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PERMANENT ADMINISTRATIVE ORDER

OST 2-2021
CHAPTER 170
OREGON STATE TREASURY

FILED
06/29/2021 3:04 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Completes the transfer of duties, functions, and powers under SB 454 (2019)

EFFECTIVE DATE: 07/01/2021

AGENCY APPROVED DATE: 06/10/2021

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RULES:

170-001-0005, 170-002-0000, 170-130-0000, 170-130-0005, 170-130-0010, 170-130-0015, 170-130-0020, 170-130-0025, 170-130-0030, 170-135-0000, 170-135-0005, 170-135-0010, 170-135-0015, 170-135-0020, 170-135-0025, 170-135-0030, 170-135-0035, 170-135-0040, 170-140-0000, 170-140-0001, 170-140-0005, 170-140-0010, 170-140-0015, 170-140-0020, 170-140-0100, 170-140-0105, 170-140-0110, 170-140-0115, 170-140-0120, 170-140-0125, 170-140-0130, 170-140-0135, 170-140-0140, 170-145-0000, 170-145-0005, 170-145-0010, 170-145-0015, 170-145-0020, 170-145-0025, 170-145-0030, 170-145-0035, 170-145-0040, 170-145-0045, 170-145-0050, 170-145-0055, 170-145-0100

ADOPT: 170-001-0005

RULE TITLE: Contested Case Hearings Model Rules of Procedure

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Adoption of the Attorney General's Model Rules of Procedure for Contested Cases

RULE TEXT:

(1) The Treasurer adopts by reference the Attorney General's Model Rules of Procedure for Contested Case Hearings in OAR 137-003-0501 to 137-003-0700 in relation to claims made under ORS 98.302 to 98.436, 98.992 or 116.253 or any other claim to escheated or unclaimed property.

(2) An Administrative Law Judge assigned by the Office of Administrative Hearings is not authorized to issue a final order on behalf of the Treasurer.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure for Contested Case Hearings is available from the State Treasurer or on the Secretary of State's website.]

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 183.341, 183.464, 183.635 (as amended by section 56, chapter 678, Oregon Laws 2019)

AMEND: 170-002-0000

RULE TITLE: Fees for Public Records

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Adds fee for Finder's List of Unclaimed and Escheat Property

RULE TEXT:

(1) The Oregon State Treasury may charge a fee reasonably calculated to reimburse the Oregon State Treasury for the costs of locating, compiling, editing, redacting, or otherwise processing information and records in response to a request for public records.

(2) When the cost to provide public records under section (1) is \$25 or more, the Oregon State Treasury may charge a person requesting public records for the following:

(a) An hourly rate, charged in 15-minute increments, based on the work performed and not on the employee performing the work. The rates are:

(A) Investment Officer: \$95 per hour;

(B) In-house Counsel: \$95 per hour;

(C) Manager: \$70 per hour;

(D) Professional: \$50 per hour; and

(E) Clerical: \$30 per hour.

(b) The rate for photocopying, duplicating, mailing, third-party costs, or other costs necessary to complete a response to a request for public records are as follows:

(A) Certified copies: \$1 per page;

(B) Uncertified copies: \$0.05 (5 cents) per page;

(C) Copies made by DAS Copy Center: actual cost or best estimate of cost;

(D) Other applicable charges: actual cost or best estimate of cost; and

(E) Attorney General charges: actual cost or best estimate of cost based on the Attorney General's fee schedule.

(c) The Oregon State Treasury will charge \$25 per report when a person requests any Investment Performance and Holdings Report.

(d) The Oregon State Treasury will charge a minimum of \$150 for a Finder's List of Unclaimed and Escheat Property.

(3) A person may request a fee waiver or reduction as in the manner required under OAR 170-002-0002(3)(b)(D).

