excused by the court, shall serve as a juror at the trial. For a neglect or refusal to serve he may be fined in the same manner as a trial juror regularly selected and notified and he is subject to the same exceptions and challenges as any other trial juror.

1-11-126. No objection that jury not original one returned.

It is not a valid objection to a jury that it contains none of the jurors originally returned to the court or is only partially composed of such jurors or that the base jury list was not supplemented as permitted herein.

1-11-127. Repealed By Laws 2014, Ch. 53, § 2.

1-11-128. Repealed By Laws 2014, Ch. 53, § 2.

1-11-129. Procedure for maintaining jury lists.

The supreme court shall compile a base jury list for each county. The supreme court shall compile a base jury list for the state as necessary under W.S. 7-5-303. The base jury lists shall be compiled from voter lists and may include names from Wyoming driver's license lists. The base jury lists prepared by the supreme court and panels or lists of prospective jurors selected by the clerk of court may be compiled and maintained using any manual, mechanical, electronic or other means calculated to insure the integrity of the system and a random selection process.

ARTICLE 2 - CONDUCT OF TRIAL; VERDICT

1-11-201. Oath of jurors; jury ordered into custody.

As soon as the jury is selected an oath shall be administered to the jurors that they will truly try the matter in issue between, the plaintiff, and, the defendant, and render a true verdict according to the evidence. After the oath has been administered and the jury fully empaneled, the court shall order the jury into the custody of the officer selected by the court.

The jurors shall not separate from the custody of the officer until they have been duly discharged, unless by the consent of the parties to the action. The officer shall provide for suitable quarters and food for the jury pending the trial.

1-11-202. Peremptory challenges allowed.

In the trial of civil cases in the district courts of this state, each side is allowed three (3) peremptory challenges.

1-11-203. Challenges for cause; grounds.

(a) Challenges for cause may be taken on one (1) or more of the following grounds:

(i) A lack of any of the qualifications prescribed by statute which render a person competent as a juror;

(ii) Relationship by consanguinity or affinity within the third degree to either party;

(iii) Standing in the relation of debtor or creditor, guardian or ward, master or servant, or principal or agent to either party, or being a partner united in business with either party, or being security on any bond or obligation for either party;

(iv) Having served as a juror or a witness in a previous trial between the same parties for the same cause of action, or being then a witness therein;

(v) Interest on the part of the juror in the event or question involved in the action, but not an interest of the juror as a member or citizen of a municipal corporation;

(vi) Having formed or expressed an unqualified opinion or belief as to the merits or the main question of the action. The reading of newspaper accounts of the subject matter before the court shall not disqualify the juror either for bias or opinion;

(vii) The existence of a state of mind in the juror evincing enmity or bias for either party.

1-11-204. Challenges for cause; trial.

All challenges for cause shall be tried by the court, and the juror challenged, and any other persons may be examined as witnesses upon the trial of the challenge.

1-11-205. Order of trial.

(a) When the jury has been sworn, the trial shall proceed in the following order, unless the court for good cause otherwise directs:

(i) The party who has the burden of the issues may briefly state his case and the evidence by which he expects to sustain it;

(ii) The adverse party may then briefly state his defense and the evidence he expects to offer in support of it;

(iii) The party who has the burden of the issues shall first produce his evidence, the adverse party will then produce his evidence;

(iv) The parties will then be confined to rebutting evidence unless the court permits them to offer evidence in their original case;

(v) When the evidence is concluded, and either party desires special instructions to be given to the jury, the instructions shall be reduced to writing, numbered and signed by the party or his attorney asking the same, and delivered to the court;

(vi) Before argument of the cause is begun, the court shall give such instructions of the law to the jury as may be necessary. The instructions shall be in writing, numbered and signed by the judge;

(vii) Where either party asks special instructions to be given to the jury, the court shall either give such instructions as requested, give the instructions with modifications, or refuse to give them. The court shall mark each instruction offered so that it shall appear which instructions were given in whole or in part, and which were refused, so that either party may except to the instructions as given, refused or modified. All instructions given by the court together with those refused shall be filed as a part of the record.

1-11-206. View of property or place by jury.

When the court considers it proper for the jurors to view the property which is the subject of litigation or the place in which any material fact occurred, it may order them to be conducted in a body under the charge of an officer to the place which shall be shown to them by a person appointed by the court for that purpose. While the jurors are absent no person other than the person so appointed shall speak to them on any subject connected with the trial.

1-11-207. Decision or deliberation by jury; duty of officer in charge of jury.

When the case is submitted, the jury may decide in court or retire for deliberation. If the jurors retire, they shall be kept together in some convenient place under the charge of an officer until they agree upon a verdict or are discharged by the court. The court may permit them to separate temporarily at night or at their meals. The officer having them under his charge shall not allow any communication to be made to them nor make any himself except to ask them if they have agreed upon their verdict, unless by order of the court. He shall not communicate to any person the state of their deliberations or the verdict agreed upon before their verdict is rendered.

1-11-208. Admonition to jurors when permitted to separate.

If the jurors are permitted to separate during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with nor allow themselves to be addressed by any person on any subject of the trial, and that they are not to form or express an opinion until the cause is finally submitted to them.

1-11-209. Further information after jury's retirement.

After the jurors have retired for deliberation, if there is a disagreement between them as to any part of the testimony, or if they desire to be informed as to any part of the law arising in the case, they may request the officer to conduct them to the court where information upon the matter of law shall be given. The court may give its recollection as to the testimony on the points in dispute, in the presence of or after notice to the parties or their counsel.

1-11-210. Discharge of jury without verdict.

The jury may be discharged by the court on account of the sickness of a juror or any accident or calamity requiring its discharge, or by consent of both parties or after the jurors have been kept together until it appears there is no probability of their agreeing.

1-11-211. Retrial after discharge of jury.

When the jury is discharged after the cause is submitted or during the trial, the cause may be tried again immediately or at a future time as the court directs.

1-11-212. Rendition of verdict.

When the jurors agree upon their verdict, it shall be reduced to writing and signed by the foreman. They shall then be conducted into court, their names called by the clerk and the verdict rendered by the foreman. The clerk shall then read the verdict to the jury and inquire whether it is their verdict.

1-11-213. Further deliberation; polling jury.

If a jury disagrees, or if when the jury is polled a juror answers in the negative, or if the verdict is defective in substance, the jury shall be sent out again for further deliberation and either party may require the jury to be polled by the clerk or court asking each juror if it is his verdict.

1-11-214. Discharge of jury; correcting defective verdict.

If no disagreement is expressed and neither party requires the jury to be polled, or on polling each juror answers in the affirmative, the verdict is complete and the jury shall be discharged. If the verdict is defective in form only, it may be corrected by the court with the assent of the jurors before they are discharged.

ARTICLE 3 - JURY FEES

1-11-301. Fees in district court generally.

All persons summoned as jurors in the district courts of this state shall receive the fees hereinafter provided and none other.

1-11-302. Mileage rate.

For each mile actually and necessarily traveled in going to and returning from the place of trial they shall receive mileage at the rate set in W.S. 9-3-103 when the distance traveled exceeds five (5) miles.

1-11-303. Amount of fees.

Jurors shall receive thirty dollars (\$30.00) for each full or part day of actual attendance. A juror in attendance for more than five (5) consecutive days, exclusive of Saturdays, Sundays and holidays, may, in the discretion of the court, be allowed an additional twenty dollars (\$20.00) per day for each day actually in attendance.

1-11-304. Certificate issued to jurors.

The clerk of the court shall note the time of the discharge of each juror summoned and issue to the juror a certificate under seal of the court for the amount due him for mileage and juror fees.

ARTICLE 4 - JURORS' EMPLOYMENT

1-11-401. Protection of jurors' employment.

(a) No employer shall discharge, threaten to discharge, intimidate or coerce any employee by reason of the employee's jury service, for the attendance or scheduled attendance in connection with jury service, in any court in the state of Wyoming.

(b) Any employer who violates the provisions of this section:

(i) May be enjoined from further violations of this section in order to provide other appropriate relief, including but not limited to reinstatement; and

(ii) Is liable for exemplary damages to the employee in an amount set by the court, but not to exceed one thousand dollars (\$1,000.00) for each violation as to each employee; and

(iii) Is liable for the employee's reasonable costs and attorney's fees, as set by the court, in enforcing his rights hereunder.

(c) Any individual who is reinstated to a position of employment in accordance with this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority and is entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or on leave of absence in effect with the employer at the time the individual entered upon jury service.

(d) No action by an employee aggrieved hereunder shall be brought more than six (6) months after the alleged violation.

(e) The court may award a prevailing employer a reasonable attorney's fee as part of the cost if the court determines that any action brought by an employee is frivolous, vexatious or brought in bad faith.

CHAPTER 12 - EVIDENCE AND WITNESSES

ARTICLE 1 - WITNESSES GENERALLY

1-12-101. Privileged communications and acts.

(a) The following persons shall not testify in certain respects:

(i) An attorney or a physician concerning a communication made to him by his client or patient in that relation, or his advice to his client or patient. The attorney or physician may testify by express consent of the client or patient, and if the client or patient voluntarily testifies the attorney or physician may be compelled to testify on the same subject;

(ii) A clergyman or priest concerning a confession made to him in his professional character if enjoined by the church to which he belongs;

(iii) Husband or wife, except as provided in W.S. 1-12-104;

(iv) A person who assigns his claim or interest concerning any matter in respect to which he would not be permitted to testify if a party;

(v) A person who, if a party, would be restricted in his evidence under W.S. 1-12-102 shall, where the property is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee or legatee, be restricted in the same manner in any action or proceeding concerning the property;

(vi) A confidential intermediary, as defined in W.S. 1-22-201(a)(viii), concerning communications made to him or information obtained by him during the course of an investigation pursuant to W.S. 1-22-203, when the public interests, in the judgment of the court, would suffer by the disclosure.

1-12-102. When party incapable of testifying.

In an action or suit by or against a person who from any cause is incapable of testifying, or by or against a trustee, executor, administrator, heir or other representative of the person incapable of testifying, no judgment or decree founded on uncorroborated testimony shall be rendered in favor of a party whose interests are adverse to the person incapable of testifying or his trustee, executor, administrator, heir or other representative. In any such action or suit, if the adverse party testifies, all entries, memorandum and declarations by the party incapable of testifying made while he was capable, relevant to the matter in issue, may be received in evidence.

1-12-103. Compelling testimony of adverse parties in civil and criminal actions.

A party may compel the adverse party to testify orally or by deposition as any other witness, and no person is disqualified as a witness in any action, civil or criminal, because of his interest in the same as a party or otherwise. Every person is a competent witness except as otherwise provided by law, but his interest in the action may be shown to affect the credibility of the witness. Any party of record in a civil action, or any person for whose immediate benefit the action is prosecuted or defended, or his assignor, officer, agent or employee or if a county or city is a party any officer of the county or city, may be examined upon the trial of any action as if under cross-examination at the instance of the adverse party and may be compelled to testify subject to the same rules for examination as any other witness. The party calling for the examination is not concluded thereby and may rebut the evidence given by counter or impeaching testimony.

1-12-104. Husband and wife as witnesses in civil and criminal cases.

No husband or wife shall be a witness against the other except in criminal proceedings for a crime committed by one against the other, or in a civil action or proceeding by one against the other. They may in all civil and criminal cases be witnesses for each other the same as though the marital relation did not exist.

1-12-105. Right of witness to demand fees; failure to pay; payments noted.

After the case is called for trial and before a witness is sworn, he may demand his traveling fees and fees for one (1) day's attendance. If the fees are not paid he is not obliged to testify. At the commencement of the trial each day after the first day he may demand his fees for that day's attendance and if the fees are not paid he shall not be compelled to remain. The clerk shall note the payment of fees in the witness book.

1-12-106. Contempt of court by witness.

Disobedience of a subpoena, refusal to be sworn except for refusal to pay fees on demand, or refusal to answer as a witness or to subscribe a deposition when lawfully ordered, may be punished as a contempt of the court or officer who required the attendance or testimony of the witness.

1-12-107. Attachment of witness who disobeys subpoena.

When a witness fails to attend in obedience to a subpoena, the court or officer before whom his attendance is required may issue an attachment to the sheriff of the county commanding him to arrest and bring the person named before the court at a time and place fixed in the attachment, to give his testimony and answer for the contempt. If the attachment is not for immediately bringing the witness before the court or officer, a sum may be fixed in which the witness may give bond with surety for his appearance. The sum shall be endorsed on the back of the attachment. If no sum is fixed and endorsed, it shall be one hundred dollars (\$100.00). If the witness was not personally served, the court may order him to show cause why an attachment should not issue against him.

1-12-108. Punishment for contempt by witness.

(a) Punishment for the contempt mentioned in W.S. 1-12-106 is as follows:

(i) When the witness fails to attend in obedience to a subpoena, the court or officer may fine him not more than fifty dollars (\$50.00);

(ii) In other cases the court or officer may fine the witness not more than fifty dollars (\$50.00) nor less than five dollars (\$5.00), or may imprison him in the county jail until he submits to be sworn, testifies or gives his deposition.

(b) The fine imposed shall be paid into the county treasury.

(c) The witness is also liable to the party injured for any damages occasioned by his failure to attend, his refusal to be sworn, to testify or give his deposition.

1-12-109. Discharge of imprisoned witness.

Upon application of a witness imprisoned by an officer, a judge of the supreme court or district court may discharge him if it appears that his imprisonment is illegal.

1-12-110. Attachment for arrest or order of commitment; execution.

Every attachment for the arrest or order of commitment to prison of a witness by a court or officer must be under the seal of the court or officer, if the officer has an official seal, and must specify particularly the cause of the arrest or commitment. If the commitment is for a refusal to answer a question, the question must be stated in the order and the order of commitment directed to the sheriff of the county where the witness resides or may be found at that time. It shall be executed by committing the witness to the jail of the county and delivering a copy of the order to the jailer.

1-12-111. Procuring testimony of imprisoned witness.

When it is necessary to procure testimony of a person confined in the state penitentiary or any jail or reformatory, in the trial of any issue in an indictment or information, or in any hearing before a grand jury, the court may order a subpoena issued, directed to the warden of the state penitentiary or the superintendent of the jail or reformatory commanding him to

bring the witness named in the subpoena before the court. The warden, superintendent or sheriff shall take the witness before the court at the time and place named in the subpoena and hold him until he is discharged by the court. When discharged he shall be returned by the officer to the place of imprisonment from which he was taken. The officer may command such assistance as he deems proper for the safe transportation of the witness. When the witness is in attendance of any court he may be placed for safekeeping in the jail of the county. The county in which the offense was alleged to have been committed shall pay the actual and necessary expenses of producing, keeping and returning the witness.

1-12-112. Taking of prisoner's deposition.

While a prisoner's deposition is being taken he shall remain in the custody of the officer having charge of him. The officer shall afford reasonable facilities for the taking of the deposition.

1-12-113. Immunity of witness obeying subpoena.

A witness may not be served with a summons or sued in a county in which he does not reside while going, returning or attending in obedience to a subpoena.

1-12-114. Oath of witness.

Before testifying the witness shall be sworn to testify the truth, the whole truth and nothing but the truth.

1-12-115. Testimony for use in foreign jurisdiction.

Whenever any mandate, writ or commission is issued from any court of record in any foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness in this state, the witness may be compelled to appear and testify in the same manner and by the same process as employed for taking testimony in matters pending in the courts of this state.

1-12-116. Confidential communications between family violence and sexual assault advocate and victim.

(a) As used in this section:

(i) "Advocate" or "family violence or sexual assault advocate" means a person who is employed by or volunteers services to any family violence and sexual assault program, who is certified by the program as having undergone at least forty (40) hours of crisis advocacy training and whose work is directed and supervised under a family violence and sexual assault program;

(ii) "Confidential communication" means information transmitted in confidence between a victim and an advocate in the course of that relationship and includes all information received by, and any report, working paper or document prepared by the advocate in the course of that relationship;

(iii) "Crisis services to victims of family violence and sexual assault" means emergency and follow-up intervention, information, referral services and medical, legal and social services advocacy;

(iv) "Family violence and sexual assault program" means a program whose primary purpose is to offer shelter and crisis services to victims of family violence and sexual assault through any community facility or center;

(v) "Shelter" means a place of temporary refuge, offered on a twenty-four (24) hour, seven (7) day per week basis to victims and their children;

(vi) "Victim" means a person who has been subjected to sexual assault as defined by W.S. 6-2-301(a)(v), incest as defined by W.S. 6-4-402 or domestic abuse as defined by W.S. 35-21-102(a)(iii).

(b) Except as provided by W.S. 14-3-210, a person exempted from testifying under the provisions of W.S. 1-12-116 shall not be examined as a witness in any civil, criminal, legislative or administrative proceeding concerning the following communications and information:

(i) An advocate shall not testify concerning a confidential communication made by a victim in the course of that relationship, except the advocate:

(A) May testify:

(I) With the express consent of the victim;

or

(II) If the victim voluntarily testifies, provided the advocate's testimony shall be limited to the same subject matter.

(B) May be compelled to testify if the victim is unable to testify due to death or incompetence.

(ii) Any employee of a family violence and sexual assault program who has access to confidential communication shall not testify except in those circumstances where the advocate may testify.

ARTICLE 2 - DOCUMENTARY EVIDENCE GENERALLY

1-12-201. Copies of documents filed with interstate commerce or public service commissions.

Printed copies of schedules, classifications and tariffs of rates, fares, charges, rules and regulations and supplements thereto, filed with the interstate commerce commission or the public service commission, which show respectively an interstate commerce commission number and an effective date or a public service commission number and an effective date, may be received in evidence without certification and shall be presumed to be correct copies of the originals on file with the interstate commerce commission or on file with the public service commission.

ARTICLE 3 - JUDICIAL NOTICE OF FOREIGN LAW

1-12-301. Proof of laws of foreign jurisdictions.

Printed copies of written law enacted by any other state, territory or foreign government purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the courts or tribunals of the state, territory or government shall be admitted by the courts and officers of this state on all occasions as prima facie evidence of the law. The unwritten or common law of any other state, territory or foreign government may be proved by parol evidence and the books of reports of cases adjudicated in their courts may also be admitted as prima facie evidence of the law.

1-12-302. Judicial notice required.

Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

1-12-303. Manner of obtaining information.

The court may inform itself of foreign laws in such manner as it deems proper, and the court may call upon counsel to aid in obtaining such information.

1-12-304. Determination of foreign law; reviewability.

The determination of foreign laws shall be made by the court and not by the jury, and is reviewable.

1-12-305. Reasonable notice to be given adverse party.

Any party may present to the trial court any admissible evidence of foreign laws, but to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties in the pleadings or otherwise.

1-12-306. Laws of jurisdictions outside United States.

The law of a jurisdiction other than a state, territory or jurisdiction of the United States, is an issue for the court but is not subject to the foregoing provisions concerning judicial notice.

ARTICLE 4 - CAPTURED, MISSING OR DEAD PERSONS

1-12-401. Written finding of presumed death admissible as evidence.

A written finding of presumed death made by an officer or employee of the United States authorized to make such finding, pursuant to the Federal Missing Persons Act, 37 U.S.C. § 551 et seq., as now or hereafter amended, or a certified copy of the finding, shall be received in any court, office or other place in this state as evidence of the death of the person found to be dead and the date, circumstances and place of his disappearance.

1-12-402. Official report that person is missing or captured as evidence of person's condition.

An official written report, record or certified copy thereof that a person is missing, missing in action, interned in a neutral country, beleaguered, besieged, captured by an enemy or is dead or alive, made by any officer or employee of the United States authorized by any law of the United States to make the report or copy, shall be received in any court, office or other place in this state as evidence of the condition of that person.

1-12-403. Findings and reports and records deemed prima facie valid.

For the purposes of W.S. 1-12-401 and 1-12-402, any finding, report, record or certified copy purporting to have been signed by an officer or employee of the United States shall be deemed prima facie to have been signed and issued by the officer or employee pursuant to law, and the person signing shall be deemed prima facie to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority.

ARTICLE 5 - PRESUMPTIONS

1-12-501. Survivorship upon simultaneous death.

(a) When two (2) persons perish in the same calamity and it is not shown who died first and there are no particular circumstances from which it can be inferred, survivorship is presumed from the probabilities resulting from the strength, age and sex, according to the following rules:

(i) If both of those who have perished were under the age of fifteen (15) years, the older is presumed to have survived;

(ii) If both were of the age of sixty (60) years or older, the younger is presumed to have survived;

(iii) If one is under fifteen (15) years of age and the other is sixty (60) years of age or older, the former is presumed to have survived;

(iv) If both are fifteen (15) years of age or older and under sixty (60) years of age, and the sexes are different, the male is presumed to have survived. If the sexes are the same, the older will be presumed to have survived;

(v) If one is under the age of fifteen (15) years or is sixty (60) years of age or older, and the other is between those ages, the latter is presumed to have survived.

1-12-502. Renumbered by Laws 1979, ch. 142, § 3.

ARTICLE 6 - BURDEN OF PROOF

1-12-601. Injury by health care providers; burden of proof.

(a) In an action for injury alleging negligence by a health care provider the plaintiff shall have the burden of proving:

(i) If the defendant is certified by a national certificating board or association, that the defendant failed to act in accordance with the standard of care adhered to by that national board or association; or

(ii) If the defendant is not so certified, that the defendant failed to act in accordance with the standard of care adhered to by health care providers in good standing performing similar health care services.

(b) In either paragraph (a)(i) or (ii) of this section, variations in theory of medical practice or localized circumstances regarding availability of equipment, facilities or supplies may be shown to contravene proof offered on the applicable standard of care.

CHAPTER 13 - RESERVATION OF QUESTION TO SUPREME COURT

1-13-101. Constitutional questions; generally.

When an important and difficult constitutional question arises in a proceeding pending before the district court on motion of either party or upon his own motion the judge of the district court may cause the question to be reserved and sent to the supreme court for its decision.

1-13-102. Constitutional questions; clerk's duties; rules.

When a question is reserved to the supreme court, the clerk of the district court shall transmit the original papers in the case involving the question to the clerk of the supreme court, who shall place the papers on file. The matter shall then stand

for hearing by the supreme court, and the supreme court may make rules of procedure as it deems proper for the speedy hearing of the proceeding.

1-13-103. Constitutional questions; remand for further proceedings.

Upon hearing the supreme court may remand the case together with the original papers to the district court for further proceedings. The clerk of the supreme court shall certify the order of remand to the clerk of the district court, who shall immediately enter the case upon the journal of the district court, and when entered the order stands as the order of the district court.

1-13-104. Questions from federal courts; generally.

W.S. 1-13-104 through 1-13-107 is cited as the "Federal Court State Law Certificate Procedure Act".

1-13-105. Questions from federal courts; definitions.

(a) As used in this act:

(i) "Certificate procedure" means the procedure authorized herein by which a federal court in disposing of a cause pending before it submits a question of state law to the supreme court for determination;

(ii) "Federal court" means any court of the United States of America including the supreme court of the United States, courts of appeal, district courts and any other court created by act of congress;

(iii) "Supreme court" means the supreme court of Wyoming.

1-13-106. Questions from federal courts; authority of supreme court.

The supreme court may answer questions of law certified to it by a federal court when requested by the certifying court if there are involved in any proceeding before the federal court questions of law of this state which may be determinative of the cause then pending in the federal court, and as to which it appears to the federal court there is no controlling precedent in the existing decisions of the supreme court.

1-13-107. Questions from federal courts; rules.

The supreme court may adopt rules of practice and procedure to implement or otherwise facilitate utilization of certificate procedure.

CHAPTER 14 - FEES AND COSTS AND SECURITY THEREFOR

1-14-101. "Folio" defined.

The term folio as used in this act means one hundred (100) words. Four (4) figures shall be counted as one (1) word.

1-14-102. Witness fees; fees for expert witnesses in civil and criminal cases.

(a) Witnesses are entitled to receive the following minimum fees:

(i) For attending before any court or grand jury, or before any judge, referee or commissioner, ten dollars (\$10.00) per day, and five dollars (\$5.00) for half a day; and

(ii) Repealed By Laws 2004, Chapter 42, § 2.

(iii) Mileage at the rate set in W.S. 9-3-103 for each mile actually and necessarily traveled in going to and returning from place of attendance.

(b) In any civil or criminal case, any party may call expert witnesses to testify and if the court finds any witness to be a qualified expert and the expert gives expert testimony which is admitted as evidence in the case, the expert witness shall be allowed witness fees of twenty-five dollars (\$25.00) per day or such other amount as the court allows according to the circumstances of the case. Expert witness fees may be charged as costs against any party or be apportioned among some or all parties in the discretion of the court.

1-14-103. Witness or juror to receive only single fee.

No witness shall receive fees or mileage in more than one (1) case covering the same period of time or the same travel. Each witness shall make affidavit that the fees and mileage claimed have not been claimed or received in any other case. No juror shall receive pay as a witness while serving as a juror.

1-14-104. Physician testifying as expert or performing postmortem or autopsy; fees.

Any physician or surgeon shall receive a reasonable fee as determined by the coroner when testifying as an expert before a coroner or other officer for each half day or portion thereof, and when conducting a postmortem examination or autopsy.

1-14-105. Physician testifying as expert or performing postmortem or autopsy; postmortem fee certificate; exceptions.

The coroner or other officer who has ordered a postmortem examination shall issue to the physician or surgeon a certificate for the fees provided, which shall be paid by the board of county commissioners by issuing a county warrant on the treasurer of the county in which the services were rendered in the amount of the certificate. W.S. 1-14-104 and 1-14-105 do not apply in the case of any physician regularly employed by the county.

1-14-106. Payment of fees in criminal cases.

In criminal cases where the fees prescribed are not paid by the defendant or the prosecuting witness, they shall be paid to the party entitled thereto by the public defender's office, if subpoenaed by a defendant represented by the public defender, otherwise by the county.

1-14-107. Record of attendance and fees of jurors and witnesses.

The clerk of the district court shall keep a record of the attendance and fees of jurors and witnesses at each term of court when claimed during the term and for which the county is liable.

1-14-108. Statement of attendance of jurors and witnesses in criminal cases.

Within ten (10) days after the close of each term of a court of record, the clerk shall return to the county commissioners a statement of the attendance of jurors and witnesses at such term and their mileage as taken by him in all criminal cases for which the county is liable.

1-14-109. Repealed by Laws 2009, Ch. 168, § 207.

1-14-110. Only actual mileage allowed for service; liability for false statement.

If any officer or other person who is allowed mileage for any services rendered receives at the same time more than one (1) writ or process to serve, or authority to render more than one (1) service at the same place, he is only entitled to mileage for the actual number of miles traveled, allowing a full mile from place to place for every person served or every service rendered during the same journey. His return or claim for mileage shall show the actual number of miles necessarily traveled from the place where he received his authority to the place where the actual service was made or rendered. Should any false statement for mileage be proved, then no mileage shall be allowed for any services performed by virtue of the authority, writ or process by which such services were rendered and the maker of the false statement is liable to criminal process.

1-14-111. Witness or juror entitled to but single day's service for multiple criminal cases and on grand juries.

If a witness or juror is summoned to serve in more than one (1) criminal case in the same court on the same day, the witness or juror is entitled to but one (1) day's service, which shall be taxed as costs in the first case. The officer swearing the witness or juror shall keep a proper account of the fees in order that not more than one (1) payment is made under such circumstances. This also applies to grand juries and witnesses before grand juries.

1-14-112. Court officers not allowed witness fees.

An officer whose duty it is to be in constant attendance upon any court and who is sworn as a witness in a case then pending in that court, is not entitled to witness fees in the case.

1-14-113. Officer's fees to be posted; penalty.

Each officer herein named shall post a list of his fees in his office in a conspicuous place. For failure to do so he shall pay three dollars (\$3.00) per day for each day of failure, which may be recovered by the county in a civil action.

1-14-114. Officer's return to show his fees.

An officer serving any process or order is not entitled to fees for service unless he returns on the process the amount of his fees and the items thereof.

1-14-115. Right to receive certified bill of costs or fees.

Any person liable for any costs or fees is entitled to receive on demand a certified bill of the same, in which the items of service and the charges therefor are stated.

1-14-116. Repealed By Laws 2004, Chapter 42, § 2.

1-14-117. Disposition of costs collected.

Every sheriff and other officer collecting costs on execution, after retaining the amount of his own fees shall pay the residue of the collected costs to the clerk of the court which issued the execution and take a receipt therefor.

1-14-118. Payment of fees and compensation.

All fees provided for by law when due from any party other than the state or the county are payable in advance to the person entitled to them. All fees and compensation due any person from the county are payable once every three (3) months by warrants drawn upon the county treasury in the manner provided by law, unless herein otherwise provided.

1-14-119. Nonresidents and partnerships suing in company name to furnish security; requirements.

If a nonresident of the state or a partnership suing in its company name brings an action, the plaintiff must furnish sufficient security for costs approved by the clerk. A surety's obligations are complete by his endorsing the summons or complaint. The surety is bound for the payment of all costs adjudged or taxed against the plaintiff in the court in which the action is brought or in any other court to which it may be carried, whether he obtains judgment or not. The nonresident plaintiff may deposit with the clerk of court as security for costs in the case such sum of money as the clerk deems sufficient for the purpose. Upon motion of the defendant, the court may require the deposit to be increased, that personal security be given or that the nonresident plaintiff pay all costs as fast as they accrue.

1-14-120. Nonresidents and partnerships suing in company name to furnish security; failure to give security.

If security for costs is not given as required by W.S. 1-14-119 or if the costs are not paid, the court shall at any time before the commencement of the trial, on motion of the defendant and notice to the plaintiff, dismiss the action unless within a reasonable time allowed by the court security is given.

1-14-121. Nonresident and partnership suing in company name to furnish security; when plaintiff becomes nonresident of county.

If the plaintiff becomes a nonresident of the county in which the action is brought during its pendency, he may be compelled to give security in the manner stated in W.S. 1-14-119 and 1-14-120.

1-14-122. Additional security upon motion of defendant.

In an action in which security for costs has been given, the defendant may at any time before the commencement of the trial, after reasonable notice to the plaintiff, move the court for additional security. If on the motion the court is satisfied that the surety has moved from this state or the security is not sufficient the action may be dismissed unless in a reasonable time fixed by the court sufficient security is given.

1-14-123. Judgment against surety for costs; execution.

After final judgment in an action in which security for costs is given, the court may on motion of the defendant or a person having a right to costs, after ten (10) days notice of the motion, render judgment in the name of the movant against the surety, his executors or administrators, for the costs adjudged against the plaintiff. Execution may be issued on the judgment as in other cases for the use and benefit of the person entitled to the costs.

1-14-124. Costs allowed for recovery of money or property.

Costs shall be allowed to the plaintiff upon a judgment in his favor in an action for the recovery of money only or for the recovery of specific real or personal property, unless otherwise provided by law.

1-14-125. When costs not recoverable by plaintiff.

When the judgment is less than one hundred dollars (\$100.00), unless the recovery is reduced below that sum by counterclaim or setoff, each party shall pay his own costs. When the damage assessed is under five dollars (\$5.00), the plaintiff shall not recover costs in any action for libel, slander, malicious prosecution, assault, assault and battery, false imprisonment or nuisance.

1-14-126. Costs in discretion of court.

(a) In other actions the court may award and tax costs and apportion them between the parties on the same or adverse sides as it deems right and equitable. When a civil case is settled too late for the clerk of court to advise the jury panel that the jurors should not appear on the date summoned the court may order that any or all parties reimburse the proper fund for the fees and mileage paid to the jurors and bailiffs for their appearance.

(b) In civil actions for which an award of attorney's fees is authorized, the court in its discretion may award reasonable attorney's fees to the prevailing party without requiring expert testimony. In exercising its discretion the court may consider the following factors:

(i) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(ii) The likelihood that the acceptance of the particular employment precluded other employment by the lawyer;

(iii) The fee customarily charged in the locality for similar legal services;

(iv) The amount involved and the results obtained;

(v) The time limitations imposed by the client or by the circumstances;

(vi) The nature and length of the professional relationship with the client;

(vii) The experience, reputation and ability of the lawyer or lawyers performing the services; and

(viii) Whether the fee is fixed or contingent.

1-14-127. Recovery of costs when several actions brought on same instrument.

When several actions are brought on one (1) instrument in writing against several parties who might have been joined as defendants in the same action, no costs shall be recovered by the plaintiff in more than one (1) of the actions if the parties proceeded against in the other action were openly within the state at the commencement of the previous action.

1-14-128. Repealed by Laws 2009, Ch. 168, § 102.

CHAPTER 15 - ATTACHMENT, REPLEVIN AND GARNISHMENT

ARTICLE 1 - IN GENERAL

1-15-101. Applicability.

(a) This chapter shall apply to and govern:

(i) Attachment, replevin and garnishment proceedings in all district courts and circuit courts of this state;

(ii) Post judgment garnishment in small claims proceedings as provided by W.S. 1-21-205.

1-15-102. Definitions.

(a) As used in this chapter unless otherwise defined:

(i) "Attachment" means the procedure by which a plaintiff obtains a judicial lien on a defendant's property prior to judgment;

(ii) "Continuing garnishment" means any procedure for withholding the earnings of a judgment debtor for successive pay periods for payment of a judgment debt;

(iii) "Court" means any district court or circuit court of this state;

(iv) "Defendant" means a person whose property is being attached, garnished or replevied by a plaintiff and includes a judgment debtor after entry of judgment;

(v) "Disposable earnings" means that part of an individual's earnings remaining after the deduction of all amounts required by law to be withheld;

(vi) "Earnings" or "earnings from personal services" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, proceeds of any pension or retirement benefits or deferred compensation plan or otherwise;

(vii) "Garnishee" means a person other than a plaintiff or defendant who is in possession of earnings or property of the defendant and who is subject to garnishment in accordance with the provisions of this chapter;

(viii) "Garnishment" means the procedure by which a plaintiff on whose behalf a writ of garnishment has been issued against a defendant reaches tangible or intangible personal property of the defendant in the possession, control or custody of, or debts or other monetary obligations owing by, a third person;

(ix) "Judgment creditor" means any person who has recovered a money judgment against a judgment debtor in a court of competent jurisdiction;

(x) "Judgment debtor" means any person who has a judgment entered against him in a court of competent jurisdiction;

(xi) "Officer" means sheriff;

(xii) "Plaintiff" means a person who is attaching, garnishing or repleving property of a defendant and includes a judgment creditor after entry of judgment;

(xiii) "Replevin" means the procedure by which a plaintiff in a pending action to recover possession of property obtains redelivery of property claimed to be wrongfully taken or detained.

1-15-103. General procedures relating to prejudgment writs of attachment, replevin and garnishment; issuance of writs without notice.

(a) Prejudgment writs of attachment, replevin and garnishment shall be issued subject to the following conditions and circumstances:

(i) The writ shall issue only upon written motion and pursuant to a written order of the court;

(ii) The court shall not direct the issuance of the writ without notice to the adverse party and an opportunity to be heard unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury will result to the plaintiff before notice can be served and a hearing had thereon. A finding by the court that the plaintiff will suffer irreparable injury shall be made only if the court finds the existence of either of the following circumstances:

(A) There is present danger that the property will be immediately disposed of, concealed, or placed beyond the jurisdiction of the court; or

(B) The value of the property will be impaired substantially if the issuance of an order of attachment is delayed.

(iii) An order granted without notice authorizing the issuance of a writ shall be endorsed with the date and hour of issuance and shall be filed in the clerk's office and entered of record. The order shall define the injury and state why the injury is irreparable and why the order was granted without notice. The order, and any writ issued pursuant thereto, shall expire within a time fixed by the court, not to exceed ten (10) days after issuance. Within the time fixed, the court may, after notice and hearing, order the writ continued in effect or the adverse party may consent that the writ may be extended for a longer period. The reasons for the extension shall be entered of record;

(iv) If the order granting the writ is issued without notice, a hearing thereon shall be set for the earliest reasonable time;

(v) At the hearing on the issuance of the writ or its continuance, the plaintiff shall have the burden of establishing the facts justifying the issuance and continuance of the writ;

(vi) On notice to the plaintiff obtaining the issuance of the writ without notice, the adverse party may appear and move dissolution or modification of the writ, and in that event the court shall proceed to hear and determine the motion as expeditiously as possible;

(vii) Any notice required under this section shall be in a form and served in a manner as will expeditiously give the adverse party actual notice of the proceeding, all as directed by the court;

(viii) In the event that property has been seized by the sheriff pursuant to the issuance of a writ without notice, the property shall be retained by him subject to the order of the court.

1-15-104. Prejudgment writs; bond required; objection to plaintiff's sureties; hearing on objections; liability of sureties.

(a) No prejudgment writ of attachment, replevin or garnishment shall issue unless the plaintiff files with the clerk a surety bond in an amount fixed by the court for the payment of all costs and damages which may be incurred or suffered by any party as a result of the wrongful issuance of the writ, not exceeding the sum specified in the bond.

(b) If the party for whose benefit a bond under subsection (a) of this section is given is not satisfied with the amount of the bond or the sufficiency of the sureties, he may, within five (5) days, excluding Saturdays, Sundays and legal holidays, after the receipt of a copy of the bond, serve upon the party giving the bond a notice that the party for whose benefit the bond is given objects to the amount of the bond or the sufficiency of the sureties. If the party for whose benefit the bond is given fails to object within the time allowed he is deemed to have waived all objection to the amount of bond and the sufficiency of the sureties.

(c) Notice of objections to the amount of bond and the sufficiency of sureties as provided in subsection (b) of this section shall be filed in the form of a motion for hearing on objections to the bond. Upon demand of the objecting party, each surety shall appear at the hearing of the motion and be subject to examination as to the surety's pecuniary responsibility or the validity of the execution of the bond. Upon hearing, the court shall approve or reject the bond as

filed or require any amended, substitute or additional bond as the circumstances warrant. If the court rejects the bond or if the plaintiff fails within the time allowed to file any amended, substitute or additional bond required by the court, any property seized under the writ shall be returned to the defendant.

(d) The bond required by this section shall, in addition to other requirements, provide that each surety is subject to the jurisdiction of the court and irrevocably appoints the clerk of the court as the agent of the surety upon whom any papers affecting the liability of the surety on the bond may be served, and that the liability of the surety may be enforced on motion and upon notice as the court may require without the necessity of an independent action.

1-15-105. Writs; release of property or discharge of writ; undertaking required; objections to defendant's sureties; liability of sureties.

(a) At any time, either before or after the execution of a writ of attachment, replevin or garnishment, the defendant may obtain a release of any property or a discharge of the writ as follows:

(i) To secure a discharge of the attachment or garnishment the defendant shall furnish a bond, with sufficient sureties, in a sum of not less than double the amount claimed by the plaintiff, but not less than fifty dollars (\$50.00) in amount. The conditions of the bond shall be to the effect that if the plaintiff recovers judgment, the defendant will pay the judgment together with interest and all costs assessed against him, not exceeding the sum specified in the bond;

(ii) To secure a release of property seized under a writ of attachment, replevin or garnishment, the defendant shall furnish a bond, with sufficient sureties, in a sum not less than the value of the property to be released, but in no case in an amount greater than necessary to obtain a discharge of the writ under paragraph (i) of this subsection. The conditions of the bond shall be to the effect that if the plaintiff recovers judgment, the defendant will pay the judgment, together with interest and all costs assessed against him, not exceeding the sum specified in the bond.

(b) The bond required by subsection (a) of this section shall be delivered to the sheriff at or before the time of

service of the writ of attachment, replevin or garnishment. If the release or discharge is sought after the writ has been executed or the property seized, the defendant shall apply to the court, upon reasonable notice to the plaintiff, for an order releasing the property or discharging the writ.

(c) The bond required by subsection (a) of this section shall be filed with the court, and a copy of the bond served upon the plaintiff. Within five (5) days, excluding Saturdays, Sundays and legal holidays, after the plaintiff is served with notice of the filing of the bond required by subsection (a) of this section the plaintiff may object to the amount of the bond or the sufficiency of defendant's sureties, by serving upon the defendant and filing with the court a motion for hearing on objection to bond.

(d) Upon demand of the plaintiff, each surety shall appear at the hearing requested under subsection (c) of this section, and be subject to examination as to the surety's pecuniary responsibility or the validity of the execution of the bond. Upon hearing, the court shall approve or reject the bond as filed or require any amended, substitute or additional bond as the circumstances warrant.

(e) Upon a discharge of the writ or release of the property under this section, all of the property released, if not sold, and the proceeds of any sale of the property, shall be delivered to the defendant. The release or discharge by the court shall not be effective until the time for plaintiff to object to the amount of the bond or the sufficiency of the defendant's sureties has expired.

(f) The bond required by this section shall, in addition to other requirements, provide that each surety is subject to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting the liability of the surety on the bond may be served, and that his liability may be enforced on motion and upon notice as the court may require without the necessity of an independent action.

1-15-106. Discharge of improperly issued writs.

The defendant may at any time, upon notice to the plaintiff as the court may require, move the court in which the action is pending, to have a writ of attachment, replevin or garnishment discharged on the ground that it was improperly or irregularly issued. The court shall give the plaintiff reasonable

opportunity to correct any defect in the complaint, affidavit, bond, writ or other proceeding so as to show that a legal cause for the writ existed at the time it was issued.

1-15-107. Notice of exemptions; right to a hearing; procedures.

(a) Within five (5) days after the court receives the person's written request for a hearing, a person whose property is attached or whose property is in the possession of another person and is attached or garnished, and against whom no judgment has been entered, is entitled to a hearing on the attaching party's right to the property. The sheriff shall mail to the person a copy of the order of attachment or writ of garnishment and notice of the right to a hearing under this section, at the time the order of attachment is executed or the writ of garnishment is served on the garnishee. The papers shall be sent by first class United States mail with the postage prepaid and the envelopes furnished and properly addressed by the plaintiff.

(b) The notice required by this section shall inform the person of his right to request a hearing. The notice shall inform him that certain benefits and property cannot be taken to pay a debt and shall list the exempted benefits and property set forth in paragraphs (i) through (x) of this subsection. The notice shall also include a form for requesting a hearing and instructions that if the person believes he is entitled to retain or recover the property because it is exempt, or for any other reason, he should sign the form requesting a hearing and return or mail the form to the office of the clerk of court within ten (10) days after the date the notice was mailed to him. The request for hearing form shall set forth the following exemptions and provide a place for the person to designate which exemptions he claims:

(i) Social security benefits pursuant to 42 U.S.C. 407 and supplemental security income;

(ii) Veteran's benefits;

(iii) Black lung benefits;

(iv) Personal opportunities with employment responsibilities (POWER) payments;

(v) Federal civil service and state retirement system benefits as provided in 5 U.S.C. 8346 and W.S. 9-3-426, 9-3-620, 9-3-712 and 15-5-313;

(vi) Worker's compensation benefits;

(vii) Unemployment compensation benefits;

(viii) Earnings from personal services as defined by W.S. 1-15-102(a)(vi);

(ix) Homestead, personal articles and articles used for carrying on a trade or business to the extent provided by W.S. 1-20-101 through 1-20-111;

(x) Other exemptions as provided by law.

(c) The notice shall state that there may be additional exemptions not listed which may be applicable. Failure by the person to claim an exemption on the request for hearing form does not preclude him from claiming other exemptions or defenses at a hearing on the matter. If a person fails to make a written request for a hearing and claim exemptions pursuant to this section within ten (10) days after the date the notice was mailed to him, the notice shall state he may waive or lose his rights under this section.

(d) The sheriff may withhold execution of the prejudgment writ of attachment or garnishment until the plaintiff either provides the person's last known address or a statement that the plaintiff has no knowledge of the person's last known address. The sheriff shall have no duty under this section if the plaintiff provides a statement that the plaintiff has no knowledge of the defendant's address.

(e) In the case of a post judgment writ of garnishment, procedures for notice and hearing on a claim of exemptions shall be as provided by W.S. 1-15-501 through 1-15-511 or 1-17-102.

1-15-108. Forms.

Affidavits, notices, writs and other forms for use in attachment, replevin, garnishment and continuing garnishment shall be in accordance with rules promulgated by the supreme court of Wyoming.

1-15-201. When attachment may issue; affidavit.

(a) Subject to W.S. 1-15-101 through 1-15-108 and the provisions of this article, at any time after the filing of the complaint in a civil action for the recovery of money, the plaintiff may have the property of the defendant not exempt from execution attached as security for the satisfaction of any judgment that may be recovered.

(b) Before a writ of attachment is issued, the plaintiff shall file with the court in which the action is pending an affidavit stating:

(i) That the defendant is indebted to the plaintiff, specifying the amount of the indebtedness over and above all legal setoffs and the nature of the indebtedness;

(ii) That the attachment is not sought to hinder, delay or defraud any creditor of the defendant;

(iii) That the payment of the indebtedness has not been secured by any mortgage or lien upon real or personal property in this state, or, if originally so secured, that the security has, without any act of the plaintiff or the person to whom the security was given, become impaired; and

(iv) Any one (1) or more of the following grounds for attachment:

(A) That the defendant is not a resident of this state;

(B) That the defendant is a foreign corporation, not qualified to do business in this state;

(C) That the defendant stands in defiance of an officer, or conceals himself so that process cannot be served upon him;

(D) That the defendant has assigned, removed, disposed of or concealed, or is about to assign, remove, dispose of or conceal, any of his property with intent to defraud his creditors;

(E) That the defendant has departed or is about to depart from the state to the injury of his creditors;

(F) That the defendant fraudulently or criminally contracted the debt or incurred the obligation respecting which the action is brought.

1-15-202. Issuance of writ; contents.

(a) If authorized by a written order of the court pursuant to W.S. 1-15-103(a)(i), the clerk shall issue the writ of attachment upon the filing by the plaintiff of the bond required by W.S. 1-15-104.

(b) The plaintiff may have other writs of attachment issued as often as he may require at any time before judgment, based upon the original affidavit and bond, if the amount of the bond is sufficient.

(c) In actions pending in district court or circuit court several writs may be issued at the same time to the sheriff of any county.

(d) The writ shall be issued in the name of the state of Wyoming and shall be directed to the sheriff of any county in which property of the defendant is located and shall require him to attach and safely keep all the property of the defendant within his jurisdiction not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint.

1-15-203. Manner of executing writ.

(a) If the undertaking provided for in W.S. 1-15-105(a) is not given by the defendant at or before the time the writ is executed, the sheriff to whom the writ is directed shall execute the writ without delay in the following manner:

(i) Real property owned in the name of the defendant shall be attached by filing with the county clerk a copy of the writ, together with a description of the property attached, and a notice that it is attached, and by leaving a copy of the writ, description and notice with an occupant of the property, or if there is no occupant, by posting the copy of the writ, description and notice in a conspicuous place on the property attached;

(ii) Growing crops, which until severed shall be deemed personal property not capable of manual delivery, growing upon real property owned in the name of the defendant shall be attached by filing with the county clerk a copy of the writ, together with a description of the growing crops to be attached, and of the real property upon which the crops are growing, and a notice that the growing crops are attached in pursuance of the writ, and by leaving a copy of the writ, description and notice with an occupant of the real property, or if there is no occupant, by posting the copy of the writ, description and notice in a conspicuous place on the real property;

(iii) Real property or an interest therein belonging to the defendant and held in the name of any other person, shall be attached by filing with the county clerk a copy of the writ, together with a description of the property and a notice that the real property and any interest of the defendant therein held in the name of the other person, naming him, are attached, and by leaving with the occupant, if any, and with the named person or his agent, if known and within the county, or at the residence of either, if within the county, a copy of the writ, with a similar description and notice. If there is no occupant of the property, a copy of the writ, together with the description and notice, shall be posted in a conspicuous place upon the property. When filed, the county clerk shall index the attachment in the names of the defendant and of the person in whose name the real property is held;

(iv) Growing crops, which until severed, shall be deemed personal property not capable of manual delivery, or any interest therein belonging to the defendant, and growing upon real property held in the name of any other person, shall be attached in the same manner as crops growing upon real property held in the name of the defendant are attached under paragraph (ii) of this subsection. The notice of attachment shall state that the crops therein described or any interest of the defendant therein, held by, or standing upon the records of the county in the name of such other person, naming him, are attached pursuant to the writ. In addition, a copy of the writ, description and notice shall be delivered to such other person, or his agent, if known and within the county, or left at the residence of either, if known and within the county. When filed, the county clerk shall index the attachment in the names of the defendant and of the person in whose name the real property is held;

(v) Personal property capable of manual delivery shall be attached by taking it into custody;

(vi) Stocks or shares, or interest in stocks or shares, of any corporation or company shall be attached as provided by W.S. 1-19-101 through 1-19-108;

(vii) Personal property not capable of manual delivery shall be attached by leaving a copy of the writ with the person having the property in his possession if he can be found, and by placing a conspicuous notice of levy on the property;

(viii) Personal property, other than earnings from personal services as defined by W.S. 1-15-102(a)(vi), in the possession of another person shall be attached by service of a writ of garnishment as provided by W.S. 1-15-401 through 1-15-425;

(ix) If there are several attachments against the same defendant in different actions, they shall be executed in the order in which they are received by the sheriff.

1-15-204. Third party claims; indemnity to sheriff; application for release.

(a) If the sheriff executing the writ has actual notice of any third party claim to the personal property to be levied on or is in doubt as to ownership of the property, or of encumbrances thereon, or damage to the property held that may result by reason of its perishable character, he may require the plaintiff to file with the sheriff a surety bond, indemnifying the sheriff against any loss or damage by reason of the illegality of any holding or sale on execution, or by reason of damage to any personal property held under attachment. Unless a lesser amount is acceptable to the sheriff, the bond shall be in double the amount of the estimated value of the property to be seized.

(b) Any person not a party to the action, who claims ownership or right to possession of property attached, may, at any time, either before or after judgment, be made a party on his application for the purpose of removing or discharging the attachment. The court may grant summary relief as is just, and may in proper cases try appropriate issues by jury.

1-15-205. Return of sheriff; inventory of property.

The sheriff shall return the writ of attachment to the court within twenty (20) days after its receipt, together with a certificate of his actions endorsed thereon or attached thereto. The certificate shall contain a full inventory of the property attached.

1-15-206. Examination of defendant.

The defendant may be required to appear before the court or a master appointed by the court, to be examined on oath respecting his property. After any examination conducted pursuant to this section, the court or master may order personal property capable of manual delivery to be delivered to the officer, on any terms as are just, having reference to any liens on or claims against the personal property, and may require a memorandum of the amount and description of all other personal property. The court shall make provision for witness fees and mileage as is just.

1-15-207. Sale of attached property before judgment.

(a) If any of the property attached is perishable, the sheriff shall sell it in the manner in which property is sold on execution. The sheriff shall retain the proceeds and other property attached by him to answer any judgment that may be recovered in the action, unless released or discharged, or subjected to execution upon another judgment recovered previous to issuing the attachment.

(b) When property has been taken by an officer under a writ of attachment and the court is satisfied that the interest of the parties to the action will be served by a sale, the court may order the property sold in the same manner as property sold under an execution, and the proceeds deposited in the court to be disbursed pursuant to the judgment in the action. The order shall be made only upon notice to the adverse party if the party has been personally served or has entered an appearance in the action.

1-15-208. Satisfaction of judgment; deficiency; redelivery of property.

(a) If judgment is recovered by the plaintiff, the sheriff shall satisfy it out of the attached property which has not been delivered to the defendant or to a claimant pursuant to W.S. 1-15-105, or subjected to a prior lien, by paying to the

plaintiff the proceeds of all sales of perishable property sold by the sheriff, or of any debts or credits collected by the sheriff or as much as is necessary to satisfy the judgment. If any balance remains due and an execution has issued on the judgment, the sheriff shall sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough real or personal property for that purpose remains in his hands. Notice of the sales shall be given and the sales shall be conducted as in other cases of sales on execution.

