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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 259
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED
09/10/2020 8:18 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Establishes process for handling overpayments of polygraph examiner fees for licensure.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

The Department collects fees for the polygraph examiner licensure program. It is not uncommon to receive a fee amount greater than the amount due (overpayment). Current DPSST policy requires returning any form of payment, unprocessed, if the amount received is greater than the amount due. The current policy causes delays in the licensure process. This rule change establishes a new process that will allow DPSST to accept some overpayments. The rule includes provisions for an applicant to request refund of an overpaid amount. There were no changes made to any of the existing fee amounts.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Board on Public Safety Standards and Training meeting minutes are available on the Department of Public Safety Standards and Training website, www.oregon.gov/dpsst. The DPSST staff memo prepared for the Board is available by submitting a records request to DPSST.

FISCAL AND ECONOMIC IMPACT:

It is not uncommon to receive a fee amount greater than the amount due (overpayment). Currently, the Department rejects and returns unprocessed any payment that includes an overpayment. This causes delays in the licensure process. Returning the payment unprocessed requires applicants who are paying by business check, cashier's check or money order to re-complete the payment process. Obtaining a new business check may impact the business's accounting processes. Obtaining a new cashier's check or money order may impact the applicant by requiring additional time and transportation costs to access the service, fees for the service, and postage or transportation costs for resubmitting the payment to the Department.

These rule changes support Department process changes relating to overpayments allowing for more efficient

processing of applications for licenses. Overpayments will be handled in accordance with the rule. If the overpayment amount is \$10.01 or more, the payment will be rejected and returned unprocessed to the payee for re-submission of the correct amount. If the overpayment amount is \$10.00 or less, the payment will be accepted and processed. The payee may request a refund of the overpaid amount by submitting a written request.

The Department estimates that while the refund for a sum that is \$10.00 or less would require the applicant to submit a written request, the written request process would be less costly to the applicant than the time and costs associated with obtaining a new form of payment and resubmitting the payment to the Department.

There are administrative business costs to DPSST to prepare and issue a refund. Each refund costs DPSST approximately \$40 to process. The true costs to DPSST for issuing the overpayment refunds won't be known until there has been time to measure how many requests are received.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There are no other state agencies or units of local government identified as likely to be economically affected by the rules.

The majority of individual polygraph examiners may be considered small businesses.

There are no changes to the costs for compliance if the payee submits an overpayment greater than \$10.01. This payment will be rejected and the payee will be required to resubmit the correct amount.

For overpayments that are \$10.00 or less, the costs for compliance are expected to be equal to or less than past costs for compliance. The Department estimates that the process change to accept the overpayment will cost the applicant or payee less than the delayed issuance of the certification or license and the time, effort, and costs associated with re-submission of the correct payment amount.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses, as well as state agencies, units of local government and the public are invited to submit written comments to the agency rules coordinator during the public comment period on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact on business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rule change was approved for proposed filing by the Director of the Department of Public Safety Standards and Training. The rule will not be filed as a permanent rule until it has been approved by the Board on Public Safety Standards and Training. There are approximately 50 licensed polygraph examiners. This Notice of Proposed Rulemaking is meant to serve as notice of the intended changes to those impacted by the rule change. Polygraph

examiners are included in the invitation to submit public comment for consideration prior to the final permanent rule change. The same changes are proposed for the Department's other fee based certification and licensure programs, private security and private investigators, which were reviewed by an administrative rule advisory committee, the Private Security and Investigator Policy Committee.

AMEND: 259-020-0220

RULE SUMMARY: The Department collects fees for the polygraph examiner licensure program. The forms of payment that are accepted are business checks, cashier's checks, money orders and credit cards. It is not uncommon to receive a fee amount greater than the amount due (overpayment). Currently, the Department rejects and returns unprocessed any payment that includes an overpayment. This causes delays in the licensure process. This proposed rule change establishes a Department process change relating to overpayments to allow for more efficient processing of applications for polygraph examiner licenses.

Overpayments will be handled in accordance with the rule. If the overpayment amount is \$10.01 or more, the payment will be rejected and returned unprocessed to the payee for re-submission of the correct amount. If the overpayment amount is \$10.00 or less, the payment will be accepted and processed. The payee may request a refund of the overpaid amount by submitting a written request.

In addition to establishing criteria for processing overpayments, the proposed rules include revisions for clarity and consistency. These rule revisions do not make any changes to existing fee amounts.

CHANGES TO RULE:

259-020-0220

Fees and Payments

(1) Payments to the Department

(a) The Department are due at the time of application. All payments are non-refundable and must be paid by accepts business checks, money orders, cashier's check ors, and credit card. No personal checks or cash will be accepted.

(2) As approved by the Department will. Credit charge the following fees:

(a) The fee of \$50 for the issuance of each original license as a polygraph examiner.

(b) The fee of \$50 for the annual renewal of ad payments may require submission of additional verification information as designated by the Department. The Department does not accept personal checks or cash.

(b) Fees for licensure as a polygraph examiner.

(c) The fee of \$50 for examination by the Department for licensure as a polygraph examiner.

(d) The fee of \$35 for the issuance of a trainee license.

(e) The fee of \$35 for the annual renewal of a pre due at the time of application.

(c) Amounts due to the Department are non-refundable and non-transferable.

(d) Applicants who choose to withdraw their application or fail to complete the application process forfeit their application fees.

(2) Fees charged by the Department include:

(a) Polygraph eExaminer trainee license.

(f) The fLicense Fee of \$5 for the issuance of a duplicat0:

(b) Polygraph Examiner Trainee lLicense.

(g) Appropriate fees must be submitted with each applic Fee - \$35:

(c) Examination for lLicensure as polygraph examiner or as a trainee, pursuant to OAR 259-020-0170, for a fingerprint criminal records check Fee - \$50:

(d) Fingerprint Criminal History Check Fee - The current fee for processing a fingerprint criminal history check

may be obtained from the Department. These is fees are is to recover the costs of administering the fingerprint check through the Oregon State Police and the Federal Bureau of Investigation. This fee is separate from and does not apply to any fees charged by a fingerprinting services vendor. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Departthe FBI.¶

(e) Duplicate or Replacement License Fee - \$5; and¶

(f) Non-sufficient Funds (NSF) Penalty Fee - \$25.¶

(3) If the Department receives a payment by check and the check is returned to the Department as a non-sufficient funds (NSF) check, the payer of the fees will be assessed an NSF penalty fee in addition to the required fees.¶

(4) Overpayment of Amounts Due.¶

(a) The Department will reject payments that include an overpayment of the amount due that is \$10.01 or more.¶

(b) The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.¶

(c) Overpayment amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the person who made the overpayment, or the person's legal representative. The written request must be received by the Department within three years of the overpayment.

Statutory/Other Authority: ORS 703.230, ORS 293.445

Statutes/Other Implemented: ORS 703.230, ORS 703.070, ORS 703.110, ORS 703.240, ORS 293.445