Treasury will not consider a request for fee waiver or reduction after an estimate is sent to the person requesting the public record.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 192.324

STATUTES/OTHER IMPLEMENTED: ORS chapter 293, ORS chapter 295, ORS chapter 183, ORS chapter 192

ADOPT: 170-130-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the purpose of OAR 170-130

RULE TEXT:

These rules prescribe the procedures to recover Escheat Property held by the Treasurer as provided for by ORS 98.319, 112.055, 114.555, 116.193, 116.203, 708A.430, 722.262, 723.466, any form of non-probate administration of an Escheat Property, and property received by the Department of State Lands pursuant to ORS 179.540–179.550 prior to October 4, 1997.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 178.050

ADOPT: 170-130-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes definitions for words and phrases used in OAR 170-130

RULE TEXT:

For the purposes of these rules, unless the context requires otherwise, the capitalized words and phrases used in these rules have the same meaning as provided in ORS 111.005 and:

- (1) "Agent" means a person, other than a Personal Representative, who may file a Petition to recover Escheat Property on behalf of a Claimant.
- (2) "Claim" in the context of these rules means the act of asserting a lawful entitlement to Escheat Property.
- (3) "Claimant" means a Person or Personal Representative of an Estate making a Claim to recover Escheat Property.
- (4) "Escheat Property" means Property that has been transferred to the state and held by the Treasurer and includes proceeds.
- (5) "Estate Administrator" mean the Treasury employee appointed by the Treasurer to protect decedents' assets and administer estates under ORS chapters 111 to 119.
- (6) "Licensed Finder" means any person who independently searches for and finds Persons that may file a Petition to Claim a right to recover Escheat Property for a fee paid by the Claimant and is licensed by the Department of Public Safety Standards and Training under ORS 703.430.
- (7) "Issue" includes adopted children and their Descendants and, when used to refer to Persons who take by Intestate succession, includes all lineal Descendants, except those who are the lineal Descendants of living lineal Descendants.
- (8) "Known heir" means an Heir who has been identified and found.
- (9) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, and public bodies as defined in ORS 174.109.
- (10) "Petition" means a written request made by a Claimant or an Agent to determine whether Claimant is lawfully entitled to Escheat Property.
- (11) "Property" has the same meaning as ORS 111.005(27), and includes the proceeds realized from the sale of Personal Property or Real Property.
- (12) "Treasurer" means the State Treasurer as established under Article VI, section 4 of the Oregon Constitution or the State Treasurer's designee.
- (13) "Treasury" means the Oregon State Treasury, which is the administrative branch of the Office of the State Treasurer.

- (14) "U.S. Savings Bonds" means Personal Property that meets the following:
 - (a) U.S. savings bonds, series A, B, C, D, E, F, G, H, J, AND K, AND U.S. savings notes, governed by 31 C.F.R. 315;
 - (b) Definitive U.S. savings bonds, series EE and HH, governed by 31 C.F.R 353; and
 - (c) Definitive U.S. savings bonds, series I, governed by 31 C.F.R. 360.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.319, ORS 111.005

ADOPT: 170-130-0010

RULE TITLE: Claimant's Burden of Proof and Responsibility

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the burden of proof required to claim escheat property

RULE TEXT:

(1) The Claimant must prove by a preponderance of the evidence that the Claimant or Claimant's Estate is legally entitled to Escheat Property.

(2) The Claimant is responsible to produce evidence sufficient to establish a lawful entitlement to Escheat Property.

Each document submitted to support a Petition must:

(a) Be the original document;

(b) Be a copy certified by the custodian of the original record; or

(c) Include an appropriate reference to the source of the document for the purpose of verification.

(3) The Claimant may voluntarily provide the Claimant's full or partial (i.e., last four digits) social security number to the Treasurer. The Treasurer will only:

(a) Use the social security number to verify the Claimant's entitlement to Escheat Property; and

(b) Release Claimant's social security number when required by law or court order.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.319, ORS 116.235

ADOPT: 170-130-0015

RULE TITLE: Petition to Recover Escheat Property

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements to recover escheat property held by the State Treasurer

RULE TEXT:

(1) To recover escheat property, the Claimant must file a:

- (a) Claim for US Savings Bonds under OAR 170-140-0140; or
- (b) Petition as required under this rule.

(2) The petition must be verified by a notary and include:

(a) The Claimant's:

(A) Full legal name;

(B) Age; and

(C) Place of residence, including the street address, city, state and zip code.

(b) The Decedent's name and date of death. For the purposes of this rule, the Decedent's date of death is presumed to be:

(A) The date shown on the Decedent's death certificate; or

(B) Any similar record issued by:

(i) The jurisdiction where the death occurred; or

(ii) An agency of the federal government.