(b) After selling all the property attached by the sheriff which remains in his hands, the sheriff shall deduct his fees and apply the proceeds and any debts or credits collected by him, to the payment of the judgment. If any balance remains due on the judgment, the sheriff shall proceed to collect it as upon an execution in other cases. When the judgment is paid in full, the sheriff upon reasonable demand, shall deliver to the defendant the attached property remaining in his hands and any proceeds of the property attached not applied to the judgment.

1-15-209. Proceedings where defendant prevails.

If the plaintiff does not recover judgment against the defendant, any undertaking received in the action, all the proceeds of sales and money collected by the sheriff and all the property attached remaining in his hands shall be delivered to the defendant, and the attachment shall be discharged and the property released therefrom.

1-15-210. Release of attachment upon real property.

If the plaintiff does not recover judgment or an order is made discharging or releasing an attachment upon real property, a certified copy of the judgment or order shall be filed and indexed in the office of the county clerk in which the notice of attachment has been filed.

1-15-211. Attachment before maturity of claim.

A party may commence an action upon an obligation before it is due and have an attachment against the property of the debtor upon any one (1) or more of the grounds set forth in W.S. 1-15-201(b) (iv) (D) through (F). The property attached, or its proceeds, shall be held subject to the judgment to be rendered, but no judgment shall be rendered on the claim until the obligation becomes due.

1-15-212. Property bound from time of service.

An order of attachment binds the property attached from the time the writ is executed.

ARTICLE 3 - REPLEVIN

1-15-301. Possession of personal property pending action.

Subject to W.S. 1-15-101 through 1-15-108, after filing the complaint and at any time before judgment, the plaintiff in an action to recover the possession of personal property may claim the delivery of the property to him as provided in this article.

1-15-302. Affidavit.

(a) When delivery is claimed, the plaintiff shall file with the court an affidavit stating:

(i) A description of the property claimed;

(ii) The plaintiff is the owner of the property or has a special ownership or interest in it, stating the facts in relation to it, and that he is entitled to the possession of it;

(iii) The property is wrongfully detained by the adverse party;

(iv) The alleged cause of the detention of the property according to the best knowledge, information and belief of the affiant;

(v) The property has not been taken for a tax, assessment or fine pursuant to a statute, or seized under an execution or an attachment against the property of the plaintiff, or if so seized, that it is by statute exempt from seizure; and

(vi) The actual value of the property.

1-15-303. Issuance of writ; undertaking; service.

(a) If authorized by a written order of the court pursuant to W.S. 1-15-103(a)(i), and upon the filing by plaintiff of the bond required by W.S. 1-15-104, the clerk shall issue the writ of replevin.

(b) The writ shall be issued in the name of the state of Wyoming and shall require the sheriff to take the property described in the affidavit and retain it in his custody until delivered as provided in this article. The sheriff shall execute the writ and without delay serve on the defendant a copy of the affidavit, undertaking and writ. If personal service cannot be made upon the defendant service shall be made by depositing a copy of the papers in the United States mail, postage prepaid, addressed to the defendant at his last known address.

1-15-304. Delivery of property.

Subject to the provisions of W.S. 1-15-103(a)(viii) and 1-15-306, property seized under a writ of replevin shall be delivered by the sheriff to the plaintiff unless returned to the defendant pursuant to W.S. 1-15-104(c) or 1-15-105.

1-15-305. Return of sheriff.

The sheriff shall return the writ to the court within twenty (20) days after its receipt, together with a certificate of his actions endorsed thereon or attached thereto.

1-15-306. Claim to property by third party.

If property taken under a writ of replevin is claimed by any person other than the defendant, and the claimant serves on the sheriff an affidavit stating the grounds of the claimant's title or right to possession, the sheriff is not bound to keep the property or deliver it to the plaintiff, unless the plaintiff files with the sheriff a surety bond, indemnifying the sheriff against any loss or damage by reason of the illegality of any holding or delivery or by reason of damage to any personal property held under the writ of replevin. Unless a lesser amount is acceptable to the sheriff, the bond shall be in double the amount of the estimated value of the property seized.

ARTICLE 4 - GARNISHMENT

1-15-401. Availability of writ of garnishment.

(a) Subject to W.S. 1-15-101 through 1-15-108, a plaintiff or judgment creditor may obtain a writ of garnishment as provided in this article.

(b) A prejudgment writ of garnishment is available as a means of attachment of tangible or intangible property, other than earnings from personal services of the defendant, at any time after the filing of a complaint and before judgment, in cases in which a writ of attachment is available under W.S. 1-15-201.

(c) A post judgment writ of garnishment is available to satisfy a money judgment.

1-15-402. Property subject to garnishment.

Any writ of garnishment may be used to levy upon or affect the accrued credits, chattels, goods, effects, debts, choses in action, money and other personal property and rights to property of the defendant in the possession of a third person, or under the control or constituting a performance obligation of any third person, whether due or yet to become due at the time of service of the writ of garnishment, which are not exempt from garnishment or execution under any applicable provisions of state or federal law.

1-15-403. Affidavit for writ of prejudgment garnishment.

(a) Before a writ of prejudgment garnishment is issued, the plaintiff shall file with the court in which the action is pending an affidavit stating:

(i) The facts showing that plaintiff's claim is one upon which attachment is authorized by W.S. 1-15-201;

(ii) The grounds and cause for the garnishment;

(iii) That the plaintiff has good reason to believe that the defendant has nonexempt credits, chattels, goods, effects, debts, choses in action or other personal property or rights to obligations of performance in the possession or in the control or otherwise owing from one (1) or more specified third persons that plaintiff seeks to charge as garnishees or that such third persons are indebted to the defendant; and

(iv) That the property, rights or debts are not earnings for the personal services of the defendant, or otherwise exempt from garnishment.

1-15-404. Issuance of writ of prejudgment garnishment.

If authorized by a written order of the court pursuant to W.S. 1-15-103(a)(i), the clerk shall issue one (1) or more writs of prejudgment garnishment upon the filing by the plaintiff of the bond required by W.S. 1-15-104.

1-15-405. Issuance of writ of post judgment garnishment; multiple writs.

(a) After the entry of a judgment requiring the payment of money, the clerk of the court from which execution could issue shall, upon application of the plaintiff, issue one (1) or more writs of post judgment garnishment. The writ may be issued without the necessity for a bond.

(b) Several writs may be issued at the same time and the names of as many persons as are sought to be charged as garnishees may be inserted in the same writ or different writs.

1-15-406. Content of writ of prejudgment or post judgment garnishment; to whom directed.

A writ of prejudgment or post judgment garnishment shall be issued in the name of the state of Wyoming and shall be directed to the person or persons designated in the plaintiff's affidavit as garnishee. The writ shall advise each person that until further order of the court or until the garnishee has complied with the requirements of W.S. 1-15-407(c), he is attached as garnishee in the action, command him not to pay any debt due or to become due to the defendant which is not exempt from execution and to retain possession and control of all credits, chattels, goods, effects, debts, choses in action, money and personal property and rights to property of the defendant not exempt from execution.

1-15-407. Answer of garnishee; release of garnishee.

(a) A writ of prejudgment or post judgment garnishment shall require the garnishee to file with the court a verified answer within ten (10) days, excluding Saturdays, Sundays and legal holidays, from the date of service of the writ. The answer of the garnishee shall state:

(i) Whether the garnishee is indebted to the defendant, either in property or in money, whether the same is now due and, if not, when it is to become due;

(ii) Whether the garnishee has in his possession, custody or control any credits, chattels, goods, effects, debts, choses in action, money or other personal property belonging to the defendant, or in which the defendant has an interest, and if so, the description and value of the same;

(iii) Whether the garnishee knows of any debts owing to the defendant or of any credits, chattels, goods, effects, debts, choses in action, money or other personal property belonging to the defendant or in which defendant has an interest, whether in the possession or under the control of the garnishee or another, and if so, the particulars thereof;

(iv) If the defendant is an employee of the garnishee, the defendant's job title, position or occupation, the defendant's rate and method of compensation, his pay period and the computation of the amount of the defendant's accrued disposable earnings attached by the writ;

(v) Whether the garnishee, pursuant to W.S. 1-15-417, is retaining or deducting any amount in satisfaction of a claim the garnishee has against the plaintiff or the defendant, a designation as to whom the claim relates and the amount retained or deducted.

(b) The garnishee shall mail a copy of his answer to the plaintiff and defendant if, at the time he is served with the writ, the garnishee is furnished with stamped envelopes addressed to the parties.

(c) The garnishee shall be released from the writ of garnishment not later than thirty (30) days after service of the writ on the garnishee, unless sooner released by order of the court, provided, that the garnishee has first filed with the court the verified answer required by subsection (a) of this section and delivered to the court all of the defendant's credits, chattels, goods, effects, debts, choses in action, money, personal property and rights to property not exempt from execution, in the possession of the garnishee or coming into his possession within thirty (30) days after service of the writ.

1-15-408. Garnishment of earnings for personal services.

(a) A writ of post judgment garnishment attaching earnings for personal services shall attach that portion of the defendant's accrued and unpaid disposable earnings, specified in subsection (b) of this section. The writ shall direct the

garnishee to withhold from the defendant's accrued disposable earnings the amount attached pursuant to the writ and to pay the exempted amount to the defendant at the time his earnings are normally paid. Earnings for personal services shall be deemed to accrue on the last day of the period in which they were earned or to which they relate. If the writ is served before or on the date the defendant's earnings accrue and before the same have been paid to the defendant, the writ shall be deemed to have been served at the time the periodic earnings accrue. If more than one (1) writ is served, the writ first served shall have priority. Notwithstanding any other provision of this subsection, an income withholding order for child support obtained pursuant to W.S. 20-6-201 through 20-6-222 shall have priority over any other garnishment.

(b) The maximum portion of the aggregate disposable earnings of an individual which are subject to garnishment is the lesser of:

(i) Twenty-five percent (25%) of defendant's disposable earnings for that week; or

(ii) The amount by which defendant's aggregate disposable earnings computed for that week exceeds thirty (30) times the federal minimum hourly wage prescribed by the Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1), in effect at the time the earnings are payable, or, in case of earnings for any pay period other than a week, any equivalent multiple thereof prescribed by the administrator of the Wyoming Uniform Consumer Credit Code in the manner provided by W.S. 40-14-505(b)(iii).

(c) Unless a garnishee is specifically informed by affidavit of the plaintiff that the defendant has other periodic earnings from sources other than from the garnishee and the amount thereof, the garnishee shall treat the defendant's earnings becoming due from the garnishee as the defendant's entire aggregate earnings for the purpose of computing the sum attached by the garnishment.

1-15-409. Service of writ; return; copy to defendant.

(a) A writ of prejudgment or post judgment garnishment shall be served on the garnishee in the same manner as a summons.

(b) Not later than five (5) days after service is made upon the garnishee the sheriff or other person who served the writ shall mail a copy of the writ to the defendant. The writ shall be sent by first class United States mail with the postage prepaid. The envelope shall be furnished and properly addressed by the plaintiff.

1-15-410. Release or discharge of garnishment.

At any time, either before or after the service of any writ of garnishment, the defendant may obtain a release or discharge as provided by W.S. 1-15-105. In the case of a writ of post judgment garnishment, the condition of the bond required by W.S. 1-15-105(a)(ii) shall be to the effect that if the plaintiff is entitled to execute the writ upon the property seized, the defendant will pay an amount equal to the value of the property, together with interest and all costs assessed against him, not exceeding the sum specified in the bond.

1-15-411. Delivery of property.

(a) Repealed by Laws 1988, ch. 42, § 2.

(b) The garnishee may deliver to the officer serving the writ the property belonging to and the money due to the defendant as shown by the answer of the garnishee. The officer shall return the property, money and the writ to the court. The property shall then be dealt with as ordered by the court. After the property is delivered, the garnishee shall be relieved from further liability in the proceedings, unless his answer is successfully controverted as provided in this article.

1-15-412. Reply to answer of garnishee; trial of issues; judgment.

If the garnishee answers, the plaintiff or defendant may, within ten (10) days after the answer of the garnishee is filed with the court, file and serve upon the garnishee and the other party to the action a reply to the garnishee's answer. Either party may also allege any matters which would charge the garnishee with liability. New matter in a reply is deemed denied. Matters in issue shall be tried to the court and judgment entered as in other civil actions. Costs shall be awarded to the prevailing party unless the court otherwise directs.

1-15-413. Judgment on answer of garnishee.

(a) The parties to the principal action who fail to reply to the answer of the garnishee shall be deemed to have accepted it as correct. If both parties to the principal action have accepted the answer, an appropriate judgment shall be entered. If the answer shows that the garnishment has attached personal property of any kind in the possession or under the control of the garnishee which belongs to and is due the defendant, the court shall enter judgment that the garnishee deliver the personal property to the sheriff. If the plaintiff has already recovered, or subsequently recovers judgment against the defendant in the action, the personal property or as much as may be necessary shall be sold upon execution and the proceeds applied toward the satisfaction of the judgment, together with the costs of the action and proceedings. Any surplus of the personal property or the proceeds thereof shall be returned to the defendant.

(b) If the answer shows that the garnishee is indebted to the defendant, and if the plaintiff has recovered, or subsequently recovers judgment against the defendant in the action, the court shall also enter judgment in favor of the defendant for the use of the plaintiff against the garnishee. The judgment shall be the amount attached as shown in the answer but shall not be for a greater sum than is necessary to satisfy the judgment against the defendant, together with costs. In no event shall the garnishee be chargeable with costs except under the provisions of W.S. 1-15-412 and 1-15-414.

1-15-414. Proceedings on failure of garnishee to answer.

If the garnishee has been duly served with a writ of prejudgment or post judgment garnishment and fails to answer as required by W.S. 1-15-407, the plaintiff may enter the default of the garnishee and proceed to prove the liability of the garnishee. The garnishee may be ordered to appear before the court or a master appointed by the court and be examined in the same manner as persons are examined under the discovery provisions of the Wyoming Rules of Civil Procedure. The court may make provision for witness fees and mileage as is just, provided that if any garnishee has willfully failed to file any required answer, he may be required to pay the costs of any proceeding taken for the purpose of obtaining the information required to be furnished in the answer. Judgment shall be entered upon the evidence to the same effect as if the garnishee had answered. Costs shall be awarded to the prevailing party unless the court otherwise directs.

1-15-415. Judgment discharges garnishee for amount paid.

A garnishee shall be discharged from all claims of all parties in the garnishee action for all goods, effects and credits paid, delivered or accounted for by the garnishee as a result of any judgment against the garnishee.

1-15-416. Intervention or interpleader of third persons.

(a) If it appears that any person not a party to the action has or claims an interest in any of the garnished property antedating the garnishment, the court may permit that person to appear and maintain his rights.

(b) If the answer of the garnishee discloses that any person other than the defendant claims the indebtedness or property in his hands, the court may on motion order that the claimant be interpleaded as a defendant to the garnishee action. Notice in such form as the court shall direct, together with a copy of the order, shall be served upon the third-party claimant in the manner required for the service of a summons. The garnishee may pay or deliver to the court the indebtedness or property, which shall be a complete discharge from all liability to any party for the amount paid or property delivered. The third-party claimant shall be deemed a defendant to the garnishee action and shall answer within ten (10) days, setting forth his claim or defense. In case of default, judgment may be rendered as in other cases of default which shall conclude any claim upon the part of the third-party claimant.

(c) Any person who intervenes or is interpleaded as a defendant under this section is bound by the judgment in the garnishee action.

1-15-417. Claims of garnishee against plaintiff or defendant.

A garnishee may retain or deduct out of the property, effects or credits of the defendant in his hands all demands whether or not due against the plaintiff and against the defendant of which he could have availed himself if he had not been served as garnishee. The garnishee is liable for the balance only after all mutual demands between himself and the plaintiff and defendant are settled, not including unliquidated damages for wrongs and injuries. The verdict or findings, if any, and the judgment shall show against which party any claim is allowed, and the amount thereof.

1-15-418. Liability of garnishee on negotiable instruments.

No person shall be liable as garnishee for having drawn, accepted, made or endorsed any negotiable instrument in the hands of the defendant at the time of service of the writ of prejudgment or post judgment garnishment when the negotiable instrument is not due.

1-15-419. When garnishee is mortgagee or pledgee.

When any personal property, choses in action or effects of the defendant in the hands of the garnishee are mortgaged or pledged, or in any way liable for the payment of a debt to the garnishee, the plaintiff may obtain an order from the court authorizing the plaintiff to pay the amount due the garnishee, and requiring the garnishee to deliver the personal property, choses in action and effects, to the officer serving the writ of prejudgment or post judgment garnishment upon payment to the garnishee of the amount due him by the plaintiff.

1-15-420. Where property held to secure performance of other obligation.

(a) The court may order the plaintiff to redeem personal property, choses in action or effects levied upon under a writ of prejudgment or post judgment garnishment by performing the obligation or tendering performance if:

(i) The personal property, choses in action or effects secure any obligation other than the payment of money; and

(ii) The obligation secured can be performed by the plaintiff without damage to the interested persons.

(b) Upon performance under subsection (a) of this section or any tender thereof which is refused, the garnishee shall deliver the personal property and effects to the officer serving the writ.

1-15-421. Disposition of property.

(a) All personal property, choses in action and effects received by the sheriff under W.S. 1-15-419 or 1-15-420, shall be disposed of in the same manner as if the property, choses in

action and effects had been delivered by the garnishee under the provisions of W.S. 1-15-411, provided that the plaintiff shall, out of the proceeds thereof:

(i) Be first repaid the amount paid by him to the garnishee for the redemption of the property, choses in action or effects; or

(ii) Be indemnified for any other act or thing done by him or performed pursuant to the order of the court for the redemption of the property, choses in action or effects.

1-15-422. Effect of discharge of garnishee.

Except as provided by W.S. 1-15-415, a judgment discharging a garnishee shall be no bar to an action brought against the garnishee by the defendant for or on account of the same demand.

1-15-423. Execution on judgment against garnishee for debt not due.

When a judgment is rendered against a garnishee with respect to a debt from the garnishee to the defendant and the debt is not yet due, execution shall not issue until the debt has become due.

1-15-424. Failure to proceed against nonexempt garnished earnings.

If a judgment creditor fails, within sixty (60) days from the filing of the answer of the garnishee, to secure a garnishee judgment and execute on garnished nonexempt earnings held by a garnishee pursuant to a writ of post judgment garnishment, the writ of garnishment which commanded the garnishee to hold the nonexempt portion of the defendant's earnings shall be released and discharged without further order of the court. In that event the garnishee shall pay to the judgment debtor that portion of his earnings which had been held pursuant to the writ of garnishment.

1-15-425. Garnishee bound.

A garnishee served with a writ of prejudgment or post judgment garnishment shall hold for the benefit of the plaintiff all property of the defendant in his possession, and money and credits due from him to the defendant, from the time he is served with the writ until the writ is discharged.

ARTICLE 5 - CONTINUING GARNISHMENT

1-15-501. Definitions.

(a) As used in this article:

(i) "Continuing garnishment" means any procedure for withholding the earnings of a judgment debtor for successive pay periods for payment of a judgment debt;

(ii) "Court" means any district court or circuit court of this state;

(iii) "Disposable earnings" means that part of an individual's earnings remaining after the deduction of all amounts required by law to be withheld;

(iv) "Earnings" means compensation paid or payable for personal services, including but not limited to wages, salary, commission, bonus, proceeds of any pension or retirement benefits or deferred compensation plan. "Earnings" does not include compensation paid as per diem;

(v) "Garnishee" means a person other than a judgment creditor or judgment debtor who is in possession of earnings of the judgment debtor and who is subject to garnishment in accordance with the provisions of this article;

(vi) "Garnishment" means any procedure through which the property or earnings of an individual in the possession or control of a garnishee are required to be withheld for payment of a judgment debt;

(vii) "Judgment creditor" means any person who has recovered a money judgment against a judgment debtor in a court of competent jurisdiction;

(viii) "Judgment debtor" means any person who has a judgment entered against him in a court of competent jurisdiction.

1-15-502. Continuing garnishment; creation of lien.

(a) In addition to garnishment proceedings otherwise available under the laws of this state, in any case in which a money judgment is obtained in a court of competent jurisdiction

the judgment creditor or his assignees shall be entitled, in accordance with this article, to have the clerk of the court issue a writ for continuing garnishment against any garnishee who is an employer of the judgment debtor. Issuance of a writ of execution is not a prerequisite to issuance of a writ of continuing garnishment. To the extent that the earnings are not exempt from garnishment, the garnishment shall be a lien and continuing levy upon the earnings due or to become due to the judgment debtor at the time the writ of continuing garnishment is served on the garnishee.

(b) Subject to the provisions of W.S. 1-15-504, garnishment pursuant to subsection (a) of this section shall be a lien and continuing levy against said earnings due until such time as the employment relationship is terminated, the underlying judgment is vacated, modified or satisfied in full, the writ is dismissed, or ninety (90) days have expired since service of the writ, whichever is sooner. A continuing garnishment may be suspended for a specified period of time by the judgment creditor upon agreement with the judgment debtor. The agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which the judgment was entered and a copy of the agreement shall be delivered by the judgment creditor to the garnishee.

(c) Continuing garnishment pursuant to this article shall apply only to proceedings against the earnings of a judgment debtor who is a natural person.

1-15-503. Earnings subject to continuing garnishment.

(a) Subject to the provisions of W.S. 1-15-504, any earnings owed by the garnishee to the judgment debtor at the time of service of the writ of continuing garnishment upon the garnishee and all earnings accruing from the garnishee to the judgment debtor from the date of service up to and including the ninetieth day thereafter is subject to the process of continuing garnishment.

(b) Notwithstanding the provisions of subsection (a) of this section, the exemptions from garnishment shall apply to continuing garnishments.

1-15-504. Priority between multiple garnishments.

(a) Only one (1) writ of continuing garnishment against earnings due the judgment debtor shall be satisfied at one (1)

time. When more than one (1) writ of continuing garnishment has been issued against earnings due the same judgment debtor, they shall be satisfied in the order of service on the garnishee. When a writ of continuing garnishment is served upon a garnishee during the effective period of a prior writ of continuing garnishment, service of the subsequent writ shall be deemed effective from the time the liens of all prior writs have terminated. Except as otherwise provided in this section, a lien and continuing levy obtained pursuant to this article shall have priority over any subsequent garnishment lien or wage attachment. In any civil action, a judgment creditor shall serve no more than one (1) writ of continuing garnishment upon any one (1) garnishee for the same judgment debtor during any ninety (90) day period.

(b) Where a continuing garnishment has been suspended for a specific period of time by agreement of the parties pursuant to W.S. 1-15-502(b), the suspended continuing garnishment shall have priority over any writ of garnishment or continuing garnishment served on the garnishee after the suspension has expired. No suspension shall extend the running of the ninety (90) day effective period of the writ nor otherwise affect priorities.

(c) Notwithstanding any other provision of this section, an income withholding order for child support obtained pursuant to W.S. 20-6-201 through 20-6-222 shall have priority over any other continuing garnishment. If an income withholding order is served during the effective period of a writ of continuing garnishment, the effective period shall be tolled and all priorities preserved until the termination of the income withholding order.

(d) Any writ of garnishment or continuing garnishment served upon a garnishee while any previous writ of continuing garnishment is still in effect shall be answered by the garnishee with a statement that he has been served previously with one (1) or more writs of continuing garnishment against earnings due the judgment debtor and specifying the date on which all such liens are expected to terminate.

(e) Upon the termination of a lien and continuing levy obtained pursuant to this article, any other writ of garnishment or continuing garnishment which has been issued or which is issued subsequently against earnings due the judgment debtor shall have priority in the order of service on the garnishee.

The person who serves a writ of continuing garnishment on a garnishee shall note the date and time of the service.

1-15-505. Service of writ; notice to judgment debtor in continuing garnishment; payment to clerk of court.

(a) The judgment creditor shall serve two (2) copies of the writ of continuing garnishment upon the garnishee, one (1) copy of which the garnishee shall deliver to the judgment debtor as provided in W.S. 1-15-506. The writ shall be served on the garnishee in the same manner as a summons under Rule 4(d) of the Wyoming Rules of Civil Procedure or by certified mail sent to the garnishee at the address of its principal place of business in accordance with Rule 4(r) of the Wyoming Rules of Civil Procedure. The writ shall include notice to the judgment debtor of the formula used to calculate:

(i) The amount of exempt earnings owed to the judgment debtor for a single pay period; and

(ii) The amount of nonexempt earnings payable to the judgment creditor for a single pay period.

(b) The writ shall contain notice to the judgment debtor of his right to object to the calculation of exempt and nonexempt earnings and his right to a hearing on his objection.

(c) The writ shall direct the garnishee to pay over all earnings withheld under this article to the clerk of the court from which the writ was issued.

1-15-506. Service of notice upon judgment debtor; answer and tender of payment by garnishee.

(a) The garnishee shall deliver a copy of the writ of continuing garnishment required by W.S. 1-15-505, together with the calculation of exempt earnings, to the judgment debtor at the time the judgment debtor receives earnings for the first pay period affected by the writ of continuing garnishment. For all subsequent pay periods affected by the writ, the garnishee shall deliver a copy of the calculation of the amount of exempt earnings to the judgment debtor at the time the judgment debtor receives earnings for that pay period.

(b) Compliance with this section and W.S. 1-15-505 by the judgment creditor shall be deemed to give sufficient notice to the judgment debtor of the continuing garnishment proceedings

against him, and no further notice shall be required under this article.

(c) The garnishee shall file with the court a verified answer to the writ of continuing garnishment no later than ten (10) days following the date the judgment debtor receives earnings for the first pay period affected by the writ, or forty (40) days following the date the writ was served upon the garnishee, whichever is earlier. The answer of the garnishee shall state:

(i) Whether the judgment debtor was employed by the garnishee on the date the writ was served;

(ii) Whether the judgment debtor is paid weekly, monthly or otherwise;

(iii) The dates on which the judgment debtor will be paid during the ninety (90) day effective period of the writ;

(iv) The amount of the judgment debtor's regular gross pay and an itemization of deductions regularly withheld from the judgment debtor's gross pay by the garnishee; and

(v) Whether any other outstanding writ of continuing garnishment or income withholding order for child support relating to the judgment debtor has been served on the garnishee and if so the date on which each writ or order is expected to terminate.

(d) For each pay period affected by the writ, the garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the clerk of the court which issued the writ no less than five (5) nor more than ten (10) days, excluding Saturdays, Sundays and legal holidays, following the day the judgment debtor receives earnings affected by the writ.

1-15-507. Judgment debtor to file written objection.

(a) If the judgment debtor objects to the calculation of the amount of exempt earnings, the judgment debtor shall have five (5) days, excluding Saturdays, Sundays and legal holidays, from receipt of the calculation of exempt earnings within which to resolve the issue of the miscalculation by agreement with the garnishee, during which time the garnishee shall not tender any monies to the clerk of the court. If the objection is not

resolved within five (5) days, excluding Saturdays, Sundays and legal holidays, the garnishee shall pay the withheld income to the clerk of the court in which the judgment was entered and the judgment debtor may file a written objection with the clerk setting forth with reasonable detail the grounds for the objection. The judgment debtor's objection shall be filed with the clerk of court and a copy mailed to the judgment creditor or his attorney of record within five (5) days, excluding Saturdays, Sundays and legal holidays, from the date the withheld earnings are received by the clerk of court. If the objection is not filed within the time allowed, the clerk of court shall pay the withheld income to the judgment creditor.

(b) Upon the filing of a written objection, all further proceedings with relation to the disposition of the earnings shall be stayed until the matter of the objection is determined.

(c) Notwithstanding the provisions of subsection (a) of this section, a judgment debtor failing to make a written objection may, at any time within ninety (90) days from receipt of a calculation of exempt earnings, and for good cause shown, move the court in which the judgment was entered to hear an objection as to any earnings levied in continuing garnishment, the amount of which the judgment debtor claims to have been miscalculated.

1-15-508. Hearing on objection.

(a) Upon the filing of an objection pursuant to W.S. 1-15-507(a), the court in which the judgment was entered shall set a time for the hearing of the objection, which shall be not more than ten (10) days, excluding Saturdays, Sundays and legal holidays, after filing. The clerk of the court where the objection is filed shall immediately inform the judgment creditor or his attorney of record and the judgment debtor or his attorney of record by telephone, by mail or in person of the date set for the hearing.

(b) The certificate of the clerk of the court that service of notice of the hearing has been made in the manner and form stated in subsection (a) of this section, which certificate has been attached to the court file, shall constitute prima facie evidence of service, and the certificate of service filed with the clerk of the court is sufficient return of service.

(c) Upon hearing, the court shall determine whether the amount of the judgment debtor's exempt earnings was correctly

calculated by the garnishee and shall enter an order or judgment setting forth the determination of the court. If the amount of exempt earnings is found to have been miscalculated, the court shall order the clerk of the court to remit the amount of over garnished earnings to the judgment debtor.

(d) If the judgment debtor moves the court to hear an objection within the time provided by W.S. 1-15-507(c) and the judgment giving rise to the claim has been satisfied against earnings of the judgment debtor, the court shall determine whether the amount of the judgment debtor's earnings paid to the judgment creditor was correctly calculated and shall issue an order setting forth the determination of the court. If the amount of earnings is found to have been miscalculated, the court shall order the judgment creditor to remit immediately the amount of the over garnished earnings to the judgment debtor.

(e) Any order or judgment entered by the court as provided for in subsections (c) and (d) of this section is a final judgment or order for the purpose of appellate review.

1-15-509. No discharge from employment for any garnishment; general prohibition.

(a) No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to any continuing garnishment directed to the employer for the purpose of paying any judgment.

(b) If an employer discharges an employee in violation of the provisions of this section, the employee may, within one hundred twenty (120) days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed thirty (30) working days, costs and reasonable attorney fees.

1-15-510. Forms.

Affidavits, notices, writs and other forms for use in continuing garnishment shall be in accordance with rules promulgated by the supreme court of Wyoming.

1-15-511. Limitation on continuing garnishment.

(a) The maximum portion of the aggregate disposable earnings of a judgment debtor which are subject to continuing garnishment under this article is the lesser of:

(i) Twenty-five percent (25%) of the judgment debtor's disposable earnings for that week; or

(ii) The amount by which the judgment debtor's aggregate disposable earnings computed for that week exceeds thirty (30) times the federal minimum hourly wage prescribed by the Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1), in effect at the time the earnings are payable, or, in case of earnings for any pay period other than a week, any equivalent multiple thereof prescribed by the administrator of the Wyoming Uniform Consumer Credit Code in the manner provided by W.S. 40-14-505(b)(iii).

CHAPTER 16 - JUDGMENTS GENERALLY

ARTICLE 1 - IN GENERAL

1-16-101. Rights of minors reserved.

It is not necessary to reserve in a judgment or order the right of a minor to show cause why such order or judgment should be set aside after he attains the age of majority, but in any case in which such reservation would have been proper, the minor may show cause against such order or judgment within one (1) year after arriving at the age of majority.

1-16-102. Interest on judgments.

(a) Except as provided in subsections (b) and (c) of this section, all decrees and judgments for the payment of money shall bear interest at ten percent (10%) per year from the date of rendition until paid.

(b) If the decree or judgment is founded on a contract and all parties to the contract agreed to interest at a certain rate, the rate of interest on the decree or judgment shall correspond to the terms of the contract.

(c) A periodic payment or installment for child support or maintenance which is unpaid on the date due and which on or after July 1, 1990, becomes a judgment by operation of law pursuant to W.S. 14-2-204 shall not bear interest.

1-16-103. Penalty assessed on unpaid judgment by operation of law.

(a) As used in this section "judgment by operation of law" means a periodic payment or installment for child support or maintenance which is unpaid on the date due and which has become a judgment by operation of law pursuant to W.S. 14-2-204.

(b) Any judgment by operation of law which is not paid within thirty-two (32) calendar days from the date the judgment by operation of law arises is subject to an automatic late payment penalty in an amount equal to ten percent (10%) of the amount of the judgment by operation of law.

(c) In order to recover penalties assessed under subsection (b) of this section, the obligee shall file with the clerk of court a sworn affidavit setting forth the payment history resulting in assessment of any penalty and a computation of all penalties claimed to be due and owing. It shall not be the responsibility of the clerk to compute the amount of the penalties due and owing. If the obligor disputes the payment history or penalty computation as stated in the obligee's sworn affidavit, the obligor shall file with the clerk of court a written request for a hearing within ten (10) days after seizure of his property under execution.

(d) This section shall apply only to judgments by operation of law arising on or after July 1, 1990.

ARTICLE 2 - JUDGMENTS BY CONFESSION

1-16-201. Right to confess judgment.

A person indebted or against whom a cause of action exists, may personally appear in a court of competent jurisdiction and with the assent of the creditor or person having such cause of action, confess judgment, whereupon judgment shall be entered accordingly.

1-16-202. Warrant of attorney to be produced.

An attorney who confesses judgment in any case, at the time of making the confession shall produce the warrant of attorney for making the same to the court. The original or a copy of the warrant shall be filed with the clerk of the court.

1-16-203. Repealed by Laws 1988, ch. 37, § 3.

ARTICLE 3 - RECORDING AND INDEXING OF JUDGMENTS; RELEASE

1-16-301. Judgments and orders to be entered in journal; recordation where real property affected.

(a) Except as provided in subsection (b) of this section, all judgments and orders must be entered in the journal of the court and specify clearly the relief granted or order made in the action. When a judgment or order is made determining any matter affecting the title to real property, a certified copy of the judgment or order shall be recorded in the office of the county clerk of the county in which the property is situate.

(b) No entry will be made in the journal relating to a judgment by operation of law arising under W.S. 14-2-204.

1-16-302. Record; requirement.

The clerk shall make a complete record of every cause as soon as it is finally determined, unless such record or part thereof is waived.

1-16-303. Record; contents.

The record shall contain the complaint, the process, the return, pleadings subsequent thereto and all material acts and proceedings of the court. If the items of an account or the copies of papers attached to the pleadings are voluminous, the court may order the record to be made by abbreviating the same or inserting a pertinent description thereof, or by omitting them entirely. Evidence will not be recorded.

1-16-304. Transcription into new volume.

A court by order on the journal, may direct its clerk to transcribe any book in his office into a new volume, and the transcripts made are as valid as the original.

1-16-305. When complete record not required.

(a) W.S. 1-16-302 does not apply:

(i) In criminal prosecutions when the indictment has been quashed, or when the district attorney has entered a nolle prosequi on the indictment;

(ii) When the action has been dismissed without prejudice to a future action, as provided in W.S. 1-16-306;

(iii) In all actions in which, in open court, at the term at which the final order or judgment is made, both parties agree that no record shall be made.

1-16-306. Record in dismissed action.

When an action has been dismissed without prejudice to a future action, the clerk shall make a complete record of the proceedings upon being paid therefor by the party requesting it.

1-16-307. Index to judgments.

(a) Except as provided in subsection (b) of this section, the clerk shall keep an index, direct and reverse, of all judgments, by the names of parties alphabetically arranged showing in separate columns the following:

(i) The name of the judgment debtor;

(ii) The name of the judgment creditor;

(iii) The amount of the judgment and the year and term when it was rendered;

(iv) The page of the journal on which it is entered;

(v) The volume and page of the final record;

(vi) The number of the suit;

(vii) The number and time of issue of the execution and satisfaction thereof when satisfaction has been made.

(b) No index shall be made of a judgment by operation of law arising under W.S. 14-2-204.

(c) The clerk shall include in the index required by subsection (a) of this section all judgments, decrees and orders establishing or modifying a child support obligation, provided the index in such case shall show:

(i) The name of the obligor;

(ii) The name of the obligee; and

(iii) The docket number of the suit.

(d) The procedures for compiling and maintaining the judgment index required by subsection (a) of this section may be modified by the court to permit the compilation and maintenance by any manual, mechanical, electronic or other means calculated to ensure the accuracy of the index.

1-16-308. Release of satisfied judgment; requirement.

(a) Any action pending or judgment rendered in the district courts of this state which has been settled or satisfied shall be released or dismissed in writing upon the face of the docket or by written release by the attorney of record or the person in whose favor the judgment was rendered, who shall date and sign the release. If neither the attorney of record nor the judgment creditor can be found in the county, the judgment debtor may pay the amount due upon the judgment to the clerk of court. Upon proper showing to the court that the judgment has been paid in full, the court shall order the judgment released and satisfied.

(b) Subsection (a) of this section does not apply to judgments arising by operation of law under W.S. 14-2-204.

1-16-309. Release of satisfied judgment; liability for failure.

(a) If the attorney of record or other proper person fails to release any action pending or judgment rendered within fifteen (15) days after settlement or satisfaction, the person in whose favor the judgment was rendered is liable for damages sustained.

(b) Subsection (a) of this section does not apply to judgments by operation of law arising under W.S. 14-2-204.

ARTICLE 4 - MODIFICATION OR VACATION AFTER TERM

1-16-401. Authority of court; grounds.

(a) A district court may vacate or modify its own judgment or order after the term at which it was made:

(i) By granting a new trial when the grounds for a new trial could not with reasonable diligence have been

discovered before, but are discovered after the original motion for a new trial has been passed upon by the district court;

(ii) By a new trial granted in proceedings against defendants constructively summoned;

(iii) For mistake, neglect or omission of the clerk or irregularity in obtaining a judgment or order;

(iv) For fraud practiced by the successful party in obtaining a judgment or order;

(v) For erroneous proceedings against a minor or person of unsound mind, when the condition of the defendant does not appear in the record nor the error in the proceedings;

(vi) For the death of the parties before judgment in the action;

(vii) For unavoidable casualty or misfortune preventing the party from prosecuting or defending;

(viii) For errors in a judgment shown by a minor within twelve (12) months after arriving at the age of majority;

(ix) For taking judgments upon warrants of attorney for more than was due the plaintiff, when the defendant was not summoned or otherwise legally notified of the time and place of taking the judgment;

(x) When the judgment or order was obtained in whole or in a material part by false testimony on the part of the successful party or any witness in his behalf which ordinary prudence could not have anticipated or guarded against and the guilty party has been convicted.

1-16-402. Opening judgment or order rendered on service by publication.

A party against whom a judgment or order has been rendered without service other than by publication in a newspaper may have the same opened and be allowed to defend within six (6) months after the date of the judgment or order. Before the judgment or order can be opened, the applicant shall give notice to the adverse party of his intended application, file a full answer to the petition, pay all costs if the court requires them to be paid and make it appear to the satisfaction of the court

that during the pendency of the action he had no actual notice thereof in time to appear in court and make his defense. Each party may present affidavits.

1-16-403. Bona fide purchasers unaffected.

The title to any property which is the subject of the judgment or order sought to be opened and which in consequence of the judgment or order has passed to a purchaser in good faith, shall not be affected by any proceedings to vacate or modify the judgment, nor shall title to any property sold before judgment under an attachment be affected by the proceedings.

1-16-404. Grounds to vacate tried first.

The court must first try and decide whether to vacate or modify a judgment or order before trying or deciding the validity of the defense or cause of action.

1-16-405. Proceedings prior to vacation and upon modification.

A judgment shall not be vacated until it is decided that there is a valid defense to the action in which the judgment was rendered or if the plaintiff seeks its vacation, that there is a valid cause of action. When a judgment is modified, all liens and securities obtained under it shall be preserved to the modified judgment.

1-16-406. Injunction; suspension of judgment or order.

The party seeking to vacate or modify a judgment or order may obtain an injunction suspending proceedings on the whole or a part thereof when it appears probable by affidavit or by exhibition of the record that the party is entitled to have the judgment or order vacated or modified.

1-16-407. Injunction; suspension of premature judgment.

If the judgment was rendered before the action stood for trial, the injunction may be granted although no valid defense to the action is shown. The court shall make such orders concerning the executions on the judgment as shall give to the defendant the same rights of delay he would have had if the judgment had been rendered at the proper time.

1-16-408. Limitation on time for proceedings.

Proceedings to vacate or modify a judgment or order, for the causes mentioned in W.S. 1-16-401(a)(iv), (v) and (vii) must be commenced within two (2) years after the judgment was rendered or order made, unless the party entitled thereto is a minor or a person of unsound mind, and in cases of such disability, within two (2) years after the removal thereof. Proceedings for the causes mentioned in W.S. 1-16-401(a)(iii) and (vi) shall be commenced within three (3) years, and in W.S. 1-16-401(a)(ix) within two (2) years, after the defendant has notice of the judgment. Proceedings for the causes mentioned in W.S. 1-16-401(a)(x) may be commenced after the guilty party is convicted, if the conviction is within two (2) years from the rendition of the judgment.

1-16-409. Applicability of provisions to supreme court.

The provisions relating to modification or vacation of judgments or orders apply to the supreme court so far as the same are applicable to its judgments or final orders.

ARTICLE 5 - REVIVOR AND NEW PARTIES

1-16-501. Proceeding against parties not summoned and persons whose liability unknown.

When judgment is rendered in this state on a joint instrument, parties to the action who were not summoned and persons whose liability was not known to the plaintiff at the rendition of the judgment may be made parties thereto by action in the same court if they can be summoned. When the judgment is rendered elsewhere, the plaintiff may bring suit upon the instrument against the parties not summoned or persons whose liability was unknown, in any county where any of the parties reside or may be summoned.

1-16-502. Revivor of dormant judgments; generally.

When a judgment, including judgments rendered by a circuit court, a transcript of which has been filed in the district court for execution, becomes dormant, it may be revived by the allowance of the court of a motion for revival or by a conditional order of the court that the action be revived. If the order of revival is made by consent of the parties, the action shall be revived. If the order is not made by consent, the order shall be served on the adverse party. When either party to the dormant judgment, his agent or attorney, makes

affidavit showing that the adverse party is a nonresident of the state and that the judgment remains unsatisfied in whole or in part and the amount owing thereon, service may be made by publication as in other cases. If sufficient cause is not shown to the contrary, the judgment shall stand revived for the amount which the court finds to be due and unsatisfied thereon. The lien of the judgment for the amount due shall be revived and shall operate from the time of the entry of the conditional order or the filing of the motion.

1-16-503. Revivor of dormant judgments; limitations on time to revive.

(a) No action shall be brought to revive a judgment after ten (10) years after it becomes dormant, unless the party entitled to bring the action was:

(i) A minor or subject to any other legal disability at the time the judgment became dormant, in which case the action may be brought within fifteen (15) years after the disability has ceased; or

(ii) A party in a child support proceeding, in which case the action shall be brought within twenty-one (21) years.

1-16-504. Revivor when parties die after judgment.

If either or both parties die after judgment and before satisfaction thereof, their representatives may be made parties to the judgment in the same manner prescribed for the revival of actions as provided in W.S. 1-16-502. The judgment may be rendered and execution awarded against the representatives of the deceased parties.

1-16-505. Partners made parties to judgment.

The members of a partnership against which a judgment has been rendered in its firm name may by action be made parties to the judgment.

1-16-506. Sureties made parties to judgment.

Sureties to the bond of an executor, administrator, guardian or trustee may by action be made parties to a judgment thereon against the principal.

1-16-601. Short title.

This act shall be known and may be cited as the Wyoming Structured Settlement Protection Act.

1-16-602. Definitions.

(a) As used in this act:

(i) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement;

(ii) "Dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony;

(iii) "Discounted present value" means the present value of future payments determined by discounting the payments to the present value using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;

(iv) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration;

(v) "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser;

(vi) "Interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor and any other party that has continuing rights or obligations under the structured settlement;

(vii) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under W.S. 1-16-603(e);

(viii) "Payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

(ix) "Periodic payments" includes both recurring payments and scheduled future lump sum payments;

(x) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of 26 U.S.C. 130;

(xi) "Settled claim" means the original tort claim resolved by a structured settlement;

(xii) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement agreement or judgment in resolution of a tort claim;

(xiii) "Structured settlement agreement" means the agreement, judgment, stipulation or release embodying the terms of the structured settlement;

(xiv) "Structured settlement obligor" means, with respect to a structured settlement, the party that has a continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement;

(xv) "Structured settlement rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) The payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state;

(B) The structured settlement agreement was approved by a court in this state; or

(C) The structured settlement agreement is expressly governed by the laws of this state.

(xvi) "Terms of the structured settlement" include, with respect to a structured settlement agreement, the terms of the structured settlement agreement, the annuity contract, a

qualified assignment agreement and any order or other approval of any court that authorized or approved the structured settlement;

(xvii) "Transfer" means any sale, assignment, pledge, hypothecation or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration, provided that the term "transfer" does not include the creation or perfection of a security agreement in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to the insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce the blanket security interest against the structured settlement payment rights;

(xviii) "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights;

(xix) "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including without limitation, court filing fees, attorneys' fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions and other payments to a broker or other intermediary. "Transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer;

(xx) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer;

(xxi) "This act" means W.S. 1-16-601 through 1-16-607.

1-16-603. Required disclosures to payee.

(a) Not less than three (3) days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen (14) points, setting forth:

(i) The amounts and due dates of the structured settlement payments to be transferred;

(ii) The aggregate amount of the payments;

(iii) The discounted present value of the payments to be transferred and the amount of the applicable federal rate used in calculating the discounted present value;

(iv) The gross advance amount;

(v) An itemized listing of all applicable transfer fees, other than attorneys' fees and related disbursements payable in connection with the transferee's application for approval of the transfer and the transferee's best estimate of the amount of any such fees and disbursements;

(vi) The net advance amount;

(vii) The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee;

(viii) A statement that the payee has the right to cancel the transfer agreement without penalty or further obligation not later than the third business day after the date the agreement is signed by the payee.

1-16-604. Approval of transfers of structured settlement payment rights.

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by the court that:

(i) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents;

(ii) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing; and

(iii) The transfer does not contravene any applicable statute or the order of any court or other government authority.

1-16-605. Effects of transfer of structured settlement payment rights.

(a) Following a transfer of structured settlement payment rights under this act:

(i) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(ii) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(A) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and

(B) For any other liabilities or costs, including reasonable costs and attorneys' fees arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this act.

(iii) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two (2) or more transferees or assignees; and

(iv) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all requirements of this act.

1-16-606. Procedure for approval of transfers.

(a) An application under this act for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the Wyoming district court that approved the structured settlement payment rights, or the Wyoming district court in the county where the payee resides without regard to where the structured settlement payment rights may have accrued.

(b) Not less than twenty (20) days prior to the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under W.S. 1-16-604, the

transferee shall file with the court and serve all interested parties a notice of the proposed transfer and application for its authorization, including with the notice:

(i) A copy of the transferee's application for transfer;

(ii) A copy of the transfer agreement;

(iii) A copy of the disclosure statement required under W.S. 1-16-603;

(iv) A listing of each of the payee's dependents, together with each dependent's age and date of birth;

(v) Notification that any interested party may support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(vi) Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application shall be filed, which time shall be not less than fifteen (15) days after service of the transferee's notice, in order to be considered by the court.

1-16-607. General provisions; construction.

(a) The provisions of this act may not be waived by any payee.

(b) Any transfer agreement entered into on or after July 1, 2006 by a payee who resides in this state shall provide that disputes under the transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(i) Periodically confirming the payee's survival; and

(ii) Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of the transfer to satisfy the requirements of this act.

(e) Nothing contained in this act shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to July 1, 2006 is valid or invalid.

(f) Compliance with the requirements of W.S. 1-16-603 and fulfillment of the conditions set forth in W.S. 1-16-604 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with the requirements of W.S. 1-16-603 or failure to fulfill the conditions set forth in W.S. 1-16-604.

CHAPTER 17 - ENFORCEMENT OF JUDGMENTS

ARTICLE 1 - EXECUTIONS DEFINED AND CLASSIFIED; HEARING

1-17-101. Execution defined; issuance; kinds.

(a) An execution is a process of the court issued by the clerk and directed to the sheriff of the county. Executions may be issued to the sheriffs of different counties at the same time.

(b) Executions are of two (2) kinds:

(i) Against the property of the judgment debtor, including orders of sale; and

(ii) For the delivery of the possession of real property in which case the writ shall contain a specific description of the property and a command to the officer to whom

the writ is delivered to deliver the property to the person entitled to it. The writ may also require the officer to recover damages for withholding possession and costs, or costs alone, out of the property of the person who withholds possession.

1-17-102. Request for hearing when property seized under execution.

(a) Except as provided in subsection (e) of this section, a person, other than a corporate entity, against whom a money judgment has been entered and whose property is seized under execution is entitled to a hearing within five (5) days, excluding Saturdays, Sundays and legal holidays, after the court receives the person's written request for a hearing to determine if the property seized is exempt from execution. The person whose property is seized shall file a written request for a hearing with the clerk of court within ten (10) days after seizure of his property.

(b) Except where the judgment is solely against corporate entities, the court shall attach to every money judgment a notice containing the following information:

"You are informed that since the judgment is entered the prevailing party may proceed to seize your property, funds or wages by execution or garnishment. In that event you may be entitled to the following exemptions:

(i) Social security benefits pursuant to 42 U.S.C. 407 and supplemental security income;

(ii) Veteran's benefits;

(iii) Black lung benefits;

(iv) Personal opportunities with employment responsibilities (POWER) payments;

(v) Federal civil service and state retirement system benefits as provided in 5 U.S.C. 8346 and W.S. 9-3-426, 9-3-620, 9-3-712 and 15-5-313;

(vi) Worker's compensation benefits;

(vii) Unemployment compensation benefits;

(viii) A portion of wages as provided in W.S. 1-15-408, or in the case of consumer credit sales, leases or loans, as provided by W.S. 40-14-505;

(ix) Homestead, personal articles and articles used for carrying on a trade or business to the extent provided by W.S. 1-20-101 through 1-20-111;

(x) Other exemptions as provided by law.

To assert your right to any of the foregoing exemptions you shall file a written request with the clerk of court within ten (10) days after seizure of your property, funds or wages. If you fail to make a written request for a hearing and claim one (1) or more of the foregoing exemptions within ten (10) days after seizure of your property, funds or wages, you may waive or lose your right to claim the exemptions."

(c) The notice provided in this section shall be sent to the last known address of the judgment debtor by the clerk of court upon the request of any person before any property of the judgment debtor is seized by execution or garnishment.

(d) A copy of the money judgment together with the exemption information shall be transmitted by the court by first class United States mail, with the postage prepaid in envelopes furnished and properly addressed by the prevailing party.

(e) Notwithstanding any other provision of this section, a judgment debtor who is served with a writ of continuing garnishment under W.S. 1-15-506 shall file objections to the continuing garnishment and receive a hearing on his objections as provided by W.S. 1-15-507 and 1-15-508.

ARTICLE 2 - STAY OF EXECUTION

1-17-201. Right to stay; procedure.

(a) When judgment has been rendered in any district court against any person for the recovery of money or sale of property he may have a stay of execution as provided by the Wyoming Rules of Civil Procedure, except that a supersedeas bond to be furnished in order to stay the execution of any judgment under this section or under W.S. 1-17-210 during the entire course of appellate review shall not, regardless of amount of the judgment, exceed two million dollars (\$2,000,000.00) in any action in which all appellants are either individuals or have

fifty (50) or fewer employees, or twenty-five million dollars (\$25,000,000.00) in any other action; provided, however:

(i) That if an appellee proves by a preponderance of the evidence that an appellant is dissipating assets which may affect the ultimate payment of all or any portion of the judgment, the district court, upon motion and hearing, may require the appellant to post a bond in an amount up to the amount of the judgment; or

(ii) That an appellee of a judgment to pay taxes or liens to the state of Wyoming shall post a bond in an amount not less than the full amount of the judgment plus interest and costs of the appeal, unless otherwise ordered, as provided in Rule 4.02(b) of the Wyoming Rules of Appellate Procedure.

1-17-202. Notice to sheriff; relinquishment of property.

(a) When the bond is entered after execution is issued, the clerk shall immediately notify the sheriff and he shall forthwith return the execution, noting his actions thereon.

(b) All property levied on before the stay of execution and all written undertakings for the delivery of personal property to the sheriff shall be relinquished by the officer upon bond for the stay of execution being entered.

1-17-203. Effect of recognizance.

Every recognizance of surety taken as provided shall have the effect of a judgment confessed from the date taken against the person and property of the surety.

1-17-204. Execution at expiration of stay.

At the expiration of the stay the clerk shall issue a joint execution against the property of all the judgment debtors and sureties, but the sheriff shall first levy upon the property of the judgment defendant if sufficient property can be found. If not found, he shall without delay levy the execution upon the property of the original judgment debtor subject to the execution which can be found in the county.

1-17-205. No stay on "not repleviable" judgments.

A stay of execution shall not be allowed upon any judgment recovered against any person or surety for money received in a

fiduciary capacity or for a breach of any official duty. The clerk shall issue executions upon the judgments immediately, returnable in ninety (90) days, endorsed "Not repleviabale" and the judgment shall so order.

1-17-206. No stay where sureties object; exception.

When a court renders judgment against two (2) or more persons, any of whom are sureties for another in the contract on which the judgment is founded, there shall be no stay of execution on the judgment if the sureties object at the time of rendering the judgment unless the surety for the stay of execution will undertake specially to pay the judgment in case the amount cannot be levied of the principal defendant.

1-17-207. Execution upon affidavit of surety; generally.

Any surety for the stay of execution may file with the clerk an affidavit stating that he believes he will be liable for the judgment with interest and costs thereon unless execution issues immediately, and the clerk shall issue execution immediately unless other sufficient surety is entered before the clerk or sheriff as in other cases.

1-17-208. Execution upon affidavit of surety; effect of new surety.

If other sufficient surety is entered, it shall have the force of the original surety entered before the filing of the affidavit and shall discharge the original surety.

1-17-209. Time of stay excluded for execution.

The time during which any judgment is stayed shall not be included in the period during which the judgment creditor shall cause execution to be issued and levied in order to preserve his lien on the property of the debtor as against other judgment creditors.

1-17-210. Stay on appeal.

Execution of a judgment or final order, other than those enumerated in W.S. 1-17-201, of any judicial tribunal, or the levy or collection of any tax or assessment therein litigated, may be stayed on such terms as may be prescribed by the court in which the appeal is filed.

ARTICLE 3 - LIEN OF JUDGMENT AND ENFORCEMENT BY EXECUTION

1-17-301. Property subject to execution.

Except for property exempt by law, all property of the judgment debtor, both real and personal or any legal or equitable interest therein including any interest of the judgment debtor in mortgaged property or property being sold under an executory land contract, is subject to execution.

1-17-302. When lien attaches to property; generally.

The lands and tenements within the county in which judgment is entered are bound for the satisfaction thereof from the day the judgment is filed with the county clerk. Whenever a judgment is required to be filed with the county clerk, it shall be recorded in the real estate records. Goods and chattels of the debtor are bound from the time they are seized in execution.

1-17-303. When lien attaches to property; judgment of supreme court.

A judgment of the supreme court for money binds the lands and tenements of the debtor within the county in which the suit originated from the day the judgment is filed with the county clerk. Whenever a judgment is required to be filed with the county clerk, it shall be recorded in the real estate records. Goods and chattels of the debtor are bound from the time they are seized in execution. The lien of a judgment of the district court which is appealed to the supreme court shall not be divested or vacated, but shall continue until the final determination of the action in the supreme court.

1-17-304. Recording lien on real estate in other counties.

The judgment creditor in any judgment rendered by any district court in this state, or in any judgment rendered in a circuit court of this state and filed in the judgment record of the district court, may file a transcript of the judgment record of the district court with the clerk of the district court and the county clerk in any other counties within this state where the judgment debtor owns real estate. The judgment is a lien upon all real estate of the judgment debtor in any county in which the transcript is filed with the clerk of district court and the county clerk from the date of filing with the county clerk. The clerk of the district court of any county in which the transcript is filed shall enter the judgment upon the judgment

records of the court in the same manner as judgments are rendered in that court.

1-17-305. Lien of judgments of federal courts.

(a) Judgments and decrees entered in any United States district court or circuit court held within this state are a lien against the lands and tenements of the person against whom the judgment or decree is rendered, situated within the county where the judgment or decree is entered, from the day the judgment is filed with the county clerk.

(b) The judgment creditor in any judgment or decree rendered in any United States district court within this state may file a transcript of the judgment record in the office of the clerk of any Wyoming district court and the county clerk in any counties in the state of Wyoming where the judgment debtor owns real estate.

(c) The clerk of the district court of any county in which the transcript is filed shall enter the judgment upon the judgment records of the court in the same manner as judgments rendered in that court.

(d) The judgment or decree is a lien upon all the real estate of the judgment debtor in the county or counties where the transcript is filed with the clerk of district court and the county clerk from the date of filing with the county clerk.

1-17-306. Lien of judgments of circuit courts.

(a) The party in whose favor a judgment is rendered by a circuit court if the judgment is not appealed or stayed, may file with the clerk of the district court and the county clerk of the county in which the judgment was rendered a transcript thereof, certifying therein the amount paid thereon, if any. The clerk of court shall enter the case on the execution docket, together with the amount of the judgment and the time of filing the transcript with the county clerk. If within ten (10) days after the judgment was rendered, the judgment debtor pays the same or gives bond for stay of execution, the justice shall immediately certify that fact to the clerk of the district court and the county clerk. The district court clerk shall enter a memorandum thereof upon the docket. The cost of the transcript, the filing, recording and the entry on the docket shall be paid by the party who files and records the transcript and not be taxed to the other party.

(b) The judgment shall be a lien on the real estate of the judgment debtor within the county from the day the transcript is filed with the county clerk provided the transcript has also been filed previously or that same day with the clerk of district court.

(c) Execution may be issued on the judgment at any time after filing the transcript as if the judgment had been rendered in the district court.

1-17-307. When judgment becomes dormant.

If execution on a judgment rendered in any court of record in this state or a transcript of which has been filed as provided in W.S. 1-17-306(a) is not issued within five (5) years from date of the judgment or if five (5) years intervene between the date the last execution issued on the judgment and the time of issuing another execution thereon, the judgment is dormant and ceases to operate as a lien on the estate of the judgment debtor.

1-17-308. Writs of execution; generally.

(a) The writ of execution against the property of the judgment debtor issuing from any court of record shall command the officer to whom it is directed that he shall collect the money specified in the writ from the real and personal property of the debtor.

(b) An execution issued on a judgment rendered against a partnership by its firm name shall operate only on the partnership property.

(c) The amount of the debt, damages and costs for which the judgment is entered shall be endorsed on the execution.

1-17-309. Writs of execution; preferences.

The officer shall endorse on every writ of execution the time when he received it. When two (2) or more writs of execution against the same debtor are delivered to the officer on the same day, no preference shall be given to either of the writs. If a sufficient sum of money is not made to satisfy all executions, the amount made shall be distributed to the several creditors in proportion to the amount of their respective demands. In all other cases the writ of execution first delivered to the officer

shall be first satisfied. This section shall not affect any preferable lien which a judgment on execution issued has on the lands of the judgment debtor.

1-17-310. Writs of execution; levy.

The officer to whom a writ of execution is delivered shall proceed immediately to levy the writ upon the real and personal property of the debtor.

1-17-311. Bond for future delivery of property; failure to perform.

When an officer levies an execution upon any goods and chattels which afterwards remain unsold for any reasonable cause, the officer may for his own security, take a bond from the defendant, with security he deems sufficient to the effect that the property shall be delivered to the officer holding the execution for the sale of same at the time and place appointed by the officer, either by notice given in writing to the defendant in execution or by advertisement printed in a newspaper published in the county, naming the day and place of sale. If the defendant fails to deliver the goods and chattels at the time and place mentioned in the notice or to pay to the officer holding the execution the full value of the goods and chattels or the amount of the debt and costs, the bond shall be considered broken and may be proceeded on as in other cases.

1-17-312. Notice of execution sale.

Unless a private sale is ordered as provided in W.S. 1-17-314, the officer who levies execution upon goods and chattels, shall cause public notice to be given of the time and place of sale at least ten (10) days before the day of sale. The notice shall be given by advertisement in a newspaper published in the county or, if no newspaper is published therein, then in a newspaper of general circulation in the county.

1-17-313. Alias execution.

When goods and chattels levied upon by execution cannot be sold for want of bidders or want of time, the officer who makes the return shall annex to the execution a true inventory of the goods and chattels remaining unsold. The plaintiff in execution may have another execution issued, directing the sale of the property levied upon, but the goods and chattels shall not be

sold unless the time and place of sale is advertised as directed in W.S. 1-17-312.

1-17-314. Sale to be at public auction; when private sale authorized.

The court from which an execution or order of sale issues, on application of either party with due notice to the adverse party and for good cause, may order the officer holding the process to sell the goods and chattels at private sale for cash, specifying the time during which the sale will continue but not extending beyond the return day of the process. Before a private sale is made, the court shall order the personal property appraised by three (3) disinterested persons or a qualified appraiser and the property shall not be sold for less than two-thirds (2/3) of the appraised value. Except when a private sale is ordered for good cause, all sales of goods and chattels shall be at public auction.

1-17-315. Additional levy.

When a writ is issued directing the sale of property previously taken in execution, the officer who issues the writ, if requested, shall add thereto a command to the officer to whom the writ is directed that if the unsold property remaining in his hands is insufficient to satisfy the judgment, he shall levy the same upon lands and tenements or goods and chattels of the judgment debtor, as the law permits, sufficient to satisfy the debt.

1-17-316. Appraisement of real property required; exception.

(a) The officer who levies execution upon real property shall designate a qualified appraiser or three (3) disinterested property owners who are residents of the county where the lands taken in execution are situate and administer to the appraiser or to the property owners an oath to view and impartially appraise the value of the property levied upon or any interest of the judgment debtor. The appraiser or the property owners shall return to the officer as soon as possible a signed estimate of the appraised value.

(b) When the officer receives the return, he shall promptly deposit a copy with the clerk of the court from which the writ issued and immediately advertise and sell the real estate or the judgment debtor's interest as provided by law.

(c) If upon the return it appears that two-thirds (2/3) of the appraised value of the judgment debtor's interest in the real estate levied upon is sufficient to satisfy the execution with costs, the judgment on which the execution is issued shall not operate as a lien on the residue of the debtor's estate to the prejudice of any other judgment creditor. Except as expressly authorized by law, no real estate shall be sold for less than two-thirds (2/3) of the appraised value of the judgment debtor's interest in the property.

(d) All lands the property of persons indebted to the state for any debt or taxes, except for loans authorized by the legislature, shall be sold without appraisal notwithstanding any other provision of law.

1-17-317. Official property sold without valuation.

The property of any state, county or municipal officer levied on for or on account of any money collected or received by him in his official capacity may be sold without valuation.

1-17-318. Return on execution; record.

The sheriff shall endorse his actions on the writ. Immediately upon return of the writ, the clerk shall record at length in the execution docket or other docket provided for the purpose all such endorsements and the record shall be a part of the court record.

1-17-319. Disposition of nonrealty proceeds.

If the sheriff collects any part of a judgment by virtue of an execution without the sale of real estate, he shall pay the same to the judgment creditor or his attorney. If the execution is fully satisfied, he shall return it within three (3) days after he has collected the money.

1-17-320. Failure of realty purchaser to pay.

Upon notice and motion of the officer who makes the sale or of an interested party, the court from which any execution or order of sale issues shall punish as for contempt any purchaser of real property who willfully fails to pay the purchase money.

1-17-321. Confirmation of sale of realty and order for deed; disposition of proceeds.

If upon return of any writ of execution for the satisfaction of which lands and tenements have been sold, it is found by the court that the sale was made in all respects in conformity with the code of civil procedure [this title], the clerk shall be directed to make an entry in the journal that the court is satisfied with the legality of the sale and that the officer, upon expiration of the period of redemption, shall make a deed to the purchaser for the lands and tenements. The officer may retain the purchase money until the court examines his proceedings. He shall then pay the money to the persons entitled as the court may order.

1-17-322. Conveyance of realty by master commissioner.

A master commissioner, upon order by the court, may convey real property when a party to a proceeding has been ordered to convey the property to another and fails or refuses to obey the order. The master commissioner may also execute a conveyance when specific real property is sold by him under an order or judgment of the court.

1-17-323. Administering of oaths; sheriff as commissioner; sales by master.

A master commissioner or special master who sells real property has the same power to administer oaths as the sheriff. A sheriff may act as a master commissioner and, upon notice and for reasonable compensation to be paid by the master commissioner out of his fees, may attend and make sale for any commissioner who, by reason of sickness is unable to attend. Sales made by a master shall conform in all respects to the laws regulating sales of lands upon execution.

1-17-324. Effect of deed.

The deed is prima facie evidence of the legality and regularity of the sale and the entire estate and interest of the person whose property the officer sells and conveys shall thereby rest in the purchaser, whether that interest existed at the time the property became liable to satisfy the judgment, or was acquired subsequently.

1-17-325. Printer's fees for notice.

The officer who makes a levy or holds an order of sale may demand of the plaintiff the fees of the printer for publishing

the notice and the officer is not required to make publication until the fees are paid.

1-17-326. Where realty sold; certain purchases void.

All sales of lands or tenements under execution or order of sale shall be held at the courthouse in the county in which the lands and tenements are situated, unless otherwise ordered by the court. Purchases of real or personal property by the officer making sale or by an appraiser of the property are void.

1-17-327. Alias executions against realty.

If lands and tenements levied on or ordered sold are not sold upon one (1) execution, other executions may be issued.

1-17-328. Separate levies on separate parcels of land.

(a) When two (2) or more executions having different preferences are to be satisfied by levying upon real estate, either judgment creditor may require the officer to make a separate levy for his execution. The officer levying the executions may choose such part of the debtor's real property as is sufficient, at two-thirds (2/3) of the appraised value of the judgment debtor's interest, to satisfy the executions.

(b) When two (2) or more executions having no preference as to each other are to be satisfied by levying upon real property, either judgment creditor may require the officer to levy upon separate parcels if the appraisers determine that the property may be divided without material injury.

(c) If two-thirds (2/3) of the appraised value of the judgment debtor's interest in real property is not sufficient to satisfy all the executions chargeable against it, that part of the property shall be levied on to satisfy each execution as will bear the same proportion in value to the whole as the amount due on the execution bears to the amount of all the executions chargeable thereon, as near as may be, according to the appraised value of the judgment debtor's interest in each separate parcel.

1-17-329. Certificate or deed by successor officer.

If the term of the officer who makes a sale of any lands and tenements expires, or he is unable from any cause to make a certificate of sale or a deed of conveyance of the property

sold, any successor of the officer on receiving a certificate from the court from which execution issued setting forth that sufficient proof has been made that the sale was fairly and legally made, and on tender or proof of payment of the purchase money, may execute to the purchaser or his legal representatives a certificate of sale or a deed of conveyance of the lands and tenements sold. The certificate or deed shall be as valid in law as if the officer who made the sale had executed it.

1-17-330. Disposition of surplus proceeds.

If there remains in the hands of the officer after an execution sale more money than necessary to satisfy the writ of execution with interest and costs, the officer shall pay the balance to the defendant in execution or his legal representatives.

1-17-331. Effect of reversal of judgment.

If a judgment in satisfaction of which lands or tenements are sold is thereafter reversed, the reversal shall not affect the title of the purchaser, but the judgment creditor shall make restitution of the money received from the sale with lawful interest from the day of sale.

1-17-332. Rights of purchaser where sale invalid.

(a) If the title of the purchaser is invalid by reason of a procedural defect in the sale of property on execution, the purchaser is subrogated to the right of the creditor against the debtor to the extent of the money paid and applied to the debtor's benefit, and shall have a lien therefor on the property sold as against all persons except bona fide purchasers without notice. The creditor is not required to refund the purchase money by reason of the invalidity of any such sale.

(b) This section applies to all sales by order of court, sales by executors, administrators, guardians and assignees and to all sales for taxes.

1-17-333. Sale of wrong property; vacation of satisfaction.

When a plaintiff in execution, in good faith, has had a levy of execution and sale of property not subject thereto, with the proceeds applied on his judgment, and a recovery therefor has been had against him by the owner of the property, the plaintiff, having paid the amount so recovered, on motion and

notice to the judgment defendant, in the court having control of the judgment, may have the satisfaction made from the sale on execution vacated and is entitled to collect the judgment.

1-17-334. Sale of wrong property; remedy of levying officer.

When an officer levies execution in good faith, upon property not subject thereto, sells the property and applies the proceeds in satisfaction of the judgment, and a recovery is had against him for its value, upon payment of the recovery and on motion and notice to the execution defendant in the court having control of the judgment, the officer may have the satisfaction of the judgment vacated and execution issued for his use the same as if the levy and sale had not been made.

1-17-335. Sale of wrong property; rights of defendant and surety.

When a defendant in a judgment or his surety mistakenly directs an execution issued on the judgment to be levied on property not liable to execution, and thereby wholly or partially satisfies the judgment, he may be compelled to pay the owner of the property therefor. Thereafter, he shall have the same rights against any codefendant in the judgment and against any cosurety or principal in respect of the debts on which the judgment is founded as though the satisfaction had been made out of the property of the defendant or surety directing the levy.

1-17-336. When judgment loses preference; lien to continue for a year.

A judgment on which execution is not levied before the expiration of one (1) year after its rendition shall not operate as a lien on the estate of a debtor. When judgment is rendered in the district or supreme court and a special mandate is awarded to the district court to carry the same into execution, the lien of the judgment creditor shall continue for one (1) year after the mandate is filed with the county clerk. The special mandate shall be entered on the journal of the district court before being filed with the county clerk. In computing the period of one (1) year, the time covered by an appeal of the case, by an injunction against the execution, by a vacancy in the office of sheriff or by the inability of the officer, shall be excluded.

**1-17-337. New appraisalment of realty or execution;
direction of sale price by court.**

When real estate taken on execution is appraised and is twice advertised and offered for sale but remains unsold for lack of bidders, the court from which the execution issued on motion of the plaintiff or defendant shall set aside the appraisalment and order a new appraisalment to be made, or set aside the levy and appraisalment and award a new execution to issue. When the real estate or any part thereof has been three (3) times appraised and thereafter twice advertised and offered for sale, and remains unsold for lack of bidders, the court may direct the amount for which the property shall be sold.

1-17-338. Court order to sell land on time; terms of sale.

When premises are ordered to be sold and having been twice advertised and offered for sale remain unsold for lack of bidders, on motion of the plaintiff or defendant the court from which the order of sale issued shall order a new appraisalment, and may also order that the land be sold on time with one-third (1/3) cash in hand, one-third (1/3) in nine (9) months from the day of sale, and the remaining one-third (1/3) in eighteen (18) months from the day of sale. Deferred payments shall draw interest and be secured by a mortgage on the premises.

1-17-339. Return of execution.

The officer to whom a writ of execution is directed shall return the writ to the court within sixty (60) days from the date thereof.

1-17-340. Repealed by Laws 1988, ch. 37, § 3.

1-17-341. Appraiser's fees.

Each person appraising real estate under W.S. 1-17-301 through 1-17-345 shall receive a reasonable fee to be collected on the execution.

1-17-342. Return of execution to another county by mail.

When execution is issued to the sheriff of another county, and the sheriff, having discharged all the duties required of him by law, returns the execution by mail to the clerk of the court who issued it soon enough to have reached the office where it was

issued within the time prescribed by law, he is not liable for any penalty if it does not reach the office in time.

1-17-343. Forwarding of money by mail.

A sheriff shall not forward by mail any money made on execution unless he is specially instructed to do so by the plaintiff, his agent or attorney.

1-17-344. Execution docket; entries.

The clerk of the district court shall enter in the execution docket the full names of the parties to the action in which an execution is issued, the number of the action in the appearance docket, the number of the execution, the date of its issue, the amount of the judgment, the costs due each person or officer, the time when the judgment was rendered, the date of the return and the return recorded in full.

1-17-345. Execution docket; index.

The clerk shall keep an index to the execution docket showing in separate columns the names of all parties against whom and in whose favor an execution has been issued, the number of the execution and the number of the action upon the appearance docket.

ARTICLE 4 - PROCEEDINGS IN AID OF EXECUTION

1-17-401. Action against equitable assets.

Any equitable interests the judgment debtor has as mortgagor, mortgagee or otherwise, or any interest he has in any joint stock company, money contract, claim or chose in action due or to become due to him, or in any judgment or order, or any money, goods or effects which he has in the possession of any person, which has not been levied upon and sold under execution is subject to the payment of the judgment by action.

1-17-402. Discovery in aid of execution.

(a) At any time after entry of judgment, the judgment creditor may obtain discovery by interrogatories, depositions or otherwise, from any person, including the judgment debtor, in accordance with the Wyoming Rules of Civil Procedure.

(b) A person served with notice of discovery under this section shall hold for the benefit of the judgment creditor from the time of service all property, money and credits in his hands belonging to the judgment debtor or due to him.

1-17-403. Repealed by Laws 1988, ch. 37, § 3.

1-17-404. Repealed by Laws 1988, ch. 37, § 3.

1-17-405. Repealed by Laws 1987, ch. 198, § 4.

1-17-406. Repealed by Laws 1988, ch. 37, § 3.

1-17-407. Repealed by Laws 1988, ch. 37, § 3.

1-17-408. Repealed by Laws 1988, ch. 37, § 3.

1-17-409. Repealed by Laws 1988, ch. 37, § 3.

1-17-410. Repealed by Laws 1987, ch. 198, § 4.

1-17-411. Order for satisfaction of judgment; request for a hearing.

Following an examination as provided by W.S. 1-17-402 through 1-17-418, the court may order any property of the judgment debtor not exempt by law, to be applied toward the satisfaction of a judgment. Upon seizure of his property, a judgment debtor may request a hearing pursuant to W.S. 1-17-102.

1-17-412. Appointment of receiver; control of property.

The court may appoint the sheriff of the proper county or other suitable person as receiver of the property of the judgment debtor, and may forbid a transfer or other disposition of or interference with the property of the judgment debtor, not exempt by law.

1-17-413. Appointment of sheriff or another as receiver.

If the sheriff is appointed receiver, he and his sureties are liable on his official bond as receiver. If another person is appointed, he shall take an oath and bond as in other cases.

1-17-414. Sale of judgment debtor's equitable or other interest in realty.

If it appears that the judgment debtor has an interest in real estate in the county in which proceedings are had, as mortgagor, mortgagee or otherwise, and his interest can be ascertained as between himself and any person holding the legal estate or having a lien or interest therein, without controversy, the receiver may be ordered to sell and convey the real estate, or the interest of the debtor. The sale shall be conducted as provided for the sale of real estate upon execution, and before execution of the deed, the proceedings of sale shall be approved by the court in which the judgment was rendered or the transcript filed.

1-17-415. Filing of orders.

All orders of the court issued pursuant to this article shall be filed with the clerk of the district court of the county in which the judgment is rendered. The clerk shall enter on the execution docket the time of filing the judgment or transcript.

1-17-416. Costs.

The judge shall allow to clerks, sheriffs, referees, receivers and witnesses compensation allowed for like services in other cases, to be taxed as costs and shall enforce the collection thereof from the party or parties liable for payment.

1-17-417. Lien on debtor vendee's interest in personalty; interest defined.

An attaching or judgment creditor of a vendee in a sale, contract or lease wherein the transfer of title or ownership of personal property is contingent upon any condition, has a lien upon the personal property to the extent of the interest of the vendee therein. For the purposes of W.S. 1-17-417 and 1-17-418, the interest of the vendee is the amount which the personal property will bring at any judicial sale, over and above any sums then unpaid to the vendor in the sale, contract or lease.

1-17-418. Lien on debtor vendee's interest in personalty; manner and effect of sale.

When any personal property is attached or levied upon under execution, the judgment creditor shall pay the amount then due the vendor or the assignee of vendor under the sale, contract or lease, and proceed to sell the personal property the same as if title and ownership were in the vendee. If the judgment creditor elects to pay the vendor or assignee of vendor, the bill of sale

of the sheriff or person selling under execution shall convey to the purchaser at the execution sale all of the right, title and interest of the vendor to the personal property.

ARTICLE 5 - GARNISHMENT

- 1-17-501. Repealed by Laws 1987, ch. 198, § 4.
- 1-17-502. Repealed by Laws 1987, ch. 198, § 4.
- 1-17-503. Repealed by Laws 1987, ch. 198, § 4.
- 1-17-504. Repealed by Laws 1987, ch. 198, § 4.
- 1-17-505. Repealed by Laws 1987, ch. 198, § 4.

ARTICLE 6 - EXECUTION AGAINST THE PERSON; ATTACHMENT OF PERSON

- 1-17-601. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-602. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-603. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-604. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-605. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-606. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-607. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-608. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-609. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-610. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-611. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-612. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-613. Repealed by Laws 1988, ch. 37, § 3.
- 1-17-614. Repealed by Laws 1988, ch. 37, § 3.

ARTICLE 7 - ENFORCEMENT OF FOREIGN JUDGMENTS

1-17-701. Short title.

This act means W.S. 1-17-701 through 1-17-707 and may be cited as the Uniform Enforcement of Foreign Judgments Act.

1-17-702. "Foreign judgment" defined.

In this act, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

1-17-703. Filing of foreign judgment; effect of filing.

In order for a foreign judgment to have the same effect as a judgment of a district court of this state, a copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this state shall be filed in the office of the clerk of any district court and any county clerk of this state. The clerk of court shall treat the foreign judgment as a judgment of the district court of this state notwithstanding the amount of the judgment or that the action giving rise to the judgment, if initiated in this state, would be within the jurisdiction of a minor court. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a judgment of a district court of this state and may be so enforced or satisfied.

1-17-704. Affidavit required; notice of filing; execution.

At the time of filing a foreign judgment, the judgment creditor or his attorney shall file with the clerk of court an affidavit setting forth the name and last known mailing address of the judgment debtor, and the judgment creditor. The clerk shall promptly mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and mailing address of the judgment creditor and the judgment creditor's attorney, if any, in this state. The judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed. An execution or other process for enforcement of a foreign judgment shall not issue until five (5) days after the date the judgment is filed.

1-17-705. Stay of enforcement.

If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, and upon proof that the judgment debtor has furnished the security for satisfaction of the judgment required by the law of the state where it was rendered, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or until the stay of execution expires or is vacated. If the judgment debtor shows the court any ground upon which enforcement of a judgment of the court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the security for satisfaction of the judgment which is required in this state.

1-17-706. Fees.

Any person filing a foreign judgment shall pay to the clerk of court the fee for filing instruments in a civil action under W.S. 5-3-206(a)(i). Fees for docketing, transcription or other enforcement proceedings shall be the same as for judgments of the courts of this state.

1-17-707. Right of action unimpaired.

The right of a judgment creditor to bring an action to enforce his judgment in the appropriate court in this state instead of proceeding under this act remains unimpaired.

CHAPTER 18 - SALE AND REDEMPTION OF REALTY SOLD UNDER MORTGAGE
OR EXECUTION

1-18-101. Sale to be at public vendue; hours of sale; notice required; mortgagee, judgment creditor or lienor must be present or waive; penalty.

(a) No lands or tenements shall be sold by virtue of any execution or decree of foreclosure unless:

(i) The sale is by public vendue between the hours of 10:00 a.m. and 5:00 p.m. of the same day;

(ii) The time and place of holding the sale was previously advertised for four (4) consecutive weeks in a legal

newspaper of general circulation in the county where the lands and tenements are situate; and

(iii) The foreclosing mortgagee, judgment creditor, other foreclosing lienor or an authorized agent of the foreclosing party is present at the sale or has previously waived to the sheriff conducting the sale the right to appear and bid at the sale. The sheriff conducting the sale shall not be considered to be the authorized agent of the foreclosing party unless the foreclosing party has given the sheriff a specified opening bid to be presented by the sheriff on behalf of the foreclosing party and the sheriff actually presents the opening bid. Any foreclosure sale conducted without complying with the terms of this section is void, in which case the mortgage, power of sale, judgment or other lien which is the subject of the voided sale is not extinguished or exhausted, but may be properly foreclosed in a subsequent foreclosure sale in compliance with applicable law.

(b) The notice shall state the names of the plaintiff and defendant in the action, and the time and place of sale. In all notices the lands or tenements to be sold shall be described with reasonable certainty by appropriate description. The notice shall state "The property being foreclosed upon may be subject to other liens and encumbrances that will not be extinguished at the sale and any prospective purchaser should research the status of title before submitting a bid." If any officer sells any lands or tenements by virtue of any execution or decree, otherwise than as provided, the officer so offending shall forfeit and pay five hundred dollars (\$500.00) for every offense, to be recovered with costs in any court of record in this state by the person whose lands were advertised and sold.

1-18-102. Certificate of purchase in lieu of deed; contents; recordation of duplicate; admissibility.

When real property is sold by virtue of an execution, order of sale, decree of foreclosure or foreclosure by advertisement and sale, the sheriff or other officer, instead of executing a deed to the premises sold, shall give to the purchaser of the lands a certificate in writing describing the property purchased and the sum paid therefor, or if purchased by the plaintiff in execution or by the mortgagee, the amount of his bid. The certificate shall state that the purchaser is entitled to a deed for the property at the expiration of the period of redemption, unless the property is redeemed prior to that date as provided by law. The sheriff or other officer shall record in the office of the

recorder of the county a duplicate of the certificate, signed and acknowledged by him, and the certificate or a certified copy thereof is admissible as evidence of the facts therein contained.

1-18-103. Right of redemption; redemption of agricultural real estate; "agricultural real estate" defined.

(a) Except as provided with respect to agricultural real estate, it is lawful for any person, his heirs, executors, administrators, assigns or guarantors whose real property has been sold by virtue of an execution, decree of foreclosure, or foreclosure by advertisement and sale within three (3) months from the date of sale, to redeem the real estate by paying to the purchaser, his heirs, executors, administrators or assigns, or to the sheriff or other officer who sold the property, for the benefit of the purchaser, the amount of the purchase price or the amount given or bid if purchased by the execution creditor or by the mortgagee under a mortgage, together with interest at the rate of ten percent (10%) per annum from the date of sale plus the amount of any assessments or taxes and the amount due on any prior lien which the purchaser paid after the purchase, with interest. On payment of this amount the sale and certificate granted are void.

(b) In the case of any mortgage upon one (1) or more parcels of real estate any or all of which were agricultural real estate on the date of execution of the mortgage as stated in the mortgage, the period within which the owner, his heirs, executors, administrators, assigns or guarantors may redeem the premises sold is twelve (12) months from the date of the sale.

(c) The term "agricultural real estate" means any parcel of land in excess of eighty (80) acres lying outside the exterior boundaries of any incorporated city, town or recorded subdivision. If the mortgage recites that the real estate involved is agricultural real estate, it is presumed the parties to the mortgage, their heirs, executors, administrators, assigns, guarantors or successors in interest have agreed to and are bound by all the provisions of law relative to the twelve (12) month right of redemption provided in subsection (b) of this section.

1-18-104. Redemption by judgment creditors and others; manner prescribed; subsequent redemptions; possession, rents and profits, common carriers excepted.

(a) If no redemption is made within the redemption period provided in W.S. 1-18-103, any judgment creditor of the person whose real estate has been sold, or any grantee or mortgagee of the real estate or person holding a lien on the real estate sold is entitled to redeem the same on or before the thirtieth day after the expiration of the applicable redemption period provided in W.S. 1-18-103, by complying with subsections (b) and (c) of this section.

(b) The redemptioner shall pay to the purchaser or to the officer conducting the sale, either an amount agreed upon by the purchaser and the redemptioner, or the amount bid with interest at ten percent (10%) per annum from the date of sale, and the amount of any assessments or taxes and the amount due on any prior lien which the purchaser may have paid after the purchase, with interest. If the purchaser also has a lien prior to that of the redemptioner, the redemptioner shall also pay the amount of the lien with interest.

(c) The redemptioner must produce for the purchaser from whom redemption is sought or for the officer who conducted the sale:

(i) A copy of the judgment under which the right of redemption is claimed, duly certified by the clerk of the court in which the judgment was entered, or if redemption is sought under a mortgage or other lien, a copy of the mortgage or other lien certified by the clerk of the county; or

(ii) A copy of any assignment necessary to establish the claim; and

(iii) An affidavit by himself or his agent showing the amount actually unpaid and due on the lien.

(d) If the property is redeemed, another redemptioner may within thirty (30) days from the last redemption again redeem from the last redemptioner by paying the amount of the last redemption together with interest at ten percent (10%) per annum from the date thereof, and the amount of any assessment or taxes which the last redemptioner may have paid and the amount of any lien held by the last redemptioner prior to his own, with interest. The property may again, and as often as any redemptioner desires, be redeemed from any previous redemption within thirty (30) days from the last redemption. If no redemption is made within thirty (30) days after the applicable redemption period provided in W.S. 1-18-103, the purchaser or

his assignee is entitled to a sheriff's deed to the property, or if so redeemed, whenever thirty (30) days has elapsed and no other redemption has been made, the last redemptioner or his assignee is entitled to a sheriff's deed.

(e) The execution debtor in case of a sale on execution, and the mortgagor or owner in case of a mortgage foreclosure, is entitled to possession of the lands sold and to the rents and profits for a period of three (3) months after the sale unless the property is agricultural property in which case the entitlement to possession of the lands sold and to the rents and profits shall be for a period of twelve (12) months after the sale. At the expiration of three (3) months from sale of nonagricultural land and twelve (12) months from sale of agricultural land, the purchaser is entitled to possession and to the rents and profits of the lands until redemption is made from him, and each redemptioner until another redemption is made is likewise entitled to possession and to the rents and profits.

(f) The parties to a mortgage may provide that the mortgagee is entitled to a receiver or to the rents and profits upon default, or upon the date of sale or at any time agreed upon. A court may appoint a receiver or award the rents and profits to the person entitled thereto for the prevention of waste, or the preservation of the property, or for any equitable cause.

(g) This section does not apply when real and personal property of a common carrier is sold in its entirety at a judicial sale pursuant to an order of court. In such case, property may be sold without right of redemption unless otherwise directed by the order of sale.

1-18-105. Redemption of whole or portion permitted.

Any person entitled may redeem the whole or any part or portion of lands previously sold upon execution or by foreclosure, but such redemption must be made in the distinct quantities or parcels in which they were sold.

1-18-106. Certificate of redemption; recordation; fee.

In all cases of redemption of lands from sale under any judicial process, or by virtue of any mortgage foreclosure, the purchaser or other person from whom the redemption is made shall certify the redemption in writing and record the certificate in the recorder's office of the proper county as other writings

affecting the titles to real estate are filed and recorded. The recording fee shall be paid by the party redeeming.

1-18-107. Commission of officers.

No commission upon the amount of the redemption money paid shall be allowed to the officer receiving the money, but the usual commission shall be allowed the officer selling the premises, on the excess made over and above the amount of the redemption money and interest.

1-18-108. Assignment of certificate of purchase.

Every certificate given by any officer to any purchaser under W.S. 1-18-101 through 1-18-110, is assignable by endorsement under the hand of the purchaser, his heirs, executor, administrator or assignee. Every person to whom the certificate is assigned is entitled to the same benefits therefrom in every respect that the person named would have been if the certificate had not been assigned, including a deed if the property is not redeemed as provided by law.

1-18-109. Contents of deed; form.

The deed to be executed by the officer to the purchaser under W.S. 1-18-101 through 1-18-110 shall contain a statement of the judgment upon which the lands described were sold, and the date of the execution in the case of an execution sale; a statement of the mortgage, with its date and place of record, the parties thereto, and a statement of the decree in case of foreclosure by suit; or a statement of the time and place of sale in the case of a foreclosure by advertisement and sale. The deed shall also contain a recital showing the issuance of a certificate of purchase and any assignment of the certificate that has been made. The deed shall also contain substantially the following words:

Now, therefore, know all men by this deed, that I,, of the county of in consideration of the premises, have granted and sold and do hereby convey to, his heirs and assigns, the following described tract of land,, to have and to hold the described premises with all appurtenances to the said, his heirs and assigns forever.

Witness my hand and seal this day of, A.D.

1-18-110. Effect of deed.

Any deed so executed is prima facie evidence that the provisions of law in relation to sale of real property upon execution, or upon foreclosure, were complied with. The deed conveys to the grantee all the title, estate and interest of defendant in the execution, or the mortgagor or owner, in the lands thereby conveyed, but the deed shall not be construed to contain any covenant upon the part of the officer executing the same.

1-18-111. Sale on foreclosure of mortgage; generally.

When a mortgage is foreclosed a sale of the premises shall be ordered. The decree directing the sale is sufficient warrant for the sheriff or other officer to proceed to advertise and conduct the sale. An order of sale issued by the clerk of court or an appraisal of the real property to be sold is not necessary. When the premises to be sold are in one (1) or more tracts, the court may direct the officer who makes the sale to subdivide and sell the same in parcels, or to sell any one (1) of the tracts as a whole.

1-18-112. Sale on foreclosure of mortgage; property in more than single county.

When the mortgaged property is situated in more than one (1) county, the court may order the sheriff or other officer of each to make the sale of the property in his county, or may direct one (1) officer to sell the whole. The court shall direct whether publication of the sale shall be made in all the counties or in one (1) county only.

1-18-113. Payment of proceeds.

After any sale of real estate as provided in this chapter, proceeds from the sale shall be paid over by the officer or other person making the sale in accordance with W.S. 34-4-113.

1-18-114. Omitted parties; definitions.

(a) For purposes of this section:

(i) "Omitted party" means any person who:

(A) Subsequent to the recording of a mortgage, deed of trust or other lien instrument pursuant to which a foreclosure sale has been conducted, has either acquired a record interest in the property subject to a mortgage

foreclosure, deed of trust or execution sale, or has obtained a valid possessory interest and is in actual possession of the property; and

(B) Is not included as a party defendant in a judicial foreclosure action or, if included, is entitled to notice, but was not served with process, or was not mailed notice of the execution sale or is not notified pursuant to W.S. 34-4-104 of a mortgage foreclosure sale.

(ii) "Interested person" means any holder of a certificate of purchase or certificate of redemption issued pursuant to W.S. 1-18-102 and 1-18-106 or any owner of the property by virtue of a sheriff's or public trustee's deed or person claiming through such owner.

(b) The interest of an omitted party in the property which is the subject of a mortgage foreclosure, execution or sheriff's or trustee's sale may be terminated in a civil action commenced by any interested person if the omitted party is afforded rights of redemption upon terms as the district court for the district in which the property is located may deem just under the circumstances, which terms shall not, however, be more favorable than the person's statutory rights had the person been provided notice of the sale.

(c) For purposes of this section, the mortgage, judgment or other lien which is the subject of the sale shall not be extinguished by merger with the title to the property acquired upon issuance and delivery of the sheriff's deed until the interest of any omitted party has been terminated as provided in subsection (b) of this section or by operation of law.

1-18-115. Rescission of foreclosure sale.

(a) A judicial or nonjudicial foreclosure sale may be rescinded in accordance with this section at any time after the sale but before the sheriff's deed has been recorded.

(b) If the purchaser at the foreclosure sale was the foreclosing mortgagee, then the foreclosing mortgagee may rescind the sale for any reason by executing and recording a notice of foreclosure sale rescission in the office of the county clerk of the county where the real estate is located.

(c) If the purchaser at the foreclosure sale was not the foreclosing mortgagee, then the foreclosing mortgagee and the

certificate holder may agree to rescind the foreclosure sale for any reason. In order to rescind such a foreclosure sale, the foreclosing mortgagee shall refund to the certificate holder either an amount agreed upon by the foreclosing mortgagee and the certificate holder, or the foreclosure sale bid amount plus ten percent (10%) interest per annum, calculated daily. In addition, both the foreclosing mortgagee and the certificate holder shall execute a notice of foreclosure sale rescission which shall be recorded in the office of the county clerk of the county where the real estate is located.

(d) If the purchaser at the foreclosure sale was not the foreclosing mortgagee, and the certificate holder will not agree to rescind the foreclosure sale, then the foreclosing mortgagee may still rescind the sale if the statutory requirements for the foreclosure sale were not fulfilled or if the foreclosure sale did not comply with applicable federal or state law. In order to rescind such a foreclosure sale, the foreclosing mortgagee shall refund to the certificate holder the purchase price, plus ten percent (10%) interest per annum, calculated daily, and the foreclosing mortgagee shall execute and record a notice of foreclosure sale rescission in the office of the county clerk of the county where the real estate is located which shall recite that the foreclosure sale is being rescinded pursuant to this subsection. The refund of the certificate holder's bid amount, plus interest, shall be the certificate holder's only remedy notwithstanding any other provision of law.

(e) Upon recording a notice of foreclosure sale rescission:

(i) The mortgage and power of sale which are the subject of the rescinded sale are revived and the mortgage may be properly foreclosed in a subsequent foreclosure sale in compliance with applicable law, and all junior liens and rights of junior lienholders are revived with the same lien priority as if no foreclosure sale had taken place;

(ii) The certificate of sale is rendered null and void as if no foreclosure sale had taken place; and

(iii) The mortgagor's indebtedness to the foreclosing mortgagee and all evidence thereof are revived as of the date of the foreclosure sale and as if no certificate of sale had been issued, or as otherwise agreed to by the mortgagor and mortgagee.

CHAPTER 19 - SALE OF CORPORATE STOCK UNDER EXECUTION OR
ATTACHMENT

1-19-101. Right to levy and sale.

Rights and shares of stock in any corporation owned or held by any defendant in execution or attachment, or in trust for such person, may be levied upon under any execution or writ of attachment, and may be sold under any execution in the manner provided.

1-19-102. Duty to furnish statement of defendant's rights or shares.

When any execution or writ of attachment is issued against the owner of any rights or shares in any corporation or for whom any rights or shares are held by any person other than the defendant, it is the duty of any officer of the corporation, or if there is no officer in the state, then the resident manager or agent, upon the request of the officer having the execution or writ of attachment, to furnish him a certificate under his hand stating the number of rights or shares which the defendant holds, or which are held in trust for defendant, or for his use, in the corporation.

1-19-103. Manner of making levy.

To levy execution or attachment on rights or shares in a corporation, the officer making the levy shall leave a true copy of the writ, with any officer of the corporation and if there is no officer, then with the resident manager or agent thereof, together with the officer's certificate stating that he levies upon and takes in execution or attachment the rights or shares to satisfy the writ.

1-19-104. Sale of rights or shares.

Rights or shares in any corporation levied upon by writ of attachment shall be held subject to the judgment rendered in the action in which the writ is issued. Whenever execution is levied upon such rights or shares, they shall be sold as personal property as provided by law, at the front door of the courthouse in the county in which the levy is made.

1-19-105. Certificate of sale; transfer on corporate books.

Every officer who sells any rights or shares of stock in any corporation under an execution shall execute to the purchaser a certificate in writing reciting the sale and payment of the consideration, and conveying to the purchaser the rights and shares. The officer shall also leave with an officer of the corporation or the resident manager or agent, a true copy of the certificate. The person having charge of the books of the corporation shall make entries in the books as necessary to vest the legal and equitable title to the rights or shares in the purchaser.

1-19-106. Rights and privileges of purchasers.

A purchaser of rights or shares in a corporation at a sale made by an officer, upon receiving a certificate of the sale as provided in W.S. 1-19-105 is deemed to be the legal and equitable owner of the rights or shares and is entitled to all dividends and to the same rights and privileges as a shareholder of the corporation as was the defendant in execution, even though the rights and shares of stock may not have been transferred upon the books of the company.

1-19-107. Effect of levy.

Rights and shares of stock in a corporation levied upon as provided by W.S. 1-19-101 through 1-19-107 shall be held and bound from the time of the levy.

1-19-108. Liability of shares pledged or used as collateral.

When shares of any corporation are pledged in good faith, or pledged as collateral security for any loan or debt, and the certificate is delivered upon the pledge or debt, the shares are not liable to be taken on execution against the pledgor except for the excess of their value over the sum for which they have been pledged.

CHAPTER 20 - PROPERTY EXEMPT FROM EXECUTION OR ATTACHMENT

1-20-101. Homestead exemption; right and amount.

Every resident of the state is entitled to a homestead not exceeding twenty thousand dollars (\$20,000.00) in value, exempt from execution and attachment arising from any debt, contract or civil obligation entered into or incurred.

1-20-102. Homestead exemption; when operative.

(a) The homestead is only exempt as provided in W.S. 1-20-101 while occupied as such by the owner or the person entitled thereto, or his or her family.

(b) When two (2) or more persons jointly own and occupy the same residence, each shall be entitled to the homestead exemption.

1-20-103. Homestead exemption; right of family survivors.

When any person dies seized of a homestead leaving as survivor a widow, husband or minor children, the survivor is entitled to the homestead. If there is no such survivor, the homestead is liable for the debts of the deceased.

1-20-104. Homestead exemption; composition.

The homestead may consist of a house on a lot or lots or other lands of any number of acres, or a house trailer or other movable home on a lot or lots, whether or not the house trailer or other movable home is equipped with wheels or resting upon immovable support.

1-20-105. Wearing apparel.

The necessary wearing apparel of every person not exceeding two thousand dollars (\$2,000.00) in value, determined in the manner provided in W.S. 1-20-106 is exempt from levy or sale upon execution, writ of attachment or any process issuing out of any court in this state. Necessary wearing apparel shall not include jewelry of any type other than wedding rings.

1-20-106. Exemption of other personal property; personalty used in livelihood; appraisalment.

(a) The following property, when owned by any person, is exempt from levy or sale upon execution, writ of attachment or any process issuing out of any court in this state and shall continue to be exempt while the person or the family of the person is moving from one (1) place of residence to another in this state:

- (i) The family bible, pictures and school books;
- (ii) A lot in any cemetery or burial ground;

(iii) Furniture, bedding, provisions and other household articles of any kind or character as the debtor may select, not exceeding in all the value of four thousand dollars (\$4,000.00). When two (2) or more persons occupy the same residence, each shall be entitled to a separate exemption;

(iv) The value in a motor vehicle not exceeding five thousand dollars (\$5,000.00);

(v) Not more than three (3) firearms not exceeding in all the value of three thousand dollars (\$3,000.00) and their associated ammunition not to exceed one thousand (1,000) rounds per firearm.

(b) The tools, team, implements or stock in trade of any person, used and kept for the purpose of carrying on his trade or business, not exceeding in value four thousand dollars (\$4,000.00), or the library, instruments and implements of any professional person, not exceeding in value four thousand dollars (\$4,000.00), are exempt from levy or sale upon execution, writ of attachment or any process out of any court in this state.

(c) The value of the property selected by any debtor shall be ascertained by the appraisalment of three (3) disinterested appraisers, to be selected and summoned by the officer claiming to levy upon, attach or sell the property. The appraisers shall be sworn by the officer to make a true appraisalment of the value of the property.

1-20-107. Exemptions when head of family dies.

Whenever the head of a family dies, deserts, or ceases to reside with the family, the family is entitled to all the benefits and privileges conferred upon the head of a family residing with the same, and the family, or any member thereof, may select the property claimed as exempt. Where the exempt property is the sole and separate property of the wife, it is, to the same extent and for all purposes, exempt for the debts of the wife.

1-20-108. Exception; residency required.

(a) No property claimed as exempt under W.S. 1-20-101 through 1-20-106 is exempt from attachment or sale upon execution for the purchase money of the property.

(b) Any person claiming these exemptions shall be a bona fide resident of this state.

1-20-109. Exemptions from estates in bankruptcy.

In accordance with 11 U.S.C. § 522(b)(1), the exemptions from property of the estate in bankruptcy provided in 11 U.S.C. § 522(d) are not authorized in cases where Wyoming law is applicable on the date of the filing of the petition and the debtor's domicile has been located in Wyoming for the one hundred eighty (180) days immediately preceding the date of the filing of the petition or for a longer portion of the one hundred eighty (180) day period than in any other place.

1-20-110. Exemption for retirement funds and accounts.

(a) The following are exempt from execution, attachment, garnishment or any other legal process:

(i) The interest of an individual or beneficiary in a retirement plan;

(A) Repealed by Laws 2015, ch. 108, § 2.

(B) Repealed by Laws 2015, ch. 108, § 2.

(ii) Money or other assets payable to an individual from a retirement plan;

(iii) The interest of a beneficiary in a retirement plan if the beneficiary acquired the interest as the result of the death of an individual. The beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the death of the individual;

(iv) All property in this state of the judgment debtor where the judgment is in favor of any state or any political subdivision of any state for failure to pay that state's or political subdivision's income tax on benefits received from a pension or other retirement plan. This paragraph shall apply only to judgments obtained after the judgment debtor has established residency in Wyoming and has been domiciled in Wyoming for at least one hundred eighty (180) days; and

(v) Money or other assets payable to a beneficiary from a retirement plan if the beneficiary acquired the money or

other assets as the result of the death of an individual. The beneficiary's interest is exempt to the same extent that the individual's interest in the money or other assets was exempt immediately before the death of the individual.

(b) The exemptions in subsection (a) of this section do not apply to a contribution made by an individual to a retirement plan within ninety (90) days before the individual files for bankruptcy.

(c) Any fund, plan or account specified in subsection (a) of this section is not exempt from the claim of an alternate payee under a qualified domestic relations order. However, the interest of an alternate payee under a qualified domestic relations order is exempt from all claims of any creditor of the alternate payee.

(d) As used in this section:

(i) "Alternate payee" means any spouse, former spouse, child or other dependent of an individual who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a retirement plan with respect to such individual;

(ii) "Beneficiary" includes a person, trust or trustee who has, before or after the death of an individual, a direct or indirect beneficial interest in a retirement plan;

(iii) "Beneficial interest" includes an interest that is acquired:

(A) As a designated beneficiary, survivor, co-annuitant, heir or legatee; or

(B) If excludable from gross income under the Internal Revenue Code as:

(I) A rollover under 26 U.S.C. section 408 or 408A;

(II) A distribution from one (1) retirement plan to another retirement plan;

(III) A distribution under 26 U.S.C section 402 if the distributed amount is contributed to another retirement plan within sixty (60) days of the distribution; or

(IV) A distribution that is legally similar to a distribution under subdivision (I), (II) or (III) of this subparagraph.

(iv) "Individual" means a participant in, owner of or alternative payee of a retirement plan;

(v) "Qualified domestic relations order" means as that term is defined by 26 U.S.C. section 414(p);

(vi) "Retirement plan" means a plan, account or annuity that is qualified under 26 U.S.C. section 401, 403, 408, 408A, 409, 414 or 457 as amended.

1-20-111. Exemption for contributions to a medical savings account.

Contributions by an individual to a qualified medical savings account are exempt from execution, attachment, garnishment or any other process issued by any court, except for judgments against an individual or other dependents for medical expenses, to the extent the contributions are allowable as a deduction under the Internal Revenue Code of 1986.

CHAPTER 21 - PROCEDURE AND ACTIONS

ARTICLE 1 - IN GENERAL

1-21-101. Docket to be kept; contents.

(a) Every judge shall keep a docket in which he shall enter:

(i) The title of all causes commenced before him;

(ii) The time when process was issued against the defendant, its particular nature and to what officer delivered;

(iii) The time when the parties appeared before him, either without or upon the return of process;

(iv) A brief statement of the nature of the plaintiff's demand and the amount claimed, and if any setoff was pleaded, a similar statement of the setoff and the amount claimed;

(v) Every adjournment stating at whose request and for what time;

(vi) The time when the trial was had, stating whether the trial was by the jury or by the justice;

(vii) The verdict of the jury, when rendered and the judgment thereon;

(viii) The judgment of the court;

(ix) The time of issuing execution and the name of the officer to whom delivered;

(x) The fact of an appeal taken and allowed, and when taken and allowed;

(xi) Satisfaction of judgment and when made;

(xii) Any other entries material to the cause, showing the proceedings before the justice.

1-21-102. Proceedings when title or boundaries to land in question.