(c) The date of a judgement or order escheating the property to the state.

(d) A statement that the Petition is being filed within:

(A) Ten years of the Decedent's death; or

(B) Eight years of the entry of a judgement or order escheating the property to the state.

(e) A statement that the Claimant is lawfully entitled to the property and that the Claimant claims the property as:

(A) An Heir;

(B) A Devisee;

(C) A Distributee; or

(D) The Personal Representative of the Estate of an Heir, Devisee, or Distributee.

(f) A description of the Property of which the Claimant is asserting a lawful entitlement.

(g) Explain the circumstances that when the Property escheated to the state, the Claimant:

(A) Had no knowledge or notice thereof; or

(B) Was unable to prove entitlement to the Escheat Property and has subsequently acquired new evidence of the entitlement.

(h) Immediately above the signature of the person filing the petition and in prominent letters (e.g., bold type), include one of the following declarations under the penalty of perjury in lieu of an affidavit:

(A) If the declaration is made within the United States, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand that it is made for use as evidence in court and is subject to penalty of perjury."; or

(B) If the declaration is made outside the United States as defined in ORS 194.805(1), "I declare under penalty of perjury under the laws of Oregon that the foregoing is true and correct, and that I am physically outside the geographic boundaries of the United States, Puerto Rico, the United State Virgin Islands, and any territory boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States. Executed on the ___ (day) of ___ (month), ___ (year) at _____ (city or other location), _____

(country).”

(i) The date the petition was signed and the signature of one of the following:

(A) The Claimant; or

(B) The Agent of the Claimant.

(3) The following documents must be attached to and submitted with a Petition:

(a) The Claimant’s current photo identification, or other satisfactory proof of identity.

(b) An acknowledged indemnification agreement signed by the Claimant and acceptable to the Treasurer.

(c) If the property was paid or delivered to the Treasurer because a Decedent died Intestate with no known Heirs:

(A) Certified copies of birth, death, or marriage certificates that establish the familial relationships of the Heirs to the Decedent; and

(B) A genealogical chart of the Decedent showing the relationship of all the Decedent’s Heirs. If the chart shows a familial line has lapsed, then the chart must include:

(i) Whether Descendants exist and any supporting evidence the line lapsed by death;

(ii) Whether Heirs in a line have been identified or found;

(iii) The efforts Claimant made to identify or find Heirs; and

(iv) All known information on each lapsed line.

(4) The Claimant or Agent may attach and submit the following documents with the petition that verify and establish the relationship of the Heirs to the Decedent:

(a) Bureau of Census Records;

(b) Published obituaries and funeral notices;

(c) Wills of deceased family members, which show the relationship of Heirs to each other;

(d) Church documents showing birth, death, baptism, or marriages;

(e) Applications for Social Security cards, naturalization records, employee pension plans or any records containing the signature an Heir or the Claimant and listing any designated beneficiaries, other family members or parents;

(f) Court records and duly authenticated records of proceedings conducted before domestic and foreign courts to show the Heirs of the Decedent and the entitlement of the Claimant to the Escheat Property.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.319, ORS 116.235

ADOPT: 170-130-0020

RULE TITLE: Requirements for Filing a Petition

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements for filing a petition to recover escheat property held by the State Treasurer

RULE TEXT:

(1) To file a claim to recover US Savings bonds, a Claimant or Agent must file a claim under OAR 170-140-0140.
(2) To file a petition to recover Escheat Property under ORS 116.253, a Claimant or Agent must file a petition with the Treasurer within:

- (a) Ten years after the death of the Decedent; or
- (b) Eight years after the entry of a judgement or an order escheating the Property to the State.

(3) A Petition is filed on the date the Treasurer receives the petition.

(4) The Claimant or Agent may file the completed Petition and supporting documents by:

- (a) Attaching the Petition and supporting documents attached to an email to claims@ost.state.or.us; or
- (b) Mailing or delivering the Petition and supporting documents to the following address:

Oregon's Unclaimed Property Program
Oregon State Treasury
775 Summer Street NE, Ste 100
Salem, OR 97301-1279

(5) If a Personal Representative signs and files a Petition, a certified copy of the order appointing the Personal Representative must be included with the Petition.