If it appears from the pleadings or the evidence of either party at the trial of any case in circuit court that the title or boundaries to lands are in question, the judge shall immediately make an entry thereof in the docket, cease all further proceedings, and certify to the district court of the county a transcript of all entries made in the docket relating to the case in the same manner and within the same time as upon appeal. The case shall then be conducted in the district court as though appealed to the district court for trial de novo, except that no bond as on appeal or payment of costs in the circuit court is required for the transfer to the district court.

1-21-103. Payment of costs for witness not examined.

If any witness is subpoenaed, attends and is not examined by either party, the costs of the witness shall be paid by the party ordering the subpoena, unless the adverse party confesses the matter or otherwise renders unnecessary the examination of the witness.

1-21-201. Procedure generally; jurisdiction extended.

In the trial of civil cases before any circuit court in which the amount claimed, exclusive of costs, does not exceed six thousand dollars (\$6,000.00), the procedure is as defined in W.S. 1-21-201 through 1-21-205. The department of revenue may consolidate claims for collection of taxes against a single taxpayer into a single case under the procedures in W.S. 1-21-201 through 1-21-205 subject to specified dollar limitations.

1-21-202. Commencement of actions; remedy cumulative; continuance to obtain attorney; docketing.

(a) Actions may be commenced, heard and determined under W.S. 1-21-201 through 1-21-205 if the state, any governmental entity, any natural person, corporation, partnership, association or other organization appears before any circuit court and executes an affidavit reciting the full address of the defendant, the nature of the claim, the amount due and stating that demand has been made and payment refused. The remedy provided by this article is cumulative and not exclusive.

(b) Notwithstanding the provisions of Chapter 5 of Title 33 of the Wyoming Statutes, in small claims court, the state, governmental entities, natural persons, corporations, partnerships, associations or other organizations may litigate actions on behalf of themselves in person or through authorized employees, with or without an attorney, provided that if an attorney appears, the opposing party is entitled to a continuance for the purpose of obtaining an attorney of its own.

(c) The circuit judge shall docket the case as provided by law.

1-21-203. Affidavit of claim; service of summons; venue jurisdiction.

(a) The claimant shall prepare the affidavit as set forth. When the affidavit is executed by the claimant the court shall file the same and have summons served on the defendant at any location in the county in the manner provided by law or, if the defendant resides in the county, service may be made by the court by certified mail addressed to the defendant at his address within the county with return receipt requested. Upon receipt by the circuit judge of the return receipt signed by the defendant or his agent, service is complete.

(b) Venue provisions in W.S. 1-5-105 through 1-5-109 apply to actions commenced under this article.

1-21-204. Time for appearance.

The date of appearance of the defendant as provided in the summons shall be not more than twelve (12) days nor less than three (3) days from the date of service of the summons. When the circuit judge has fixed the date for the appearance of the defendant he shall inform the plaintiff of the date and at the same time order the plaintiff to appear with such books, papers and witnesses as necessary to prove his claim.

1-21-205. Pleading and hearing; execution.

At any hearing the plaintiff and defendant and their witnesses may offer evidence. No formal pleading other than the claim and notice is necessary. The hearing and disposition of the hearing shall be informal. No prejudgment attachment or garnishment shall issue, but execution, including post judgment garnishment in aid of execution, may issue as prescribed by law for circuit court.

ARTICLE 3 - ATTACHMENT AND GARNISHMENT

1-21-301. Repealed by laws 1987, ch. 198, § 4.

1-21-302. Repealed by laws 1987, ch. 198, § 4.

1-21-303. Repealed by laws 1987, ch. 198, § 4.

1-21-304. Repealed by laws 1987, ch. 198, § 4.

1-21-305. Repealed by laws 1987, ch. 198, § 4.

1-21-306. Repealed by laws 1987, ch. 198, § 4.

1-21-307. Repealed by laws 1987, ch. 198, § 4.

1-21-308. Repealed by laws 1987, ch. 198, § 4.

1-21-309. Repealed by laws 1987, ch. 198, § 4.

1-21-310. Repealed by laws 1987, ch. 198, § 4.

1-21-311. Repealed by laws 1987, ch. 198, § 4.

- 1-21-312. Repealed by laws 1987, ch. 198, § 4.
- 1-21-313. Repealed by laws 1987, ch. 198, § 4.
- 1-21-314. Repealed by laws 1987, ch. 198, § 4.
- 1-21-315. Repealed by laws 1987, ch. 198, § 4.
- 1-21-316. Repealed by laws 1987, ch. 198, § 4.
- 1-21-317. Repealed by laws 1987, ch. 198, § 4.
- 1-21-318. Repealed by laws 1987, ch. 198, § 4.
- 1-21-319. Repealed by laws 1987, ch. 198, § 4.
- 1-21-320. Repealed by laws 1987, ch. 198, § 4.
- 1-21-321. Repealed by laws 1987, ch. 198, § 4.
- 1-21-322. Repealed by laws 1987, ch. 198, § 4.
- 1-21-323. Repealed by laws 1987, ch. 198, § 4.
- 1-21-324. Repealed by laws 1987, ch. 198, § 4.
- 1-21-325. Repealed by laws 1987, ch. 198, § 4.
- 1-21-326. Repealed by laws 1987, ch. 198, § 4.
- 1-21-327. Repealed by laws 1987, ch. 198, § 4.
- 1-21-328. Repealed by laws 1987, ch. 198, § 4.
- 1-21-329. Repealed by laws 1987, ch. 198, § 4.
- 1-21-330. Repealed by laws 1987, ch. 198, § 4.
- 1-21-331. Repealed by laws 1987, ch. 198, § 4.
- 1-21-332. Repealed by laws 1987, ch. 198, § 4.
- 1-21-333. Repealed by laws 1987, ch. 198, § 4.

ARTICLE 4 - JUDGMENTS

1-21-401. Endorsement of payments and satisfaction and release; requirements.

Every person recovering a judgment in circuit court shall endorse on the original judgment docket all payments made on the judgment, and when the judgment is satisfied by settlement or other payment, endorse the satisfaction and release on the judgment docket in the circuit court in which the judgment was entered. Endorsement of partial payment or satisfaction of the whole shall be made by the party recovering the judgment or his attorney in the case within fifteen (15) days after the payment has been made, and after each payment when more than one (1) payment is made on any judgment. Each endorsement shall be dated and signed by the person executing the same.

1-21-402. Endorsement of payments and satisfaction and release; penalty.

Every person who collects or is paid any money or other thing of value upon any judgment rendered in any circuit court who fails to comply with the provisions of W.S. 1-21-401 is guilty of a misdemeanor and upon conviction shall be punished by a fine for each offense of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00).

1-21-403. Appeal of forcible entry and detainer actions.

In any forcible entry and detainer action appealed to the district court which is thereby determined against the defendant in possession, the court shall hear evidence concerning and render judgment for the rental value of the premises in controversy for the whole period of the unlawful detainer.

ARTICLE 5 - EXECUTION AND STAY THEREOF

1-21-501. Issuance of execution.

Execution for the enforcement of a judgment except during the time it may be stayed, may be issued by the judge who renders the judgment, or by his successor in office, on the application of the party entitled thereto, any time within five (5) years of entry of the judgment, or the date of the last execution issued thereon.

1-21-502. Form and contents of execution.

(a) The execution shall be directed to the sheriff of the county, subscribed by the judge by whom the judgment was rendered, or by his successor in office, and dated the day of delivery to the officer for execution. The execution shall refer to the judgment by stating the names of the parties, the name of the judge, the county where and the time when the judgment was rendered and the true amount of the unsatisfied judgment. The execution shall direct the sheriff to:

(i) Collect the amount of the judgment out of the personal property of the judgment debtor and pay it to the judgment creditor; and

(ii) Make return on the execution within thirty (30) days after receipt showing the manner of execution.

1-21-503. Endorsement on execution.

Before any execution is delivered, the judge shall state in his docket and on the back of his execution the amount of the debt or damages and costs, and the officer receiving the execution shall endorse on it the time of receiving the execution.

1-21-504. Renewal of execution.

If any execution is not satisfied, it may be renewed at the request of the plaintiff by the judge or his successor, by an endorsement thereon and dated when made. If any part of the execution has been satisfied, the endorsement of renewal shall state the sum due and every such endorsement shall continue the execution in full force for no longer than thirty (30) days. An entry of renewal shall be made in the docket.

1-21-505. Repealed by Laws 1987, ch. 198, § 4.

1-21-506. Receipt of money.

The officer holding an execution shall receive all money tendered to him in payment thereof and shall endorse the same on the execution. He shall give the payor a receipt stating the amount paid and the account for which it is received.

1-21-507. Rights of surety.

When any judgment is obtained against any surety the original judgment remains valid for the use of the surety, who thereafter may obtain execution on the judgment against the goods and

chattels of the defendant. The surety is entitled to a transcript of the judgment for his own use, which has the same force and effect as transcripts in other cases.

1-21-508. Execution against joint debtors.

An execution on a judgment against joint debtors, one (1) or more of whom was not served with summons, shall contain a direction to collect the judgment from the joint property of all the defendants, or the separate property of the debtors served with summons, specified by name.

1-21-509. Right to sue surety.

In all cases of surety, the plaintiff may sue the surety upon his bond if the conditions of the bond are not performed.

1-21-510. Execution for costs.

A judge may issue execution to enforce a judgment for costs in the same manner as in other cases.

1-21-511. Right to stay of execution.

Except as otherwise provided, any person against whom judgment is rendered may have stay of execution by entering into a bond with the adverse party within ten (10) days after rendition of the judgment, with good and sufficient surety, resident property holders of the county, approved by the judge, conditioned on the payment of the amount of the judgment, interest and costs that may accrue. The bond shall be entered on the docket and signed by the surety.

1-21-512. Time for which stay granted.

(a) Stay of execution shall be granted as follows:

(i) For thirty (30) days on any judgment not exceeding fifty dollars (\$50.00), excluding costs;

(ii) For four (4) months on any judgment over fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00), excluding costs;

(iii) For six (6) months on any judgment in excess of one hundred dollars (\$100.00), excluding costs.

1-21-513. Cases in which stay not allowed.

(a) No stay of execution is allowed in the following cases:

(i) On a judgment rendered against a circuit court judge for refusing to pay over money collected or received in his official capacity;

(ii) On a judgment rendered against a sheriff for failing to make return, making a false return or refusing to pay over money collected in his official capacity;

(iii) On a judgment against a surety for the stay of execution;

(iv) Where judgment is rendered in favor of a surety who has been ordered by judgment to pay over money on account of the principal;

(v) On a judgment obtained by a sheriff on a bond executed to him for the delivery of property.

1-21-514. Recall of execution.

If the execution issued before the bond for stay or for appeal is given, and such bond is given afterward and within the time allowed, the judge shall recall the execution.

1-21-515. Conditions under which execution issued notwithstanding stay.

When any person who is surety for stay of execution moves from the county before expiration of the stay, the judge shall issue execution on demand against the goods and chattels of the party against whom the original judgment was rendered. When any surety for the stay of execution becomes apprehensive that by delaying the execution until expiration of the stay he may be compelled to pay the judgment, the surety may file an affidavit of the facts with the judge who rendered judgment whereupon the judge shall issue execution against the judgment debtor. The surety is not thereby discharged from liability, but may be proceeded against after expiration of the stay.

1-21-516. Giving of further bond.

If within ten (10) days after levying the execution the judgment debtor enters into a further bond for stay of execution during the unexpired term of the first stay, and pays costs of the execution issued against him, the judge shall accept the further bond and recall the execution. The latest bond shall first be proceeded against until it appears by the return of the sheriff that there are no goods on which to levy, then proceedings shall be instituted on the first bond given.

1-21-517. Discovery in aid of execution.

(a) At any time after entry of judgment, the judgment creditor may obtain discovery by interrogatories, depositions or otherwise, from any person, including the judgment debtor, in accordance with the Wyoming Rules of Civil Procedure.

(b) A person served with notice of discovery under this section shall hold for the benefit of the judgment creditor from the time of service all property, money and credits in his hands belonging to the judgment debtor or due to him.

ARTICLE 6 - SALES ON EXECUTION

1-21-601. Notice of sale.

The officer having levied upon goods and chattels by virtue of an execution shall without delay give public notice by advertisement in a newspaper published or widely circulated in the county where the property is to be sold. The notice shall state the time and place of sale, describe the goods and chattels, and shall be published at least ten (10) days before the day of sale.

1-21-602. Manner of conducting sale; return.

At the time appointed, the officer shall expose the goods and chattels to public sale and sell them to the highest bidder. If there are no bidders or only a single bid is given, the sale shall be adjourned from time to time until a fair sale is had. The officer shall return the execution together with the money to the judge at the time of making the return.

1-21-603. Officer not to purchase.

No officer shall directly or indirectly purchase any goods and chattels at any sale made by him upon execution. Every such sale shall be absolutely void.

ARTICLE 7 - TRIAL OF PROPERTY RIGHTS IN PROPERTY SEIZED ON
EXECUTION OR ATTACHMENT

1-21-701. Notice and time of trial.

When an officer levies on property claimed by any person other than the party against whom the execution issued, the claimant shall give three (3) days notice of objection in writing to the plaintiff or his agent. If the plaintiff or his agent cannot be found within the county, the notice shall be served by leaving a copy at his usual place of abode in the county, or if no place of abode exists then by leaving notice at the court, stating the time and place of trial to determine the right to the property. The trial shall be held before a circuit court in the county at least one (1) day prior to the time appointed for sale of the property.

1-21-702. Judgment for claimant; restoration of property.

If on trial the court or jury is satisfied that the property or any part belongs to the claimant the court shall render judgment against the party in whose favor the execution issued, including costs. The court shall give a written order to the officer who levied on or is charged with selling the property, directing him to restore the property found to belong to the claimant.

1-21-703. Judgment against claimant.

If the claimant fails to establish his right to the property or any part thereof, the judge shall render judgment against the claimant for costs accrued on account of the trial and issue execution therefor. The officer is not liable to the claimant for the property so taken.

ARTICLE 8 - ARBITRATION

1-21-801. Procedure generally.

Any civil cause pending before a judge may be submitted to the arbitration of three (3) men by agreement of the parties. Each party shall select one (1) arbitrator and the two (2) so selected shall choose the third. They shall be sworn by the judge and proceed in a summary manner to hear the cause. Any of the arbitrators may administer oaths, issue subpoenas for witnesses and compel their attendance, and punish for contempt. They shall make their awards in writing, any two (2) concurring

being the award of all. The award shall be reported to the judge who shall enter judgment accordingly. The judgment is final unless it is made to appear to the judge within ten (10) days after the entry of judgment that the award was obtained by fraud, corruption or any undue means, in which case the judge shall set aside the award and the case shall stand for trial as though no award had been made.

1-21-802. Appeal of setting aside award; grounds.

An aggrieved party may appeal the decision of the judge to set aside the award upon grounds of fraud, corruption or undue means as in other cases.

1-21-803. Appeal of setting aside award; proceedings in district court.

If on appeal of any such award, the district court is satisfied the award was obtained by fraud, corruption or other undue means, the court shall set aside the award and proceed to hear and determine the cause on the merits.

1-21-804. Appeal of setting aside award; affirmance.

If the court determines the award was not obtained by fraud, corruption or other undue means, it shall render judgment thereon for costs of the suit and award execution as in other cases.

ARTICLE 9 - CONTEMPT

1-21-901. Grounds.

(a) A circuit court judge may punish for contempt in the following cases and no others:

(i) Persons guilty of disorderly, contemptuous and insolent behavior toward a judge engaged in any judicial proceeding, which tends to interrupt such proceedings or impair the respect due the judge's authority;

(ii) Persons guilty of resistance or disobedience to any lawful order or process made or issued by the judge.

1-21-902. Repealed By Laws 2005, ch. 90, § 2.

1-21-903. Hearing required; warrant of attachment.

No person shall be punished for contempt before a circuit court judge until after an opportunity to be heard and for that purpose the judge may issue his warrant of attachment to bring the offender before him.

1-21-904. Summary proceedings if offender present.

If the offender is present he may be summarily arraigned by the circuit court judge and proceeded against as if a warrant had been previously issued and the offender arrested thereon.

1-21-905. Warrant of commitment.

The warrant of commitment for contempt must set forth the particular circumstances of the offense or it is void.

1-21-906. Commitment of witness; generally.

Any witness attending before a circuit court who refuses to be sworn in some form prescribed by law or to answer any pertinent or proper question, may by order be committed to the jail of the county.

1-21-907. Commitment of witness; order.

The order shall specify the cause for which the order was issued. If it is for refusing to answer any question, the question shall be specified. The witness shall be closely confined pursuant to the order until he is sworn or answers.

1-21-908. Commitment of witness; adjournment.

The circuit court shall adjourn the case at the request of either party for a reasonable time or until the witness testifies in the case.

1-21-909. Failure of witness to attend.

If any person subpoenaed as a witness fails to attend, he is guilty of contempt and shall be fined all the costs for his apprehension unless he shows reasonable cause for his failure to attend, in which case the party requiring the appearance shall pay the costs.

1-21-1001. Jurisdiction of circuit courts.

Any circuit court within the judicial district may inquire against those who make unlawful and forcible entry into lands and tenements and detain the same, or against those who, having a lawful and peaceable entry into lands or tenements, unlawfully or by force hold the same. If it is found that an unlawful and forcible entry was made and the lands or tenements are held by force, or that after a lawful entry the lands are held unlawfully, the judge shall require restitution to the complaining party.

1-21-1002. When proceedings allowed.

(a) Proceedings for forcible entry and detainer may be had in any of the following cases:

(i) Against tenants holding over their terms or after a failure to pay rent for three (3) days after it is due;

(ii) In sales of real estate on execution, orders or other judicial process, including proceedings for the foreclosure of a mortgage by court action, when the judgment debtor was in possession at the time of rendition of the judgment or decree by virtue of which the sale was made;

(iii) When real estate has been sold under a power of sale contained in any mortgage or trust deed and the purchaser or his assignee has demanded possession;

(iv) Any sale by executors, administrators, guardians or on partition where any of the parties to the petition were in possession at the commencement of the suit, after the sale has been examined by the proper court and adjudged legal;

(v) In cases where the defendant is a settler or occupier of lands or tenements, without color of title, to which the complainant has the right of possession;

(vi) Against renters in violation of any terms imposed under W.S. 1-21-1204 or 1-21-1205.

(b) This section shall not be construed as limiting the provisions of W.S. 1-21-1201 through 1-21-1210.

1-21-1003. Notice to quit premises required.

The party desiring to commence an action for forcible entry or detainer must notify the adverse party to leave the premises involved. The notice shall be served at least three (3) days before commencing the action, by leaving a written copy with the defendant or at his usual place of abode or business if he cannot be found.

1-21-1004. Summons; service and return.

The summons shall state the cause of the complaint against the defendant, the time and place of trial and shall be served and returned as in other cases. Such service shall be not less than three (3) nor more than twelve (12) days before the day of trial set by the judge. The defendant shall not be required to file a written answer to the complaint as a condition of being allowed to participate fully in the trial.

1-21-1005. Proceedings when defendant fails to appear.

If the defendant does not appear in accordance with a properly served summons the circuit court shall try the action as though he were present. Before proceeding, the plaintiff shall file a complaint in which he relies in order to recover the premises. The complaint must be sustained by proof or the action dismissed.

1-21-1006. Proceedings when defendant appears.

The defendant may, but is not required to, file a written answer to the plaintiff's complaint. Each party may be allowed to amend any complaint or answer the party files.

1-21-1007. Bond on granting continuance.

No continuance shall be granted the defendant for longer than two (2) days unless he gives a bond to the adverse party, with good and sufficient surety approved by the circuit court, conditioned for the payment of the rent that may accrue and costs if judgment is rendered against him.

1-21-1008. Trial by judge or jury; judgment and costs.

(a) If the action is not continued, the place of trial changed or if neither party demands a jury, upon the return day of the summons the circuit court shall try the action. If the circuit court concludes that the complaint is not true, the court shall enter judgment against the plaintiff for costs. If

the court finds the complaint true, it shall render a general judgment in favor of the plaintiff for restitution of the premises and costs. If the court finds the complaint true in part, it shall render judgment for restitution of that part only and the costs shall be taxed as deemed equitable.

(b) If the case is one based on failure to pay rent, the court shall further find the amount of rent due and payable at the time of the hearing, together with the terms and conditions of the agreement between the parties in relation to the amount and time of payment of rent. If the trial is by jury the verdict shall contain a finding of these facts and the court shall recite such findings in the docket entry of proceedings. The court, upon these findings, in addition to entering judgment for the plaintiff to have restitution, shall render judgment in accordance with the findings for the amount of rent found due, together with costs and attorney's fees as provided by the lease, and shall issue execution separate from the writ of restitution for the rent found due and costs as in other actions.

1-21-1009. Trial by jury; verdict.

If a jury is demanded by either party, the proceedings shall be the same as in other cases until the empaneling thereof. If the jury finds the complaint true they shall render a general verdict against the defendant, and if untrue, a general verdict in favor of the defendant. If true in part, the verdict shall set forth the facts they find true.

1-21-1010. Judgment upon verdict.

The circuit court shall enter the verdict upon the docket and render judgment thereon.

1-21-1011. Exceptions.

Exceptions to the opinion of the circuit court on questions of law or evidence may be taken by either party, whether tried by a jury or the court.

1-21-1012. Writ of restitution; issuance.

When a judgment of restitution is entered by a circuit court, the court shall, at the request of the plaintiff, his agent or attorney, issue a writ of restitution thereon.

1-21-1013. Writ of restitution; execution and return.

Unless the defendant takes an appeal, the officer shall execute the writ of restitution within two (2) days after receiving it, Sundays excepted, by restoring the plaintiff to possession of the premises. He shall levy and collect the execution for rent and costs and make return as upon other executions.

1-21-1014. Proceedings upon stay on appeal; bond required.

(a) If the officer receives notice from the circuit court that the proceedings have been stayed on appeal, he shall immediately delay all further proceedings upon execution and writ of restitution. If the premises have been restored to the plaintiff he shall immediately place the defendant in possession thereof and return the writ and execution with his proceedings and costs taxed thereon.

(b) An appeal by a defendant shall not stay the proceedings on judgment unless within forty-eight (48) hours after judgment, Sundays excepted, the appellant executes and files with the court his bond to plaintiff, with two (2) or more sufficient sureties approved by the court, conditioned that the appellant will pay all costs which have accrued or may thereafter accrue and all damages which plaintiff may have sustained or may thereafter sustain in consequence of the wrongful detention of the premises during the pendency of the appeal. Upon taking the appeal and filing the bond, all further proceedings in the case shall be stayed and the appellate court shall thereafter issue all writs and processes to carry out the judgment of the appellate court. The court in which the appeal is pending may require a new bond in a larger amount, with sureties approved by the appellate court, if deemed necessary to secure the rights of the parties.

1-21-1015. Rents to be deposited on appeal.

(a) In appeals from the judgment of a circuit court for rents due and payable, in addition to the bond required by W.S. 1-21-1014, the appellant shall deposit with the court the amount of rent specified in the judgment. Unless the deposit is made, the appeal is not perfected and proceedings upon the judgment shall be had accordingly. If the appeal is perfected, the court shall transmit the deposit to the clerk of the appellate court with the papers in the case.

(b) Thereafter, when the rents become due, the appellant shall deposit them with the clerk of the appellate court. If at any time during the pendency of the appeal and before final judgment the appellant fails to make any deposit of rent at the time specified in the judgment appealed, the court in which such appeal is pending shall, upon such fact being made to appear, and upon motion and proof of such fact by the appellee, the appellate court shall affirm the judgment appealed from with costs. Proceedings shall thereupon be had as in like cases determined upon the merits and the rent money deposited paid to the plaintiff or his assignee upon order of the court.

1-21-1016. Ejectment not barred.

The pendency of an action for forcible entry or detainer does not bar an action of ejectment.

ARTICLE 11 - REPLEVIN

- 1-21-1101. Repealed By Laws 2005, ch. 90, § 2.
- 1-21-1102. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1103. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1104. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1105. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1106. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1107. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1108. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1109. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1110. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1111. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1112. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1113. Repealed by Laws 1987, ch. 198, § 4.
- 1-21-1114. Repealed by Laws 1987, ch. 198, § 4.

1-21-1115. Repealed by Laws 1987, ch. 198, § 4.

1-21-1116. Repealed by Laws 1987, ch. 198, § 4.

ARTICLE 12 - RESIDENTIAL RENTAL PROPERTY

1-21-1201. Definitions.

(a) As used in this article:

(i) "Owner" means the owner, lessor or sublessor of a residential rental unit and for purposes of notice and other communication required or allowed under this article, "owner" includes a managing agent, leasing agent or resident manager unless the agent or manager specifies otherwise in writing in the rental agreement;

(ii) "Rental agreement" means any agreement, written or oral, which establishes or modifies the terms, conditions, rules or any other provisions regarding the use and occupancy of a residential rental unit;

(iii) "Renter" means any renter, lessee, tenant or other person entitled under a rental agreement to occupy a residential rental unit to the exclusion of others;

(iv) "Residential rental unit" means a renter's principal place of residence and includes the appurtenances, grounds, common areas and facilities held out for the occupancy of the residential renter generally and any other area or facility provided to the renter in the rental agreement, excluding a mobile home lot or recreational property rented on an occasional basis;

(v) "Termination" means the lawful ending or cessation of a rental agreement for any reason including expiration of the rental period, voluntary termination by mutual agreement of the parties, termination in accordance with W.S. 1-21-1203(d), abandonment of the leased premises by the renter prior to expiration of the rental period or termination resulting from court order.

1-21-1202. Duties of owners and renters; generally.

(a) Each owner and his agent renting or leasing a residential rental unit shall maintain that unit in a safe and sanitary condition fit for human habitation. Each residential

rental unit shall have operational electrical, heating and plumbing, with hot and cold running water unless otherwise agreed upon in writing by both parties. Provided, however, this section shall not prevent the rental of seasonal rental units such as summer cabins which are not intended to have such amenities.

(b) Each renter shall cooperate in maintaining his residential rental unit in accordance with this article.

(c) This article does not apply to breakage, malfunctions or other conditions which do not materially affect the physical health or safety of the ordinary renter.

(d) Any duty or obligation in this article may be assigned to a different party or modified by explicit written agreement signed by the parties.

1-21-1203. Owner's duties; notice by renter of noncompliance; duty to correct; exceptions; termination of rental agreement; liability limited.

(a) To protect the physical health and safety of the renter, each owner shall:

(i) Not rent the residential rental unit unless it is reasonably safe, sanitary and fit for human occupancy;

(ii) Maintain common areas of the residential rental unit in a sanitary and reasonably safe condition;

(iii) Maintain electrical systems, plumbing, heating and hot and cold water; and

(iv) Maintain other appliances and facilities as specifically contracted in the rental agreement.

(b) If the renter is current on all payments required by the rental agreement and has reasonable cause supported by evidence to believe the residential rental unit does not comply with the standards for health and safety required under this article, the renter shall advise the owner in writing of the condition and specify the remedial action the renter requests be taken by the owner. Within a reasonable time after receipt of this notice, the owner shall either commence action to correct the condition of the residential rental unit or notify the renter in writing that the owner disputes the renter's claim.

The notices required by this subsection shall be served by certified mail or in the manner specified by W.S. 1-21-1003.

(c) The owner shall not be required to correct or remedy any condition caused by the renter, the renter's family or the renter's guests or invitees by inappropriate use or misuse of the property during the rental term or any extension of it.

(d) The owner may refuse to correct the condition of the residential rental unit and terminate the rental agreement if the costs of repairs exceeds an amount which would be reasonable in light of the rent charged, the nature of the rental property or rental agreement. If the owner refuses to correct the condition and intends to terminate the rental agreement, he shall notify the renter in writing within a reasonable time after receipt of the notice of noncompliance and shall provide the renter with sufficient time to find substitute housing, which shall be no less than ten (10) days nor more than twenty (20) days from the date of the notice. If the rental agreement is terminated, the rent paid shall be prorated to the date the renter vacates the unit and any balance shall be refunded to the renter along with any deposit due in accordance with W.S. 1-21-1208.

(e) The owner is not liable under this article for claims for mental suffering or anguish.

1-21-1204. Renter's duties.

(a) Each renter shall:

(i) Maintain the residential rental unit occupied in a clean and safe condition and not unreasonably burden any common area;

(ii) Dispose of all garbage and other waste in a clean and safe manner;

(iii) Maintain all plumbing fixtures in a condition as sanitary as the fixtures permit;

(iv) Use all electrical, plumbing, sanitary, heating and other facilities and appliances in a reasonable manner;

(v) Occupy the residential rental unit in the manner for which it was designed and shall not increase the number of

occupants above that specified in the rental agreement without written permission of the owner;

(vi) Be current on all payments required by the rental agreement;

(vii) Comply with all lawful requirements of the rental agreement between the owner and the renter; and

(viii) Remove all property and garbage either owned or placed within the residential rental unit by the renter or his guests prior to termination of the rental agreement and clean the rental unit to the condition at the beginning of the rental agreement.

1-21-1205. Prohibited acts by renter.

(a) No renter shall:

(i) Intentionally or negligently destroy, deface, damage, impair or remove any part of the residential rental unit or knowingly permit any person to do so;

(ii) Interfere with another person's peaceful enjoyment of the residential property; or

(iii) Unreasonably deny access to, refuse entry to or withhold consent to enter the residential rental unit to the owner, agent or manager for the purpose of making repairs to or inspecting the unit, and showing the unit for rent or sale.

1-21-1206. Renter's remedies; notice to owner or agent; judicial remedy; rights under termination of rental agreement.

(a) The remedies set forth in this section are available to a renter in compliance with all provisions of W.S. 1-21-1204 and 1-21-1205 when the rental agreement has not been lawfully terminated pursuant to W.S. 1-21-1203(d).

(b) If a reasonable time has elapsed after the renter has served written notice on the owner under W.S. 1-21-1203 and the owner has failed to respond or to correct the condition described in the notice, the renter may cause a "notice to repair or correct condition" to be prepared and served on the owner by certified mail or in the manner specified by W.S. 1-21-1003. This notice shall:

(i) Recite the previous notice served under W.S. 1-21-1203(b);

(ii) State the number of days that have elapsed since the notice was served and that under the circumstances the period of time constitutes the reasonable time allowed under W.S. 1-21-1203(b);

(iii) State the conditions included in the previous notice which have not been corrected;

(iv) Demand that the uncorrected conditions be corrected; and

(v) State that if the owner fails to commence reasonable corrective action within three (3) days he will seek redress in the courts.

(c) If the owner has not corrected or used due diligence to correct the conditions following notice under this section, or if the owner has notified the renter that the claim is disputed, the renter may commence a civil action in circuit court. The court shall endorse on the summons the number of days within which the owner is required to appear and defend the action, which shall not be less than three (3) nor more than twenty (20) days from the date of service. Upon a showing of an unreasonable refusal to correct or the failure to use due diligence to correct a condition described in this article, the renter may be awarded costs, damages and affirmative relief as determined by the court. Damages awarded to the renter may include rent improperly retained or collected. Affirmative relief may include a declaration terminating the rental agreement, or an order directing the owner to make reasonable repairs.

(d) If the court terminates the rental agreement pursuant to subsection (c) of this section, the renter is entitled to receive a refund of the balance of the rent and the deposit on the rental unit within thirty (30) days of the date the agreement is ordered terminated. The renter shall be required to vacate the rental unit no sooner than ten (10) days nor later than twenty (20) days after termination of the rental agreement by a court.

1-21-1207. Required notice of nonrefundable deposit.

Any rental agreement shall state whether any portion of a deposit is nonrefundable and written notice of this fact shall also be provided to the renter at the time the deposit is taken by the owner or his designated agent.

1-21-1208. Deductions from deposit; written itemization; time limits; failure to give notice; recovery by renter; utilities deposit; penalty.

(a) Upon termination of the rental agreement, property or money held as a deposit may be applied by the owner or his agent to the payment of accrued rent, damages to the residential rental unit beyond reasonable wear and tear, the cost to clean the unit to the condition at the beginning of the rental agreement and to other costs provided by any contract. The balance of any deposit and prepaid rent and a written itemization of any deductions from the deposit together with reasons therefor, shall be delivered or mailed without interest to the renter within thirty (30) days after termination of the rental agreement or within fifteen (15) days after receipt of the renter's new mailing address, whichever is later. If there is damage to the residential rental unit, this period shall be extended by thirty (30) days. The renter shall within thirty (30) days of termination of the rental agreement, notify the owner or designated agent of the location where payment and notice may be made or mailed.

(b) After termination of the rental agreement, property or money held and separately identified as a utilities deposit shall be refunded by the owner to the renter within ten (10) days of a satisfactory showing that all utility charges incurred by the renter have been paid. Absent such showing within forty-five (45) days of termination, the owner shall within fifteen (15) days thereafter, apply the utilities deposit to the outstanding utility debt incurred by the renter. Any refund due to the renter shall be paid within seven (7) days after the utility deposit has been applied to the renter's utility debt, or within fifteen (15) days after receipt of the renter's new mailing address, whichever is later.

(c) If the owner of a residential rental unit or his agent unreasonably fails to comply with subsection (a) or (b) of this section, the renter may recover the full deposit and court costs. In an action by a renter pursuant to this section, if the owner is the prevailing party and the court finds the renter acted unreasonably in bringing the action, the owner may be awarded court costs in addition to any other relief available.

1-21-1209. Holder of owner's interest bound by provisions.

The holder of the interest of the owner or designated agent in the residential rental unit at the time of termination of the rental agreement shall be bound by the provisions of W.S. 1-21-1207 and 1-21-1208.

1-21-1210. Possession of premises and disposition of personal property abandoned by renter after termination of rental agreement.

(a) Upon regaining lawful possession of the rental unit following termination of the rental agreement, the owner may immediately dispose of any trash or property the owner reasonably believes to be hazardous, perishable or valueless and abandoned. Any property remaining within the rental unit after termination of the rental agreement shall be presumed to be both valueless and abandoned. Any valuable property may be removed from the residential rental unit and shall thereafter be disposed of as follows:

(i) The owner shall provide written notice to the renter in accordance with this paragraph, describing the property claimed to be abandoned and stating that the property shall be disposed of after seven (7) days from the date of service of the notice if the renter or his agent does not, within the seven (7) day period, take possession of the property or notify the owner in writing of the renter's intent to take possession of the property. The notice provided by the owner under this paragraph shall be deemed served:

(A) On the date the notice is mailed by certified mail to the renter at an address furnished to the owner by the renter in writing specifically for this purpose;

(B) On the date notice is served on the renter in accordance with Rule 4 of the Wyoming Rules of Civil Procedure provided a copy of the written notice is delivered to the individual renter personally; or

(C) On the date the notice is published in a newspaper published in the county or widely circulated in the county where the residential rental unit is located.

(ii) If the owner does not receive a written response from the renter within seven (7) days after service of notice

under paragraph (i) of this subsection, the property shall be conclusively deemed abandoned and the owner may retain or dispose of the property;

(iii) If the renter responds in writing to the owner on or before seven (7) days after service of notice under paragraph (i) of this subsection that he intends to take possession of the property, the property shall be held for an additional period of seven (7) days after the written response is received. If the renter fails to take possession of the property within the additional fifteen (15) day period, the property shall be conclusively deemed abandoned and the owner may retain or dispose of the property.

(b) The owner is entitled to payment of storage costs for the period the property remains in safekeeping plus the cost of removal of the property to the place of storage. An owner shall be allowed reasonable storage costs if he stores the property himself or actual storage costs if the property is stored commercially. Payment of storage costs shall be made before the renter removes the property.

(c) The owner is not responsible for any loss to the renter resulting from storage.

1-21-1211. Owner's remedies; eviction; judicial remedies; damages.

(a) If the renter does not vacate the premises as required by a court order issued pursuant to W.S. 1-21-1001 et seq., the sheriff may remove the renter's possessions and prevent the renter from reentering the premises without further action by the court.

(b) If the renter damages the rental property, the owner may apply any property or money held as a deposit to the payment of damages as provided in W.S. 1-21-1208(a) and the renter shall remain liable for any damages beyond the damages paid by the deposit, plus interest at ten percent (10%) per annum on any unpaid amounts. The owner may take any legal action available to recover damages caused to the unit by the renter.

ARTICLE 13 - WYOMING SAFE HOMES ACT

1-21-1301. Short title.

This act shall be known and may be cited as the "Wyoming Safe Homes Act."

1-21-1302. Definitions.

(a) As used in this act:

(i) "Domestic abuse" means as defined in W.S. 35-21-102(a)(iii);

(ii) "Landlord" means the owner of a building or the owner's agent with regard to matters concerning the landlord's renting or leasing of a dwelling;

(iii) "Sexual violence" means any act of sexual assault, sexual abuse or stalking of an adult or minor, including any nonconsensual sexual contact or intrusion as those terms are defined in the Wyoming Criminal Code;

(iv) "Tenant" means a person who has entered into an oral or written lease with a landlord whereby the person is the lessee under the lease;

(v) "This act" means W.S. 1-21-1301 through 1-21-1304.

1-21-1303. Breach of lease; recovery of rent; affirmative defense.

(a) In any action brought by a landlord against a tenant to recover rent for breach of lease, the tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord and covered by the lease, if by a preponderance of the evidence, the court finds that:

(i) At the time the tenant vacated the premises, the tenant or a member of the tenant's household was under a credible imminent threat of domestic abuse or sexual violence at the premises, as demonstrated by medical, court or police evidence of domestic abuse or sexual violence; and

(ii) The tenant gave seven (7) days written notice to the landlord prior to vacating the premises stating that the reason for vacating the premises was because of a credible imminent threat of domestic abuse or sexual violence against the tenant or a member of the tenant's household.

(b) In any action brought by a landlord against a tenant to recover rent for breach of lease, the tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord and covered by the lease, if by a preponderance of the evidence, the court finds that:

(i) The tenant or a member of the tenant's household was a victim of domestic abuse or sexual violence on the premises that are owned or controlled by the landlord and the tenant has vacated the premises as a result of the sexual violence;

(ii) The tenant gave seven (7) days written notice to the landlord prior to vacating the premises stating that the reason for vacating the premises was because of the domestic abuse or sexual violence against the tenant or a member of the tenant's household, the date of the sexual violence, and that the tenant provided medical, court or police evidence of domestic abuse or sexual violence to the landlord supporting the claim of domestic abuse or sexual violence; and

(iii) The domestic abuse or sexual violence occurred not more than sixty (60) days prior to the date of giving the written notice to the landlord, or if circumstances are such that the tenant could not reasonably give notice within that time period because of reasons related to the domestic abuse or sexual violence, including, but not limited to, hospitalization or seeking assistance for shelter or counseling, then as soon thereafter as practicable.

(c) A landlord may not terminate a tenancy based solely on the tenant's or applicant's or a household member's status as a victim of domestic abuse or sexual violence. This subsection does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge.

(d) Nothing in this act shall be construed to be a defense against:

(i) An action for recovery of rent for the period of time before the tenant vacated the landlord's premises and gave notice to the landlord as required in this section; or

(ii) Forcible entry and detainer for failure to pay rent before the tenant gave notice to the landlord as required in this section and vacated the premises.

1-21-1304. Prohibition of waiver or modification.

The provisions of this act shall not be waived or modified in any lease or separate agreement between a landlord and tenant.

CHAPTER 22 - ADOPTION

ARTICLE 1 - IN GENERAL

1-22-101. Definitions.

(a) As used in this act:

(i) "Agency" means any person legally empowered to place children for adoption or a certified private child welfare agency or the department of family services;

(ii) "Child" means the minor person to be adopted;

(iii) "Parent" means the child's father or mother whose parental rights have not been judicially terminated;

(iv) "Putative father" means the alleged or reputed father of a child born out of wedlock, whether or not the paternity rights and obligations of the father have been judicially determined;

(v) "This act" means W.S. 1-22-101 through 1-22-114.

1-22-102. Persons subject to adoption.

(a) Any child may be adopted who is within this state when the petition for adoption is filed.

(b) Any adult may be adopted, regardless of his residence within or outside of this state at the time the petition is filed, provided:

(i) The adopting parent was a stepparent, grandparent or other blood relative, foster parent or legal guardian who participated in the raising of the adult when the adult was a child; and

(ii) The adult files a consent to the adoption with the court.

1-22-103. Adopting parties.

Any adult person who has resided in this state during the sixty (60) days immediately preceding the filing of the petition for adoption and who is determined by the court to be fit and competent to be a parent may adopt in accordance with this act.

1-22-104. Petition for adoption of minor; by whom filed; requisites, confidential nature; inspection; separate journal to be kept.

(a) Adoption proceedings shall be commenced by a petition filed in district court. The district court may transfer jurisdiction of a petition to adopt a child to the juvenile court if the child proposed for adoption in the petition is under the prior and continuing jurisdiction of the juvenile court.

(b) A petition may be filed by any single adult or jointly by a husband and wife who maintain their home together, or by either the husband or wife if the other spouse is a parent of the child.

(c) The following documents shall be filed with every petition to adopt a child:

(i) The appropriate consent to adoption pursuant to W.S. 1-22-109;

(ii) Any relinquishments as provided by W.S. 1-22-109 necessary to show the court that the person or agency legally authorized to have custody and control of the child prior to the adoption, has duly relinquished the child to the petitioners for adoption;

(iii) A report of the medical examination of the child made by a licensed Wyoming physician within thirty (30) days immediately preceding the filing of the petition to adopt. The report shall be made on forms provided by the department of family services. A medical report shall not be required when a parent of the child joins in the petition to adopt or when the child resided with the adoptive parents for more than six (6) months prior to filing the petition;

(iv) An affidavit from each petitioner setting forth:

(A) Any previous or current diagnosed psychiatric disorders of the petitioner;

(B) All felony convictions of the petitioner within the preceding ten (10) years;

(C) All misdemeanor convictions of the petitioner within the preceding five (5) years;

(D) The current parole or probation status of the petitioner, if any.

(v) An affidavit stating the name or names of persons awarded visitation rights to the child under W.S. 20-7-101 or 20-7-102 or an affidavit stating that no visitation rights under W.S. 20-7-101 or 20-7-102 have been awarded in regard to the child;

(vi) A form prescribed and furnished by the state registrar of vital records. The form shall be completed to the extent possible with the information required under W.S. 35-1-416(a) including:

(A) The name of the child prior to adoption;

(B) Sex;

(C) Date of birth;

(D) Place of birth;

(E) Birth certificate number;

(F) Natural mother's full maiden name; and

(G) Natural father's full name.

(d) The petition and documents filed pursuant to this section, and the interlocutory decree, if entered, and the final decree of adoption shall constitute a confidential file and shall be available for inspection only to the judge, or, by order of court, to the parties to the proceedings or their attorneys, except as provided in W.S. 35-1-416. Upon the entry of the final decree of adoption, all records in the proceedings shall be sealed and may be available for inspection only by

order of court for good cause shown. The clerk of court shall maintain a separate journal for adoption proceedings to be confidential and available for inspection only by order of the court for good cause shown. The court may order inspection of all or part of the confidential file in adoption proceedings only if it appears to the court that the welfare and best interests of the child will be served by the inspection.

(e) The court may order inspection of all or any part of the confidential file upon a proper motion made pursuant to W.S. 1-22-203(b). Any order permitting inspection under this subsection shall preserve the anonymity of the natural parents, the adoptive parents and the child and shall provide that the inspection is subject to the provisions of W.S. 1-22-203. Documents filed pursuant to W.S. 1-22-203(b) or this subsection shall become part of the confidential file.

(f) For purposes of this section, "convicted" includes pleas of guilty, nolo contendere, verdicts of guilty upon which a judgment of conviction may be rendered and dispositions pursuant to W.S. 7-13-301 and 35-7-1037.

1-22-105. Hearings to be closed; attendance of parties.

(a) Unless the court orders a hearing in open court, all hearings in adoption proceedings shall be confidential and held in closed court or court chambers. No person shall be admitted except court officials, parties to the proceeding, counsel, nonconsenting parents, the nonconsenting putative father of the child and witnesses.

(b) The petitioners and the child shall appear at the hearing unless excused by the court.

1-22-106. When petition to be filed; order for hearing.

A petition to adopt a child shall be filed upon the entry of the child in the adoptive home or as soon thereafter as is reasonably convenient. When a petition is filed and presented to the judge, he shall set the petition for hearing. Any person whose consent to adoption is required by W.S. 1-22-109 and whose consent has not been filed shall be ordered to appear on the day set and show cause why the petition to adopt should not be granted and a decree of adoption entered.

1-22-107. Service of petition and order; when service by publication permitted; exception.

(a) Prior to the hearing a copy of the petition to adopt a child and all orders to show cause shall be served on any persons whose consent to adoption is required by W.S. 1-22-109 and whose consent has not been filed with the petition to adopt. Service shall be made in the same manner as provided for by rule 4 of the Wyoming Rules of Civil Procedure and shall be accomplished so that a default judgment could be rendered at the hearing against the person served. Service by publication is specifically allowed where the defendant resides out of state, or his residence cannot, with reasonable diligence, be ascertained.

(b) The petition and orders to show cause need not be served upon parents or other persons whose rights to the child have been terminated in a prior judicial proceeding.

(c) Prior to the hearing a copy of the petition to adopt a child and an order to show cause shall be served on any persons awarded visitation rights to the child under W.S. 20-7-101 or 20-7-102. The consent of persons awarded visitation rights to the adoption is not required. However, the court may exercise its discretion to allow those persons an opportunity to be heard if the court finds it to be in the best interest and welfare of the child.

1-22-108. Hearing on petition and objections; findings by court; effect of default.

(a) When the persons required to be served as provided in W.S. 1-22-107 have been served personally or by publication and do not appear at the hearing, a default shall be entered against them and they shall be bound by the findings and judgment of the court.

(b) When any person whose consent is required objects to the petition to adopt, he shall at least five (5) days before the hearing file his objections and serve them on all parties to the proceedings, including any person whose consent has been filed.

(c) If the putative father files and serves his objections to the petition to adopt as provided in subsection (b) of this section, and appears at the hearing to acknowledge his paternity of the child, the court shall hear the evidence in support of the petition to adopt and in support of the objection to the petition and shall then determine whether:

(i) The putative father's claim to paternity of the child is established;

(ii) The putative father having knowledge of the birth or pending birth of the child has evidenced an interest in and responsibility for the child within thirty (30) days after receiving notice of the pending birth or birth of the child;

(iii) The putative father's objections to the petition to adopt are valid; and

(iv) The best interests and welfare of the child will be served by granting the putative father's claim to paternity or by allowing the petition to adopt.

(d) The putative father has no right to assert paternity in adoption, dependency or termination of parental rights proceedings unless he is known and identified by the mother or agency, or unless he has lived with or married the mother after the birth of the child and prior to the filing of the petition to adopt, and unless prior to the interlocutory hearing of the adoption proceedings, he has acknowledged the child as his own by affirmatively asserting paternity as provided in this section or registered as a putative father under W.S. 1-22-117.

(e) Based upon its determination and findings after a hearing, the court may enter its order or decree in accordance with W.S. 1-22-111.

1-22-109. Consent to adoption.

(a) A written relinquishment of custody of the child to be adopted and written consent to adoption shall be filed with the petition to adopt and shall be signed by:

(i) Both parents, if living; or

(ii) The surviving parent; or

(iii) The mother and putative father of the child if the name of the putative father is known; or

(iv) The mother alone if she does not know the name of the putative father, in which case she shall sign and file an affidavit so stating and the court shall determine whether the

putative father has registered under W.S. 1-22-117 and if so, shall require notice to be given to the putative father; or

(v) The legal guardian of the person of the child if neither parent is living or if parental rights have been judicially terminated; or

(vi) The executive head of the agency to whom the child has been relinquished for adoption; or

(vii) The person having exclusive legal custody of the child by court order; or

(viii) The legally appointed guardian of any parent or putative father who has been adjudged mentally incompetent.

(b) If the child to be adopted is over the age of fourteen (14) years his written consent to adoption shall also be filed with the petition to adopt.

(c) The consent to adoption shall be signed any time after the birth of the child. The consent shall be acknowledged or may be approved in the following manner:

(i) The consent shall be acknowledged by a:

(A) Person authorized to take acknowledgments;

(B) Representative of the department of family services; or

(C) Representative of a certified agency to whom the custody of the child is being relinquished for adoption.

(ii) If not acknowledged as provided in paragraph (i) of this subsection, the consent to adoption may be approved by the court after:

(A) The person giving the consent has appeared before the court in an informal hearing in court chambers; and

(B) The court finds that the consent is knowingly and voluntarily given.

(d) Consent to adoption and the relinquishment of a child for adoption are irrevocable unless obtained by fraud or duress, except that if the court should deny the adoption on account of

a claim or objection of the putative father of the child, the court may also allow the mother of the child to withdraw her consent and relinquishment. The consent or relinquishment by a parent who is a minor is valid and may not be revoked solely because of minority.

(e) The consent to adoption and the relinquishment of custody of a child for adoption may be contained in a single instrument.

1-22-110. When adoption permitted without consent.

(a) In addition to the exceptions contained in W.S. 1-22-108, the adoption of a child may be ordered without the written consent of a parent or the putative father if the court finds that the nonconsenting parent or putative father is unknown and that the putative father has not registered under W.S. 1-22-117 and the affidavit required by W.S. 1-22-109(a) (iv) has been filed with the petition to adopt or if the court finds that the putative father or the nonconsenting parent or parents have:

(i) Been given notice of the hearing as provided in W.S. 1-22-107 and has failed to answer or appear at the hearing; or

(ii) Been judicially deprived of parental rights of the child for any reason; or

(iii) Willfully abandoned or deserted the child; or

(iv) Willfully failed to contribute to the support of the child for a period of one (1) year immediately prior to the filing of the petition to adopt and has failed to bring the support obligation current within sixty (60) days after service of the petition to adopt; or

(v) Willfully permitted the child to be maintained in or by a public or private institution or by the department of family services for a period of one (1) year immediately prior to the filing of the petition without substantially contributing to the support of the child; or

(vi) Failed, within thirty (30) days after receiving notice of the pending birth or birth of the child, to advise or notify the agency which gave the putative father the notice of

pending birth or birth of his interest in or responsibility for the child or his declaration of paternity; or

(vii) Been adjudged by a court to be guilty of cruelty, abuse, neglect or mistreatment of the child; or

(viii) Caused the conception of the child born out of wedlock as a result of sexual assault or incest for which he has been convicted; or

(ix) Willfully failed to pay a total dollar amount of at least seventy percent (70%) of the court ordered support for a period of two (2) years or more and has failed to bring the support obligation one hundred percent (100%) current within sixty (60) days after service of the petition to adopt.

(b) Any petition filed pursuant to paragraphs (a) (iv) or (ix) of this section shall contain a clear statement of the consequences of the respondent's failure to bring the support obligation current.

1-22-111. Decree; investigation; denial of adoption.

(a) After the petition to adopt has been filed and a hearing held the court acting in the best interest and welfare of the child may make any of the following orders:

(i) Enter an interlocutory decree of adoption giving the care and custody of the child to the petitioners pending further order of the court;

(ii) Defer entry of an interlocutory decree of adoption and order the department of family services or a private licensed agency to investigate and report to the court the background of the child and of the petitioners, and the medical, social and psychological background and status of the consenting parent and putative father. After a written report of the investigation is filed, the court shall determine if the adoption by petitioners is in the best interest and welfare of the child and thereupon enter the appropriate order or decree;

(iii) Enter a final decree of adoption if the child has resided in the home of the petitioner for six (6) months; or

(iv) Deny the adoption if the court finds that the best interests and welfare of the child will be served by such denial.

(b) If the court denies the adoption it shall make an order for proper custody consistent with the best interest and welfare of the child.

1-22-112. Application for final decree.