(6) If an Agent signs and files a Petition, the Agent must include the original Power of Attorney or other written acknowledgement given by each Claimant authorizing the Agent to file the petition on the Claimant's behalf. The Claimant's signature on the Power of Attorney must be notarized.

(7) When a Licensed Finder is the Agent described in section (4) of this rule, the Licensed Finder must:

- (a) Be licensed as an Investigator by the Department of Public Safety Standards and Training under ORS 703.430.
- (b) Submit a copy of the current license with an initial Petition filed by the Licensed Finder as an Agent. Subsequent Petitions filed by the Licensed Finder must include the current license number on the Power of Attorney.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.319, ORS 116.235

ADOPT: 170-130-0025

RULE TITLE: Claimant's Recoverable Amount

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the amount a claimant will receive when entitlement is determined in the claimant's favor

RULE TEXT:

When an administrative or judicial decision that determines the Claimant is entitled to Escheat Property becomes final, the Claimant will receive the Escheat Property's value minus:

- (1) The Treasurer's actual costs and expenses incurred to review a petition, including attorney fees;
- (2) The Treasurer's actual costs and expenses incurred to administer an estate, including attorney fees;
- (3) Any taxes owed on the property;
- (4) Any charges due the Department of Human Services;
- (5) Any costs to prepare administrative deeds and assignment of contracts;
- (6) All interest earned from the Escheat Property or uncashed warrant; and
- (7) Any other fees, taxes, or charges allowed or required under Oregon laws or rules.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS Chapters 113 and 114, ORS 116.203, ORS 116.253, ORS 708A.430, ORS 708A.655, ORS 722.262, ORS 722.660, ORS 723.466, ORS 723.844

ADOPT: 170-130-0030

RULE TITLE: Request a Contested Case Hearing

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process and requirements for requesting a contested case hearing

RULE TEXT:

- (1) A Claimant who disagrees with a decision of the director regarding the entitlement to recover Escheat Property may file a request for a contested case hearing before the Office of Administrative Hearings.
- (2) A request for a contested case hearing must be filed within 60 days of the date of the Treasurer's decision.
- (3) The request for a contested case hearing must:
 - (a) Be in writing;
 - (b) Identify the issues of law or fact being contested; and
 - (c) Provide a summary of the evidence asserted in the petition.
- (d) The Claimant may file the request for contested case hearing by:
 - (A) Emailing the request to claims@ost.state.or.us; or
 - (B) Mailing or delivering the request to the following address:

Oregon's Unclaimed Property Program
Oregon State Treasury
775 Summer Street NE, Ste 100
Salem, OR 97301-1279

- (4) The Treasurer will refer the contested case to the Office of Administrative Hearings as provided under OAR 137-003-0515 and 137-003-0520. The administrative law judge may only issue a Proposed and Final Order.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 183.341, 183.464, 183.635 (as amended by section 56, chapter 678, Oregon Laws 2019)

ADOPT: 170-135-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the purpose of the OAR 170-135 rules

RULE TEXT:

These rules provide uniform procedures for the administration of estates of Decedents who die Intestate without Known Heirs or with some missing Heirs and of Testate Estates with missing Heirs or missing Devisees in accordance with Oregon Revised Statutes 111 through 119. These rules shall be liberally construed to secure just and speedy determination of the assets, liabilities, net worth, and disposition of Decedents' estates.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 178.050

ADOPT: 170-135-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes definitions for the OAR 170-135 rules

RULE TEXT:

For the purposes of these rules, unless the context requires otherwise, the capitalized words and phrases used in these rules have the same meaning as provided in ORS 111.005 and:

- (1) "Claiming Successor" has the same meaning as ORS 114.505(2).
- (2) "Estate Administrator" is an employee of the Treasurer appointed to administer and protect the assets of an estate.
- (3) "Known Heir" has the same meaning as ORS 113.238(3).
- (4) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, including Business Entities, and public bodies as defined in ORS 174.109, including Governmental Entities.