(a) If an interlocutory decree has been entered petitioners may apply for a final decree of adoption after the child has resided in the home of the petitioners for six (6) months and a hearing on the petition may be required.

(b) If an interlocutory decree has not been entered a hearing on the petition for a final decree of adoption shall be set as provided in W.S. 1-22-106, notice thereof shall be given as provided in W.S. 1-22-107 and a final hearing shall be had on the petition.

1-22-113. Petition for adoption of an adult; consent required.

When a petition to adopt an adult is filed a copy of the petition together with a summons issued as in other civil actions shall be served on the adult. If the adult objects to adoption by the petitioner the petition shall be dismissed. When the consent of the adult is given, the petition shall be granted and a final decree of adoption made and entered. The decree may change the name of the adopted person.

1-22-114. Effect of adoption.

(a) Upon the entry of a final decree of adoption the former parent, guardian or putative father of the child shall have no right to the control or custody of the child. The adopting persons shall have all of the rights and obligations respecting the child as if they were natural parents.

(b) Adopted persons may assume the surname of the adoptive parent. They are entitled to the same rights of person and property as children and heirs at law of the persons who adopted them.

1-22-115. Subsidization of adoption; qualification for payments; authority to adopt rules and regulations.

(a) The department of family services may grant subsidy payments to the adoptive parent of a child or to another person

on behalf of the child, if, at the time the child is placed for adoption:

(i) The child is in the legal custody of the department or a private child placement agency certified by the state and is legally available for adoption;

(ii) The department or a certified private child placement agency is financially responsible for the child;

(iii) Reasonable efforts to place the child for adoption prior to consideration of a subsidy payment have been unsuccessful;

(iv) The child has special needs as determined by the division; and

(v) The department or a certified private child placement agency has determined the adoptive parent can provide for the nonfinancial needs of the child.

(b) Subsidy payments under this section may provide for the cost of health, maintenance, medical and surgical treatment and costs incurred for the adoption, care, training and education of the child.

(c) The determination of an adoptive parent's eligibility for subsidy payments shall be made before the completion of the legal adoption of the child. All payments shall be reviewed not less than annually by the department. Subsidy payments may continue, subject to rules and regulations of the department, for any adoptive parent terminating Wyoming residency with the child in custody.

(d) The department of family services shall adopt a plan pursuant to P.L. 96-272 and rules and regulations necessary for the administration of this section.

(e) Subsidy payments made under this section shall:

(i) Not exceed the amount of payments for comparable assistance under foster care;

(ii) Be terminated or reduced if the need for payments has altered or no longer exists as determined by the department or if the child has reached the age of majority; and

(iii) Be made from funds appropriated to the department for foster care purposes.

(f) The department of family services may accept on behalf of the state any available federal funds for purposes consistent with this section. The department shall administer the funds in conformance with this section and the terms and conditions under which they are issued.

1-22-116. Medical history of natural parents and adoptive child.

To the extent available, the medical history of a child subject to adoption and his natural parents, with information identifying the natural parents eliminated, shall be provided by an authorized agency or may be provided by order of a court to the child's adoptive parent any time after the adoption decree or to the child after he attains the age of majority. The history shall include but not be limited to all available information regarding conditions or diseases believed to be hereditary, any drugs or medication taken during pregnancy by the child's natural mother and any other information which may be a factor influencing the child's present or future health. The department of family services shall promulgate rules governing the release of medical histories under this section.

1-22-117. Putative father registry.

(a) The department of family services shall establish a putative father registry which shall record the names and addresses of:

(i) Any person adjudicated by a court of this state to be the father of a child born out-of-wedlock;

(ii) Any person who has filed with the registry before or after the birth of a child out-of-wedlock, a notice of intent to claim paternity of the child;

(iii) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by that person or any other person; and

(iv) Any person who has filed with the registry an instrument acknowledging paternity.

(b) A person filing a notice of intent to claim paternity of a child or an acknowledgement of paternity shall include therein his current address and shall notify the registry of any change of address pursuant to procedures prescribed by regulations of the department.

(c) A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of the notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

(d) An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

(e) The department of family services shall, upon request, provide the names and addresses of persons listed with the registry to any court or authorized agency, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

ARTICLE 2 - CONFIDENTIAL INTERMEDIARIES

1-22-201. Definitions.

(a) As used in this act:

(i) "Adoptee" means a person who, as a minor, was adopted pursuant to a final decree of adoption entered by a court;

(ii) "Adoptive parent" means an adult who has become a parent of a minor through the legal process of adoption;

(iii) "Adult" means a person eighteen (18) years of age or older;

(iv) "Biological grandparent" means a parent, by birth or adoption, of a biological parent;

(v) "Biological parent" means a parent, by birth, of an adopted person;

(vi) "Biological sibling" means a sibling, by birth, of an adopted person;

(vii) "Chief justice" means the chief justice of the Wyoming supreme court;

(viii) "Confidential intermediary" means a person twenty-one (21) years of age or older who has completed a training program for confidential intermediaries which meets the standards set forth by the commission pursuant to W.S. 1-22-202(b) and who is authorized to inspect confidential relinquishment and adoption records at the request of an adult adoptee, adoptive parent, biological parent, biological sibling or biological grandparent;

(ix) "Consent" means voluntary, informed, written consent. Consent always shall be preceded by an explanation that the consent permits the confidential intermediary to arrange a personal contact among biological relatives;

(x) "Court" means any court of record with jurisdiction over the matter at issue;

(xi) "This act" means W.S. 1-22-201 through 1-22-203.

1-22-202. Commission created; powers; duties.

(a) There is hereby created within the department of family services, an adoption intermediary commission of five (5) members. Representation and appointment of the members shall be as follows:

(i) One (1) member shall represent the judicial branch and shall be appointed by and serve at the pleasure of the chief justice;

(ii) One (1) member shall represent the department of family services and shall be appointed by and serve at the pleasure of the director of the department;

(iii) One (1) member shall represent private adoption agencies and shall be appointed by and serve at the pleasure of the director of the department of family services;

(iv) One (1) member shall represent programs which provide confidential intermediary services and shall be

appointed by and serve at the pleasure of the director of the department of family services;

(v) One (1) member shall be an adult adoptee, adoptive parent or biological parent appointed by and serve at the pleasure of the director of the department of family services.

(b) The commission shall have the responsibility for:

(i) Drafting a manual of standards for training confidential intermediaries;

(ii) Monitoring confidential intermediary training programs to ensure compliance with the standards set forth in the manual with authority to approve or deny such programs based upon compliance with such standards;

(iii) Maintaining an up-to-date list of persons who have completed training as confidential intermediaries and communicating that list to the judicial branch.

(c) The commission shall adopt rules for its own procedure. The commission shall select a chairman, a vice-chairman, and such other officers as it deems necessary, and shall keep a record of its proceedings. The commission shall meet as often as necessary to carry out its duties, but in no instance shall it meet less than semiannually. The commission may seek input from confidential intermediary organizations in carrying out its duties.

(d) The commission shall be voluntary and no state funds or personnel, except members of the commission appointed pursuant to subsection (a) of this section, shall be used in its operation. The commission may accept gifts and grants and expend funds received to carry out its duties.

1-22-203. Confidential intermediaries; confidential intermediary services.

(a) Any person who has completed a confidential intermediary training program which meets the standards set forth by the commission shall be responsible for notifying the commission that his name should be included on the list of confidential intermediaries to be maintained by the commission and made available to the judicial branch. The commission's rules shall specify when and under what conditions the name of a

confidential intermediary shall be removed from the list available to the judicial branch. Once a person is included on such list, he shall be:

(i) Authorized to inspect confidential relinquishment and adoption records, as ordered by the court, upon motion to the court by an adult adoptee, adoptive parent, biological parent, biological sibling or biological grandparent;

(ii) Available, subject to time constraints, for appointment by the court to act as a confidential intermediary for an adult adoptee, adoptive parent, biological parent, biological sibling or biological grandparent.

(b) Any adult adoptee, adoptive parent, biological parent, biological sibling or biological grandparent who is eighteen (18) years of age or older may file a motion, with supporting affidavit, in the court where the adoption took place or in the court in which parental rights were terminated pursuant to W.S. 14-2-308 through 14-2-319, to appoint one (1) or more confidential intermediaries for the purpose of determining the whereabouts of the unknown biological relative or relatives, except that no one shall seek to determine the whereabouts of a relative who is a minor. The court may rule on the motion and affidavit without hearing and may appoint a confidential intermediary. Costs related to the proceeding and investigation shall be the responsibility of the party filing the motion for appointment and investigation.

(c) Any information obtained by the confidential intermediary during the course of his investigation shall be kept strictly confidential and shall be utilized only for the purpose of arranging a contact between the individual who initiated the search and the sought-after biological relative.

(d) When a sought-after biological relative is located by a confidential intermediary on behalf of the individual who initiated the search:

(i) Contact shall be made between the parties involved in the investigation only when written consent for such contact has been obtained from both parties and filed with the court;

(ii) If consent for personal communication is not obtained from both parties, all relinquishment and adoption records and any information obtained by any confidential

intermediary during the course of his investigation shall be returned to the court and shall remain confidential.

(e) Any person acting as a confidential intermediary who knowingly fails to comply with the provisions of subsections (c) and (d) of this section shall be subject to citation and punishment for contempt as provided by Rule 42, Wyoming Rules of Criminal Procedure.

CHAPTER 23 - MISCELLANEOUS CONTRACTS AND ACTIONS; STATUTE OF FRAUDS

1-23-101. Right of actions abolished.

The rights of action to recover money as damage for the alienation of affections, criminal conversation, seduction or breach of contract to marry are abolished. No act done in this state shall give rise, either in or out of this state, to any of the rights of action abolished. No contract to marry made in this state shall give rise, either in or out of this state, to any right of action for the breach thereof.

1-23-102. Contracts or instruments based on right of action declared void; execution of instruments, settling claims or bringing action prohibited.

All instruments executed within this state in payment, satisfaction, settlement or compromise of any claim or cause of action abolished or barred by W.S. 1-23-101, whether the claim or cause of action arose in or out of this state, are void. It is unlawful to cause any person to execute a contract or instrument or cause any person to give, pay, transfer or deliver any money or thing of value in payment, satisfaction, settlement or compromise of any such claim or cause of action, or to receive, take or accept any money or thing of value as payment, satisfaction, settlement or compromise of any such claim or cause of action. It is unlawful to commence or cause to be commenced, either as party, attorney or as agent of either in any court of this state, any proceeding or action seeking to enforce or recover upon any such contract or instrument, knowing it to be such, whether executed in or out of this state.

1-23-103. Filing pleading or service of process prohibited.

It is unlawful for a person either as a party, attorney or an agent of either, to file or serve or threaten to cause to be

filed or served, any process or pleading in any court of the state, setting forth or seeking to recover money upon any cause of action abolished or barred by W.S. 1-23-101, whether the cause of action arose in or out of the state.

1-23-104. Penalty for violation of provisions.

Any person who violates any of the provisions of W.S. 1-23-102 or 1-23-103, is guilty of a felony punishable by a fine of not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00), or by imprisonment for a term of not less than one (1) year nor more than five (5) years, or both.

1-23-105. Agreements void unless in writing.

(a) In the following cases every agreement shall be void unless such agreement, or some note or memorandum thereof be in writing, and subscribed by the party to be charged therewith:

(i) Every agreement that by its terms is not to be performed within one (1) year from the making thereof;

(ii) Every special promise to answer for the debt, default or miscarriage of another person;

(iii) Every agreement, promise or undertaking made upon consideration of marriage, except mutual promise to marry;

(iv) Every special promise by an executor or administrator, to answer any demand out of his own estate;

(v) Every agreement or contract for the sale of real estate, or the lease thereof, for more than one (1) year;

(vi) To charge any person upon, or by reason of a representation or assurance concerning the character, conduct, credit, ability, trade or dealings of another, to the intent or purpose that such other may obtain thereby, credit, money or goods.

1-23-106. Gambling contracts void.

All contracts, promises, agreements, conveyances, securities, and notes, made, given, granted, executed, drawn or entered into, where the whole or any part of the consideration thereof shall be for any money, property or other valuable thing won by

any gaming, or by playing cards or any gambling device or game of chance, or by betting on the side or hands of any person gaming or for the reimbursing or paying any money or property knowingly lent or advanced at the time and place of such play, to any person or persons so gaming or betting, shall be utterly void and of no effect. No assignment of any bill, bond, note or other evidence of indebtedness, where the whole or any part of the consideration for such assignment shall arise out of any gaming transaction, shall in any manner offset the defense of the person or persons making, entering into, executing or giving such instrument so assigned, or the remedies of any person interested therein.

1-23-107. Individual liability of members of governmental agencies.

(a) Notwithstanding W.S. 1-39-101 through 1-39-120, the members of any governmental board, agency, council, commission or governing body are not individually liable for any actions, inactions or omissions by the governmental board, agency, council, commission or governing body.

(b) This section does not affect individual liability for intentional torts or illegal acts.

CHAPTER 24 - AMERCEMENT

1-24-101. Causes for amercement.

(a) On motion in court and notice in writing as provided in W.S. 1-24-102, an officer shall be amerced in the amount of the judgment including costs, and ten percent (10%) thereon for the plaintiff or defendant when:

(i) An execution or order of sale is directed and delivered to him to be executed, and he neglects or refuses to execute it;

(ii) He neglects or refuses to sell any property which by any writ or order he is directed to sell;

(iii) He fails to call an inquest, or to return to the clerk's office a copy of the certificate of inquisition made by the inquest;

(iv) He neglects to return to the proper court on or before the return day an execution or order of sale directed and delivered to him;

(v) He neglects to return a correct inventory of personal property taken on execution, unless he returns that the amount of the judgment, including costs, has been paid to him;

(vi) He neglects, on demand, to pay to the person entitled thereto, any money collected or received by him for the use of such person, at any time after he collects or receives the same; or

(vii) He neglects or refuses to pay to the judgment debtor on demand all money received by him on any sale made beyond what is sufficient to satisfy the writ or order of sale, with interest and costs.

1-24-102. Notice of motion for amercement.

If the officer resides in the county in which the motion is made, the notice shall be served upon him at least two (2) days before the motion is heard. If he is an officer of another county, the notice shall be served upon him or left at his office at least fifteen (15) days before the motion is heard, or sent to him by certified mail at least sixty (60) days before the motion is heard.

1-24-103. Amercement for failure to serve or return process.

If an officer fails to execute any summons or other process directed to him, or to return the same as required by law, unless he is prevented by unavoidable accident from doing so, he shall be amerced, upon motion and notice in writing as provided by law in a sum not exceeding one thousand dollars (\$1,000.00) and be liable to the action of any person aggrieved by the failure. He is not liable to an action or amercement for failure to execute any process directed to him from any county other than that in which he was elected unless his fees are deposited with the clerk who issued the process and an endorsement of that fact is made and subscribed by the clerk on the process at the time of its issue.

1-24-104. Amercement of clerks of court.

If a clerk of court neglects or refuses on demand to pay to the person entitled thereto any money received by him in his official capacity for the use of that person, he may be amerced, on motion and notice as provided by law.

1-24-105. Amount of amercement for not paying over money.

When the cause of amercement is the refusal to pay over money collected, the officer shall not be amerced in a greater sum than the amount withheld, with ten percent (10%) thereon.

1-24-106. Surety of officer may be made party to judgment.

A surety of an officer may be made party to a judgment of amercement against the officer, but the goods, chattels, lands and tenements of the surety are not liable to execution when sufficient goods, chattels, lands and tenements of the officer against whom judgment is rendered can be found to satisfy the execution. Either party may proceed against the officer by attachment.

1-24-107. Officer may have execution on original judgment.

If an officer who is amerced has not collected the amount of the original judgment, he may sue out an execution and collect for his own use the amount of the judgment, in the name of the original plaintiff.

CHAPTER 25 - CHANGE OF NAME

1-25-101. Verified petition to be presented; information to be shown in petition; order of court making change; record to be made.

Every person desiring to change his name may petition the district court of the county of the petitioner's residence for the desired change. The petition shall be verified by affidavit setting forth the petitioner's full name, the name desired, a concise statement of the reason for the desired change, the place of his birth, his place of residence and the length of time he has been an actual bona fide resident of the county in which the petition is filed. If the court is satisfied that the desired change is proper and not detrimental to the interests of any other person, it shall order the change to be made, and record the proceedings in the records of the court. In the event a confidentiality order has been entered pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain

confidentiality of addresses, city or state of residence or other information identifying the residence, the address, city or state of residence or other information identifying the residence of the party shall remain confidential.

1-25-102. Residence requirement.

A person petitioning for a change of name shall have been a bona fide resident of the county in which the petition is filed for at least two (2) years immediately preceding filing the petition.

1-25-103. Notice to be given by publication.

Except in a proceeding in which the court has issued a confidentiality order pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain confidentiality of addresses, city or state of residence or other information identifying the residence of the party, public notice of the petition for a change of name shall be given in the same manner as service by publication upon nonresidents in civil actions.

1-25-104. Change of name in adoption proceedings.

In all cases of the adoption of children in the manner provided by law, the court before which such adoption proceeding is held, may change the name of any child so adopted and make an order to that effect, which shall be recorded in the records of the proceeding of adoption. Each child who has heretofore, in Wyoming, been adopted according to law, may have his or her name changed to that of the parents who have adopted him or her, upon the parents, who have adopted such child, on behalf of such child, filing a petition therefor.

CHAPTER 26 - EMINENT DOMAIN

ARTICLE 1 - PUBLIC BUILDING AND SCHOOL SITES; PUBLIC UTILITY
PLANTS AND FACILITIES

1-26-101. Repealed by Laws 1981, ch. 174, § 3.

1-26-102. Repealed by Laws 1981, ch. 174, § 3.

1-26-103. Repealed by Laws 1981, ch. 174, § 3.

1-26-104. Repealed by Laws 1981, ch. 174, § 3.

- 1-26-105. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-106. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-107. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-108. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-109. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-110. Repealed by Laws 1981, ch. 174, § 3.

ARTICLE 2 - RAILROADS

- 1-26-201. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-202. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-203. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-204. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-205. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-206. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-207. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-208. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-209. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-210. Repealed by Laws 1981, ch. 174, § 3.

ARTICLE 3 - ROADS, DITCHES AND FLUMES; PIPE, ELECTRIC
TRANSMISSION, TELEPHONE AND TELEGRAPH LINES

- 1-26-301. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-302. Repealed by Laws 1981, ch. 174, § 3.
- 1-26-303. Repealed by Laws 1981, ch. 174, § 3.

ARTICLE 4 - WAYS OF NECESSITY FOR CERTAIN PURPOSES

- 1-26-401. Repealed by Laws 1981, ch. 174, § 3.

1-26-402. Repealed by Laws 1981, ch. 174, § 3.

1-26-403. Repealed by Laws 1981, ch. 174, § 3.

1-26-404. Repealed by Laws 1981, ch. 174, § 3.

1-26-405. Repealed by Laws 1981, ch. 174, § 3.

ARTICLE 5 - GENERALLY

1-26-501. Short title.

(a) This act shall be cited as the "Wyoming Eminent Domain Act".

(b) Except as otherwise specifically provided by statute, the power of eminent domain may be exercised only as provided by this act and the Wyoming Rules of Civil Procedure to the extent the Rules of Civil Procedure do not conflict with this act.

1-26-502. Definitions.

(a) As used in this act:

(i) "Condemn" means to take property under the power of eminent domain;

(ii) "Condemnee" means a person who has or claims an interest in property that is the subject of a prospective or pending condemnation action;

(iii) "Condemnor" means a person empowered to condemn;

(iv) "Litigation expenses" means the reasonable costs, disbursements and expenses, including attorney, appraisal and engineering fees, associated with a condemnation proceeding;

(v) "Public entity" means the state of Wyoming and its agencies, municipalities, counties, school districts, political subdivisions and special districts;

(vi) "This act" means W.S. 1-26-501 through 1-26-817.

1-26-503. Public use required; other acquisitions.

(a) Nothing in this act requires that the power of eminent domain be exercised to acquire property. Whether property necessary for public use is to be acquired by purchase, other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property.

(b) Subject to any other statute relating to the acquisition of property, any person or public entity authorized to acquire property for a particular use by eminent domain may also acquire the property for the use by grant, purchase, lease, gift, devise, contract or other means.

1-26-504. Requirements to exercise eminent domain.

(a) Except as otherwise provided by law, the power of eminent domain may be exercised to acquire property for a proposed use only if all of the following are established:

(i) The public interest and necessity require the project or the use of eminent domain is authorized by the Wyoming Constitution;

(ii) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and

(iii) The property sought to be acquired is necessary for the project.

(b) Findings of the public service commission, the interstate commerce commission and other federal and state agencies with appropriate jurisdiction are prima facie valid relative to determinations under subsection (a) of this section if the findings were made in accordance with law with notice to condemnees who are parties to the condemnation action and are final with no appeals from the determinations pending.

(c) When a public entity determines that there is a reasonable probability of locating a particular public project on specifically identifiable private property and that the project is expected to be completed within two (2) years of that determination, the public entity shall provide written notice of the intention to consider the location and construction of the project to the owner as shown on the records of the county assessor. The notice shall include a description of the public interest and necessity of the proposed project. The public entity shall provide an opportunity for the private property

owners to consult and confer with representatives of the public entity regarding the project.

(d) A condemnor shall prove each requirement of subsection (a) of this section by a preponderance of the evidence. Failure of the condemnor to prove any requirement of subsection (a) of this section shall result in dismissal of the condemnation action without prejudice.

1-26-505. Condemnation of property devoted to a public use.

(a) If a proposed use cannot be obtained under W.S. 1-26-813, any condemnor may exercise the power of eminent domain to acquire property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. The burden of proving that a proposed use will not unreasonably interfere with or impair the continuance of the existing public use is on the prospective condemnor.

(b) Where property is taken under subsection (a) of this section, the parties shall attempt to make an agreement determining the conditions upon which the property is taken and the manner and extent of its use by each of the parties. Except as otherwise provided by law, if the parties are unable to agree, the court shall fix the terms and conditions upon which the property is taken and the manner and extent of its use by each of the parties.

1-26-506. Entry prior to condemnation action.

(a) A condemnor and its agents and employees may enter upon real property and make surveys, examinations, photographs, tests, soundings, borings and samplings, or engage in other activities for the purpose of appraising the property or determining whether it is suitable and within the power of the condemnor to condemn if the entry is:

(i) Preceded by prior notice to the condemnee specifying the particular activity to be undertaken and the proposed use and potential recipient of the data thereby obtained and the condemnee has been given fifteen (15) days to grant written authorization;

(ii) Undertaken during reasonable hours, normally during daylight;

(iii) Accomplished peaceably and without inflicting substantial injury to land, crops, improvements, livestock or current business operations.

(b) The entry and activities authorized by this section do not constitute a trespass.

(c) The condemnor is liable under W.S. 1-26-508 for damages resulting from activities authorized by this section.

(d) Subject to applicable confidentiality restrictions under federal or state law, the results of survey information acquired from the property sought related to threatened and endangered species, cultural resources and archeological resources shall be made available to the condemnee upon request.

1-26-507. Entry prior to condemnation action; court orders.

(a) If reasonable efforts to accomplish a lawful entry or to perform authorized activities upon real property under W.S. 1-26-506 have been obstructed or denied the condemnor may apply to the district court for an order permitting entry.

(b) Unless after notice and hearing good cause to the contrary is shown, the court shall make its order permitting and describing the purpose of the entry and setting forth the nature and scope of activities the court determines are reasonably necessary and authorized to be made upon the property. In addition to requiring a deposit under subsection (c) of this section, the order shall include terms and conditions with respect to the time, place and manner of entry and authorized activities upon the property which will facilitate the purpose of the entry and minimize damage, hardship and burden to the parties.

(c) An order permitting entry under subsection (b) of this section shall include a determination by the court of the amount, if any, that will fairly compensate the owner or any other person in lawful possession or physical occupancy of the property for damages for physical injury to the property and for substantial interference with its possession or use, found likely to be caused by the entry and activities authorized by the order and shall require the condemnor to deposit cash or

other security with the court before entry. The clerk of court shall invest any cash deposit in any legal interest bearing investment and the interest earnings shall accrue to the account of the condemnor. Unless sooner disbursed by court order, the cash or other security shall be retained on deposit for six (6) months following termination of the entry. The court for good cause may extend the period of retention.

(d) After notice and hearing the court may modify an order under subsection (c) of this section. If a deposit is required or the amount required to be deposited is increased by an order of modification, the court shall specify the time within which the required amount must be deposited and may direct that any further entry or specified activities or studies under the order modified be stayed until the required deposit has been made.

1-26-508. Entry prior to condemnation action; damages.

(a) A condemnor is liable for physical injury to, and for substantial interference with possession or use of, property caused by his entry and activities upon the property. This liability may be enforced in a civil action against the condemnor or by application to the court as provided by subsection (c) of this section unless voluntarily paid by the condemnor.

(b) In an action or other proceeding for recovery of damages under this section, the prevailing party shall be allowed his costs. In addition, the court shall award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507 if it finds that the condemnor:

(i) Entered the property unlawfully;

(ii) Entered upon the property lawfully but thereafter engaged in activities upon the property which caused significant damage to the property not reasonably necessary to the purposes of the entry; or

(iii) Failed substantially to comply with an order made under W.S. 1-26-507.

(c) If funds are on deposit under W.S. 1-26-507, the owner or other person entitled to damages under subsection (a) of this section may apply to the court for an award of the amount he is entitled to recover. The court shall determine the amount and award it to the person entitled thereto and direct that its

payment be made out of the money on deposit. If the amount on deposit is insufficient to pay the full amount, the court shall enter judgment against the condemnor for the unpaid portion.

1-26-509. Negotiations; scope of efforts to purchase.

(a) A condemnor shall make reasonable and diligent efforts to acquire property by good faith negotiation.

(b) In attempting to acquire the property by purchase under W.S. 1-26-510, the condemnor, acting within the scope of its powers and to the extent not otherwise forbidden by law, shall negotiate in good faith and may contract with respect to:

(i) Any element of valuation or damages recognized by law as relevant to the amount of just compensation payable for the property;

(ii) The extent, term or nature of the property interest or other right to be acquired;

(iii) The quantity, location or boundary of the property;

(iv) The acquisition, removal, relocation or disposition of improvements upon the property and of personal property not sought to be taken;

(v) The date of proposed entry and physical dispossession;

(vi) The time and method of payment of agreed compensation or other amounts authorized by law; and

(vii) Any other terms or conditions deemed appropriate by either of the parties.

(c) Good faith negotiation shall include, but not be limited to, written notice of the following:

(i) To the extent reasonably known at the time, the proposed project, the land proposed to be condemned, plan of work, operations and facilities in a manner sufficient to enable the condemnee to evaluate the effect of the proposed project, plan of work, operations and facilities on the condemnee's use of the land;

(ii) The name, address, telephone number and, if available, facsimile number and electronic mail address of the condemnor and his designee, if any;

(iii) An initial written settlement offer that shall include:

(A) A description of the general location and extent of the property sought, with sufficient detail for reasonable identification;

(B) An offer that, at the condemnee's request, a representative of the condemnor will tour the property sought with the condemnee or the condemnee's representative at a mutually agreeable time prior to the deadline for the condemnee's response to the initial written offer to discuss issues related to the property sought and the initial offer;

(C) An estimate of the fair market value of the property sought and the general basis for such estimate;

(D) A discussion of the reclamation planned by the condemnor for the property disturbed by the condemnor's project;

(E) An offer to acquire the property sought, allowing the condemnee up to sixty-five (65) days from the date the initial written offer was sent via certified mail to respond or make a counter-offer in writing; and

(F) A written notice that the condemnee is under no obligation to accept the initial written offer but if the condemnee fails to respond to the initial written offer the right to object to the good faith of the condemnor may be waived under W.S. 1-26-510(a), that the condemnor and the condemnee are obligated to negotiate in good faith for the purchase of the property sought, that formal legal proceedings may be initiated if negotiations fail and that the condemnee has a right to seek advice from an attorney, real estate appraiser, or any other person of his choice during the negotiations and any subsequent legal proceedings.

(iv) A written response from the condemnor to any counter-offer made in writing by the condemnee to the initial written offer pursuant to subparagraph (iii)(E) of this subsection.

(d) The written notice required under subsection (c) of this section shall be given to the condemnee of record as shown on the records in the county assessor's office at the time, no less than ninety (90) days prior to commencement of a condemnation action.

(e) The condemnor shall send by certified mail, return receipt requested, a notice of final offer at least fifteen (15) days prior to commencing a condemnation action.

(f) A condemnee shall make reasonable and diligent efforts to negotiate in good faith with the condemnor including a timely written response to the written offer identified in subparagraph (c)(iii)(E) of this section, specifying areas of disagreement.

(g) The condemnor shall reimburse the condemnee for all reasonable litigation expenses if a court finds the condemnor failed to negotiate in good faith as required under subsections (b) through (e) of this section, or to comply with any requirements of W.S. 1-26-504(a).

(h) At any time in the negotiation, at the request of either party and upon mutual agreement, dispute resolution processes including mediation or arbitration may be employed or the informal procedures for resolving disputes established pursuant to W.S. 11-41-101 through 11-41-110 may be requested through the Wyoming agriculture and natural resource mediation board.

(j) If a court or jury finds that the fair market value of the property sought by the condemnor is more than one hundred fifteen percent (115%) of the final offer required by subsection (e) of this section, the condemnor shall reimburse the condemnee for all reasonable litigation expenses incurred after the condemnee's receipt of the final offer.

(k) Attorney's fees and other expenses awarded under this section from a public entity to a condemnee shall be reported by the public entity which paid the fees, to the Wyoming attorney general within sixty (60) days of the award. The Wyoming attorney general shall collect this data and report annually to the governor on the amount of all taxpayer funded fee awards, beginning July 31, 2014. The report shall identify the name of each party to whom an award was made, the name of each counsel of record representing each party to whom an award was made, the public agency which paid each award and the total amount of each award.

1-26-510. Preliminary efforts to purchase.

(a) Except as provided in W.S. 1-26-511, an action to condemn property may not be maintained over timely objection by the condemnee unless the condemnor made a good faith effort to acquire the property by purchase before commencing the action. A condemnee may not object to the good faith of the condemnor if the condemnee has failed to respond to an initial written offer as provided in W.S. 1-26-509(c)(iii)(E) and the condemnor has met the requirements of W.S. 1-26-509(c).

(b) Negotiations conducted in substantial compliance with W.S. 1-26-509(b) through (e) are prima facie evidence of "good faith" by the condemnor under subsection (a) of this section.

1-26-511. Purchase efforts waived or excused.

(a) A condemnor's failure or inability substantially to comply with W.S. 1-26-509 and 1-26-510 does not bar the maintenance of a condemnation action, notwithstanding timely objection, if:

(i) Compliance is waived by written agreement between the property owner and the condemnor;

(ii) One (1) or more of the owners of the property is unknown, cannot with reasonable diligence be contacted, is incapable of contracting and has no legal representative, or owns an interest which cannot be acquired by contract; or

(iii) Due to an emergency affecting public health or safety, there is a compelling need to avoid the delay in commencing the action which compliance would require.

1-26-512. Contents of authorization.

(a) A public entity may not commence a condemnation action until it has first adopted a written resolution in substantial conformity with this section, authorizing commencement and prosecution of the action. The authorization may be amended or rescinded at any time before or after commencement of the condemnation action but if rescinded the public entity shall pay the litigation expenses of the condemnee.

(b) In addition to other requirements imposed by law, the condemnation authorization required by subsection (a) of this section shall include:

(i) A general statement of the proposed public use for which the property is to be taken and a reference to the specific statute that authorizes the taking of the property by the condemnor;

(ii) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification; and

(iii) A declaration that a taking of the described property is necessary and appropriate for the proposed public use.

1-26-513. Deposit at commencement of action.

(a) At the time of commencing an eminent domain proceeding the condemnor shall deposit in court an amount equal to the condemnor's last offer of settlement prior to the action. Upon motion of the condemnee and following a hearing if the amount originally deposited is clearly inadequate, the court shall order the condemnor to make an additional deposit. The clerk of court shall invest the deposit in any legal interest bearing investment and interest earnings shall accrue to the account of the condemnor.

(b) The court may waive the requirement of a deposit for a public entity if the public entity is financially or legally unable to post the deposit but the public entity may not obtain possession of the property prior to judgment until the appropriate deposit is made.

(c) The condemnee may withdraw any portion of the deposit prior to final judgment which the court determines is not subject to claims of mortgagees and other claimants. The amount withdrawn constitutes a lien against the property of the condemnee and the condemnee is liable to the condemnor for any amount withdrawn which exceeds the final judgment in the action. If the condemnee withdraws any portion of the deposit prior to judgment, he waives all defenses to the action except the right to contest the amount to be awarded and the condemnor is entitled to immediate possession of the property subject to the court's determination of a reasonable period during which the

condemnee can remove improvements and take other actions authorized by the court.

1-26-514. Interest taken; due compensation.

(a) In the case of public entities the court may grant an easement or fee simple title to the public entity if necessary for the purpose for which the land was condemned. In cases not involving public entities, following determination of due compensation the court shall enter an order granting an easement to the condemnor which shall not include any claim, interest or property in or to the underlying minerals or mineral estate except for subsurface support.

(b) The court in determining due compensation may authorize a lump-sum payment or an annual installment or amortization payment to continue throughout the term of the easement.

1-26-515. Abandonment, nonuse or new use.

Upon abandonment, nonuse for a period of ten (10) years, or transfer or attempted transfer to a use where the transferee could not have condemned for the new use, or where the new use is not identical to the original use and new damages to the landowner whose property was condemned for the original use will occur, any easement authorized under this act terminates.

1-26-516. Action for inverse condemnation.

When a person possessing the power of condemnation takes possession of or damages land in which he has no interest, or substantially diminishes the use or value of land, due to activities on adjoining land without the authorization of the owner of the land or before filing an action of condemnation, the owner of the land may file an action in district court seeking damages for the taking or damage and shall be granted litigation expenses if damages are awarded to the owner.

ARTICLE 6 - INFORMAL PROCEDURE FOR DISPUTES INVOLVING LIMITED AMOUNTS

1-26-601. Informal claims procedure authorized.

This article applies whenever only the amount of compensation is in dispute and the total compensation demanded by any condemnee is less than twenty thousand dollars (\$20,000.00), excluding

interest and costs, or the difference between the latest offer of the condemnor and the latest demand by any condemnee is less than five thousand dollars (\$5,000.00). The supreme court may adopt rules governing proceedings under this article.

1-26-602. Request for informal procedure.

A party may file with the court a written request that the issue of the amount of compensation be determined under this article, identifying the property and setting forth the amount of the condemnor's latest offer and the condemnee's latest demand for compensation.

1-26-603. Hearing.

(a) If the court determines that the request should be granted, it shall hold a hearing upon reasonable notice to the parties to determine compensation.

(b) The court shall proceed without a jury and in an informal manner. The parties may present oral and documentary proof and may argue in support of their respective positions but the rules of evidence need not be followed. Neither party is required to offer the opinion of an expert or to be represented by an attorney. Unless demanded by a party and at his own expense, a record of testimony received at the hearing need not be kept.

(c) Costs shall be claimed and taxed as in other condemnation actions. Upon entry of judgment, the clerk shall serve upon the parties a copy of the judgment with notice of its entry, together with instructions as to the procedure for demanding a retrial.

1-26-604. Demand for retrial.

(a) Either party, within thirty (30) days after entry of the judgment, may reject the judgment and file a written demand for trial. The action shall be restored to the docket of the court as though proceedings under this article had not occurred.

(b) If the condemnor files a demand under subsection (a) of this section and ultimately obtains a judgment no more favorable to him, the court may require him to pay, in addition to costs, the condemnee's litigation expenses incurred after the demand was filed.

ARTICLE 7 - COMPENSATION

1-26-701. Compensation standards.

(a) An owner of property or an interest in property taken by eminent domain is entitled to compensation determined under the standards prescribed by W.S. 1-26-701 through 1-26-713.

(b) Unless otherwise provided by law, the right to compensation accrues upon the date of possession by the condemnor.

(c) Except as specifically provided by W.S. 1-26-701 through 1-26-713, compensation, damages, or other relief to which a person is otherwise entitled under this act or other law are not affected, but duplication of payment is not permitted.

1-26-702. Compensation for taking.

(a) Except as provided in subsection (b) of this section, the measure of compensation for a taking of property is its fair market value determined under W.S. 1-26-704 as of the date of valuation.

(b) If there is a partial taking of property, the measure of compensation is the greater of the value of the property rights taken or the amount by which the fair market value of the entire property immediately before the taking exceeds the fair market value of the remainder immediately after the taking.

1-26-703. Date of valuation.

The date of valuation is the date upon which the condemnation action was commenced.

1-26-704. Fair market value defined.

(a) Except as provided in subsection (b) of this section:

(i) The fair market value of property for which there is a relevant market is the price which would be agreed to by an informed seller who is willing but not obligated to sell, and an informed buyer who is willing but not obligated to buy;

(ii) The fair market value of property for which there is no relevant market is its value as determined by any method of valuation that is just and equitable;

(iii) The determination of fair market value shall use generally accepted appraisal techniques and may include:

(A) The value determined by appraisal of the property performed by a certified appraiser;

(B) The price paid for other comparable easements or leases of comparable type, size and location on the same or similar property;

(C) Values paid for transactions of comparable type, size and location by other public or private entities in arms length transactions for comparable transactions on the same or similar property.

(b) The fair market value of property owned by an entity organized and operated upon a nonprofit basis is deemed to be not less than the reasonable cost of functional replacement if the following conditions exist:

(i) The property is devoted to and is needed by the owner in order to continue in good faith its actual use to perform a public function, or to render nonprofit educational, religious, charitable or eleemosynary services; and

(ii) The facilities or services are available to the general public.

(c) The cost of functional replacement under subsection (b) of this section includes:

(i) The cost of a functionally equivalent site;

(ii) The cost of relocating and rehabilitating improvements taken, or if relocation and rehabilitation is impracticable, the cost of providing improvements of substantially comparable character and of the same or equal utility; and

(iii) The cost of betterments and enlargements required by law or by current construction and utilization standards for similar facilities.

(d) In determining fair market value under this section, no terms or conditions of an agreement containing a confidentiality provision shall be required to be disclosed

unless the release of such information is compelled by lawful discovery, upon a finding that the information sought is relevant to a claim or defense of any party in the eminent domain action. The court shall ensure that any such information required to be disclosed remains confidential. The provision of this subsection shall not apply if the information is contained in a document recorded in the county clerk's office or has otherwise been made public.

1-26-705. Effect of condemnation action on value.

(a) The fair market value of the property taken, or of the entire property if there is a partial taking, does not include an increase or decrease in value before the date of valuation that is caused by:

(i) The proposed improvement or project for which the property is taken;

(ii) The reasonable likelihood that the property would be acquired for that improvement or project; or

(iii) The condemnation action in which the property is taken.

(b) If, before completion of the project as originally adopted, the project is expanded or changed to require the taking of additional property, the fair market value of the additional property does not include a decrease in value before the date of valuation, but does include an increase in value before the date on which it became reasonably likely that the expansion or change in the scope of the project would occur, if the decrease or increase is caused by any of the factors described in subsection (a) of this section.

(c) Notwithstanding subsections (a) and (b) of this section, a decrease in value before the date of valuation which is caused by physical deterioration of the property within the reasonable control of the property owner, and by his unjustified neglect, may be considered in determining fair market value.

1-26-706. Compensation to reflect project as planned.

(a) If there is a partial taking of property, the fair market value of the remainder on the valuation date shall reflect increases or decreases in value caused by the proposed project including:

(i) Impairment of the use of his other property caused by the condemnation; and

(ii) The increase in damage to his property by the general public which could reasonably be expected to occur as a result of the proposed actions of the condemnor;

(iii) Any work to be performed under an agreement between the parties or pursuant to W.S. 1-26-714.

1-26-707. Special assessment proceedings excluded.

If there is a partial taking of property and special assessments or charges are imposed upon the remainder to pay for all or part of the project, the increase in value of the remainder, if any, caused by the project shall be considered in determining its value after the partial taking only to the extent the increase exceeds the amount of the special assessments or charges.

1-26-708. Use by defendant; risk of loss.

(a) Unless the court otherwise directs, the condemnee may use the property sought to be taken for any lawful purpose before the date on which the condemnor is authorized to take possession.

(b) Thereafter, the condemnee may use the property only for any purpose or use which is not inconsistent with the estate taken by the condemnor. The uses authorized by subsection (a) of this section include any normal work on the property and the planting, cultivation and removal of crops.

(c) The compensation awarded the condemnee shall include an amount sufficient to compensate for loss caused by any temporary restriction or limitation imposed by the court upon his right to use the property under subsection (a) of this section.

1-26-709. Compensation for growing crops and improvements.

(a) The compensation for crops growing on the property on the date of valuation is the higher of the current fair market value of the crops in place, assuming the right to bring them to maturity and to harvest them, or the amount by which the existence of the crops enhances the fair market value of the property.

(b) The compensation for an interest in improvements is the higher of the fair market value of the improvements, assuming their immediate removal from the property, or the amount by which the existence of the improvements enhances the fair market value of the property.

(c) If improvements are destroyed, removed or damaged by the condemnee after the date of valuation, the amount of compensation shall be adjusted to reflect the extent to which the fair market value of the property has thereby been reduced.

(d) Crops or improvements that are first placed upon the property after the date of valuation shall be excluded from consideration in determining the amount of the award, except that the award shall be adjusted to include the reasonable and necessary cost of providing improvements required by law and improvements necessary to protect life or property as authorized by the court.

1-26-710. Compensation for divided interests.

The amount of compensation for the taking of property in which divided interests exist is based upon the fair market value of the property considered as a whole.

1-26-711. Taking of leasehold interest.

(a) If all or part of the property taken includes a leasehold interest, the effect of the condemnation action upon the rights and obligations of the parties to the lease is governed by the provisions of the lease, and in the absence of applicable provisions in the lease, by this section.

(b) If there is a partial taking and the part of the property taken includes a leasehold interest that extends to the remainder, the court may determine that:

(i) The lease terminates as to the part of the property taken but remains in force as to the remainder, in which case the rent reserved in the lease is extinguished to the extent it is affected by the taking; or

(ii) The lease terminates as to both the part taken and the remainder, if the part taken is essential to the purposes of the lease or the remainder is no longer suitable for the purpose of the lease.

(c) The termination or partial termination of a lease under this section shall occur at the earlier of the date on which, under an order of the court, the condemnor is permitted to take possession of the property, or the date on which title to the property is transferred to the condemnor.

(d) This section does not affect or impair a lessee's right to compensation if his leasehold interest is taken in whole or in part.

1-26-712. Acquisition of property subject to lien.

Notwithstanding the provisions of an agreement, if any, relating to a lien encumbering the property neither the condemnor nor condemnee is liable to the lienholder for any penalty for prepayment of the debt secured by the lien, and the amount awarded by the judgment to the lienholder shall not include any penalty therefor.

1-26-713. Loss of goodwill.

(a) In addition to fair market value determined under W.S. 1-26-704, the owner of a business conducted on the property taken, or on the remainder if there is a partial taking, shall be compensated for loss of goodwill only if the owner proves that the loss:

(i) Is caused by the taking of the property or the injury to the remainder;

(ii) Cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill;

(iii) Will not be included in relocation payments under W.S. 16-7-101 through 16-7-121; and

(iv) Will not be duplicated in the compensation awarded to the owner.

(b) Within the meaning of this section, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality and any other circumstances resulting in probable retention of old or acquisition of new patronage.

1-26-714. Reclamation and restoration.

(a) A condemnor who acquires a property right or interest of less than fee simple title in any land shall be responsible for reclamation on such land and for restoration of the land and any improvements thereon. The reclamation and restoration shall return the property and improvements to the condition existing prior to the condemnation to the extent that reasonably can be accomplished.

(b) Reclamation and restoration shall include but not be limited to, grading to the natural contour, replacement of topsoil, the planting and establishment of appropriate ground cover and control of weeds resulting from condemnor's disturbance, as follows:

(i) In the case of a growing crop for which compensation has been paid, a ground cover shall be required only if requested by the condemnee;

(ii) In the case of grazing lands, native grasses and forbs previously growing on the disturbed land shall be reseeded and established unless the establishment of alternative beneficial plants are agreed to by the parties.

(c) The responsibility of the condemnor under this section shall include the following:

(i) Damages caused by the condemnor, its successors or its agents during entry prior to condemnation as authorized by W.S. 1-26-506 and 1-26-507;

(ii) Damages caused by the condemnor, its successors or its agents during construction of the project under the condemnation;

(iii) Damages caused by the condemnor, its successors or its agents subsequent to the construction and during the use of the property during the time of the condemnor's possession;

(iv) Damages caused by the condemnor, its successors or its agents in the removal of any facilities or improvements on the property at the termination of the authorized use;

(v) Restoration and reclamation shall begin as soon as reasonably possible after completion of project construction, unless otherwise agreed to by the condemnor and the condemnee.

(d) Nothing herein shall preclude the condemnor and the condemnee from agreeing to compensation in lieu of the obligations provided in this section.

ARTICLE 8 - POWER OF EMINENT DOMAIN GRANTED

1-26-801. Authority of state, counties and municipal corporations to acquire by condemnation proceedings; uranium mill tailings; public purpose.

(a) The state or any county or municipal corporation may purchase or acquire by condemnation any real estate including streets, alleys or public highways, as sites for public buildings or for any other necessary public purpose. Proceedings in condemnation shall be conducted in the name of the state, county or municipal corporation and by the attorney general when for the state, the county attorney when for the county and the municipal attorney when for a municipal corporation.

(b) In carrying out responsibilities under P.L. 95-604, the state may purchase or acquire by condemnation any real estate or radioactive materials if determined necessary to stabilize and control uranium mill tailings in a safe and environmentally sound manner. Proceedings in condemnation shall be as provided by this act.

(c) As used in and for purposes of this section only, "public purpose" means the possession, occupation and enjoyment of the land by a public entity. "Public purpose" shall not include the taking of private property by a public entity for the purpose of transferring the property to another private individual or private entity except in the case of condemnation for the purpose of protecting the public health and safety, in which event the public entity may transfer the condemned property for value to a private individual or entity. However, nothing in this section shall restrict or impair the right or authority of the Wyoming pipeline authority or the Wyoming infrastructure authority to transfer property condemned by the authority to another public or private entity insofar as the transfer is consistent with the statutory purposes or duties of:

(i) The Wyoming pipeline authority acting pursuant to W.S. 37-5-102, as to pipelines as defined in W.S. 37-5-202(a) (iv); or

(ii) The Wyoming infrastructure authority acting pursuant to W.S. 37-5-303, as to facilities as defined in W.S. 37-5-302(a) (iii).

(d) If a public entity acquires property in fee simple title under this chapter but fails to make substantial use of the property for a period of ten (10) years, there is a presumption that the property is no longer needed for a public purpose and the previous owner or his successor may apply to the court to request that the property be returned to the previous owner or his successor upon repayment of the amount originally received for the property in the condemnation action. A public entity may rebut the presumption created under this subsection by showing good cause for the delay in using the property.

1-26-802. Proceedings by water companies and incorporated cities or towns.

Any water company or incorporated city or town of this state may acquire by purchase, grant or condemnation any land, real estate, claim, easement or right-of-way required for or that may be affected by the construction, operation or maintenance of any waterworks.

1-26-803. Municipal streets and alleys; utility mains or pipes; tax levy.

Any incorporated city or town in Wyoming may use or authorize the use of its streets and alleys by others, and may obtain by purchase, grant or condemnation in the manner provided by law all necessary lands for the construction, laying and operating of mains or pipes for sewers, gas or water for the use of the cities and towns, and for that purpose to have the power to levy a tax within the constitutional limits upon all personal and real property within the corporate limits of the cities and towns.

1-26-804. Acquisition of public utility plants by cities and towns.

Any incorporated city or town of this state may acquire by condemnation, purchase or gift the franchise and the plant, facilities, equipment and property of any person or entity

owning or operating in the city or town a franchise and plant, facilities, equipment or other property used or intended for the purpose of supplying or furnishing to the public of the city or town any public utility service mentioned in W.S. 1-26-805.

1-26-805. Acquisition of public utility plants by cities and towns; definition of facilities which may be acquired.

For the purposes of W.S. 1-26-804 through 1-26-809 "public utility service" means and includes communication or transmission of intelligence or messages by telephone service; electricity for light, heat, power and like purposes; natural or artificial gas for heat, light, power and like purposes; steam for heat, power and like purposes; or water for municipal, domestic, agricultural, irrigation, manufacturing and like purposes, including surface water drainage in accordance with W.S. 16-10-103.

1-26-806. Acquisition of public utility plants by cities and towns; purpose of acquisition; ownership or operation.

The purpose for which the franchise and plant, facilities, equipment or other property may be acquired is for municipal ownership or operation of the business by the city or town, which right is hereby given to any incorporated city or town.

1-26-807. Acquisition of other property for public utility service.

Any incorporated city or town of this state has the further right to acquire by condemnation, purchase or gift any real estate or other property, public or private, whether within or outside the corporate limits of the city or town, for rights-of-way, sites, buildings or other purposes connected with or necessary to carry on the business of municipal ownership or operation of any public utility service, or to secure outside connections for any public utility service.

1-26-808. Election in cities and towns on question of acquisition.

No city or town shall acquire the franchise or the plant, facilities, equipment or other property of any person or entity for the purpose of supplying or furnishing to the public of the city or town any public utility service unless authorized at an election. The election shall be held as provided by law for the

submission of a bond issue under the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

1-26-809. Determination of value of franchise to be acquired.

In determining the value of the franchise, consideration shall be given to the total amount paid for the franchise for the entire term of the franchise and deductions made proportioned on the unexpired term of the franchise.

1-26-810. Powers of railroad companies relative to condemnation generally.

(a) Any railroad company organized under the laws of this state, the laws of the United States or which has been duly organized under the laws of any other state and has filed copies of its articles of incorporation with the secretary of state in this state as required by law is authorized to:

(i) Exercise the power of eminent domain to acquire rights-of-way for railroad tracks and easements for offices, depots and other appurtenant facilities related directly to the operation of the railroad;

(ii) Take, hold and appropriate a right-of-way over adjacent lands sufficient to enable the corporation to construct and repair its road upon the line of its location or relocation thereof; and

(iii) Acquire a right to conduct water by aqueducts and to make appropriate drains.

(b) Any land taken, appropriated and held otherwise than by the consent of the owner shall not exceed two hundred (200) feet in width unless greater width is necessary for excavations, embankments, depositing waste earth or for construction of other appurtenant facilities necessary for the operation of the railroad.

1-26-811. Crossing public highways; privileges and duties.

(a) A railroad company may raise or lower any county road or other public highway for the purpose of having its railroad pass over or under the road or highway. Repair or reconstruction of roads or highways shall be expeditiously completed.

(b) While engaged in raising or lowering any county road or other public highway or in making any other alteration which may obstruct the public way, a railroad company shall provide and maintain suitable temporary ways to enable travelers to avoid or pass obstructions.

1-26-812. Constructing, maintaining, abandoning or closing crossings.

(a) When any person owns land on both sides of any railroad, the company owning the railroad shall construct and maintain reasonably adequate means of crossing the railroad.

(b) No railroad shall abandon, close or fail to maintain any public highway crossing unless in accordance with the provisions of W.S. 37-10-102.

(c) No railroad shall abandon, close or fail to maintain any other existing crossing which has been maintained or recognized by the railroad for more than five (5) years prior to the effective date of this act without:

(i) Providing written notice of its intended action to every person owning lands adjacent to the crossing;

(ii) Advertising its intended action in a newspaper of general circulation in the county of the crossing; and

(iii) No sooner than three (3) weeks after providing the notice required, holding a meeting open to all persons at which it shall explain and at which persons shall be permitted to express their views on the intended action.

(d) Any railroad violating subsection (c) of this section shall not be entitled to assert any of the powers provided by W.S. 1-26-810 over any lands which are part of or are adjacent to the crossing, until the railroad has reconstructed the crossing abandoned, closed or not maintained in violation of subsection (c) of this section.

(e) In any action involving the abandonment, closing or maintenance of a railroad crossing which has been maintained or recognized by the railroad for more than five (5) years prior to the effective date of this act, the railroad shall not be entitled to assert any of the powers provided by W.S. 1-26-810 over any lands which are part of or are adjacent to the crossing

unless the railroad establishes by a preponderance of the evidence:

(i) The closing or abandonment of the crossing is justified by either financial or safety considerations;

(ii) There exists reasonable alternative means of access to all property served by the crossing; and

(iii) That it has complied with the provisions of this section and the Wyoming Eminent Domain Act.

(f) Nothing in this section shall be construed as limiting or prohibiting any person from maintaining any other action at law for a railroad's failure to maintain a crossing, or abandonment or closing of a crossing.

1-26-813. Right-of-way along public ways granted; permission necessary for new lines.

Corporations authorized to do business in this state for the purpose of constructing, maintaining and operating a public utility may set their fixtures and facilities along, across or under any of the public roads, streets and waters of this state in such manner as not to inconvenience the public in their use. Any public utility desiring to install its facilities in any city shall first attempt to obtain consent from the city council. A person shall first obtain permission from the state transportation commission or the board of county commissioners in the county where the construction is contemplated before entering upon any state highway or county road for the purpose of commencing the construction.

1-26-814. Right of eminent domain granted; petroleum or other pipeline companies; purposes.

Whenever any utility or any petroleum or other pipeline company, authorized to do business in this state, has not acquired by gift or purchase any land, real estate or claim required for the construction, maintenance and operation of their facilities and appurtenances or which may be affected by any operation connected with the construction or maintenance of the same, the utility or company has the right of eminent domain and may condemn the easement required by the utility or company.

1-26-815. Right of eminent domain granted; ways of necessity for authorized businesses; purposes; extent.

(a) Any person, association, company or corporation authorized to do business in this state may appropriate by condemnation a way of necessity over, across or on so much of the lands or real property of others as necessary for the location, construction, maintenance and use of reservoirs, drains, flumes, ditches including return flow and wastewater ditches, underground water pipelines, pumping stations and other necessary appurtenances, canals, electric power transmission lines and distribution systems, railroad trackage, sidings, spur tracks, tramways, roads or mine truck haul roads required in the course of their business for agricultural, mining, exploration drilling and production of oil and gas, milling, electric power transmission and distribution, domestic, municipal or sanitary purposes, or for the transportation of coal from any coal mine or railroad line or for the transportation of oil and gas from any well.

(b) The right of condemnation may be exercised for the purpose of:

(i) Acquiring, enlarging or relocating ways of necessity; and

(ii) Acquiring easements or rights-of-way over adjacent lands sufficient to enable the owner of the way of necessity to construct, repair, maintain and use the structures, roads or facilities for which the way of necessity is acquired.

(c) A way of necessity acquired hereunder shall not exceed one hundred (100) feet in width on each side of the outer sides or marginal lines of the reservoir, drain, ditch, underground water pipeline, canal, flume, power transmission line or distribution system, railroad trackage, siding or tramway unless a greater width is necessary for excavation, embankment or deposit of waste from excavation. In no case may the area appropriated exceed that actually necessary for the purpose of use for which a way of necessity is authorized.

(d) No person qualified to exercise the condemnation authority granted by this section, except a public utility that has been granted a certificate of public convenience and necessity pursuant to W.S. 37-2-205, shall exercise the authority for the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind. The prohibition imposed by this subsection shall be effective immediately and shall end June 30,

2015 or upon the effective date of legislation establishing additional conditions for the use of condemnation authority for the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind, whichever occurs earlier. As used in this subsection, "collector systems associated with commercial facilities generating electricity from wind" means the conductor infrastructure, including conductors, towers, substations, switchgear and other components necessary to deliver power from any commercial facility generating electricity from wind up to but not including electric substations or interconnections facilities associated with existing or proposed transmission lines that serve load or that export energy from Wyoming.

1-26-816. Condemnation and certificate of public necessity and convenience.

No person shall institute a condemnation proceeding relating to any facility for which a certificate of public necessity and convenience is required until the certificate has been issued.

1-26-817. Reservation of right to establish crossings.

Any condemnation order entered shall in all cases reserve to the owner or occupant of any real property through, over or across which any right-of-way is acquired the right to establish suitable crossings connecting his or their lands on either side of the right-of-way, at any point or points which may be selected by the owner or occupant. The ditch, canal, drain, flume or other irrigation works shall be protected at the crossings by the construction and maintenance of a suitable bridge or viaduct at the expense of the owner or occupant.

CHAPTER 27 - HABEAS CORPUS

1-27-101. Petition to be under oath; contents.

(a) The petition for the writ of habeas corpus shall be sworn to and shall state:

(i) The person for whom the writ is sought is restrained of his liberty, by whom he is restrained and the place where he is restrained, stating the names of the parties if known and if unknown, describing them with as much particularity as practicable;

(ii) The cause or reason for the restraint according to the best information of the petitioner, and if it is by virtue of any legal process, a copy thereof must be annexed or a satisfactory reason presented for its absence;

(iii) The restraint is illegal;

(iv) The legality of the restraint has not been adjudged in a prior proceeding, of the same character, to the best knowledge and belief of the applicant, or if previously adjudged the facts of the prior proceeding with a copy of all the papers connected therewith or a satisfactory reason for the absence thereof; and

(v) Whether petition for the writ has been made to and refused by any court or judge, and if a petition has been made, a copy of the petition with the reason for the refusal appended or satisfactory reasons given for the failure to do so.

1-27-102. Petition to be verified; presentation.

The petition shall be sworn to by the person confined or by someone in his behalf, and presented to a court or officer authorized to allow the writ.

1-27-103. Courts and judges allowing writ; service in any part of state.

The writ of habeas corpus may be allowed by the supreme or district court or by any judge of those courts. It may be served in any part of the state.

1-27-104. Petition to be made to nearest judge.

Petition for a writ shall be made to the court or judge most convenient in point of distance to the applicant. A more remote court or judge may refuse the writ unless a sufficient reason is stated in the petition for not applying to the more convenient supreme or district court or judge.

1-27-105. Writ to be allowed if grounds sufficient; contents of writ.

(a) The writ shall be allowed if the petition shows a sufficient ground for relief and is in accordance with the foregoing requirements.

(b) The writ shall be directed to the person having custody of or who is alleged to be unlawfully restraining the petitioner, and shall command such person to produce the petitioner in person before the court or judge issuing the writ at the time and place specified in the writ. It shall further command such person to have with him the writ with his return thereon showing his doings in response thereto.

1-27-106. Issuance of writ.

When the writ is allowed by a court, it is to be issued by the clerk, but when allowed by a judge he must issue the writ himself, subscribing his name thereto without any seal.

1-27-107. Reasons to be assigned for disallowance.

If the writ is disallowed, the court or judge shall cause the reasons of the disallowance to be appended to the petition and returned to the person applying for the writ.

1-27-108. Penalty for wrongful disallowance.

Any judge, acting individually or as a member of a court, who wrongfully and willfully refuses the allowance of the writ when properly applied for, shall forfeit to the party aggrieved the sum of one thousand dollars (\$1,000.00).

1-27-109. Duty of court to issue writ without application in certain instances.

Whenever any court or judge authorized to grant this writ has evidence from a judicial proceeding before it that any person within the jurisdiction of the court or judge is illegally imprisoned or restrained, the court or judge shall issue the writ or cause it to be issued though no application has been made.

1-27-110. Service of writ.

The writ may be served by the sheriff or by any other person appointed by the issuing court or judge for that purpose. If served by any person other than the sheriff, he possesses the same power and is liable to the same penalty for a nonperformance of his duty as though he were the sheriff.

1-27-111. Manner of service.

Service shall be made by leaving the original writ with the person to whom it is directed as defendant and preserving a copy on which to make the return of service. If the defendant cannot be found, or if he does not have the plaintiff in custody, service may be made upon any person having the plaintiff in his custody in the same manner and with the same effect as though he had been named defendant therein.

1-27-112. Authorization to arrest defendant.

If the defendant conceals himself or refuses admittance to the person attempting to serve the writ, or if he attempts wrongfully to carry the plaintiff out of the county or state after service of the writ, the person attempting to serve the writ may arrest the defendant and bring him and the plaintiff promptly before the judge or court before whom the writ is made returnable.

1-27-113. Power of sheriff making arrest.

In order to make the arrest, the sheriff or other person having the writ possesses the same power as a sheriff for the arrest of a person charged with a felony.

1-27-114. Plaintiff may be taken in custody by officer; power of officer.

If the plaintiff is found and no one appears to have charge or custody of him, the person having the writ may take him into custody and make return accordingly. To get possession of the plaintiff's person in such cases, he possesses the same power as given by W.S. 1-27-113 for the arrest of the defendant.

1-27-115. Order for summary production of plaintiff.

The court or judge to whom the petition for the writ is made may order the sheriff or any other person to bring the plaintiff promptly before the court or judge if convinced that the plaintiff will suffer irreparable injury before he can obtain relief by the proceedings authorized.

1-27-116. Order for defendant's arrest for criminal offense.

When the evidence is sufficient to justify the arrest of the defendant for a criminal offense committed in connection with

the illegal restraint of the petitioner, the order shall also order the arrest of the defendant.

1-27-117. Order for defendant's arrest for criminal offense; service of order of arrest.

The officer or person to whom the order is directed must execute it by bringing the defendant, and the plaintiff if required, before the court or judge issuing it. The defendant shall make return to the writ of habeas corpus in the same manner as if the ordinary course had been pursued.

1-27-118. Examination, commitment or discharge of defendant.

The defendant may be examined, committed, bailed or discharged according to the nature of the case.

1-27-119. Errors in writ to be disregarded.

The writ of habeas corpus shall not be disobeyed for any defect of form or misdescription of the plaintiff or defendant if enough is stated to show the meaning and intent of the writ.

1-27-120. Identity of defendant presumed.

Any person served with the writ is presumed to be the person to whom it is directed, although it may be directed to him by a wrong name or description.

1-27-121. Contents of defendant's answer.

The defendant in his answer shall state simply and unequivocally whether he then has or at any time has had the plaintiff under his control and restraint, and if so, the reason therefor. If he has transferred him to another person, he shall state the fact, to whom and the time thereof, and the reason and authority therefor. If he holds him by virtue of a legal process or written authority, a copy thereof shall be annexed.

1-27-122. Petitioner may reply to answer; trial by court.

The petitioner may reply to the defendant's answer, and all issues joined thereon shall be tried by the judge or court.

1-27-123. Evidence before magistrate may be reviewed.

The reply may deny the sufficiency of the testimony to justify the action of the committing magistrate, on the trial of which issue all written testimony before the magistrate may be given in evidence before the court or judge in connection with any other testimony which may then be produced.

1-27-124. Compelling attendance of witnesses; punishing for contempt.

The judge issuing the writ of habeas corpus or the judge before whom it is tried has the same power as a court to compel the attendance of witnesses or to punish contempt of his authority.

1-27-125. Certain proceedings not reviewable.

Habeas corpus is not permissible to question the correctness of the action of a grand jury in finding a bill of indictment, or a petit jury in the trial of a cause nor of a court or judge when acting within their jurisdiction and in a lawful manner.

1-27-126. When petitioner to be discharged.

If no sufficient legal cause of detention is shown, the petitioner must be discharged.

1-27-127. Errors in commitment to be disregarded.

Although the commitment of the petitioner was irregular, if the court or judge is satisfied from the evidence that he ought to be held to bail or committed either for the offense charged or any other, an order may be made accordingly.

1-27-128. Petitioner may be committed or admitted to bail.

The petitioner may be committed, let to bail or his bail be mitigated or increased as justice requires.

1-27-129. Custody of petitioner pendente lite.

Until the sufficiency of the cause of restraint is determined, the defendant may retain the petitioner in his custody.

1-27-130. Presence of petitioner at trial; waiver.

The petitioner or his attorney may waive in writing his right to be present at the trial, in which case the proceedings may be

had in his absence. The writ in such cases will be modified accordingly.

1-27-131. Refusal of officer to deliver copy of process.

Any officer refusing to deliver a copy of any legal process by which he detains the petitioner in custody to any person who demands a copy, shall forfeit five hundred dollars (\$500.00) to the person detained.

1-27-132. Transfer, removal or concealment of person with intent to avoid service.

Whoever, having under his restraint any person for whose release a writ of habeas corpus has been issued or is being applied for, transfers that person to the custody or control of another or conceals the place of his confinement or restraint, or removes him from the jurisdiction of the court from which the writ is issued or sought, with the intent to avoid the service or effect of the writ, or whoever knowingly aids or abets in the commission of any such offense, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than ninety (90) days, or both.

1-27-133. Papers to be filed; journal entry.

When the proceedings are before a judge and the writ is allowed, all papers in the case shall be filed with the clerk of the district court of the county wherein the final proceedings are had, and the final order shall be entered by the clerk upon the journal as a vacation order.

1-27-134. Fees and costs not to be advanced.

No officer shall refuse to perform any of the duties required by law in habeas corpus proceedings because his fees are not paid in advance, but the judge or court to whom a petition is made may require the petitioner to give security for the payment of costs that may be taxed against him.

CHAPTER 28 - INJUNCTIONS

1-28-101. "Injunction" defined.

An injunction is a command to refrain from a particular act. It may be the final judgment in an action or may be allowed as a provisional remedy, and when so allowed it is by order.

1-28-102. Causes for injunction; granting temporary order.

When it appears by the petition that the plaintiff is entitled to relief consisting of restraining the commission or continuance of some act the commission or continuance of which during the litigation would produce great or irreparable injury to the plaintiff, or when during the litigation it appears that the defendant is doing, threatens to do, or is procuring to be done some act in violation of the plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual, a temporary order may be granted restraining the act. The order may also be granted in any case where it is specially authorized by statute and by municipal ordinance adopted pursuant to W.S. 15-1-103(a) (xlvi).

1-28-103. When and by whom granted.

The injunction may be granted at the time of commencing the action, or at any time before judgment, by the district court or a judge thereof, or in the absence from the county of the judge, by the court commissioner of the county, when it appears by affidavit of the plaintiff or his agent that the plaintiff is entitled thereto. When an injunction has been vacated during the pendency of the action in the district court, and an appeal is taken to the supreme court from the judgment or final order after trial in the district court, an injunction may be granted at any time before judgment or final order in the supreme court by a judge of the supreme court, when it appears to the court or judge by affidavit of the party or his agent that the party is entitled thereto. Upon like proof, an injunction may also be allowed by the supreme or district court or by a judge of either as a temporary remedy, during the pendency of a case on error or appeal.

1-28-104. Order of injunction and notice.

The order of injunction shall be addressed to the party enjoined and shall state the injunction. When the injunction is allowed at the commencement of the action, the clerk shall endorse upon the summons "injunction allowed", and it is not necessary to issue the order of injunction; nor is it necessary to issue the order when notice of the application has been given to the party enjoined. Service of the summons so endorsed or the notice of the application for an injunction is notice of its allowance.

1-28-105. Injunction operative from time of notice.

An injunction shall bind the party from the time he has notice and the bond required is executed.

1-28-106. When second application for injunction denied.

No injunction shall be granted by a judge after a motion therefor has been overruled by his court on the merits of the application. When it has been refused by the court in which the action is brought, or a judge thereof, it shall not be granted to the same applicant by a court of inferior jurisdiction, or any judge thereof.

1-28-107. Enforcement of injunction; penalties.

An injunction or restraining order granted by a judge may be enforced as the act of the court, and disobedience may be punished by the court as a contempt. An attachment may be issued against the disobedient party upon satisfactory showing by affidavit of the breach of the injunction or restraining order. The disobedient party may be required by the court or judge to pay a fine not exceeding two hundred dollars (\$200.00), to make immediate restitution to the party injured and to give further security to obey the injunction or restraining order. In default thereof, he may be committed to custody until he complies with the requirements or is otherwise legally discharged. Fines collected under this section shall be paid to the state treasurer and credited as provided in W.S. 8-1-109.

1-28-108. Additional security may be required.

At any time before judgment, upon reasonable notice to the party who obtained the injunction, a party enjoined may move the court or judge for additional security. If it appears that the surety has removed from the state or is insufficient, the court may vacate the injunction unless in a reasonable time sufficient security is given.

1-28-109. Affidavits used on hearing.

On the hearing of an application for an injunction, each party may read affidavits, and all affidavits shall be filed.

1-28-110. Motion to vacate or modify injunction.

When an injunction has been granted a party may, before trial, apply to the court in which the action is pending, or a judge

thereof, or to the supreme court or a judge thereof, to vacate or modify the same. The party applying for vacation or modification shall give the adverse party reasonable notice of the time and place for hearing the motion. The application may be made upon the petition and affidavits upon which the injunction was granted, or upon affidavits of the party enjoined, with or without answer.

1-28-111. Evidence on hearing of motion.

When the application is made upon affidavits of the defendant but not otherwise, the plaintiff may oppose the same by affidavits or other evidence in addition to the evidence on which the injunction was granted.

CHAPTER 29 - LIBEL AND SLANDER

1-29-101. Radio and television stations; liability generally.

The owner, licensee or operator of a visual or sound broadcasting station or network of stations, and the agents or employees of the owner, licensee or operator are not liable for damages for any defamatory statement published or uttered in a visual or sound broadcast by one other than the owner, licensee, or operator, or agent or employee thereof, unless the complaining party proves that the owner, licensee, operator, agent or employee failed to exercise due care to prevent the publication or utterance of such statement in the broadcast.

1-29-102. Radio and television stations; liability for statements made by political candidates.

An owner, licensee or operator or the agents or employees of any owner, licensee or operator of a visual or sound broadcasting station is not liable for any damages for any defamatory statement uttered over the facilities of the station by any candidate for public office.

1-29-103. Limitation as to damages.

In an action for damages for any defamatory statement published or uttered in or as a part of a visual or sound broadcast, the complaining party shall be allowed only the actual damages he has alleged and proved.

1-29-104. Publication of proceedings of governing bodies deemed privileged; exception.

The publication of a fair and impartial report of the proceedings before state or municipal legislative bodies, or before state or municipal executive bodies, boards or officers, or the whole or a fair synopsis of any document presented, filed or issued in any proceeding before a legislative or executive body, board or officer, is privileged unless it is proved that the publication was made maliciously.

1-29-105. Publication of criminal and civil proceedings deemed privileged; exceptions.

The publication of a fair and impartial report of any indictment, the issuing of any warrant, the arrest of any person accused of crime, or the filing of any pleading or other document in any criminal or civil cause in any court, or of the contents thereof, is privileged unless it is proved that the same was published maliciously or that the defendant has refused or neglected to publish in the same manner in which the publication complained of appeared a reasonable written explanation or contradiction thereof by the plaintiff, or that the publisher has refused upon plaintiff's request to publish the subsequent determination of the suit or action.

1-29-106. Publication of indecent matter prohibited.

Nothing in W.S. 1-29-104 or 1-29-105 shall authorize the publication of blasphemous or indecent matter.

CHAPTER 30 - MANDAMUS

1-30-101. "Mandamus" defined.

Mandamus is a writ issued in the name of the state to an inferior tribunal, a corporation, board or person commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station.

1-30-102. By what courts issued; cannot control judicial discretion.

The writ can only be issued by the supreme court or the district court. It may require an inferior tribunal to exercise its judgment or to proceed to discharge any of its functions but it cannot control judicial discretion.

1-30-103. Application for writ; notice to defendant.

The application for a writ must be by petition, in the name of the state, on the relation of the party applying and verified by affidavit. The court may require notice of the application to be given to the defendant, may grant an order to show cause why it should not be allowed, or may allow the writ without notice.

1-30-104. Writ not to be issued if adequate remedy at law; party beneficially interested.

The writ must not be issued when there is an adequate remedy at law. It may issue on the information of the party beneficially interested.

1-30-105. Writ to be peremptory if right is clear; alternative writ to issue in other cases.

When the right to require the performance of the act is clear and it is apparent that no valid excuse can be given for not performing it, a court may allow a peremptory mandamus. In all other cases an alternative writ must first be issued on the allowance of the court, or a judge thereof.

1-30-106. Docket entry of allowance of writ.

The allowance of a peremptory writ ordering the defendant to do the act required immediately upon service, or an alternative writ ordering that he do the act or show cause before the court at a specified time and place why he does not do the act, shall be entered upon the docket.

1-30-107. Issuance and service of writ.

The writ shall be issued by the clerk of the court in which the application is made and shall contain a copy of the petition, verification and order of allowance. A copy shall be served upon the defendant personally, by the sheriff of the proper county or by a person specially authorized by the court or judge. The officer or person shall report his proceedings to the court, and if the service is made by a person not an officer, the return must be verified by his affidavit.

1-30-108. Defendant may answer.

On the return day of an alternative writ or such other day as the court may allow, the defendant may answer as in a civil action.

1-30-109. Judgment on default.

If no answer is made, a peremptory mandamus shall be allowed against the defendant.

1-30-110. Effect and construction of pleadings.

The pleadings shall have the same effect and be construed and amended as in civil actions.

1-30-111. Issues of fact; trial.

Issues of fact made by the pleadings shall be tried and further proceedings had thereon the same as in civil actions.

1-30-112. Judgment for plaintiff; damages.

If judgment is for the relator, he may recover damages as ascertained by the court, a jury or by a referee or master as in a civil action, plus costs. A peremptory mandamus shall also be granted to him without delay.

1-30-113. Recovery a bar to other actions.

A recovery of damages against a defendant shall bar any other action upon that cause of action.

1-30-114. Costs against relator.

If judgment is given for the defendant, all costs shall be adjudged against the relator.

1-30-115. Penalty for failure to comply with mandamus.

When a peremptory mandamus is directed to a public officer, body or board commanding the performance of a public duty specially enjoined by law, and the court finds that the officer or any member of a body or board has, without just excuse, refused or neglected to perform the duty enjoined, the court may impose a fine not exceeding five hundred dollars (\$500.00) on the officer or member. Payment of the fine shall bar an action for any penalty incurred by the officer or member by reason of his refusal or neglect.

1-30-116. County treasurer to levy and assess tax upon mandamus.

When a peremptory mandamus is issued against the commissioners of a county, the trustees of a school district or the officers of a municipal corporation to levy and assess a tax to pay interest upon a debt or to create a sinking fund for the payment of a funded debt, and the officers have resigned, or refuse or neglect to levy and assess the tax, or their offices are vacant, upon motion of an interested person, the court may issue a special order to the county treasurer of the proper county commanding him to levy and assess the taxes required by law and to place the same upon the tax list for collection by the county treasurer.

1-30-117. County treasurer to levy and assess tax upon mandamus; duties and fees of treasurer.

When a special order is issued to the county treasurer he is responsible for its execution in the same manner as if he were an officer of the court. He shall receive such fees for his services in executing the order, if not otherwise fixed by the court, as are allowed by law for making tax duplicates. The fees and all other costs of the proceedings shall be added to the taxes levied in executing the order, and placed upon the duplicate for collection with the taxes.

1-30-118. County treasurer to levy and assess tax upon mandamus; powers of court.

The provisions of W.S. 1-30-116 and 1-30-117 shall not be construed to limit the power of the court to carry its order and judgment into execution or to punish any officer named therein for contempt or disobedience of its orders or writs.

CHAPTER 31 - QUO WARRANTO

1-31-101. Actions against persons.

(a) A civil action may be brought in the name of the state:

(i) Against a person who usurps, intrudes into or unlawfully holds or exercises a public office, civil or military, or a franchise within this state or an office in a corporation created by authority of this state;

(ii) Against a public officer, civil or military, who does or suffers an act which by law works a forfeiture of his office;

(iii) Against an association of persons who act as a corporation within this state without being legally incorporated or who fail to comply with the corporation laws of the state.

1-31-102. Actions against corporations.

(a) A like action may be brought against a corporation:

(i) When it has violated the law governing its creation or renewal;

(ii) When it has forfeited its privileges and franchises by nonuse;

(iii) When it has committed or omitted an act which amounts to a surrender of its corporate rights, privileges and franchises;

(iv) When it has misused a franchise or privilege conferred upon it by law or exercised a franchise or privilege not so conferred.

1-31-103. Commencement of action.

The attorney general or a county attorney shall commence an action when directed by the governor, supreme court or legislature, or when upon complaint or otherwise he has good reason to believe that such an action can be established by proof.

1-31-104. Upon whose relation action brought; security for costs.

(a) The prosecuting officer may bring the action upon his own relation or, by leave of court, he may bring the action upon the relation of another person. If the action is brought pursuant to W.S. 1-31-101(a) (i), the court may require security for costs as in other cases.

(b) Upon application for leave to file a petition upon the relation of another person, the court may direct notice thereof to be given to the defendant previous to granting such leave and

may hear the defendant in opposition thereto; and if leave is granted an entry thereof shall be made on the journal or the fact shall be endorsed by the judge on the petition, which shall then be filed.

1-31-105. Action by person claiming public office; security for costs.

A person claiming to be entitled to a public office unlawfully held and exercised by another may bring an action therefor upon giving security for costs.

1-31-106. Appointment of attorney when county attorney disabled.

When the office of county attorney is vacant or when the county attorney is absent, interested in the action or disabled from any cause, the court may direct or permit any member of the bar to act in his place to bring and prosecute the action.

1-31-107. Petition in action for usurpation of office.

When the action is against a person for usurping an office, the petition shall set forth the name of the person who claims to be entitled thereto with an averment of his right thereto.

1-31-108. All claimants may be made defendants.

All persons who claim to be entitled to the same office or franchise may be made defendants in the same action.

1-31-109. Place of bringing action.

An action under W.S. 1-31-101 through 1-31-130 can be brought in the supreme court, or in the district court of the county in which the defendant or one (1) of the defendants, resides or is found or, when the defendant is a corporation, in the county in which it is situated or has a place of business.

1-31-110. Issuance and service of summons.

When the petition is filed a summons shall issue and be served as in other cases.

1-31-111. Service by publication.

When a summons is returned not served because the defendant or its officers or office cannot be found within the county, service by publication may be had as provided by the Wyoming Rules of Civil Procedure.

1-31-112. Judgment in case of usurpation.

When a defendant is found guilty of usurping, intruding into or unlawfully holding or exercising an office, franchise or privilege, judgment shall be rendered ousting the defendant and allowing the relator to recover his costs.

1-31-113. Judgment ousting trustee or director of corporation.

When the action is against a trustee or director of a corporation and the court finds that at his election either illegal votes were received or legal votes were rejected sufficient to change the result, judgment may be rendered ousting the defendant and in favor of the person who is entitled to be declared elected at the election.

1-31-114. Judgment ousting trustee or director of corporation; order for new election of trustee; service.

In a case named in W.S. 1-31-113 the court may order a new election to be held at a time and place and by judges appointed by the court. Notice of the election, naming the judges, shall be given for the time and in the manner provided by law for notice of elections of directors or trustees of the corporation. The order of the court is obligatory upon the corporation and its officers when a duly certified copy thereof is served upon its secretary personally or left at its principal office with someone of suitable age, and the court may enforce its order by contempt or otherwise.

1-31-115. Rights of persons adjudged entitled to office; generally; to take oath and execute bond; taking over office; demanding books and papers.

If judgment is rendered in favor of the person claiming to be entitled to an office, he may, after taking the oath of office and executing any official bond required by law, assume the execution of the office. He shall immediately demand of the defendant all books and papers in his custody or within his power pertaining to the office from which he has been ousted.

1-31-116. Rights of persons adjudged entitled to office; action for damages against person ousted; limitation on time of action.

The successful claimant may at any time within one (1) year after the date of the judgment, bring an action against the party ousted and recover the damages he sustained by reason of the usurpation.

1-31-117. Rights of persons adjudged entitled to office; person refusing to deliver books or papers deemed guilty of contempt; penalty.

If the defendant refuses or neglects to deliver any book or paper pursuant to demand, he is guilty of contempt of court and shall be fined not exceeding ten thousand dollars (\$10,000.00), and imprisoned in the county jail until he complies with the order of the court or is otherwise discharged by law.

1-31-118. Judgment against corporations; corporation to be ousted and dissolved.

When it is found that a corporation has, by an act done or omitted, surrendered or forfeited its corporate rights, privileges and franchises or has not used the same for five (5) years, judgment shall be entered that it be ousted and excluded therefrom, and that it be dissolved. When it is found and adjudged that a corporation has offended in any matter or manner which does not work a surrender or forfeiture, or has misused a franchise or exercised a power not conferred by law, judgment shall be entered that it be ousted from the continuance of the offense or exercise of the power.

1-31-119. Judgment against corporations; appointment of trustees when corporation dissolved; bond required; powers generally.

The court rendering a judgment dissolving a corporation shall appoint trustees of the creditors and stockholders of the corporation who, after giving a bond payable to the state of Wyoming in a sum and with sureties as the court may designate, conditioned that they will faithfully discharge their trust and properly pay and apply all money that may come into their hands, shall have power to settle the affairs of the corporation, collect and pay outstanding debts and divide among the stockholders the money and other property which remains after the payment of debts and necessary expenses.

1-31-120. Judgment against corporations; duties and powers of trustees.

The trustees shall promptly demand all money, property, books, deeds, notes, bills, obligations and papers of every description within the custody or control of the officers of the corporation, which belong to the corporation or are in any way necessary for the settlement of its affairs or for the discharge of its debts and liabilities. They may sue for and recover the demands and property of the corporation, and are jointly and severally liable to the creditors and stockholders to the extent of its property and effects which come into their hands.

1-31-121. Judgment against corporations; penalty for failure to deliver items to trustees; enforcement of delivery; liability to trustees.

An officer of a corporation who refuses or neglects to deliver any money or other thing pursuant to such demand is guilty of contempt of court and shall be fined not exceeding ten thousand dollars (\$10,000.00) and imprisoned in the county jail until he complies with the order of the court or is otherwise discharged by law. He is liable to the trustees for the value of all money or other things refused or neglected to be surrendered, together with all damages that are sustained by the stockholders and creditors of the corporation in consequence of the neglect or refusal.

1-31-122. Judgment for costs.

If judgment is rendered against a corporation or against a person claiming to be a corporation, the court may render judgment for costs against the directors, trustees or other officers of the corporation, or against the person claiming to be a corporation.

1-31-123. Order directing transfer of books and papers; enforcement by fine or imprisonment.

In all actions under W.S. 1-31-101 through 1-31-130, when the judgment is against the defendant, the court may make an order directing the defendant promptly to deliver the books, papers, property, money, deeds, notes, bills and obligations to the persons entitled thereto or the trustees appointed to receive them. If complaint is made upon affidavit to the district court of a neglect or refusal to comply with the order, the court

shall direct an attachment returnable immediately to issue for the defendant, who may be required to answer under oath touching the premises. If it appears that the defendant neglects or refuses, the court shall render judgment of fine or imprisonment, or both, as the court making the order might have rendered.

1-31-124. Injunction in aid of proceedings against banking associations.

Any stockholder or stockholders, owning not less than one-fourth (1/4) of the paid in capital stock of any banking association, or entitled to the beneficial interest therein, may have an injunction pending proceedings in quo warranto, restraining the directors or trustees from making any disposition of the assets of the corporation prejudicial to the interests of the stockholders or inconsistent with their duties as directors or trustees.

1-31-125. Injunction in aid of proceedings against banking associations; security required of bank directors.

The court may, upon satisfactory proof that the directors or trustees of a corporation have violated or are about to violate any of the franchises thereof, require them to give security to the stockholders satisfactory to the court for the proper discharge of their duties, and for the proper management and security of the assets. The court may enjoin the directors or trustees from paying out or issuing the notes of circulation of the bank and from incurring any additional liabilities, except for the payment of the necessary services of the officers and employees of the banking association, the amount of which while the proceedings are pending shall be under the control of the court.

1-31-126. Injunction against aid of proceedings against banking associations; directors may be enjoined from borrowing money.

The court may enjoin the directors or trustees from borrowing or issuing, either directly or indirectly, any of the money or assets of the bank for their individual benefit while the proceedings are pending.

1-31-127. Limitation upon time of bringing action against corporations or officer.

Nothing in W.S. 1-31-101 through 1-31-130 shall authorize an action against a corporation for forfeiture of charter unless commenced within five (5) years after the act complained of was committed. An action may not be brought against a corporation for the exercise of a power or franchise under its charter which it has exercised for a term of twenty (20) years, nor may an action be brought against an officer to oust him from his office unless within three (3) years after the cause of the ouster or the right to hold the office arose.

1-31-128. Actions against officers of ousted corporations; limitation upon time.

When judgment of forfeiture and ouster is rendered against a corporation because of misconduct of the officers, trustees or directors, a person injured thereby may within one (1) year, in an action against the officers or directors, recover damages sustained by reason of the misconduct.

1-31-129. Provisions to be cumulative.

Nothing in W.S. 1-31-101 through 1-31-130 is intended to restrain any court from enforcing the performance of trusts for charitable purposes at the relation of the county attorney of the proper county, or from enforcing trusts or restraining abuses in other corporations at the suit of a person injured.

1-31-130. Precedence of actions; speedy trial.

Actions for quo warranto shall have precedence in any court over any civil business pending therein. If the matter is of public concern, on the motion of the attorney general or prosecuting attorney, the court shall require as speedy a trial of the merits of the case as may be consistent with the rights of the parties.

CHAPTER 32 - REAL PROPERTY

ARTICLE 1 - PARTITION

1-32-101. Who compelled to make partition.

Tenants in common and coparceners of any estate of lands, tenements or hereditaments within the state may be compelled to make a partition thereof as hereinafter prescribed.

1-32-102. Where proceedings to be had.

When the estate is situated in one (1) county the proceedings shall be had in that county, and when situated in two (2) or more counties the proceedings may be had in any county in which a part of the estate is situated.

1-32-103. Filing and contents of petition.

A person entitled to partition of an estate may file his petition in the district court setting forth the nature of his title, a description of the lands, tenements or hereditaments of which partition is demanded, and naming each tenant in common, coparcener or other interested person as defendant. If the petition seeks a division of property which division would otherwise be subject to the provisions of title 18, chapter 5, article 3 of the Wyoming statutes, the petition shall disclose that fact.

1-32-104. Finding of court; order for partition; appointment of commissioners; ordering writ of execution to issue.

If the court finds that the plaintiff has a legal right to any part of the estate, it shall order partition in favor of the plaintiff or all parties in interest, appoint three (3) disinterested persons of the vicinity to be commissioners to make the partition and order a writ of execution to issue. A partition under this article shall be subject to the provisions of title 18, chapter 5, article 3 of the Wyoming statutes including any exemptions provided therein and as authorized by the county pursuant to those provisions. The court shall order the partition only after compliance by the petitioner with those provisions, as applicable.

1-32-105. Writ of partition directed to sheriff; contents; administering oath to commissioners.

The writ of partition may be directed to the sheriff of any county in which any part of the estate lies, and shall command him to administer the oaths of the commissioners, and setoff and divide to the plaintiff or each party in interest such part and proportion of the estate as the court shall order.

1-32-106. View and examination of estate by commissioners; setting aside under oath.

In making the partition, the commissioners must examine the estate and set apart the same in such lots as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts.

1-32-107. Partition of several tracts.

When partition of more than one (1) tract is demanded, the commissioners shall set off to each plaintiff or party in interest his proper proportion in each of the several tracts unless the several tracts are owned by the same proprietors in the same proportion in each tract, in which case the whole share of any proprietor in all the several tracts may be set off to the proprietor according to the best discretion of the commissioners.

1-32-108. Amicable partition.

Before a writ of partition is issued, the person of whom partition is demanded may appear in court in person or by attorney and consent to a partition of the estate according to the facts and prayer set forth in the petition. This amicable partition, when made and recorded, is valid and binding between the parties thereto.

1-32-109. Appraisement required where estate cannot be divided according to writ; return by commissioners; election to take at appraised value.

When the commissioners are of the opinion that the estate cannot be divided according to the demand of the writ without manifest injury to its value, they shall return that fact to the court with a just valuation of the estate. If the court approves the return and one (1) or more of the parties elects to take the estate at such appraised value, it shall be adjudged to him upon his paying to the other parties their proportion of the appraised value according to their respective rights, or securing the same as hereinafter provided.

1-32-110. Terms of payment upon election to take; execution of conveyance.

If one (1) or more of the parties elects to take the estate at the appraised value, unless the court for good cause directs the entire payment to be made in cash, or unless all the parties in interest agree to different terms, the terms of payment shall be one-third (1/3) cash, one-third (1/3) in one (1) year and

one-third (1/3) in two (2) years, with interest, the deferred payments to be secured to the satisfaction of the court. On payment in full or in part with sufficient security for the remainder, the sheriff shall make and execute a conveyance to the party electing to take the same according to the order of the court.

1-32-111. Order for sale of estate in absence of election to take.

If no election to take the estate at the appraised value is made, at the instance of a party the court may order the sale thereof at public auction by the sheriff who executed the writ of partition or his successor.

1-32-112. Conduct and terms of sale.

All such sales shall be made at the courthouse unless the court for good cause directs it to be made on the premises. The sale shall be conducted in all respects as a sale upon execution except that it is not necessary to appraise the estate. The estate shall not be sold for less than two-thirds (2/3) of its appraised value as returned by the commissioners. Unless the court directs for good cause the entire payment to be made in cash, the purchase money is payable one-third (1/3) on the day of sale, one-third (1/3) in one (1) year and one-third (1/3) in two (2) years, with interest.

1-32-113. Return by sheriff of proceedings of sale; confirmation by court; execution of deed of conveyance.

On the return by the sheriff of his proceedings the court shall examine the same. If a sale has been made and the court approves the sale, on receiving payment of the consideration money or taking sufficient security therefor to the satisfaction of the court, the sheriff shall execute and deliver a deed to the purchaser.

1-32-114. Distribution of proceeds of sale or election to take; liability of sheriff and his sureties.

The money or securities arising from a sale of or an election to take the estate shall be distributed and paid by order of the court to the parties entitled thereto, in lieu of their respective parts and proportions of the estate and according to their just rights therein. All receipts of money or securities by the sheriff shall be in his official capacity, and his

sureties on his official bond are liable for any misapplication thereof.

1-32-115. Alias writ for sale; reappraisement by disinterested persons; sale with or without revaluation.

When the estate has been once offered and not sold, an alias writ for the sale thereof may be issued as often as need be. The court may order a reappraisement by three (3) disinterested persons of the vicinity appointed by the court, and direct a sale of the estate at not less than two-thirds (2/3) of such appraised value, or if the court deem it for the interest of the parties, may order a sale without such reappraisement at not less than a sum it may fix.

1-32-116. Succeeding officer may make deed.

When a conveyance is not made by the officer who made the sale, the court being satisfied that the sale or election was regularly made and the purchase money has been fully paid or secured, may order the sheriff of the county or officer performing his duties to execute and deliver to the purchaser or person electing to take the property a deed for the lands sold or taken.

1-32-117. Guardian may act for ward.

The guardian of a minor or other person under legal disability may on behalf of his ward do and perform any act respecting the partition of an estate which the minor or other person under legal disability could do. He may elect, on behalf of the ward, to take the estate when the same cannot be divided without injury, and make payments therefor on behalf of the ward.

1-32-118. Powers of foreign guardian.

A person appointed according to the laws of any other state or country to take charge of the estate of a person under legal disability not a resident of this state, upon being duly authorized in this state to take charge of the estate situate in this state, may act in the partition of the estate to the same extent that the guardian of a person under legal disability is authorized to act by W.S. 1-32-117.

1-32-119. Actions by 1 tenant in common or coparcener against another.

One (1) tenant in common or coparcener may recover from another his share of rents and profits received by the tenant in common or coparcener from the estate. One (1) parcener may maintain an action of waste against another, but no parcener shall possess any privileges over another in any election, division, partition or matter to be made or done concerning lands which have descended.

1-32-120. Partition of property of religious corporations.

When two (2) or more religious denominations or other societies or associations have united in a corporation and as a corporation acquire title to real estate in this state, and subsequently agree to separate and form two (2) or more separate corporations, either corporation after the separate organization may file its petition for partition of property so acquired and held.

1-32-121. Partition of property of religious societies.

When two (2) or more religious societies or congregations have acquired in common land upon which to erect a house of public worship, buildings for church or school purposes, or for a cemetery, and either desires to abandon the joint use of the property, it may commence an action for the partition of the common property except the cemetery, which may continue to be used in common.

1-32-122. Costs and expenses to be equitably taxed.

The court shall tax the costs and expenses which accrue in the action including reasonable attorney's fees for plaintiff's attorney or any other attorney rendering service in the case for the common benefit of all the parties.

ARTICLE 2 - QUIETING TITLE, EJECTMENT, RIGHTS OF OCCUPYING
CLAIMANTS

1-32-201. Action to quiet title.

An action may be brought by a person in possession of real property against any person who claims an estate or interest therein adverse to him, for the purpose of determining the adverse estate or interest. The person bringing the action may hold possession himself or by his tenant.

1-32-202. Petition in actions to recover realty; sufficiency.

In an action to recover real property it is sufficient if the plaintiff's petition states that he has a legal estate in and is entitled to possession of the real property, describing the same with sufficient certainty as to enable an officer holding an execution to identify it, and that the defendant unlawfully keeps him out of possession. It is not necessary to state how the plaintiff's estate or ownership is derived.

1-32-203. Petition in action to recover realty; answer.

It is sufficient if the defendant's answer denies generally the title alleged in the petition or that he withholds the possession, but if he denies the title of the plaintiff, possession by the defendant shall be taken as admitted. When he does not defend for the whole premises, the answer shall describe the particular part for which defense is made.

1-32-204. Petition in action against cotenant.

If the action is by a tenant in common against a cotenant, the plaintiff must state that the defendant either denied the plaintiff's right or did some act amounting to such denial.

1-32-205. Recovery when right terminates during action.

In an action for the recovery of real property when the plaintiff shows a right to recover at the time the action was commenced but his right has terminated during the pendency of the action, the verdict and judgment must be according to the fact and the plaintiff may recover for withholding the property.

1-32-206. Benefit of occupying claimant law.

Parties in an action for the recovery of real property may avail themselves of the statutes for the relief of occupying claimants of land.

1-32-207. Conditions under which occupying claimant to be paid for improvements.

(a) A person in quiet possession of land or tenement who claims to own the land and who has obtained title to and is in possession of the land without fraud or collusion on his part, shall not be evicted or turned out of possession by any person

who proves an adverse and better title until the occupying claimant or his heirs are fully paid the value of all lasting and valuable improvements made on the land by him or by the person under whom he holds, previous to receiving actual notice by the commencement of suit on the adverse claim under which eviction may be effected, unless the occupying claimant refuses to pay to the person proving an adverse and better title the value of the land, without improvements made thereon, upon demand of the successful claimant or his heirs as hereinafter provided:

(i) If the occupying claimant holds a plain and connected title in law or equity, derived from the records of a public office;

(ii) If he holds the same by deed, devise, descent, contract, bond or agreement from and under a person claiming title as aforesaid, derived from the records of a public office, or by deed duly authenticated and recorded;

(iii) If he holds under sale on execution against a person claiming title as aforesaid, derived from the records of a public office, or by deed duly authenticated and recorded;

(iv) If he holds under a sale for taxes authorized by the laws of this state; or

(v) If he holds under a sale and conveyance made by executors, administrators or guardians or by any other person in pursuance of an order of court where lands are or have been directed to be sold.

1-32-208. Conditions under which occupying claimant to be paid for improvements; tax title sufficient to protect occupant.

(a) The title by which the successful claimant succeeds against the occupying claimant in all cases of lands sold for taxes by virtue of any law of this state shall be considered an adverse and better title, under the provisions of W.S. 1-32-207, whether it is the title under which taxes were due and for which the land was sold, or any other title or claim.

(b) The occupying claimant holding possession of land sold for taxes, having the deed of a collector of taxes or county treasurer therefor or a certificate of the sale from a collector of taxes or a county treasurer, or claiming under the person who holds the deed or certificate shall be considered as having

sufficient title to the land to demand the value of improvements as provided by law.

1-32-209. Entry of claim against occupying claimant; subsequent procedure.

At the request of either party, the court rendering judgment against the occupying claimant shall cause a docket entry thereof to be made, and the cause shall then proceed as do other civil actions.

1-32-210. Question of fact to be tried by jury upon request; view of premises; findings; trial by court without jury.

(a) An occupying claimant desiring a jury trial shall have five (5) days and the opposite party ten (10) days after the rendering of the judgment as provided in W.S. 1-32-209 to demand a jury and deposit a jury fee as in civil actions. If no jury is demanded the case shall be tried by the court.

(b) For the trial of the question of fact a jury, if demanded, shall view the premises in question. From the view and the testimony, the jury shall find in their verdict:

(i) The reasonable value of the permanent and valuable improvements made on the land previous to the occupying claimant's receipt of actual notice of the adverse claim of the plaintiff;

(ii) The damages, if any, the land has sustained by waste, including the value of the timber or other valuable material removed or destroyed; and

(iii) The net annual value of the rents and profits of the land accruing after the occupying claimant received notice of claim by service of summons.

(c) The jury shall find the value of the land at the time judgment was rendered with the improvements thereon and its value without the improvements or damages sustained by waste and return their verdict in open court.

1-32-211. Setting aside verdict and judgment.

The verdict of the jury or judgment of the court are subject to the same rules for setting aside verdicts and judgments as provided in any other civil action.

1-32-212. Judgment on report of jury in favor of plaintiff in ejectment.

If the jury reports a sum in favor of the plaintiff in ejectment on the assessment and valuation of the valuable improvements, the assessment of damages for waste and the net annual value of the rents and profits, the court shall render judgment therefor and issue execution thereon. If no such excess be reported the plaintiff in ejectment is barred from having or maintaining an action for mesne profits.

1-32-213. Proceedings if report of jury is for occupying claimant.

If the jury reports a sum in favor of the occupying claimant on the assessment and valuation of the valuable improvements, deducting therefrom any damages sustained by waste and the net annual value of the rents and profits which the occupying claimant has received after the commencement of the action, the successful claimant or his heirs may either demand of the occupying claimant the value of the land without the improvements so assessed and tender a deed of the land to the occupying claimant, or may pay the occupying claimant the sum allowed by the jury in his favor, within such reasonable time as the court shall allow.

1-32-214. Writ of possession to issue on payment for improvements.

If the successful claimant, his heirs or their guardians elect to pay to the occupying claimant the sum reported in his favor by the jury, a writ of possession shall issue in favor of the successful claimant, his heirs or their guardians.

1-32-215. Writ of possession to issue if deed tendered and payment refused.

If the successful claimant, his heirs or their guardians elect to receive the value of the land without improvements, assessed to be paid by the occupying claimant, and tender a general warranty deed conveying their adverse or better title within the time allowed by the court for the payment of money, and the occupying claimant refuses or neglects to pay the successful

claimant, his heirs or their guardians within the time limited, a writ of possession shall issue in favor of the successful claimant, his heirs or their guardians.

1-32-216. Occupying claimant and heirs not to be evicted except as provided in W.S. 1-32-214 and 1-32-215; right to bring action for title.

The occupying claimant or his heirs shall not be evicted from possession of the land except as provided in W.S. 1-32-214 and 1-32-215 where application is made for the value of improvements. When an election is made by the successful claimant, his heirs or their guardians to surrender lands under the provisions of W.S. 1-32-207 through 1-32-216 the occupying claimant or his heirs may, at any time after payment is made, bring an action in the court where judgment of eviction was obtained, and obtain judgment for the title of the land if it has not been previously conveyed to the occupant.

ARTICLE 3 - SALE OR LEASE OF CERTAIN INTERESTS

1-32-301. Authorization to sell qualified fee.

In an action by the owner of any qualified or conditional fee or any other qualified, conditional or determinable interest, or by a person claiming under such owner, or by the trustees or beneficiaries of an estate held in trust, the district courts may authorize the sale of any estate, whether created by will, deed, contract or descent, when satisfied that a sale would be for the benefit of the person holding the first and present estate, interest or use and do no substantial injury to the heirs in tail or others in expectancy, succession, reversion or remainder.

1-32-302. Requisites of petition; parties.

The petition shall contain a description of the estate to be sold, a clear statement of the interest of the plaintiff, and a copy of the will, deed or other instrument of writing by which the estate is created. All persons in being who are interested in the estate or who may by the terms of the will, deed or other instrument creating the estate become interested as heir, reversioner or otherwise, shall be made parties to the petition. If the name or residence of any person who ought to be made a party is unknown to the plaintiff, the fact shall be verified by the affidavit of the plaintiff and the sale may be ordered notwithstanding such names and residences are unknown.

1-32-303. Hearing of petition; order for and effect of sale.

Upon hearing the petition if it is shown a sale of the estate would be for the benefit of the tenant in tail or for life, and do no substantial injury to the heirs in tail or others in expectancy, succession, reversion or remainder, the court shall direct a sale of the estate to be made and the manner thereof, and shall appoint some suitable person to make the sale. The sale shall vest the estate sold in the purchaser, freed from the entailment, limitation or condition.

1-32-304. Sale by consent of parties; right of guardians to assent in place of wards.

All parties in interest may appear voluntarily and consent in writing to the sale. Testamentary guardians and guardians appointed by the court may consent in place of their wards.

1-32-305. Report of sale to court; confirmation; conveyance of premises upon payment of purchase money.

All sales shall be reported to the court authorizing them. If on examination it appears that the sale was fairly conducted and the price obtained is the reasonable value of the estate sold, the court shall confirm the sale and direct a deed of conveyance be made to the purchaser on payment of the purchase money, or on securing the payment thereof in a manner approved by the court.

1-32-306. Proceeds to descend like estate sold.

For purposes of descent, succession, reversion or remainder, all monies arising from the sale have the same character and are governed by the same principles as the estate sold, and pass according to the terms of the deed, will or other instrument creating the estate.

1-32-307. Investment of proceeds of sale; reinvestment in other real estate; descent; appointment of trustees to make investments; security required of trustees.

(a) Money arising from the sales shall be invested, under the direction and supervision of the court, in the certificates of the funded debt of this state or of the United States, or in bonds secured by mortgage on unencumbered real estate situated in the proper county of double the value of the money secured

thereby, exclusive of buildings and other improvements and of timber, mines and minerals. The court may order the money to be reinvested in other real estate within this state under such restrictions as it may prescribe, which investments shall be reported to the court and subject to its approval and confirmation.

(b) For purposes of descent, succession, reversion or remainder the real estate in which the money is reinvested shall have the same character and be governed by the same principles as the estate sold, and shall pass according to the terms of the deed, will or other instrument creating the estate sold.

(c) The court shall appoint competent trustees to invest and manage the money who from time to time shall report to the court their proceedings and the condition of the fund. The court shall require of the trustees security for the faithful discharge of their duty and may from time to time require additional security, remove the trustees for cause or reasonable apprehension thereof and may accept the resignation of a trustee and fill a vacancy by a new appointment.

1-32-308. Use of income; taxes and expenses.

The net income accruing from sales shall be paid to the person who would be entitled to the use or income of the estate, were the same unsold. All taxes and the expenses of investment and management of the fund shall be paid by the person entitled to the income thereof.

1-32-309. Right to lease estate for term of years; rents and profits.

Upon like proceedings the court may direct that the estate be leased for a term of years, renewable or otherwise, as may appear most beneficial and equitable. The rents and profits shall be paid to the person who might otherwise be entitled to the use and occupancy of the estate or the income thereof.

1-32-310. Sale of property given or purchased for religious use; generally.