Examples of a Person includes:

- (a) Friends and neighbors of the Decedent;
 - (b) Care centers, nursing homes, and hospitals;
 - (c) Banking or financial institutions;
 - (d) Attorneys;
 - (e) Guardians; or
 - (f) Conservators.
- (5) "Probate" means the court procedure that encompasses all matters and proceedings pertaining to administration of estates as described in ORS 111.085, including but not limited to appointment and qualification of Personal Representatives, determination of heirships, construction of wills, and the administration, settlement and distribution of estates of decedents. As to the estate of a decedent, "settlement" includes, the full process of administration, distribution and closing.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 178.050

ADOPT: 170-135-0010

RULE TITLE: Providing the Treasurer Notice

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes definitions for the OAR 170-135 rules

RULE TEXT:

(1) Notice of Matter in Probate. When a Personal Representative is required to provide notice or deliver Property to the Treasurer under ORS 113.045(1) and (2), or 116.203, the Personal Representative must mail or deliver the notice or Property to:

Estate Administrator
Oregon's Unclaimed Property Program
Oregon State Treasury
775 Summer Street NE, Ste 100
Salem, OR 97301-1279

(2) Under ORS 116.203, the Personal Presentative must mail or deliver to the Treasurer:

- (a) A copy of the order of escheat, final distribution order, or small estate affidavit;
- (b) The Property;
- (c) The name of the Person entitled to the Property; and
- (d) The relationship of the Heir or Devisee to the Decedent.

(3) Notice of Intestate Decedent with no Heirs. Except as provided in section (4) of this rule, a Person must notify the Estate Administrator for the Treasurer within 48 hours of learning the Decedent died Intestate and did not have Known Heirs.

(4) Notice by Funeral Director. A funeral director must notify the Estate Administrator within two work days after receipt of a Decedent's body when it appears the Decedent died intestate and without Known Heirs.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 111.045, ORS 113.238, ORS 116.203

ADOPT: 170-135-0015

RULE TITLE: Duty to Maintain Decedent's Property

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the duty to maintain property of a decedent who dies intestate and without known heirs

RULE TEXT:

(1) Except as provided by ORS 708A.430 and 723.466, a Person may not dispose of or diminish any assets of the estate of a Decedent, unless approved by the Treasurer, when the Decedent:

(a) Died Intestate; and

(b) Did not have a Known Heir.

(2) Section (1) of this rule:

(a) Applies to a guardian or conservator for the Decedent; and

(b) Does not apply to:

(A) A Personal Representative appointed under ORS 113.085(3); or

(B) An affiant authorized under 114.520 to file an affidavit under 114.515.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 113.328

ADOPT: 170-135-0020

RULE TITLE: Funeral Arrangements

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements for a funeral director to itemize costs, and a plain and decent funeral to submit to the State Treasurer for approval

RULE TEXT:

(1) A funeral director:

(a) May not initiate any Funeral arrangements without prior approval from the Estate Administrator appointed by the Treasurer. The Treasurer retains discretion of what to approve;

(b) May complete applications for Social Security, Veterans Administration, or other available death benefits after consulting with the Estate Administrator; and

(c) Must itemize Funeral costs associated with each service provided by the funeral director, which includes, but is not limited to:

(A) Funeral costs;

(B) Cemetery costs;

(C) Disposition costs;

(D) Burial costs; and

(E) Any other service proposed and provided by the funeral director.

(2) The types of services for a plain and decent Funeral is determined by considering:

(a) Amount of assets available in the estate;

(b) The expressed desires of the decedent's friends and associates concerning appropriate Funeral services;

(c) The number of persons expected to attend any Funeral services offered; and

(d) The prominence of the decedent in the local community.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 113.242

ADOPT: 170-135-0025

RULE TITLE: Replacing the Estate Administrator as Personal Representative

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements and processes to replace the Estate Administrator as personal representative in a probate matter

RULE TEXT:

(1) A Person claiming to be an Heir of a Decedent whose Property is under the administration of the Treasurer must submit to the Estate Administrator acceptable proof to substantiate kinship to the Decedent.

(2) Acceptable proof under section (1) of this rule includes, but is not limited to:

(a) Certified copies of death and birth certificates;

(b) Genealogical search records;

(c) Obituaries;

(d) Funeral notices;

(e) Baptism records, and

(f) Family Bibles.