When any real estate except burial grounds of a cemetery has been donated, bequeathed or otherwise entrusted to or purchased by any person or trustee for any public religious use but not to or for use of any particular religious denomination, or when the same has been donated, bequeathed, entrusted to or purchased by

a particular religious denomination and has been abandoned for such use, the district court of the county in which the real estate is located, upon good cause shown upon the petition of any citizen of the vicinity, may make an order for the sale of the property whether the same has been built upon or otherwise improved or not, and may make the order as to costs and disposition of the proceeds of the sale of the religious or other public use as shall be just, proper and equitable. The purchaser shall be invested with as full and complete a title thereto as the character of the original grant for the religious use will allow.

1-32-311. Sale of property given or purchased for religious use; necessary parties to proceeding.

All persons who have a vested, contingent or reversionary interest in the real estate and the trustees or other officers of any religious society then using the same shall be made parties to the petition and be notified of the filing and pendency thereof as in a civil action.

ARTICLE 4 - SPECIFIC PERFORMANCE; ACTIONS FOR
PURCHASE MONEY

1-32-401. Completion of contract by survivors.

When two (2) or more persons who own an interest in land become bound in writing for its sale and conveyance and one (1) of them dies before the land is conveyed, the survivor may by petition against the purchaser and the heirs or devisees of the deceased party, be authorized to complete the contract.

1-32-402. Requisites of petition; copy of contract to be annexed.

The petition must set forth the names of the contracting parties, describe the lands contracted for, state the time the contract was made, that the contract has been fully performed by the purchaser and have annexed a copy of the contract.

1-32-403. Findings of court; order authorizing completion of contract; requirements and effect of deed.

If the court finds the allegations of the petition to be true, it may order the survivors to complete the contract by conveying the land. The deed shall recite the order and shall convey as

complete and perfect a title and have the same effect as if executed by all the owners.

1-32-404. Heirs and devisees may ask completion.

The heirs at law or devisees of a person who purchased an interest in land by written contract and died before conveyance thereof to him, may compel conveyance as the deceased might have done.

1-32-405. Recoupment of vendee in action for purchase money.

(a) In actions for the recovery of purchase money for real estate by vendor against vendee, the vendee may, notwithstanding his continued possession, set up by way of counterclaim, any breach of the covenants of title acquired by him from the vendor and make any person claiming an adverse estate or interest therein party to the action. Upon the hearing the vendee may recoup against the vendor's demand the present worth of any existing lien or encumbrance thereon.

(b) If the adverse estate or interest is an estate in reversion or remainder or contingent upon a future event, the court may:

(i) Order the vendee with his assent to surrender possession to his vendor upon the repayment of so much of the purchase money as has been paid, with interest; or

(ii) Direct the payment of the purchase money claimed in the action, upon the vendor giving bond in double the amount thereof with two (2) or more sureties approved by the court, conditioned for the repayment of the same with interest if the vendee or his privies are subsequently evicted by reason of the defect.

CHAPTER 33 - RECEIVERS

1-33-101. Cases in which receiver appointed.

(a) A receiver may be appointed by the district court in the following actions or cases:

(i) By a vendor to vacate a fraudulent purchase of property;

(ii) By a creditor to subject any property or fund to his claim;

(iii) By a partner or other person jointly owning or interested in any property or fund, whose right to or interest in the property or fund or the proceeds thereof is probable and where it is shown that the property or fund is in danger of being lost, removed or materially injured;

(iv) By a mortgagee for the foreclosure of his mortgage and sale of mortgaged property where it appears that the mortgaged property is in danger of being lost, removed or materially injured, or that a condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt;

(v) After judgment to carry the judgment into effect;

(vi) After judgment to dispose of the property according to the judgment or preserve it during the pendency of an appeal, or when an execution has been returned unsatisfied and the judgment debtor refuses to apply the property in satisfaction of the judgment;

(vii) When a corporation has been dissolved or is insolvent or in imminent danger of insolvency or has forfeited its corporate rights; and

(viii) In all other cases where receivers have been appointed by courts of equity.

1-33-102. Persons ineligible as receiver; exceptions.

No person interested in an action shall be appointed receiver or be a representative of the receiver except by consent of the parties.

1-33-103. Oath and bond of receiver.

Before he enters upon his duties the receiver must be sworn to perform faithfully and give surety approved by the court, or by the clerk upon order of the court, in such sum as the court shall direct not to exceed double the amount of any property involved, conditioned that he will faithfully discharge the duties of receiver and obey the orders of the court.

1-33-104. Powers of receiver.

The receiver under control of the court, may bring and defend actions in his own name as receiver, take and keep possession of the property, receive rents, collect, compound for and compromise demands, make transfers and generally do acts respecting the property as the court may authorize.

1-33-105. Investment of funds by receiver.

Funds in the hands of a receiver may be invested upon interest by order of the court with the consent of all parties to the action.

1-33-106. Disposition of trust property during litigation.

When a party admits he has in his possession or under his control any money or other thing capable of delivery which is the subject of the litigation, held by him as trustee for another party or which belongs or is due to another party, the court may order the same to be deposited in court or delivered to the other party with or without security, subject to further direction of the court.

1-33-107. Enforcement of orders of court.

When a court orders the deposit or delivery of money or other thing and the order is disobeyed, the court, besides punishing the disobedience as for contempt, may order the sheriff to take the money or thing and deposit or deliver it in conformity with the direction of the court.

1-33-108. Publication of notice of appointment of receiver; requiring claims to be presented.

Within thirty (30) days after a receiver is appointed and qualified if the court so orders, the receiver shall publish for three (3) weeks in a newspaper of the county in which he is appointed a notice that he is appointed receiver, stating the date of the appointment and requiring all persons having claims against the person, company, corporation or partnership for which the receiver is appointed to exhibit their claims to the receiver within the four (4) months from the date of the first publication of the notice, and if the claims are not exhibited within the four (4) months they are forever barred from participation in the assets of the receivership.

1-33-109. Publication of notice of appointment of receiver; proof of publication; procedure when claimant out of state.

After the notice is given as required, a copy with an affidavit of publication must be filed in the office of the clerk of court and the court shall enter a decree that notice to creditors has been duly given and that all claims not exhibited as required by law are barred. When it appears by affidavit to the satisfaction of the court that a claimant had no notice by reason of being out of the state, the claim may upon order of the court be presented at any time before a decree of final settlement of the receivership is entered.

1-33-110. Time for bringing suit against receiver.

When a properly filed claim is rejected by the receiver, or if allowed by the receiver is rejected by the court, the holder of the claim must bring suit against the receiver within four (4) months after the date upon which he is given notice of the rejection, otherwise the claim is forever barred.

CHAPTER 34 - REPLEVIN

1-34-101. Repealed by Laws 1987, ch. 198, § 3.

1-34-102. Repealed by Laws 1987, ch. 198, § 3.

1-34-103. Repealed by Laws 1987, ch. 198, § 3.

1-34-104. Repealed by Laws 1987, ch. 198, § 3.

1-34-105. Repealed by Laws 1987, ch. 198, § 3.

1-34-106. Repealed by Laws 1987, ch. 198, § 3.

1-34-107. Repealed by Laws 1987, ch. 198, § 3.

1-34-108. Repealed by Laws 1987, ch. 198, § 3.

1-34-109. Repealed by Laws 1987, ch. 198, § 3.

1-34-110. Repealed by Laws 1987, ch. 198, § 3.

1-34-111. Repealed by Laws 1987, ch. 198, § 3.

1-34-112. Repealed by Laws 1987, ch. 198, § 3.

1-34-113. Repealed by Laws 1987, ch. 198, § 3.

1-34-114. Repealed by Laws 1987, ch. 198, § 3.

1-34-115. Repealed by Laws 1987, ch. 198, § 3.

1-34-116. Repealed by Laws 1987, ch. 198, § 3.

1-34-117. Repealed by Laws 1987, ch. 198, § 3.

1-34-118. Repealed by Laws 1987, ch. 198, § 3.

CHAPTER 35 - STATE, STATE AGENCIES AND POLITICAL SUBDIVISIONS;
ACTIONS BY OR AGAINST

1-35-101. Actions against state agencies deemed actions against state; jurisdiction.

Any action permitted by law which is brought against the state loan and investment board, board of land commissioners, public service commission of Wyoming, state board of equalization of Wyoming or the trustees of the University of Wyoming is an action against the state of Wyoming and no action shall be brought against any of such boards, commissions or trustees except in the courts of the state of Wyoming, and no action shall be maintained against any of such boards, commissions or trustees in any other jurisdiction.

1-35-102. Repealed by Laws 1979, ch. 157, § 3.

1-35-103. Violation of state contracts to be reported to attorney general; investigation; action to recover damages; employment of special assistants.

(a) Any officer, board or commission of the state of Wyoming, or their legal counsel, responsible for the enforcement of any contract between the state of Wyoming and any person, having reason to believe that there has been a violation of the terms of the contract to the damage of the state of Wyoming, shall report the matter to the attorney general of the state of Wyoming. The attorney general shall make such investigation of the matter as is necessary. Upon completion of the investigation and finding of probable damages to the state of Wyoming, the attorney general may bring suit in any court of competent jurisdiction to recover all damages that the state of Wyoming may have incurred by reason of the breach of contract, or for

any money or other property that may be due on the contract. Subject to the governor's approval he may employ specially qualified assistants or counsel to aid in any investigation of such action.

(b) A contract with the state of Wyoming includes any contract, lease or instrument in writing entered into by any board, officer or commission of the state of Wyoming for the benefit of the state whether the contract is made in the name of the state of Wyoming or in the name of the officer, board or commission.

1-35-104. Actions under control of attorney general; settlement or compromise with approval of governor.

The attorney general shall control all investigations and actions instituted and conducted in behalf of the state as provided in W.S. 1-35-103 and has full discretionary powers to prosecute all investigations and litigation and, with the approval of the governor, to settle, compromise or dismiss the actions.

1-35-105. Compensation of assistants and court costs to be paid from sums recovered; limitation on amount.

Any contract of employment providing for reimbursement of court costs incurred in connection with or fees to be paid for the specially qualified assistants and counsel whose services may be employed shall provide that such fees and costs shall only be paid from moneys recovered by the state as the result of any investigations, litigation or compromise in connection with which the services are rendered. The total obligation created by the employment for reimbursement of court costs and payment of fees for services rendered in each particular investigation or litigation shall not exceed one-half (1/2) of the amount recovered in the proceedings.

1-35-106. Disposition of sums recovered; appropriation for costs and fees.

All moneys collected by virtue of W.S. 1-35-103 through 1-35-106 shall be paid into the state treasury of the state of Wyoming, and there is hereby appropriated out of any monies so recovered a sum not exceeding one-half (1/2) of the amount recovered to pay the costs and fees for the special assistants, to be paid by the warrant drawn on the state treasury.

1-35-107. Actions by state or instrumentality, county, municipality or school district; judgment and enforcement.

The state of Wyoming or any department or instrumentality thereof, county, incorporated city or town and school district therein is authorized to bring an action in any court having jurisdiction to recover any money due it upon any contract or other liability or obligation. In any such action the court shall enter judgment for the amount found to be due the state of Wyoming or any of the above entities, and any such judgment may be enforced by levy upon execution or by any other process provided by law.

1-35-108. Deposit of security by state, municipality or agency.

The state of Wyoming, a county, city or town, or any departments or agencies thereof or any party acting for or on behalf of any such department or agency in his official capacity shall not be required to deposit security for damages, fees or costs in any civil, criminal or special proceeding instituted or pending in any court or special tribunal in the state unless expressly required so to do by the rule, statute or ordinance generally providing for deposit of security for such purposes.

1-35-109. Legislature and legislators as party to actions; properly naming party.

(a) In any action challenging any official act of the legislature as a whole and naming the legislature or any member thereof as a party, the proper party shall be "The Legislature of the State of Wyoming." In any such action challenging an official act of either body of the legislature or a committee of the legislature the proper party shall be the appropriate body or committee of "the Legislature of the State of Wyoming".

(b) In any action challenging any official act of a member of the state legislature, the legislator shall be designated only by the legislative office held unless the action seeks relief from actions of the legislator other than actions taken in his official capacity.

(c) Any individual named in an action in which the proper party is the legislature or a body of the legislature or who has otherwise been improperly named has the substantive right to petition the court to have his name removed from the action.

(d) Nothing in this section shall be interpreted to require naming the legislature as a party when the claim or cause of action arises from the enforcement or operation of any law.

CHAPTER 36 - ARBITRATION

1-36-101. Short title.

W.S. 1-36-101 through 1-36-119 may be cited as the Uniform Arbitration Act.

1-36-102. "Court" defined; jurisdiction.

"Court" means the district court having jurisdiction of the parties. An agreement providing for arbitration in this state may be enforced by the court in the county where the parties to the controversy reside or may be personally served.

1-36-103. Written agreement to submit controversy to arbitration valid.

A written agreement to submit any existing or future controversy to arbitration is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of the contract. This includes arbitration agreements between employers and employees or between their respective representatives unless otherwise provided in the agreement.

1-36-104. Duty of court on application of party to arbitrate.

(a) On application of a party showing an arbitration agreement and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration. If the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to determine the issue raised and shall order or deny arbitration accordingly.

(b) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications to compel arbitration, the application shall be made therein. Otherwise the application shall be made in the court of proper venue.

(c) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an

application therefor has been made or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(d) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or because any fault or grounds for the claim sought to be arbitrated have not been shown.

1-36-105. When court to appoint arbitrators.

If the arbitration agreement provides a method of appointment of arbitrators this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator fails or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one (1) or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

1-36-106. Powers of arbitrators.

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by law.

1-36-107. Notice and hearing.

(a) The arbitrators shall appoint a time and place for the hearing and serve the parties with notice either personally or by registered mail not less than five (5) days before the hearing. Appearance at the hearing waives the notice. The arbitrators may adjourn the hearing from time to time as necessary, and on request of a party or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award, unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(b) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If during the course of the hearing an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy.

1-36-108. Right to be represented by attorney; effect of waiver.

A party may be represented by an attorney at any arbitration proceeding or hearing. A waiver of representation prior to the proceeding is ineffective.

1-36-109. Authority of arbitrators to issue subpoenas and administer oaths; service of subpoenas; depositions; compelling person to testify; witness fees.

(a) The arbitrators may issue subpoenas for the attendance of witnesses, for the production of books, records, documents and other evidence and may administer oaths. Subpoenas issued shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing, in the manner designated by the arbitrators.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) The same fees for attendance as a witness shall be paid as for a witness in the district court.

1-36-110. Award of arbitrators.

(a) The award shall be in writing and signed by the arbitrators joining in the decision. A copy shall be delivered to each party personally, or by registered mail or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement, or if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A

party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

1-36-111. Modification of award.

(a) On application of a party or an order of the court, the arbitrators may modify the award:

(i) When there was an evident miscalculation of figures or description of a person or property referred to in the award;

(ii) When the award is imperfect as to form not affecting the merits of the controversy; or

(iii) For the purpose of clarifying the award.

(b) The application shall be made within twenty (20) days after delivery of the award to the applicant. Written notice shall be given promptly to the opposing party, stating he must serve his objections within ten (10) days from receipt of the notice. The award as modified is subject to the provisions of W.S. 1-36-113, 1-36-114 and 1-36-115.

1-36-112. Expenses and fees for arbitrators.

The arbitrators' expenses, fees and other costs, not including counsel fees, incurred in the arbitration shall be paid as provided in the award, unless otherwise provided in the arbitration agreement.

1-36-113. Confirmation of award by court.

Upon application of a party the court shall confirm the award unless within the time limits allowed grounds are urged for vacating or modifying the award.

1-36-114. When court to vacate award.

(a) Upon application of a party the court shall vacate an award where:

(i) The award was procured by corruption, fraud or other undue means;

(ii) There was evident partiality by an arbitrator appointed as a neutral, corruption of any of the arbitrators or misconduct prejudicing the rights of any party;

(iii) The arbitrators exceeded their powers;

(iv) The arbitrators refused to postpone the hearing upon sufficient cause being shown, refused to hear evidence material to the controversy or otherwise conducted the hearing as to prejudice substantially the rights of a party; or

(v) There was no arbitration agreement, the issue was not adversely determined by a court as provided by law and the applicant did not participate in the arbitration hearing without raising the objection. The fact that the relief was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

(b) An application for vacating an award shall be made within ninety (90) days after delivery of a copy of the award to the applicant, or if predicated upon corruption, fraud or other undue means it shall be made within ninety (90) days after the grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in paragraph (a)(v) of this section the court may order a rehearing before new arbitrators chosen as provided in the agreement or by the court in accordance with W.S. 1-36-105. If the award is vacated on grounds set forth in paragraph (a)(iii) or (iv) of this section the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with W.S. 1-36-105. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

1-36-115. When court to modify or correct award.

(a) Upon application made within ninety (90) days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(i) There was an evident miscalculation of figures or an evident mistake in the description of any person or property referred to in the award;

(ii) The arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(iii) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award as to intent and shall confirm the award as so modified and corrected. Otherwise the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

1-36-116. Judgment upon granting order confirming, modifying or correcting award; costs and disbursements.

Upon the granting of an order confirming, modifying or correcting an award, the judgment shall conform and be enforced as any other judgment. Costs of the application, proceedings and disbursements may be awarded by the court.

1-36-117. Application to court to be by motion; notice and hearing to be in manner provided by law.

An application to the court for relief shall be by motion and shall be heard in the manner provided by law or rule of court. Notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action unless otherwise specified by the parties.

1-36-118. Venue upon initial and subsequent applications.

An initial application shall be made to the court of the county in which the agreement provides the arbitration hearing shall be held. Otherwise the application shall be made in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this state, to the court of the county where the adverse party can be served.

All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

1-36-119. Appeals.

(a) An appeal may be taken from:

(i) An order denying the application to compel arbitration;

(ii) An order granting an application to stay arbitration;

(iii) An order confirming or denying confirmation of an award;

(iv) An order modifying or correcting an award;

(v) An order vacating an award without directing a rehearing; or

(vi) A final judgment or decree entered by the court.

(b) The appeal shall be taken in the manner of a civil action.

CHAPTER 37 - DECLARATORY JUDGMENTS

1-37-101. Short title.

"This act" means W.S. 1-37-101 through 1-37-115 and may be cited as the Uniform Declaratory Judgments Act.

1-37-102. Scope and general consideration.

Courts of record within their respective jurisdictions may declare rights, status and other legal relations whether or not further relief is or could be claimed. No proceeding is open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the effect of a final judgment.

1-37-103. Right of interested party to have determination made.

Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by the Wyoming constitution or by a statute, municipal ordinance, contract or franchise, may have any question of construction or validity arising under the instrument determined and obtain a declaration of rights, status or other legal relations.

1-37-104. Contract may be construed at any time.

A contract may be construed either before or after there has been a breach thereof.

1-37-105. Fiduciary's rights to be construed.

(a) Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or beneficiary of a trust, in the administration of a trust, or of the estate of a decedent, a minor or person under legal disability, may have a declaration of rights or other legal relations in respect thereto:

(i) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others;

(ii) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(iii) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

1-37-106. Adjudication of water rights.

(a) The state of Wyoming upon the relation of the attorney general may institute an action to have determined in a general adjudication the nature, extent, and relative priority of the water rights of all persons in any river system and all other sources, provided:

(i) For the purposes of this section:

(A) The term "general adjudication" shall mean the judicial determination or establishment of the extent and priority of the rights to use water of all persons on any river

system and all other sources within the state of Wyoming. The court conducting such a general adjudication shall:

(I) Certify to the state board of control those legal and factual issues which the court deems appropriate for the board to determine. Upon such certification, the board shall exercise those powers and follow those procedures set forth in Rule 53 of the Wyoming Rules of Civil Procedure;

(II) Confirm those rights evidenced by previous court decrees, or by certificates of appropriation, or by certificates of construction heretofore issued by the Wyoming state board of control;

(III) Determine the status of all uncanceled permits to acquire the right to the use of the water of the state of Wyoming and adjudicate all perfected rights thereunder not theretofore adjudicated under W.S. 41-4-511;

(IV) Determine the extent and priority date of and adjudicate any interest in or right to use the water of the river system and all other sources not otherwise represented by the aforescribed decrees, certificates, or permits;

(V) Establish, in whatever form determined to be most appropriate by the court, one or more tabulations or lists of all water rights and their relative priorities on the river system and all other sources.

(B) The word "person" shall be construed to mean an individual, a partnership, a corporation, a municipality, the state of Wyoming, the United States of America, or any other legal entity, public or private.

(ii) When the potential defendants number one thousand (1,000) or more, personal service of a summons and complaint shall not be required and (A) the court shall order that the clerk obtain service on known potential defendants by mailing a court-approved notice of the action by certified mail, return receipt requested, and (B) the court shall order that the clerk obtain service on all unknown parties by publication of said notice for four (4) consecutive weeks in a newspaper published in each of the counties within which interests in and rights to the use of water may be affected by the adjudication. If there is no newspaper in one (1) or more of said counties, then publication for such counties shall be in one (1) or more newspapers published in the state, and of general circulation

within said counties. If publication is in a daily newspaper, one (1) insertion a week shall be sufficient;

(iii) The complaint for such a general adjudication shall be captioned: "In re the General Adjudication of All Rights to Use Water in the River System and All Other Sources, State of Wyoming";

(iv) When the water rights to be determined are located in more than one (1) county, the general adjudication may be brought in any of the counties.

1-37-107. Enumeration not exclusive.

The enumeration in W.S. 1-37-103 through 1-37-106 does not limit or restrict the exercise of the general powers conferred in W.S. 1-37-102 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

1-37-108. Discretionary power retained by court.

The court may refuse to render a declaratory judgment where the judgment would not terminate the uncertainty or controversy giving rise to the proceeding.

1-37-109. Review.

Final orders and judgments entered in declaratory judgment proceedings may be reviewed as in other civil actions.

1-37-110. Supplemental relief.

Further relief based on a declaratory judgment may be granted. Application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application is sufficient the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment to show cause why further relief should not be granted.

1-37-111. Determination of issues of fact.

When a declaratory judgment proceeding involves the determination of an issue of fact, the issue may be tried and determined as in other civil actions.

1-37-112. Costs.

The court may award costs in any proceeding as seem equitable and just.

1-37-113. Parties generally; proceedings involving validity of ordinance or franchise.

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, the municipality shall be made a party and may be heard. If the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general of the state shall be served with a copy of the proceeding and may be heard.

1-37-114. Construction of chapter.

The Uniform Declaratory Judgments Act is remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to legal relations, and is to be liberally construed and administered.

1-37-115. Provisions severable.

The provisions of the Uniform Declaratory Judgments Act are independent and severable. The invalidity of one (1) provision shall not affect or render the remainder of the act invalid.

CHAPTER 38 - WRONGFUL DEATH

1-38-101. Actions for wrongful death which survive; proceedings against executor or administrator of person liable.

Whenever the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action to recover damages if death had not ensued, the person who would have been liable if death had not ensued is liable in an action for damages, even though the death was caused under circumstances as amount in law to murder in the first or second degree or manslaughter. If the person liable dies, the action may be brought against the executor or administrator of his estate. If he left no estate within the state of Wyoming, the court may appoint an administrator upon application.

1-38-102. Action to be brought by wrongful death representative; recovery exempt from debts; measure and element of damages; limitation of action.

(a) Every wrongful death action under W.S. 1-38-101 shall be brought by and in the name of the decedent's wrongful death representative for the exclusive benefit of beneficiaries who have sustained damage.

(b) If the decedent left a husband, wife, child, father or mother, no debt of the decedent may be satisfied out of the proceeds of any judgment obtained in any action for wrongful death or out of the proceeds of any settlement of a wrongful death claim.

(c) The court or jury, as the case may be, may award such damages, pecuniary and exemplary, as shall be deemed fair and just. Every person for whose benefit an action for wrongful death is brought may prove his respective damages, and the court or jury may award such person that amount of damages to which it considers such person entitled, including damages for loss of probable future companionship, society and comfort.

(d) An action for wrongful death shall be commenced within two (2) years after the death of the decedent. If the decedent's death involved medical malpractice this limitation period shall be tolled as provided in W.S. 9-2-1518 upon receipt by the director of the medical review panel of a malpractice claim.

(e) The court appointing the wrongful death representative may approve a settlement of a wrongful death action or a wrongful death claim and resolve disputes relating to the allocation of settlement proceeds.

1-38-103. Appointment of wrongful death representative.

(a) The wrongful death representative may be appointed by the district court in the county in which:

(i) The decedent resided;

(ii) The decedent died;

(iii) The claim for relief or some part of the claim for relief arose; or

(iv) A defendant resides or may be summoned.

(b) The district court may appoint the wrongful death representative at any time after the decedent's death. The appointment shall be made in a separate action brought solely for appointing the wrongful death representative. In any action in which appointment of the wrongful death representative is sought, any person claiming to qualify under W.S. 1-38-104(a) may intervene as a matter of right. After an action to appoint the wrongful death representative is filed:

(i) No subsequent action for appointment may be maintained; and

(ii) If an action to appoint the wrongful death representative is properly filed, the limitation period under W.S. 1-38-102(d) and any other applicable limitation periods shall be tolled from the time the action is filed until thirty (30) days after an order appointing the wrongful death representative is entered.

(c) The appointment of the wrongful death representative is a procedural device intended to provide a representative to investigate and bring an action under W.S. 1-38-101. Irregularities in the manner or method of appointment are not jurisdictional.

1-38-104. Factors for determining wrongful death representative.

(a) In appointing the wrongful death representative, the court shall determine the person who will best represent the interests of the potential beneficiaries of the action as a whole.

(b) In determining whether the best interests of potential beneficiaries as a whole will be served by appointment of the wrongful death representative, the court shall consider:

(i) The familial or other relationship of the person making application to the decedent;

(ii) The interests of the person making application in relation to the interests of other potential beneficiaries as a whole;

(iii) Actions taken to secure appointment as the wrongful death representative and to protect the interests of all potential beneficiaries;

(iv) Such other factors as the court deems relevant.

(c) No appeal shall be allowed from an order appointing the wrongful death representative. The court, however, may entertain a motion to reconsider an appointment of the wrongful death representative.

1-38-105. Notice.

(a) Within thirty (30) days of the filing of an action to appoint the wrongful death representative, the plaintiff shall cause to be published once a week for three (3) consecutive weeks in a daily or weekly newspaper of general circulation in the county in which the decedent resided at the time of death, a notice that an action to appoint the wrongful death representative has been instituted and that any person claiming to qualify under W.S. 1-38-104(a) may intervene as a matter of right.

(b) Within sixty (60) days after appointment, the wrongful death representative shall file with the court a report listing all reasonably ascertainable beneficiaries. The report shall set forth all reasonable efforts made by the wrongful death representative to notify such beneficiaries of the wrongful death representative's appointment.

(c) Irregularities in the manner or method of giving notice under this section are not jurisdictional.

CHAPTER 39 - GOVERNMENTAL CLAIMS

1-39-101. Short title.

This act shall be known and cited as the "Wyoming Governmental Claims Act".

1-39-102. Purpose.

(a) The Wyoming legislature recognizes the inherently unfair and inequitable results which occur in the strict application of the doctrine of governmental immunity and is cognizant of the Wyoming Supreme Court decision of *Oroz v. Board of County Commissioners* 575 P. 2d 1155 (1978). It is further

recognized that the state and its political subdivisions as trustees of public revenues are constituted to serve the inhabitants of the state of Wyoming and furnish certain services not available through private parties and, in the case of the state, state revenues may only be expended upon legislative appropriation. This act is adopted by the legislature to balance the respective equities between persons injured by governmental actions and the taxpayers of the state of Wyoming whose revenues are utilized by governmental entities on behalf of those taxpayers. This act is intended to retain any common law defenses which a defendant may have by virtue of decisions from this or other jurisdictions.

(b) In the case of the state, this act abolishes all judicially created categories such as "governmental" or "proprietary" functions and "discretionary" or "ministerial" acts previously used by the courts to determine immunity or liability. This act does not impose nor allow the imposition of strict liability for acts of governmental entities or public employees.

1-39-103. Definitions.

(a) As used in this act:

(i) "Governmental entity" means the state, University of Wyoming or any local government;

(ii) "Local government" means cities and towns, counties, school districts, joint powers boards, airport boards, public corporations, community college districts, special districts and their governing bodies, all political subdivisions of the state, and their agencies, instrumentalities and institutions, and governmental entities of another state but only while physically present in the state of Wyoming and while in the course of operating a cooperative public transportation program as defined by W.S. 16-1-104(f);

(iii) "Peace officer" means as defined by W.S. 7-2-101, but does not include those officers defined by W.S. 7-2-101(a) (iv) (K) or those officers defined by W.S. 7-2-101(a) (iv) (M) unless otherwise provided in the applicable mutual aid agreement;

(iv) "Public employee":

(A) Means any officer, employee or servant of a governmental entity, including elected or appointed officials, peace officers and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(B) Does not include an independent contractor, except as provided in subparagraphs (C) and (F) of this paragraph, or a judicial officer exercising the authority vested in him;

(C) Includes contract physicians, physician assistants, nurses, optometrists and dentists in the course of providing contract services for state institutions or county jails;

(D) Includes individuals engaged in search and rescue operations under the coordination of a county sheriff pursuant to W.S. 18-3-609(a) (iii);

(E) Includes any volunteer physician providing medical services under W.S. 9-2-103(a) (i) (C);

(F) Includes contract attorneys in the course of providing contract services for the state public defenders office as provided in W.S. 7-6-103(k) or 14-12-104;

(G) Includes any health care provider, as defined by W.S. 35-31-101(a) (iii), and any individual included in the definition of medical facility in W.S. 35-31-101(a) (v), under a contract with the state to deliver volunteer health care services to low income persons under W.S. 35-31-101 through 35-31-103 while providing the contracted services. Nothing in this subparagraph alters the requirement that any action for damages shall be brought against the state of Wyoming as provided by W.S. 35-31-102(g).

(v) "Scope of duties" means performing any duties which a governmental entity requests, requires or authorizes a public employee to perform regardless of the time and place of performance;

(vi) "State" or "state agency" means the state of Wyoming or any of its branches, agencies, departments, boards, instrumentalities or institutions;

(vii) Repealed by Laws 2017, ch. 41, § 2.

(viii) "Governmental entity of another state" means any state and its political subdivisions, agencies, instrumentalities and institutions and any local government entity within another state;

(ix) "This act" means W.S. 1-39-101 through 1-39-120.

1-39-104. Granting immunity from tort liability; liability on contracts; exceptions.

(a) A governmental entity and its public employees while acting within the scope of duties are granted immunity from liability for any tort except as provided by W.S. 1-39-105 through 1-39-112. Any immunity in actions based on a contract entered into by a governmental entity is waived except to the extent provided by the contract if the contract was within the powers granted to the entity and was properly executed and except as provided in W.S. 1-39-120(b). The claims procedures of W.S. 1-39-113 apply to contractual claims against governmental entities.

(b) When liability is alleged against any public employee, if the governmental entity determines he was acting within the scope of his duty, whether or not alleged to have been committed maliciously or fraudulently, the governmental entity shall provide a defense at its expense.

(c) A governmental entity shall assume and pay a judgment entered under this act against any of its public employees, provided:

(i) The act or omission upon which the claim is based has been determined by a court or jury to be within the public employee's scope of duties;

(ii) The payment for the judgment shall not exceed the limits provided by W.S. 1-39-118; and

(iii) All appropriate appeals from the judgment have been exhausted or the time has expired when appeals may be taken.

(d) A governmental entity shall assume and pay settlements of claims under this act against its public employees in accordance with W.S. 1-39-115, 1-41-106 or 1-42-204.

1-39-105. Liability; operation of motor vehicles, aircraft and watercraft.

A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of any motor vehicle, aircraft or watercraft.

1-39-106. Liability; buildings, recreation areas and public parks.

A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation or maintenance of any building, recreation area or public park.

1-39-107. Liability; airports.

(a) A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of airports.

(b) The liability imposed pursuant to subsection (a) of this section does not include liability for damages due to the existence of any condition arising out of compliance with any federal or state law or regulation governing the use and operation of airports.

1-39-108. Liability; public utilities.

(a) A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of public utilities and services including gas, electricity, water, solid or liquid waste collection or disposal, heating and ground transportation.

(b) The liability imposed pursuant to subsection (a) of this section does not include liability for damages resulting from bodily injury, wrongful death or property damage caused by a failure to provide an adequate supply of gas, water, electricity or services as described in subsection (a) of this section.

1-39-109. Liability; medical facilities.

(a) Except as provided in subsection (b) of this section, a governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of any public hospital or in providing public outpatient health care.

(b) The state of Wyoming is solely liable for damages resulting from, and the sole responsible party for, bodily injury or wrongful death to a patient treated under the provisions of W.S. 35-31-101 through 35-31-103 caused by the negligence of a health care provider or a medical facility while performing health care services pursuant to a contract to deliver volunteer health services under W.S. 35-31-101 through 35-31-103.

1-39-110. Liability; health care providers.

(a) A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of health care providers who are employees of the governmental entity, including contract physicians, physician assistants, nurses, optometrists and dentists who are providing a service for state institutions or county jails, while acting within the scope of their duties.

(b) Notwithstanding W.S. 1-39-118(a), for claims under this section against a physician, physician assistant, nurse, optometrist or dentist who is employed by a governmental entity or who is deemed to be a public employee of the state by virtue of a contract pursuant to W.S. 35-31-101 through 35-31-103, based upon an act, error or omission occurring on or after May 1, 1988, the liability of a governmental entity shall not exceed the sum of one million dollars (\$1,000,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence nor exceed the sum of one million dollars (\$1,000,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

1-39-111. Repealed by Laws 1986, ch. 89, § 3.

1-39-112. Liability; peace officers.

A governmental entity is liable for damages resulting from tortious conduct of peace officers while acting within the scope of their duties.

1-39-113. Claims procedure.

(a) No action shall be brought under this act against a governmental entity unless the claim upon which the action is based is presented to the entity as an itemized statement in writing within two (2) years of the date of the alleged act, error or omission, except that a cause of action may be instituted not more than two (2) years after discovery of the alleged act, error or omission, if the claimant can establish that the alleged act, error or omission was:

(i) Not reasonably discoverable within a two (2) year period; or

(ii) The claimant failed to discover the alleged act, error or omission within the two (2) year period despite the exercise of due diligence.

(b) The claim shall state:

(i) The time, place and circumstances of the alleged loss or injury including the name of the public employee involved, if known;

(ii) The name, address and residence of the claimant and his representative or attorney, if any; and

(iii) The amount of compensation or other relief demanded.

(c) All claims against the state shall be presented to the general services division of the department of administration and information. Claims against any other governmental entity shall be filed at the business office of that entity. In the case of claims against local governments the claim submitted need not be acted upon by the entity prior to suit. For purposes of this section, "business office" means:

(i) The county clerk of a county, including its agencies, instrumentalities and institutions;

(ii) The city or town clerk of a city or town, including its agencies, instrumentalities and institutions;

(iii) The secretary of a joint powers board, airport board, public corporation, community college district board of trustees or special district;

(iv) The superintendent of a school district;

(v) The president of the University of Wyoming.

(d) In any action under this act, the complaint shall state:

(i) That the claim required under subsection (c) of this section was filed in accordance with this section;

(ii) The date the claim under subsection (c) of this section was filed;

(iii) That the claim was in compliance with the signature and certification requirements of article 16, section 7 of the Wyoming Constitution.

(e) In any claim filed with a governmental entity under this act, the claim shall be signed by the claimant under oath in substantially the following format:

I, _____, have read and understand the provisions of the false swearing statute. I hereby certify under penalty of false swearing that the foregoing claim, including all of its attachments, if any, is true and accurate.

Signature of Claimant Date

Printed Name of Claimant

STATE OF WYOMING)

) ss.

COUNTY OF _____)

Subscribed and sworn to before me, a Notarial Officer, this ... day of,

Notarial Officer

My Commission Expires: (Seal).

1-39-114. Statute of limitations.

Except as otherwise provided, actions against a governmental entity or a public employee acting within the scope of his duties for torts occurring after June 30, 1979 which are subject to this act shall be forever barred unless commenced within one (1) year after the date the claim is filed pursuant to W.S. 1-39-113. In the case of a minor seven (7) years of age or younger, actions against a governmental entity or public employee acting within the scope of his duties for torts occurring after June 30, 1979 which are subject to this act are forever barred unless commenced within two (2) years after occurrence or until his eighth birthday, whichever period is greater. In no case shall the statute of limitations provided in this section be longer than any other applicable statute of limitations. In the absence of applicable insurance coverage, if the claim was properly filed, the statute shall be tolled forty-five (45) days after a decision by the entity, if the decision was not made and mailed to the claimant within the statutory time limitation otherwise provided herein.

1-39-115. Settlement of claims.

(a) Upon receipt of a claim against the state which is covered by insurance, the general services division of the department of administration and information shall send the claim to the insurance company insuring the risk involved for investigation, adjustment, settlement and payment.

(b) A claim shall be settled only if the damage claimed was caused by such negligence on the part of the state or its public employees as might entitle the claimant to a judgment.

(c) Any person whose claim is rejected or who is unsatisfied with the settlement offered may commence an action in the appropriate court.

(d) Claims under this act which are not covered by insurance may be settled as provided by W.S. 1-41-106 or 1-42-204.

1-39-116. Exclusiveness of remedy.

(a) The remedy against a governmental entity as provided by this act is exclusive, and no other claim, civil action or proceeding for damages, by reason of the same transaction or occurrence which was the subject matter of the original claim, civil action or proceeding may be brought against the governmental entity. No rights of a governmental entity to contribution, indemnity or subrogation shall be impaired by this section. Nothing in this section prohibits any proceedings for mandamus, prohibition, habeas corpus, injunction or quo warranto.

(b) The judgment in an action or a settlement under this act constitutes a complete bar to any action by the claimant, by reason of the same transaction or occurrence which was the subject matter of the original suit or claim, against the governmental entity or the public employee whose negligence gave rise to the claim.

1-39-117. Jurisdiction; appeals; venue; trial by jury; liability insurance.

(a) Original and exclusive jurisdiction for any claim filed in state court under this act shall be in the district courts of Wyoming. Appeals may be taken as provided by law.

(b) Venue for any claim against the state or its public employees pursuant to this act shall be in the county in which the public employee resides or the cause of action arose or in Laramie county. Venue for all other claims pursuant to this act shall be in the county in which the defendant resides or in which the principal office of the governmental entity is located.

(c) The right to a trial by jury is preserved.

(d) If a governmental entity has elected to purchase liability insurance under this act, the court, in a trial without a jury, may be advised of the insurance.

1-39-118. Maximum liability; insurance authorized.

(a) Except as provided in subsection (b) of this section, in any action under this act, the liability of the governmental

entity, including a public employee while acting within the scope of his duties, shall not exceed:

(i) The sum of two hundred fifty thousand dollars (\$250,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence; or

(ii) The sum of five hundred thousand dollars (\$500,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

(b) A governmental entity is authorized to purchase liability insurance coverage covering any acts or risks including all or any portion of the risks provided under this act. Purchase of liability insurance coverage shall extend the governmental entity's liability as follows:

(i) If a governmental entity has insurance coverage either exceeding the limits of liability as stated in this section or covering liability which is not authorized by this act, the governmental entity's liability is extended to the coverage;

(ii) Notwithstanding paragraph (i) of this subsection, if a governmental entity acquires coverage in an amount greater than the limits specified in this section for the purpose of protecting itself against potential losses under a federal law and if the purpose of the coverage is stated as a part of or by an amendment to the insurance policy, the increased limits shall be applicable only to claims brought under the federal law.

(c) In addition to the procurement of insurance under subsection (b) of this section a local governmental entity may:

(i) Establish a self-insurance fund against the liability of the governmental entity and its officers and employees;

(ii) Join with other governmental entities, by joint powers agreements under W.S. 16-1-102 through 16-1-108, or otherwise, to pool funds and establish a self-insurance fund or jointly purchase insurance coverage. Pooled funds may be deposited with the state treasurer for disbursement as participating governmental entities direct or may be deposited as provided by the terms of the joint powers agreement;

(iii) Repealed by Laws 1981, ch. 142, § 2.

(iv) Pay the judgment or settlement, with interest thereon, in not to exceed ten (10) annual installments in cases of undue hardship and levy not to exceed one (1) mill per year on the assessed value of the governmental entity for such purpose;

(v) Enter into contracts with the general services division of the department of administration and information for the payment of assessments by the local government in such amounts as determined by the division to be sufficient, on an actuarially sound basis, to cover:

(A) The potential liability, or any portion of potential liability, of the local government and its public employees as provided by this act;

(B) Costs of administration;

(C) Payment by the division of claims against the local government and its public employees acting within the scope of their duties which have been settled or reduced to final judgment.

(d) No judgment against a governmental entity shall include an award for exemplary or punitive damages, for interest prior to judgments or for attorney's fees.

(e) Except as hereafter provided, no judgment authorized by this act may be enforced by execution or attachment of property of a governmental entity but shall be paid only as authorized by this section and W.S. 1-39-113. A judgment authorized by this act may be enforced by execution or attachment of the property of a governmental entity to the extent coverage of the liability has not been obtained under subsection (b) or (c) of this section or W.S. 1-39-115 unless the judgment is otherwise satisfied by the governmental entity.

(f) The liability imposed by W.S. 1-39-105 through 1-39-112 may include liability for property damage in an amount less than five hundred dollars (\$500.00) in cases in which no personal injury or death resulted, but only under the following conditions:

(i) A property damage claim may be paid at the discretion of the governmental entity:

(A) In the case of the state, the director of the department of administration and information or an employee designated in writing by the director shall decide whether the claim will be paid;

(B) In the case of a local governmental entity, the local governmental entity shall appoint an official who shall decide whether the claim will be paid.

(ii) The decision of whether the property damage claim will be paid shall be based on finding that:

(A) The act was performed by an employee of the state or the local governmental entity;

(B) The act occurred while the employee was acting within the scope of his employment duties;

(C) The employee acted negligently by breaching a duty or by failing to act like a reasonable person; and

(D) The negligent act proximately caused the property damage at issue.

(iii) Property damage claims against the state shall be paid from the self-insurance account created by W.S. 1-41-103 except that claims against the department of transportation may be paid from nonrestricted highway funds. Property damage claims against a local governmental entity shall be paid only to the extent the local governing body has appropriated monies for that purpose. There is no obligation on the state legislature or the local governing body to make any appropriation for payment of property damage claims;

(iv) If the director of the department of administration and information or the local government official determines there may be insufficient monies to pay all of the claims made during the year, then the director or official may delay paying the claims until close of the year at which time available monies shall be prorated among those entitled to payment at an amount less than one hundred percent (100%);

(v) The decisions of the director of the department of administration and information or of the local government official are final and are not subject to administrative or judicial review.

1-39-119. Application of provisions.

The provisions of this act shall not affect any provision of law, regulation or agreement governing employer-employee relationships.

1-39-120. Exclusions from waiver of immunity.

(a) The liability imposed by W.S. 1-39-106 through 1-39-112 does not include liability for damages caused by:

(i) A defect in the plan or design of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area;

(ii) The failure to construct or reconstruct any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area; or

(iii) The maintenance, including maintenance to compensate for weather conditions, of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area.

(b) Notwithstanding the waiver of immunity for tort liability provided by W.S. 1-39-105 through 1-39-112 or the waiver of immunity in actions based on contract provided by W.S. 1-39-104, a governmental entity and its public employees while acting within the scope of duties are immune from a civil action in tort, contract or otherwise alleging, in whole or in part, the improper seizure of property pursuant to W.S. 35-7-1049.

1-39-121. Repealed by Laws 2017, ch. 41, § 2.

CHAPTER 40 - CRIME VICTIMS COMPENSATION

ARTICLE 1 - IN GENERAL

1-40-101. Short title.

This act is known and may be cited as the "Crime Victims Compensation Act".

1-40-102. Definitions.

(a) As used in this act:

(i) "Account" means the crime victims' compensation account established by W.S. 1-40-114;

(ii) Repealed By Laws 1998, ch. 81, § 3.

(iii) "Criminal act" means an act committed or attempted in this state, including an act of domestic violence, which constitutes a crime as defined by the laws of this state or an act of terrorism, as defined by 18 U.S.C. 2331 committed outside the United States, and which results in actual bodily injury, or actual mental harm, or death to the victim. No act involving the operation of a motor vehicle, boat or aircraft which results in injury or death constitutes a crime for the purpose of this act unless the injury or death was recklessly or intentionally inflicted through the use of the vehicle, boat or aircraft, or unless the act constitutes a violation of W.S. 31-5-233;

(iv) "Dependent" means any relative of the victim who was wholly or partially dependent upon the victim's income at the time of his injury or death and includes the child of the victim born after his death;

(v) "Economic loss" means and includes medical and hospital expenses, loss of earnings, loss of future earnings resulting from the injury, funeral and burial expenses and loss of support to the dependents of the victim to include home maintenance and child care;

(vi) "Medical expense" includes the cost of all medical and dental services, mental health counseling and care, dental and prosthetic devices, eyeglasses or other corrective lenses, and services rendered in accordance with any method of healing recognized by the law of this state;

(vii) "Personal injury" means actual bodily injury or actual mental harm;

(viii) "Relative of the victim" means his spouse, parent, grandparent, stepparent, child including natural born child, stepchild or adopted child, grandchild, brother or sister;

(ix) "Victim" means:

(A) A person who suffers personal injury or is killed in this state as a direct result of:

(I) A criminal act of another person;

(II) The person's good faith and reasonable effort in attempting to prevent the commission of a criminal act, or to apprehend a person engaging in a criminal act or assisting a law enforcement officer to do so;

(III) Assisting or attempting to assist a person against whom a crime is being perpetrated or attempted;

(IV) A federal crime occurring in Wyoming.

(B) A resident who is a victim of a crime occurring outside this state if:

(I) The crime would be compensable had it occurred inside this state; and

(II) The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in W.S. 1-40-101 through 1-40-119.

(C) A resident of this state who is injured or killed by an act of terrorism, as defined by 18 U.S.C. 2331, committed outside the United States;

(D) Family members who are Wyoming residents and who have suffered a pecuniary loss as a result of a terrorist attack in the United States, regardless of the actual victim's residency;

(E) A resident of this state who is a victim of a crime involving terrorism occurring outside this state if:

(I) The crime would be compensable had it occurred within this state; and

(II) The resident of this state suffered a pecuniary loss as a direct result of the act of terrorism committed in another state of the United States.

(x) "Division" means the victim services division within the office of the attorney general, created by W.S. 9-1-636;

(xi) "Catastrophic injury" means any permanent disability of limbs or functions as a result of being a victim of a crime;

(xii) "Clandestine laboratory operation remediation" means a remediation of a clandestine laboratory operation carried out by a law enforcement agency acting as an emergency responder pursuant to W.S. 35-9-152(a)(i).

1-40-103. Repealed By Laws 1998, ch. 81, § 3.

1-40-104. Division powers and duties.

(a) The division shall:

(i) Hear and determine all matters relating to claims for compensation;

(ii) Publish annually a report showing its fiscal transactions for the preceding year, the amount of its accumulated cash and securities and a balance sheet showing its financial condition by means of an actuarial evaluation of commission assets and liabilities;

(iii) Keep a true and accurate record of all its proceedings, which record is open to public inspection at all reasonable hours;

(iv) Promulgate reasonable rules and regulations necessary to carry out the purpose of this act pursuant to the Wyoming Administrative Procedure Act;

(v) Perform any other functions necessary to carry out the purpose of this act;

(vi) Hearings and final decisions on victim's compensations awards conducted by the division shall be exempt from the Wyoming Administrative Procedure Act, including the provisions for judicial review under W.S. 16-3-114 and 16-3-115.

(b) In addition to any other powers specified by law, the division is empowered to:

(i) Request access to any reports of investigations, medical records or other data necessary to assist the division in making a determination of eligibility for compensation under this act. Upon authorization of the attorney general, law

enforcement officials, state agencies and local government units shall provide assistance or information requested by the division;

(ii) Publicize the availability of compensation and information regarding the filing of claims;

(iii) Investigate claims;

(iv) Repealed By Laws 1998, ch. 81, § 3.

(v) Subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence;

(vi) Apply for and accept and administer monies from the federal government, its agencies and all other sources, public and private, for carrying out any of its functions;

(vii) Collect, develop, analyze and maintain statistical information, records and reports as the division determines relevant or necessary to carry out its powers and duties pursuant to this act;

(viii) After exhausting all alternatives available in paragraphs (i), (iii), (v) and (vi) of this subsection, direct and pay for medical examinations of victims as the division determines necessary to verify claims of economic loss due to injury;

(ix) Collect all monies authorized by this act to be collected by the division; and

(x) Pay all compensation or other benefits that are determined to be due under this act and under division rules and regulations.

(c) Repealed By Laws 1998, ch. 81, § 3.

1-40-105. Repealed By Laws 1998, ch. 81, § 3.

1-40-106. Eligibility for compensation.

(a) The victim or his dependent is entitled to compensation under this act if:

(i) The victim suffered personal injury as a result of a criminal act;

(ii) Repealed by Laws 1989, ch. 233, § 2.

(iii) The injury to or death of the victim was not attributable to his own wrongful act;

(iv) The appropriate law enforcement authorities were notified of the criminal act allegedly causing the injury to or death of the victim as soon as practical under the circumstance after perpetration of the offense and the claimant cooperates with appropriate law enforcement authorities with respect to the crime for which compensation is sought;

(v) The application for compensation is filed with the division within one (1) year after the date of the injury to or death of the victim, or within any extension of time the division allows for good cause shown; and

(vi) The owner of real estate has paid all claims for reimbursement pursuant to W.S. 35-9-158(a)(ii).

(b) No victim or dependent shall be denied compensation solely because:

(i) He is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the division may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the division can reasonably determine the offender will receive no economic benefit or unjust enrichment from the compensation;

(ii) He is not a resident of the state.

(c) Any person who perpetrates any criminal act on the person of another or who is convicted of a felony after applying to the division for compensation is not eligible or entitled to receive compensation under this act.

1-40-107. Application for compensation; required information.

(a) The application for compensation shall be on a form furnished by the division, setting forth:

(i) The victim's name and address;

(ii) If the victim is deceased, the claimant's name and address and his relationship to the victim, the names and addresses of the victim's dependents and the extent to which each is dependent;

(iii) The date and nature of the criminal act on which claim for compensation is based;

(iv) The date and place where and the law enforcement officials to whom notification of the criminal act was given;

(v) The nature and extent of the injuries the victim sustained and the names and addresses of those giving medical and hospitalization treatment to the victim;

(vi) The economic loss to the applicant and to all other persons as specified under paragraph (a)(ii) of this section resulting from the injury or death;

(vii) The amount and source of benefits, payments or awards, if any, payable to the applicant and dependents;

(viii) Releases authorizing the surrender to the division of all reports, medical records and other information relating to the claim and crime; and

(ix) Any other information the division reasonably requires.

(b) The division may require that materials substantiating the facts stated in the application be submitted with the application. If the division finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the applicant in writing of the specific additional items or information or materials required and that the applicant has thirty (30) days from the date of the notice in which to furnish those items to the division. The division shall reject the application of an applicant who although notified fails to file the requested information or substantiating materials within the time specified unless he requests, and the division grants, an extension of time in which to furnish that information.

(c) An applicant may file an amended application or additional substantiating materials to correct inadvertent

errors or omissions at any time before the division disposes of the original application. In either case, the filing of additional information or of an amended application shall be considered to have been filed at the same time as the original application.

(d) Information contained in the claim files and records of victims, which are subject to any privilege of confidentiality under Wyoming law, shall remain confidential and shall not be open to public inspection. The information shall be immune from legal process and shall not, without the consent of the person furnishing the information, be admitted as evidence or used for any purpose in any action, suit or other judicial, legislative or administrative proceeding.

1-40-108. Hearing; findings; order.

(a) Hearings shall be held on the application and are open to the public unless the division determines that a closed hearing is necessary because:

(i) The alleged assailant or offender has not been brought to trial and a public hearing would adversely affect either his apprehension or his trial;

(ii) The victim or alleged assailant is a minor;

(iii) An open hearing would cause trauma for the victim;

(iv) A public hearing would frustrate rather than further the interest of justice.

(b) A record shall be kept of the proceedings of hearings held before the division and shall include the division's findings of fact and conclusions of the amount of compensation, if any, to which the applicant and persons dependent on a deceased victim are entitled. No part of the record of any hearing before the division may be used for any purpose in a criminal proceeding except in the prosecution of a person alleged to have perjured himself in his testimony before the division.

(c) At the conclusion of the hearing, the division shall enter an order stating:

(i) Its findings of fact;

(ii) Its decision as to whether or not compensation is due under this act and the amount of compensation due, if any;

(iii) Whether disbursement of the compensation awarded is to be made in a lump sum or in periodic payments; and

(iv) The person or persons to whom the compensation should be paid.

(d) If the division finds, in the case of an application made by a person dependent for his support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it shall also:

(i) Name those persons in its order;

(ii) State the percentage share of the total compensation award and the dollar amount to which each is entitled; and

(iii) Order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his guardian or conservator, as the case may be.

(e) Notwithstanding subsection (a) of this section, the division may promulgate rules providing for an expedited claims process for applications in which eligibility is clear and all information has been verified.

1-40-109. Standards for compensation.

(a) For the purpose of determining the amount of compensation payable pursuant to this act, the division, insofar as practicable, shall formulate standards for uniform application of this act and shall take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States and the availability of funds under this act.

(b) Loss of earnings and loss of future earnings shall be determined on the basis of the victim's average monthly earnings for the six (6) months immediately preceding the date of the injury, or the current federal minimum wage, whichever is less.

(c) Loss of support shall be determined on the basis of the victim's or defendant's average monthly earnings for the six (6) months immediately preceding the date of the injury, or the current federal minimum wage, whichever is less.

(d) Except as provided in subsection (e) of this section, the maximum individual award of compensation paid to any victim or dependent shall not exceed fifteen thousand dollars (\$15,000.00).

(e) In addition to the maximum award authorized in subsection (d) of this section, in the case of catastrophic injury the division may award an additional amount not to exceed ten thousand dollars (\$10,000.00) to the victim to cover future lost wages, special medical needs and any other special assistance needed as a result of the injury. The additional award may be made only for losses and expenses occurring within twenty-four (24) months after the date of the injury.

1-40-110. Compensation award.

(a) If a person is injured or killed by a criminal act, the division may order the payment of compensation in accordance with this act for:

(i) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim, by the victim, his dependent, or any person responsible for the victim's maintenance;

(ii) Loss of earning power as a result of the victim's total or partial incapacity;

(iii) Economic loss to the deceased victim's dependents; and

(iv) Any other loss resulting from the personal injury or death of the victim which the division determines to be reasonable.

(b) In determining whether to award compensation under this act, the division shall consider:

(i) All circumstances surrounding the victim's conduct determined to be relevant which directly contributed to the victim's injury or death;

(ii) Need for financial aid; and

(iii) Any other relevant matters.

(c) The division shall not consider whether the alleged assailant has been apprehended, prosecuted or convicted, nor the result of any criminal proceedings against him.

(d) The crime victims compensation account is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship as a payor of last resort. Payment made in accordance with this section shall be considered payment of last resort that follows all other sources and is provided subsequent to all other benefits. Accordingly, in determining the amount of compensation to be allowed by order, the division shall consider amounts received or receivable from any other source or sources by the victim or his dependents as a result of the incident or offense giving rise to the application. The division shall not deny compensation solely because the applicant is entitled to income from a collateral source.

1-40-111. Emergency awards; limitation.

(a) The division may grant an emergency award prior to the holding of a hearing, if upon application of a person eligible for compensation, the division determines undue hardship will result to the applicant if immediate payment is not made.

(b) The amount of the emergency award shall be dependent on the applicant's immediate and verifiable needs as a result of loss of income or support, for emergency medical treatment, or for funeral and burial expenses. The amount of an emergency award to an applicant shall not exceed one thousand dollars (\$1,000.00).

(c) Any emergency award granted under this section shall be deducted from the final compensation award made to the applicant. The excess of the amount of any emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made shall be repaid to the division by the applicant.

1-40-112. Recovery from offender; restitution.

(a) If an order for the payment of compensation for personal injury or death is made under this act, the state, upon payment of the amount of the order, shall be subrogated to any right of action the victim or dependent of the victim has against the person or persons responsible for the injury or death, and the state may bring an action against the responsible person for the amount of the damages the applicant sustained.

(b) The applicant or other recipient shall give written notice to the division of the making of a claim or demand or the filing of a suit for the damages specified in subsection (a) of this section.

(c) Restitution by an offender under W.S. 7-9-101 through 7-9-115 shall:

(i) To the extent compensation is paid under this act, be paid to the division, deposited in the account and be set off against a judgment in favor of the state in a civil action arising out of the same facts or event;

(ii) Reduce by like amount any compensation subsequently paid under this act arising out of the same facts or event.

(d) Repealed By Laws 1997, ch. 152, § 2.

(e) Repealed By Laws 1997, ch. 152, § 2.

(f) Repealed By Laws 1997, ch. 152, § 2.

(g) Any payment of benefits to, or on behalf of, a victim or other claimant under this act creates a debt due and owing to the state by any person found, in a criminal court proceeding in which he is a party, to have committed the criminal act. Payment of the debt shall be a condition of probation or parole:

(i) In making payment of the debt a condition of probation or parole, the court or state board of parole shall set the schedule or amounts of payments, subject to modification based on change of circumstances;

(ii) If the court or board does not order payment of the debt, or orders only partial payment, it shall state on the record the reasons therefor.

1-40-113. Waivers and releases void; exemption from creditors' claims.

Any agreement by an individual to waive, release or commute his rights under this act is void. Compensation due under this act may not be assigned, pledged, encumbered, released or commuted. Compensation under this act is exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, except that compensation for an allowable expense is not exempt from a claim of a creditor to the extent that creditor provided products, services or accommodations, the costs of which are included in the compensation award.

1-40-114. Crime victims' compensation account.

(a) There is established an account to be known as the crime victims' compensation account. The account is under the administration and control of the division for purposes of providing compensation or other benefits to crime victims and for purposes of implementing this act. The account shall consist of all monies the division receives or collects from any source and all monies shall be paid to the state treasurer for deposit in the account. The division may accept, and shall deposit to the account, any gifts, contributions, donations, grants or federal funds specifically given to the division for the benefit of victims of crime.

(b) The monies within the account may be withdrawn therefrom by vouchers signed by the director of the division or his designee. The division shall keep detailed permanent records of all monies credited to the account and all expenditures and disbursements from the account.

1-40-115. Informing victims of program and application procedure.

Each law enforcement and prosecuting agency, and any victim witness program or family violence advocate funded in whole or in part with state or federal funds, shall exercise reasonable care to insure that victims of crimes are informed of the existence of the state program of compensation for death or injuries sustained by victims of crime and the procedure for applying for compensation under this act.

1-40-116. Fees not chargeable.

No fee shall be charged to the applicant in any proceeding under this act except as provided by this act. If the applicant is represented by counsel in making application under this act or in any further proceedings provided for in this chapter, the counsel shall not receive payment for his services except an amount as the division determines to be reasonable.

1-40-117. Falsifying, destroying or concealment of division records; furnishing false information or failing to disclose; other violations.

(a) Any agent or employee of the division who knowingly makes a false entry or falsely alters any division record, or who intentionally destroys, mutilates, conceals, removes or otherwise impairs the verity or availability of any division record with the knowledge of a lack of authority to do so, or who possesses a division record and refuses to deliver up that record upon proper request of a person lawfully entitled to receive it is guilty of a misdemeanor.

(b) Any violation of this chapter for which a penalty is not otherwise provided is a misdemeanor.

1-40-118. Distribution of monies to crime victim service and victim assistance providers.

(a) In addition to any other powers specified in this act the division shall oversee the distribution of federal and state funds under its control, to eligible crime victim service providers, including funds received under the federal Victims of Crime Act of 1984.

(b) For purposes of this section "crime victim service provider" means any program operated by a public agency or nonprofit organization or any combination thereof which provides comprehensive services to victims of crime, including but not limited to:

(i) Crisis intervention services;

(ii) Informing victims and witnesses of the case status and progress;

(iii) Assistance in participating in criminal justice proceedings;

(iv) Performing advocate duties for crime victims;

(v) Assisting victims in recovering property damaged or stolen and in obtaining restitution or compensation for medical and other expenses incurred as a result of crime;

(vi) Developing community resources to assist victims of crime;

(vii) Assisting victims of crime in the preparation and presentation of claims under the Crime Victims Compensation Act.

(c) In establishing priorities the division shall follow requirements regarding prioritization that are established by the funding authority.

(d) The division shall by rule establish a method for distributing monies to crime victim service providers. The division's rules and regulations shall reflect the following factors in determining the distribution formula: population, needs assessment, regional cost differences and any requirements promulgated by the granting source.

(i) Repealed By Laws 1998, ch. 81, § 3.

(ii) Repealed By Laws 1998, ch. 81, § 3.

(iii) Repealed By Laws 1998, ch. 81, § 3.

(e) In determining whether a victim service provider is eligible to receive grants under subsection (d) of this section, the primary consideration shall be whether the eligibility requirements of the granting source are met, including the provider's agreement to submit an annual unduplicated count of the number of victims it served in accordance with rules and regulations promulgated by the division.

(i) Repealed By Laws 1998, ch. 81, § 3.

(ii) Repealed By Laws 1998, ch. 81, § 3.

(f) Funds distributed under this section shall supplement, not supplant, existing victim or witness programs throughout the state.

(g) To the extent the legislature provides funding for victim assistance providers that serve victims of all crimes, the division of victim services shall:

(i) Distribute the state funding provided for victim assistance providers as follows:

(A) No less than two percent (2%) of the total amount of state funding shall be distributed to each county and the Wind River Indian Reservation for victim assistance providers within the county or within the Wind River Indian Reservation that meet the requirements established by the division of victim services;

(B) Of the remaining state funding under this subsection, amounts shall be distributed to the victim assistance providers within the counties and the Wind River Indian Reservation on a proportional basis according to each county's and the reservation's population. For purposes of the distribution under this subparagraph, the population residing on the Wind River Indian Reservation shall be determined separate from the balance of the population of Fremont county;

(C) If funds have been returned to the division pursuant to unfulfilled contracts under this subsection at the end of the fiscal year, prior to reversion pursuant to W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), a law enforcement agency that has carried out a clandestine laboratory operation remediation may apply for compensation under this subsection for any remediation expenses not otherwise collected pursuant to W.S. 35-9-158(a). The maximum amount payable pursuant to this subsection to a law enforcement agency that has carried out a clandestine laboratory operation remediation shall be the amount set forth in the court approved expense report as provided under W.S. 35-9-158(a) minus amounts collected from other sources pursuant to W.S. 35-9-158(a).

(ii) Require victim assistance providers to:

(A) Provide the services specified under subsection (a) of this section;

(B) Advocate to ensure victims are allowed to exercise their rights under the victims bill of rights established in W.S. 1-40-203;

(C) Submit their long-term strategic plans to the division of victim services for approval.

(iii) Establish minimum program standards and uniform reporting procedures for victim assistance providers that receive state funding under this subsection through rules and regulations adopted in accordance with W.S. 9-1-638(a)(vii).

1-40-119. Surcharge to be assessed in certain criminal cases; paid to account.

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, or is convicted of, the following criminal offenses shall be assessed a surcharge of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) for the offenses specified in paragraph (v) of this subsection, not less than one hundred fifty dollars (\$150.00) nor more than three hundred fifty dollars (\$350.00) for the first plea to or conviction of offenses specified in paragraphs (i) through (iv) of this subsection, and not less than two hundred dollars (\$200.00) nor more than four hundred dollars (\$400.00) for each subsequent plea to or conviction of offenses specified in paragraphs (i) through (iv) of this subsection:

(i) Any crime enumerated in W.S. 6-1-101 through 6-10-203;

(ii) Any violation of W.S. 31-5-225, 31-5-229, 31-5-233 or 41-13-220(a);

(iii) Any violation of W.S. 35-7-1001 through 35-7-1057;

(iv) Any violation of W.S. 6-2-314 through 6-2-318;

(v) Any violation of a municipal ordinance which has substantially similar elements to the criminal offenses specified in paragraphs (ii) through (iv) of this subsection or any other violation of a municipal ordinance which causes actual damage to persons or property.

(b) The surcharge enumerated in subsection (a) of this section shall be imposed upon any defendant for whom prosecution, trial or sentence is deferred under W.S. 7-13-301 and 7-13-302 or who participates in any other diversion agreement.

(c) Under no circumstances shall a court fail to impose the surcharge required by subsections (a) and (b) of this section if the court determines the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

(d) The surcharge shall be paid within ten (10) days of imposition unless the court determines that it shall be paid in installments over a reasonable period of time. Failure to comply with the provisions for payment of the surcharge is punishable as contempt of court. Contempt proceedings or other proceedings to collect the surcharge may be initiated by the prosecuting attorney, by the court on its own motion or by the division.

(e) Monies paid to the court by a defendant shall be applied to the surcharge before being applied to any fine, penalty, cost or assessment imposed upon the defendant. The proceeds from the surcharge imposed by this section shall be remitted promptly by the clerk of the court to the division for deposit in the account.

ARTICLE 2 - VICTIM AND WITNESS BILL OF RIGHTS

1-40-201. Short title.

This act may be cited as the "victims bill of rights".

1-40-202. Definitions.

(a) As used in this act:

(i) "Criminal act" means conduct which would constitute a crime as defined by the laws of this state;

(ii) "Victim" means an individual who has suffered direct or threatened physical, emotional or financial harm as the result of the commission of a criminal act or a family member of a victim who is a minor or an incompetent or a surviving family member of a homicide victim;

(iii) "Witness" means a person who is likely to testify in a criminal proceeding;

(iv) "Key witness" means any witness identified in writing by the prosecution as being entitled to the rights provided by this act;

(v) "This act" means W.S. 1-40-201 through 1-40-210.

1-40-203. Victim and witness bill of rights.

(a) All victims and witnesses of crime shall be treated with compassion, respect and sensitivity.

(b) Crime victims, key witnesses and, upon request, other witnesses shall have the following rights:

(i) To be provided notification and information about events affecting the status of the case. These events shall include, but are not limited to, the following as specified in W.S. 1-40-204:

(A) The general status of the case, provided the release of information does not compromise the investigation or endanger witnesses;

(B) The scheduled hearings and dispositions of the case;

(C) The sentencing phase of the case;

(D) The imprisonment or release of the accused or convicted defendant.

(ii) To be provided information about the right to receive judicially ordered restitution as provided in W.S. 7-9-102;

(iii) To be provided information about their rights, privileges and interests under this act as provided in W.S. 1-40-204;

(iv) To be provided information about compensation available under the Crime Victims Compensation Act as provided in W.S. 1-40-101 through 1-40-119;

(v) To be provided information about services and assistance available to victims and witnesses as provided in W.S. 1-40-204;

(vi) To be provided information about available legal recourse and other measures if subjected to threats or intimidation as provided in W.S. 1-40-205;

(vii) To be provided, at the discretion of the prosecuting attorney or criminal justice personnel, reasonable protection and safety immediately before, during and after criminal justice proceedings;

(viii) To be provided with the names, official telephone numbers and official addresses of the primary law enforcement officer and prosecutor assigned to investigate the case;

(ix) To attend and participate in criminal justice system proceedings as provided in W.S. 1-40-206;

(x) To have the accused brought to trial as provided in W.S. 1-40-207. Nothing in this paragraph shall inhibit the ability of counsel for the state and the defendant from entering into any negotiated disposition of any charge or charges which have been levied against the accused;

(xi) To prompt return of property seized as evidence as provided in W.S. 1-40-208;

(xii) To be protected from discharge or discipline by an employer due to involvement with the criminal justice process as provided in W.S. 1-40-209;

(xiii) To be notified about the defendant's conviction as provided in W.S. 7-21-102(a);

(xiv) To be notified about the victim's opportunity to make a victim impact statement for use in the preparation of a presentence investigation report concerning the defendant as provided in W.S. 7-21-102(a)(iii);

(xv) To be provided with the address and telephone number of each probation office which is to prepare the presentence investigation as provided in W.S. 7-21-102(a)(iv);

(xvi) To be notified that the presentence investigation report and any statement of the victim in the report will be made available to the defendant as provided in W.S. 7-21-102(a)(v);

(xvii) To be notified about the opportunity to make an impact statement at sentencing as provided in W.S. 7-21-102(a); and

(xviii) To be notified of the time and place of the sentencing proceeding and any changes thereof as provided in W.S. 7-21-102(a)(vii).

(c) Courts shall enforce crime victim and witness rights under this act to the extent the recognition of those rights do not conflict with constitutional and statutory rights of the defendant.

1-40-204. Rights of victims and witnesses to be informed during the criminal justice process.

(a) Victims of a criminal act shall be informed without undue delay by law enforcement about:

(i) The rights enumerated in this act;

(ii) The right to be informed of the status of the case from the initial police investigation to the final appellate review;

(iii) The fact that financial assistance or other social service options may be available to the victim;

(iv) The existence of the Crime Victims Compensation Act and that compensation may be available to the victim;

(v) The right to have an interpreter or translator to inform the victim of these rights;

(vi) The name and official telephone number of the primary law enforcement officer assigned to investigate the case together with the official address and telephone number of the criminal justice agency investigating the case;

(vii) The right to seek legal counsel and to employ an attorney.

(b) Victims and key witnesses of a criminal act shall be informed in writing by the prosecuting attorney about:

(i) Subject to order of the court, the right to attend all hearings and proceedings involving the case, including the right to be notified, upon request, of the date, time and place of those hearings;

(ii) The right to be notified in advance, if reasonable, when a court proceeding has been rescheduled or canceled;

(iii) The right to be advised of the potential for plea negotiations and, prior to sentencing, the right to be informed of the existence of a negotiated plea, the essentials of the agreement, and the reasons for the disposition;

(iv) The right to know the accused has obtained a pretrial or presentence release;

(v) The right to discuss the case with the prosecutor, and the official address and official telephone number of the prosecutor;

(vi) The availability of other remedies, including the right to proceed in civil litigation generally and the right to any profits attributable to the offender as a result of publication or media coverage resulting from the crime;

(vii) The fact that the attorneys involved and their investigators are advocates either for the state or for the defendant;

(viii) The right to refuse to talk to attorneys, private investigators, law enforcement, or anyone else unless on the witness stand or under subpoena;

(ix) If known to the prosecutor, the schedule of any post sentence hearings affecting the probation of the offender;

(x) The right to provide an affidavit asserting acts or threats of physical violence by the accused or at the accused's direction against the victim or a relative of the victim, the survivor or designated key witness;

(xi) The right to request notification that the offender has filed a petition for expungement of the records of conviction and advance notice of any hearing or proceeding thereon.

(c) Victims, key witnesses, offices of prosecutors, victim witness coordinators and advocates who have participated in the criminal prosecution shall be offered the opportunity to be informed in writing by the department of corrections about:

(i) The commencement of the offender's imprisonment to serve the sentence imposed and the name, official address and security classification of the place of confinement;

(ii) The earliest date upon which the offender could be released and the date released;

(iii) Any transfer of the offender to another facility including the security classification of that facility;

(iv) Any placement of the offender in a community correctional program;

(v) Any change in location of the offender's parole supervision;

(vi) The escape, recapture or death of an offender;

(vii) Any reduction or extension of the offender's sentence.

(d) Victims, key witnesses, offices of prosecutors, victim witness coordinators and advocates who have participated in the criminal prosecution shall be offered the opportunity to be informed in writing by the board of parole about:

(i) Any decision to grant or modify parole and any conditions imposed;

(ii) Any pending revocation of parole, any associated return to custody, the revocation hearing date and disposition of revocation proceedings;

(iii) Any absconscion from supervision and subsequent apprehension;

(iv) Any rescission of parole;

(v) Discharge from parole.

(e) The governor's office shall ensure that the appropriate government agency shall notify in writing, or in person, victims, key witnesses, prosecutors, victim witness coordinators and advocates who have participated in the criminal prosecution of an application for a pardon or the pending commutation of the offender.

(f) Victims, key witnesses, prosecutors, victim witness coordinators and advocates who have participated in the criminal prosecution who wish to receive notification and information shall provide the appropriate criminal justice agencies with their current address and telephone number. This address will only be used for notification purposes.

(g) Nothing in subsections (c) through (e) of this section shall mean the victim, key witnesses, prosecutors, victim witness coordinators or advocates who have participated in the criminal prosecution shall be given information that could jeopardize the safety or security of any person.

1-40-205. Victims and witnesses of crime; free from intimidation.

(a) A victim or witness has the right to be free from any form of harassment, intimidation or retribution.

(b) When waiting to testify in any proceeding regarding a criminal act, a victim or key witness has the right to be provided, upon request, with a waiting area separate from other witnesses.

(c) When the threat of harassment, intimidation or retribution cannot be avoided, the court shall take appropriate measures to protect the victim or key witness.

(d) Law enforcement officers and prosecuting attorneys shall provide information regarding law enforcement measures available to protect victims and key witnesses.

1-40-206. Victims of crime; present in court.

Unless the court for good cause shown shall find to the contrary, the victim, the victim's designee or both shall have the right to be present at all trial proceedings which may be attended by the defendant.

1-40-207. Victims; timing of trial of accused.

(a) The court shall consider the victim's interest and circumstances when setting any date for trial or in granting or denying continuances.

(b) Nothing in this section shall infringe upon any rights of the accused in a criminal case or inhibit the ability of the

prosecution and defense from entering into any agreement as to trial setting or negotiated disposition of any charge or charges pending against the defendant.

1-40-208. Prompt return of property; photographs in lieu of property.

(a) Victims and witnesses have the right to have any personal property, which is not contraband, promptly returned and any real estate, subject to declaration as uninhabitable under W.S. 35-9-156(d), released to the control of the real estate owner, provided it does not interfere with prosecution, trial or appellate review of the case.

(b) Criminal justice agencies shall work together to expedite the return of property, which is not contraband, when it is no longer needed. Prosecuting attorneys shall promptly notify law enforcement agencies when evidence is no longer needed. The prosecuting attorney shall notify the attorneys for the defendants of the intention to return the property twenty (20) days prior to its return to enable the defendants to seek relief from the court. No notice is required in the absence of a known suspect or defendant unless otherwise ordered by the court. No later than sixty (60) days after the property is taken as evidence, the prosecuting attorney shall make an initial determination whether to expedite the return of property to the victim or witness. The prosecuting attorney in exercising discretion to expedite the return of property shall consider whether:

(i) Photographs of the property would be admissible as evidence in lieu of the property;

(ii) Submitting the photographs into evidence in lieu of the property will substantially prejudice any criminal proceeding;

(iii) The property is required for evidentiary analysis; and

(iv) Ownership of the property is disputed.

(c) The trial court exercising jurisdiction over a criminal proceeding shall, if requested, enter appropriate orders to preserve the property for evidentiary analysis or use, or return the property to the victim or witness as appropriate.

1-40-209. Victims and witnesses have a right to preservation of employment.

(a) A victim or witness who responds to a subpoena from either the prosecution or defense in a criminal case during working hours shall not suffer any change in terms of employment solely because of the act of responding to a subpoena.

(b) A victim or witness, upon request, shall be assisted by law enforcement agencies, the prosecuting attorney or defense attorney in informing an employer that the need for victim or witness cooperation may necessitate the absence of the victim or witness from work.

(c) A victim or witness, who as a direct result of a criminal act or of cooperation with law enforcement agencies, prosecuting attorney or defense attorney, experiences financial hardship, shall be assisted by those agencies, the prosecuting attorney or defense attorney in explaining to employers and creditors the reasons for that financial hardship.

1-40-210. No civil liability created; testimony inadmissible; no relief by appeal.

(a) Nothing in this act shall be construed to create any civil cause of action for monetary damages against any person nor shall it constitute grounds for any claim or motion raised by either the state or defendant in any proceedings.

(b) Testimony or argument regarding the compliance or noncompliance with this act is inadmissible in any criminal trial.

(c) The failure of a victim, designee or any criminal justice agency personnel to exercise or enforce any right granted by the provisions of this act shall not be grounds for relief during proceedings or for any appeal of a conviction by a defendant or grounds for any court to set aside, reverse or remand a criminal conviction.

ARTICLE 3 - COMPENSATION FROM BENEFITS OF CRIME

1-40-301. Compensation from benefits of crime.

The legislature finds that the state has a compelling interest in preventing any person who is convicted of a criminal act from profiting from the criminal act and in recompensing victims of

the criminal act. It is therefore the intent of the legislature to provide a mechanism whereby any profits from a criminal act that are received by the person convicted of the criminal act are available as restitution to the victims of the criminal act.

1-40-302. Definitions.

(a) As used in this article:

(i) Repealed By Laws 1998, ch. 81, § 3.

(ii) "Criminal act" means a conviction of an offense as defined by W.S. 1-40-202(a)(i);

(iii) "Escrow account" means an account created under W.S. 1-40-303(a);

(iv) "Profits from the crime" means:

(A) Any property obtained through or income generated from the commission of the criminal act of which the defendant was convicted;

(B) Any property obtained by or income generated from the sale, conversion or exchange of proceeds of the criminal act of which the defendant was convicted, including any gain realized by the sale, conversion or exchange; and

(C) Any property that the defendant obtained or income generated as a result of having committed the criminal act of which the defendant was convicted, including any assets obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of, the criminal act, as well as any property obtained by or income generated from the sale, conversion or exchange of such property and any gain realized by such sale, conversion or exchange.

(v) "Victim" means as defined by W.S. 1-40-202(a)(ii);

(vi) "Division" means the victim services division within the office of the attorney general, created by W.S. 9-1-636.

1-40-303. Distribution of profits from crime.

(a) Any person who contracts with a defendant convicted of a criminal act in this state, or the defendant's representative or assignee, for payment of any profits from the criminal act of which the defendant is convicted shall pay to the division any money that would otherwise by terms of the contract be paid to the defendant or the defendant's representatives or assignees. The division shall deposit the money in an escrow account for the benefit of any victim of the criminal act of which the defendant was convicted.

(b) Notwithstanding any other applicable statute of limitations, any person who is a victim of the criminal act from which a defendant receives profits under subsection (a) of this section may, within five (5) years of the establishment of the escrow account:

(i) Enforce any order of restitution entered against the defendant against the monies on deposit in the escrow account; or

(ii) Bring a civil action in a court of competent jurisdiction to recover a judgment against the defendant or the defendant's representatives or designees and enforce the judgment against monies on deposit in the escrow account.

(c) Upon establishing an escrow account pursuant to subsection (a) of this section, the division shall notify, at their last known address, all known victims of the criminal act of the establishment of the escrow account. The notice shall specify the existence of the escrow account, the amount on deposit and the victim's right to execute an order of restitution or bring a civil action to recover against the monies in the escrow account within five (5) years of the date the escrow account is established.

(d) The attorney general is authorized to bring any action necessary to enforce subsection (a) of this section. If the attorney general prevails in an action under this subsection, the court shall order the payment from the monies recovered to the attorney general of reasonable costs and attorney's fees.

1-40-304. Notification of division.

It shall be the responsibility of the victim, the victim's attorney, or the victim's representative to notify the division of the filing of any civil action under W.S. 1-40-303(b) (ii).

1-40-305. Disbursal of compensation; more than one claim.

(a) The division shall not disburse any compensation from the escrow account until the later of:

(i) Five (5) years after the escrow account is established; or

(ii) The date all civil actions of which the division has actual knowledge and that are filed within the five (5) year period provided by W.S. 1-40-303(b) (ii) have been settled or reduced to judgment.

(b) If more than one (1) claim against the monies in escrow is filed pursuant to W.S. 1-40-303(b) (i) or (ii), the division shall disburse payments from the escrow account on a pro rata basis.

1-40-306. Actions null and void.

Any action taken by a defendant who is convicted of a criminal act or who enters a plea of guilty, whether by way of the execution of a power of attorney, the creation of corporate entities or any other action, to defeat the purpose of this article shall be null and void as against the public policy of this state.

1-40-307. Interest on monies in escrow account.

Interest earned on the monies deposited in an escrow account shall accrue to the benefit of the payees of the account.

1-40-308. Disbursal of unclaimed funds.

(a) Any unclaimed funds remaining in an escrow account after the disbursal period provided by W.S. 1-40-305(a) shall be forfeited and paid over to the crime victims compensation account created by W.S. 1-40-114 in accordance with this section.

(b) If any unclaimed funds remain in an escrow account after the disbursal period provided by W.S. 1-40-305(a), the division shall seek an order in district court to show cause why the funds should not be forfeited. Notice to the defendant and proceedings on the order to show cause shall be according to the Wyoming Rules of Civil Procedure, provided notice by publication

shall be once each week for two (2) consecutive weeks. The trial of the issues shall be by the court.

(c) On final hearing the order to show cause shall be taken as prima facie evidence that the funds constitute profits from the crime and is sufficient for a judgment of forfeiture in the absence of other proof.

(d) In disputed cases the burden shall be upon the division to show that there is a reasonable basis for believing that the funds constitute profits from the crime.

(e) The proceedings and judgment of forfeiture shall be in rem and shall be primarily against the property itself.

(f) Upon the entry of a judgment of forfeiture the court shall order the funds paid over to the crime victims compensation account created by W.S. 1-40-114.

CHAPTER 41 - STATE SELF-INSURANCE PROGRAM

1-41-101. Legislative findings and intent.

The legislature recognizes that certain liability insurance policies of the state of Wyoming have been cancelled, that no responsive bids have been received and that there exists a need to develop a method to handle claims brought under the Wyoming Governmental Claims Act and arising under federal law. The legislature declares that the appropriate remedy is to create an account for self-insurance of the state and to provide for a loss prevention program. It is the intent of the legislature that the self-insurance account shall be operated on an actuarially sound basis. The legislature further declares that its intent is that the availability of commercial liability insurance coverage shall be explored considering the possibility that the insurance industry can provide coverage in the future that is less expensive than the costs of providing a loss prevention program and paying for claims out of the self-insurance account.

1-41-102. Definitions.

(a) As used in this act:

(i) "Division" means the general services division of the department of administration and information;

(ii) "Final money judgment" means any judgment for monetary damages after all appropriate appeals from the judgment have been exhausted or after the time has expired when appeals may be taken;

(iii) "Local government" means as defined by W.S. 1-39-103(a) (ii);

(iv) "Peace officer" means as defined by W.S. 7-2-101, but does not include those officers defined by W.S. 7-2-101(a) (iv) (K) or those officers defined by W.S. 7-2-101(a) (iv) (M) unless otherwise provided in the applicable mutual aid agreement;

(v) "Public employee" means any officer, employee or servant of the state, provided the term:

(A) Includes elected or appointed officials, peace officers, members of regional emergency response teams authorized under W.S. 35-9-155 and persons acting on behalf or in service of the state in any official capacity, whether with or without compensation, including volunteer physicians providing medical services under W.S. 9-2-103(a) (i) (C);

(B) Does not include:

(I) An independent contractor except as provided in subparagraphs (C) and (D) of this paragraph;

(II) A judicial officer exercising the authority vested in him; or

(III) Any local government employees or officials including county and prosecuting attorneys.

(C) Includes contract physicians, physician assistants, nurses, optometrists or dentists in the course of providing contract services for state institutions;

(D) Includes contract attorneys in the course of providing contract services for the state public defenders office as provided in W.S. 7-6-103(k) or 14-12-104;

(E) Includes health care providers and medical facilities delivering volunteer health care services to low income individuals under a contract pursuant to W.S. 35-31-101 through 35-31-103.

(vi) "Risk manager" means the manager of the risk management section of the general services division of the department of administration and information;

(vii) "Scope of duties" means performing any duties which the state requests, requires or authorizes a public employee to perform, or which the University of Wyoming or a local government requests, requires or authorizes a peace officer to perform, regardless of the time and place of performance;

(viii) "State" or "state agency" means the state of Wyoming or any of its branches, agencies, departments, boards, instrumentalities or institutions but does not include the University of Wyoming except as provided by W.S. 1-41-110(b);

(ix) "Self-insurance account" or "account" means the account created by W.S. 1-41-103;

(x) "This act" means W.S. 1-41-101 through 1-41-111.

1-41-103. Self-insurance account; creation; authorized payments.

(a) There is created the state self-insurance account. The account shall be in such amount as the legislature determines to be reasonably sufficient to meet anticipated claims. In addition to any legislative appropriation, the account shall include all authorized transfers of monies to the account, all income from investments of monies in the account and payments by insurance or reinsurance companies. The account may be divided into subaccounts for purposes of administrative management. Appropriations to the account shall not lapse at the end of any fiscal period.

(b) The self-insurance account shall maintain sufficient reserves for incurred but unpaid claims as well as incurred but unreported claims.

(c) Expenditures shall be made out of the self-insurance account for the following claims which have been settled or reduced to final judgment:

(i) Claims brought against the state or its public employees under the Wyoming Governmental Claims Act, provided any amount up to two thousand five hundred dollars (\$2,500.00)

paid for or in defense of each claim involving an automobile, physical damage, a settlement or adverse judgment shall be reimbursed to the self-insurance account by the state agency, from its existing budget, against which the claim is brought or which employs the public employee against whom the claim is brought;

(ii) Claims against the state or its public employees, or a state judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes, which the state has obligated itself to pay under subsection (e) of this section, provided any amount up to two thousand five hundred dollars (\$2,500.00) paid for or in defense of each claim resulting in settlement or adverse judgment shall be reimbursed to the self-insurance account by the state agency, from its existing budget, against which the claim is brought or which employs the public employee against whom the claim is brought;

(iii) Claims against a peace officer employed by the Wyoming state board of outfitters and professional guides, the University of Wyoming or a local government brought under the Wyoming Governmental Claims Act, provided:

(A) The act or omission upon which the claim is based has been determined by a court or jury to be within the peace officer's scope of duties;

(B) The indemnification for the judgment shall not exceed the limits provided by W.S. 1-39-118;

(C) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim shall be paid on a dollar for dollar matching basis from the account and from the University of Wyoming or the local government employing the peace officers; and

(D) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim against a peace officer employed by the Wyoming state board of outfitters and professional guides shall be paid by the board.

(iv) Claims against a peace officer employed by the Wyoming state board of outfitters and professional guides, the University of Wyoming or a local government arising under 42 U.S.C. 1983 or other federal statutes, provided:

(A) Any amount up to twenty thousand dollars (\$20,000.00) paid from the account for or in defense of each claim shall be paid on a dollar for dollar matching basis from the account and from the University of Wyoming or the local government employing the peace officer;

(B) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim against a peace officer employed by the Wyoming state board of outfitters and professional guides shall be paid by the board; and

(C) The conditions and limitations of subsection (e) of this section apply to all claims under this paragraph.

(v) Claims against contract physicians, physician assistants, nurses, optometrists or dentists brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician, physician assistant, nurse, optometrist or dentist is unable to procure medical malpractice insurance coverage up to the limits specified in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

(B) The liability of the state shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's, physician assistant's, nurse's, optometrist's or dentist's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from services performed by the contract physician, physician assistant, nurse, optometrist or dentist for a state institution.

(d) Expenditures may also be made out of the self-insurance account for any one (1) or more of the following:

(i) Expenses related to claims under subsection (c) of this section;

(ii) Costs of purchasing services, including loss prevention, risk and claims control, and legal, actuarial, investigative, support and adjustment services;

(iii) Costs of insurance or reinsurance premiums consistent with market availability;

(iv) Administrative expenses incurred by the division under this act including the cost of necessary personnel within the office of the attorney general, as may be mutually agreed upon by the risk manager and the attorney general, to handle claims arising under this act.

(e) The state shall defend claims against its public employees, or a state judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes, subject to the following conditions:

(i) The state shall defend and, to the extent provided by paragraph (v) of this subsection, indemnify any of its public employees against any claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the scope of duty;

(ii) Repealed by Laws 1988, ch. 50, § 2.

(iii) If any civil action, suit or proceeding is brought against any public employee of the state which on its face falls within the provisions of paragraph (i) of this subsection, or which the public employee asserts to be based in fact upon an alleged act or omission in the scope of duty, the state shall appear and defend the public employee under an automatic reservation of right by the state to reject the claim unless the act or omission is determined to be within the scope of duty;

(iv) Any public employee of the state against whom a claim within the scope of this subsection is made shall cooperate fully with the state in the defense of the claim. If the state determines that the public employee has not cooperated or has otherwise acted to prejudice defense of the claim, the state may at any time reject the defense of the claim;

(v) Unless the act or omission upon which a claim is based is determined by the court or jury to be within the public employee's scope of duty, no public funds shall be expended in payment of the final judgment against the public employee;

(vi) Nothing in this subsection shall be deemed to:

(A) Increase the limits of liability under W.S. 1-39-118 for claims brought under the Wyoming Governmental Claims Act;

(B) Affect the liability of the state itself or of any of its public employees on any claim arising out of the same accident or occurrence; or

(C) Waive the protection of the state or its public employees from liability where immunity has not been specifically waived.

1-41-104. Investment of funds.

(a) Repealed by Laws 1988, ch. 82, § 2.

(b) The state treasurer shall invest any portion of the funds in the self-insurance account, including reserves, which the risk manager determines is not needed for immediate use. Investments shall be made as authorized by W.S. 9-4-715(a), (d) and (e).

1-41-105. Powers and duties of risk manager.

(a) Except as otherwise provided in subsection (b) of this section, the risk manager shall:

(i) Administer the self-insurance account;

(ii) Implement and administer a loss prevention program for the purpose of reducing risks, accidents and losses;

(iii) Administer, supervise and manage the investigation and adjustment and settlement of claims covered by this act, including subrogation and restitution claims filed on behalf of the state self-insurance account;

(iv) Provide legal services for the defense of claims covered by this act through the attorney general or through private attorneys approved by the attorney general;

(v) Approve and supervise persons who may contract with the state to provide services;

(vi) Procure insurance, including comprehensive professional liability coverage for all peace officers, consistent with market availability;

(vii) Prepare a budget based upon economically and actuarially sound principles, which will maintain a reasonable

and adequate surplus to meet estimated payments for contracts, services, claims and expenses;

(viii) Purchase loss prevention, actuarial and other professional services as required; and

(ix) Adopt rules governing the administration of the state's self-insurance account and loss prevention program and to carry out the purposes of this act.

(b) If the risk manager determines it is economically feasible he may contract with any private firm or firms to provide any administrative or other services deemed necessary under this act.

1-41-106. Compromise or settlement of claims; authority; primary insurance coverage.

(a) Any claim covered under this act may be compromised or settled according to the requirements in subsection (b) of this section. In settling a claim, the risk manager may require the execution and presentation of those documents required by rule and regulation including those documents which discharge or hold harmless the state, local government or public employee of all liability under the claim.

(b) The following parties are authorized to make compromises or settlements of claims in the following amounts:

(i) Repealed By Laws 1999, ch. 100, § 2.

(ii) The risk manager is authorized to settle claims for an amount not to exceed fifty thousand dollars (\$50,000.00);

(iii) The risk manager, after consultation with the attorney general, is authorized to settle claims for an amount not to exceed one hundred thousand dollars (\$100,000.00); and

(iv) The governor is authorized to settle claims for any amount if the action arises under federal law. The governor is authorized to settle claims brought under the Wyoming Governmental Claims Act for any amount not to exceed the maximum liability limits under the Wyoming Governmental Claims Act.

(c) The provisions of the Wyoming Administrative Procedure Act are not applicable to the payment or settlement of claims. Any person or party adversely affected in compromising or

settling a claim shall pursue his remedy in district court pursuant to the Wyoming Rules of Civil Procedure.

(d) The risk manager and the state have no liability, and no cause of action exists against either the risk manager or the state, for failure to settle a claim.

(e) Except with respect to volunteer physicians providing medical services under W.S. 9-2-103(a)(i)(C), an expenditure may be made out of the state self-insurance account for settlement or payment of any claim which is covered by liability insurance only to the extent any other liability insurance is not sufficient to satisfy the claim. Except with respect to volunteer physicians providing medical services under W.S. 9-2-103(a)(i)(C), any other liability insurance shall be considered as the primary coverage. Nothing in this section shall be deemed an increase in the limits of liability under W.S. 1-39-110 or 1-39-118(a).

1-41-107. Reports.

(a) The division shall make an annual report to the governor and the legislature. The report shall include:

(i) The total number of claims filed against the state and peace officers covered under this act;

(ii) The number and amount of claims settled;

(iii) The cost of legal fees and adjustors' fees for the handling of claims;

(iv) The number and amount of final judgments paid;

(v) The number of claims pending and the reserves set aside for each pending claim;

(vi) The types and cost of insurance coverages procured as authorized under this act.

1-41-108. Self-insurance program not subject to insurance laws.

Nothing in this act shall be construed as creating an insurance company nor in any way subjecting the self-insurance account to the laws of the state regulating insurance or insurance companies.

1-41-109. Confidential information.

The claim files maintained by the risk manager shall be considered privileged and confidential and shall be for the use of the risk manager and the insurance commissioner only.

1-41-110. Applicability.

(a) This act applies to claims based upon acts, errors or omissions occurring on and after October 1, 1985.

(b) This act applies to claims against peace officers employed by the University of Wyoming but does not apply to other claims against the University of Wyoming unless the university notifies the risk manager in writing on or before August 15 that it elects to be covered by this act for the period beginning July 1 of the succeeding fiscal year. If the University of Wyoming elects to be covered by this act, it shall continue the coverage for not less than three (3) years from the date the coverage begins.

1-41-111. No extension of liability.

Self-insurance provided under this act shall not be considered a purchase of insurance coverage and shall not be deemed an increase of the limits of liability under W.S. 1-39-118(b).

CHAPTER 42 - LOCAL GOVERNMENT INSURANCE PROGRAM

ARTICLE 1 - LOCAL GOVERNMENT SELF-INSURANCE PROGRAM

1-42-101. Repealed By Laws 2007, Ch. 212, § 2.

1-42-102. Repealed By Laws 2007, Ch. 212, § 2.

1-42-103. Repealed By Laws 2007, Ch. 212, § 2.

1-42-104. Repealed By Laws 2007, Ch. 212, § 2.

1-42-105. Repealed By Laws 2007, Ch. 212, § 2.

1-42-106. Repealed By Laws 2007, Ch. 212, § 2.

1-42-107. Repealed By Laws 2007, ch. 212, § 2.

1-42-108. Repealed By Laws 2007, Ch. 212, § 2.

1-42-109. Repealed By Laws 2007, Ch. 212, § 2.

1-42-110. Repealed By Laws 2007, Ch. 212, § 2.

1-42-111. Repealed By Laws 2007, Ch. 212, § 2.

1-42-112. Repealed by Laws 2009, Ch. 168, § 205.

1-42-113. Repealed by Laws 2009, Ch. 168, § 205.

ARTICLE 2 - LOCAL GOVERNMENT SELF-INSURANCE PROGRAM - LOCAL
ADMINISTRATION

1-42-201. Definitions.

(a) As used in this act:

(i) "Board" means the local government self-insurance program joint powers board formed pursuant to this act;

(ii) "Eligible senior citizen center" means a private, nonprofit corporation which is providing the services to senior citizens under W.S. 18-2-105 in a geographical area which is not otherwise served by a senior citizen center which participates in the local government self-insurance program;

(iii) "Final judgment" means any judgment for monetary damages after all appropriate appeals from the judgment have been exhausted or after the time has expired when appeals may be taken;

(iv) "Local government" means as defined by W.S. 1-39-103(a)(ii) and includes eligible senior citizen centers;

(v) "Local government self-insurance program" or "program" means the program created by this act;

(vi) "Public employee" means any officer, employee or servant of a local government including elected or appointed officials and persons acting on behalf or in service of the local government in any official capacity, whether with or without compensation, including individuals engaged in search and rescue operations under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii). "Public employee":

(A) Except as provided in subparagraph (b) of this paragraph, does not include an independent contractor, peace officer or a judicial officer exercising the authority vested in him;

(B) Includes contract physicians, physician assistants, nurses, optometrists and dentists in the course of providing contract services for county jails.

(vii) "Scope of duties" means performing any duties which a local government requests, requires or authorizes a public employee to perform, regardless of the time and place of performance;

(viii) "This act" means W.S. 1-42-201 through 1-42-206.

1-42-202. Local government self-insurance program; creation; authorized payments.

(a) There is created the local government self-insurance program to provide a mechanism for local governments to pool resources to handle claims brought against local governments under the Wyoming Governmental Claims Act and arising under federal law. It is the intent of the legislature that the local government self-insurance program shall be operated by a joint powers board formed by local governments participating in the program and administered in accordance with the provisions of this act. The program shall provide for assessments by participating local governments, which together with all income from investments of the program and payments by insurance or reinsurance companies are actuarially sufficient to meet anticipated claims against participating local governments and all associated administrative expenses.

(b) Upon approval of the board, expenditures shall be made by the program for the following claims which have been settled or reduced to final judgment:

(i) Claims brought against participating local governments, other than eligible senior citizen centers or their public employees, other than peace officers, under the Wyoming Governmental Claims Act;

(ii) Claims against participating local governments or their judicial officers or public employees, other than peace

officers, arising under 42 U.S.C. 1983 or other federal statutes subject to the provisions of subsection (e) of this section;

(iii) Claims brought against participating eligible senior citizen centers, including its directors, officers, employees and volunteers, arising from acts within the scope of their activities in rendering any service that a senior citizen center may lawfully render;

(iv) Claims against contract physicians, physician assistants, nurses, optometrists or dentists brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician, physician assistant, nurse, optometrist or dentist is unable to procure medical malpractice insurance coverage up to the limits specified in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

(B) The liability of the county shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's, physician assistant's, nurse's, optometrist's or dentist's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from the services performed by the physician, physician assistant, nurse, optometrist or dentist for a county jail.

(c) Upon approval of the board, expenditures may also be made from the program for expenses related to claims under subsection (b) of this section, administrative expenses, insurance and services procured in accordance with W.S. 1-42-203.

(d) Claims against participating local governments and their public employees, or a judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes, shall be defended and indemnification paid subject to the following conditions:

(i) Public employees of participating local governments, other than peace officers, shall be defended and, to the extent provided by paragraph (v) of this subsection, indemnified against any claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the scope of duty;

(ii) Any civil action, suit or proceeding which is brought against any public employee which on its face falls within the provisions of paragraph (i) of this subsection, or which the public employee, other than peace officers, asserts is based on an alleged act or omission in the scope of duty, shall be defended under the program with an automatic reservation of right by the board to reject the claim unless the act or omission is determined to be within the scope of duty. Any public employee against whom a claim within the scope of this subsection is made shall cooperate fully in the defense of the claim. If the board determines that the public employee has not cooperated or has otherwise acted to prejudice defense of the claim, the defense of the claim may be rejected at any time;

(iii) Unless the act or omission upon which a claim is based is determined by the court or jury to be within the public employee's scope of duty, no funds shall be expended from the program in payment of the final judgment against the public employee;

(iv) Nothing in this subsection shall be deemed to:

(A) Increase the limits of liability under W.S. 1-39-118 for claims brought under the Wyoming Governmental Claims Act;

(B) Affect the liability of a participating local government or of any of its public employees on any claim arising out of the same accident or occurrence; or

(C) Waive the protection of a local government or its public employees from liability where immunity has not been specifically waived.

(e) The program shall be limited in liability to payment of no more than five hundred thousand dollars (\$500,000.00) for any one (1) occurrence plus loss adjustment expenses. Participating local governments shall be responsible for the amount of any adjudicated claims and expenses in excess of this amount.

(f) Notwithstanding any other provision of this act, no expenditure shall be made from the program in any action to pay any claim or final judgment for exemplary or punitive damages.

1-42-203. Self-insurance program board; powers and duties.

(a) The board shall:

(i) Administer the program;

(ii) Provide legal services for the defense of claims covered by this act;

(iii) Procure insurance, including reinsurance, purchase loss prevention, actuarial and other professional services as required by the board;

(iv) Establish assessments as necessary to operate the program on an actuarially sound basis. Assessments shall be computed to provide for:

(A) Expenditures authorized under this act; and

(B) Stabilization charges to develop adequate reserves.

(v) Apportion and collect assessments from each participating local government;

(vi) Establish deductibles or retentions as deemed necessary for the efficient operation of the program; and

(vii) Adopt rules governing the administration of the program.

(b) The board may deny a local government participation in or may terminate a participant from the program for a failure to pay the assessments required under this act.

1-42-204. Claims procedures; compromise or settlement of claims; no extension of liability.

(a) Nothing in this act shall be deemed to obviate the necessity of compliance with W.S. 1-39-113 by any claimant.

(b) Any claim covered under this act may be compromised or settled according to the rules of the board. The provisions of the Wyoming Administrative Procedure Act are not applicable to the payment or settlement of claims. Any person or party adversely affected in compromising or settling a claim shall pursue his remedy in district court pursuant to the Wyoming Rules of Civil Procedure. The board has no liability, and no

cause of action exists against the board for failure to settle a claim.

(c) Self insurance provided under this act shall not be considered a purchase of insurance coverage and shall not be deemed an increase of the limits of liability under W.S. 1-39-118(b).

1-42-205. Local government insurance program not subject to insurance laws.

Nothing in this act shall be construed as subjecting the local government insurance account to the laws of the state regulating insurance or insurance companies.

1-42-206. Confidential information.

The claim files maintained by the board shall be considered privileged and confidential and shall be for the use of the board only.

1-42-207. Repealed By Laws 2008, Ch. 44, § 3.

CHAPTER 43 - MEDIATION

1-43-101. Definitions.

(a) As used in this act:

(i) "Communication" means any item of information disclosed during the mediation process through files, reports, interviews, discussions, memoranda, case summaries, notes, work products of the mediator, or any other item of information disclosed during the mediation, whether oral or written;

(ii) "Mediation" means a process in which an impartial third person facilitates communication between two (2) or more parties in conflict to promote reconciliation, settlement, compromise or understanding;

(iii) "Mediator" means an impartial third person not involved in the conflict, dispute or situation who engages in mediation;

(iv) "Party to the mediation" means a person who is involved in the conflict, dispute or situation and is rendered

mediation services by a mediator or consults a mediator with a view to obtaining mediation services;

(v) "Representative of the mediator" means a person employed by the mediator to assist in the rendition of mediation services;

(vi) "Representative of the party" means a person having authority to obtain mediation services on behalf of the party to the mediation or to act on advice rendered by the mediator;

(vii) "This act" means W.S. 1-43-101 through 1-43-104.

1-43-102. General rule of confidentiality.

Any communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the mediation process or those reasonably necessary for the transmission of the communication.

1-43-103. General rule of privilege; claiming privilege; exception.

(a) A party to the mediation has a privilege to refuse to disclose and to prevent all mediation participants from disclosing confidential communications.

(b) The privilege under this section may be claimed by a representative of the party or by a party, his guardian or conservator, the personal representative of a deceased party, or the successor, trustee or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the mediator may claim the privilege but only on behalf of the party. The mediator's authority to do so is presumed in the absence of evidence to the contrary.

(c) There is no privilege under this section if any one (1) of the following conditions is met:

(i) All the parties involved provide written consent to disclose;

(ii) The communication involves the contemplation of a future crime or harmful act;

(iii) The communication indicates that a minor child has been or is the suspected victim of child abuse as defined by local statute;

(iv) The communication was otherwise discoverable prior to the mediation;

(v) One of the parties seeks judicial enforcement of the mediated agreement.

1-43-104. Immunity.

Mediators are immune from civil liability for any good faith act or omission within the scope of the performance of their power and duties.