(3) The Treasurer may continue to administer the estate until the Estate Administrator determines that evidence submitted is sufficient to prove that the Person is legally entitled to the Decedent's assets. If other heirs are identified but not located, the Treasurer may continue to administer the estate in order to protect the interest of the missing Heirs and the Common School Fund, or if administration of the Estate is substantially complete and the Estate Administrator and the Known Heirs agree that it is in the best interests of the estate for the Treasurer to complete the administration.

(4) If the Treasurer has filed a Probate and an Heir is subsequently identified and found, the Heir must file a substitution of Personal Representative with the Probate Court to assume the responsibility of administering the estate. The Heir must provide a Court certified copy of the order of substitution to the Treasurer.

(5) If the administration is by a Small Estates Affidavit, the Heir must file an amended Small Estates Affidavit with the Court to assume responsibility of administering the estate, which shows that the Heir is taking over control and responsibility of the estate from the Treasurer, and submit a Court certified copy to the Treasurer.

(6) Any person who wishes to petition the court for appointment as a personal representative for the estate of a decedent who died wholly intestate and without known heirs shall submit a written request to the Treasurer. The estate administrator may authorize the appointment of another person to act as personal representative if:

(a) The estate administrator determines the estate is insolvent; or

(b) The estate administrator determines that the appointment is the most cost-effective method to administer the estate and protect the assets of the estate.

(7) The Estate Administrator will turn over the assets, less the Treasurer's administrative costs and attorney fees, to the Claiming Successor or successor Personal Representative, including all bills and claims against the estate.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 114.520

STATUTES/OTHER IMPLEMENTED:

ADOPT: 170-135-0030

RULE TITLE: Disclaiming an Interest in Estate or Property

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process for providing notice when an heir disclaims all or part of property being administered by the State Treasurer

RULE TEXT:

(1) When a Person disclaims all or a partial interest in an estate under the Uniform Disclaimer of Property Interests Act (ORS 105.623 to 105.649) and the Treasurer is the Personal Representative or is otherwise administering the estate, the Person must deliver a disclaimer to the Treasurer.

(2) When a Person is an Heir that was previous unknown disclaims all or a partial interest in an estate under the Uniform Disclaimer of Property Interests Act (ORS 105.623 to 105.649), the Person must deliver a disclaimer to the Treasurer.

(3) To be effective, a disclaimer must:

(a) Be in writing or otherwise recorded by inscription on a tangible medium or by storage in an electronic or other medium in a manner that allows the disclaimer to be retrieved in perceivable form;

(b) Declare that the Person disclaims the interest in the Property or in the power of the Property;

(c) Describe the interest in Property or power over the Property that is disclaimed;

(d) Be signed by the Person making the disclaimer; and

(e) Be:

(A) Emailed to estates.escheat@ost.state.or.us; or

(B) Mailed or delivered to:

Estate Administrator

Oregon Estates Administration Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 114.520

ADOPT: 170-135-0035

RULE TITLE: Requirements for Small Estates

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements for a Claiming Successor to provide notice to and receive approval from the State Treasurer to file a small estate affidavit

RULE TEXT:

A creditor of an intestate estate without heirs who is a Claiming Successor must first request written authorization from the Treasurer before filing a small estate affidavit. The request must be:

- (1) Emailed to estates.escheat@ost.state.or.us; or
- (2) Mailed or delivered to:

Estate Administrator
Oregon Estate Administration Program
Oregon State Treasury
775 Summer Street NE, Ste 100
Salem, OR 97301-1279

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 114.520

ADOPT: 170-135-0040

RULE TITLE: Request for Contested Case Hearing

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes process and requirements for filing a request for contested case hearing

RULE TEXT:

(1) Any Person aggrieved by a decision of the Treasurer under these rules that is not a matter subject to Probate or Small Estate Affidavit, the Person may request a contested case hearing.

(2) The request must:

(a) Be filed within 60 days of the date of the Treasurer's decision;

(b) Be in writing;

(c) Identify the issues of law or fact being contested; and

(d) Provide a summary of the evidence asserted in the petition.

(3) The Person must file the request for contested case hearing either by:

(a) Emailing the request to escheat.estates@ost.state.or.us; or

(b) Mailing or delivering the request to the following address:

Estate Administrator

Oregon Estate Administration Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

(4) The Office of Administrative Hearings will conduct the contested case hearing as provided under OAR 137-003-0515 and 137-003-0520. The Administrative Law Judge may only issue a Proposed and Final Order.

(5) No new evidence may be submitted at the contested case hearing. If new evidence is discovered after the request is filed, the administrative law judge must remand the case to the Treasurer for further review.

STATUTORY/OTHER AUTHORITY: ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 114.520

ADOPT: 170-140-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the purpose of the Division 140 administrative rules

RULE TEXT:

These rules establish:

- (1) Fees required or allowed under ORS chapter 98; and
- (2) Requirements and procedures for making a Claim to recover Property.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.422, ORS 178.050

ADOPT: 170-140-0001

RULE TITLE: Applicability

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Identifies to which claims the Division 170-140 rules apply

RULE TEXT:

(1) These rules to recover Unclaimed Property under OAR 170-140-0100 through 170-140-0140 (the "Rules for Recovery of Unclaimed Property") apply to Claims made under the Treasurer's statutory authority or by agreement with the Treasurer and another Entity.

(2) The Treasurer may waive procedural requirements when justice so requires.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.422, ORS 178.050

ADOPT: 170-140-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Defines certain words and phrases used in OAR 170-140

RULE TEXT:

For the purposes of these rules, unless the context requires otherwise, the capitalized words and phrases used in these rules have the following meanings:

(1) "Agent" means a Person who files a Claim on behalf of, and not in the stead of, a Claimant to recovery Property.

"Agent" includes, but is not limited to:

(a) A guardian;

(b) A conservator;

(c) An employee of an Entity; or

(d) A contracted vendor.

(2) "Business Entity" includes a sole-proprietor, domestic or foreign limited liability company, corporation, professional corporation, foreign corporation, domestic or foreign nonprofit corporation, domestic or foreign cooperative corporation, profit or nonprofit unincorporated association, business trust, domestic or foreign general or limited partnership, or trust.

(3) "Claim" means the act of asserting a lawful entitlement to Unclaimed Property.

(4) "Claimant" means a Person asserting the legal entitlement to Unclaimed Property and includes, but is not limited to:

(a) The Owner;

(b) An heir, devisee, or distributee of a Decedent;

(c) The Successor of an Original Owner;

(d) A Bankruptcy Trustee;

(e) A Personal Representative;

(f) A Creditor who has been issued a Writ of Garnishment;

(g) Attorney-in-Fact; or

(h) Other Person legally authorized to act in the stead of a Person claiming legal entitlement to Unclaimed Property.

(5) "Entity" includes a Business Entity and a Governmental Entity.

(6) "Finder's List of Unclaimed or Escheat Property" means a report that lists the names of Owners of Unclaimed or Escheat Property in the custody of the Treasurer, and may include additional information that would assist in finding the Owners.

(7) "Governmental Entity" means the federal government, the state, any agency or political subdivision of the state or federal government, or any unit of local government.

(8) "Holder" means a Person, wherever organized or domiciled, who is in possession of Property belonging to another, a trustee, or a Person indebted to another on an obligation.

(9) "Licensed Finder" means any Person who independently searches for and finds the Owners of Unclaimed or Escheat Property for a fee paid by the Owner who is licensed by the Oregon Department of Public Safety, Standards and Training under ORS 703.430.

(10) "Military Medal" means a medal or decoration awarded to a service member for military service.

(11) "Owner" means the Person whose name appears on the records of the Holder as the Person entitled to Property held, issued or owing by the Holder, a depositor in case of a deposit, a beneficiary in case of a trust other than a deposit in trust, or payee in case of other intangible Property, or a Person having a legal or equitable interest in Property.

(12) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, including Business Entities, and public bodies as defined in ORS 174.109, including Governmental Entities.

(13) "Property" means Unclaimed Property and the proceeds from the sale of Unclaimed Property.

(14) "Reporting Date" means the date the safe deposit box contents are received by the Treasurer.

(15) "Successor" means a Person who by ancestry or law is next to be legally entitled to the Property of another Person.

(16) "Treasurer" means the State Treasurer as established under Article VI, section 4 of the Oregon Constitution or the State Treasurer's designee.

(17) "Treasury" means the Oregon State Treasury, which is the administrative branch of the Office of the State Treasurer.

(18) "Unclaimed Property" means any asset that is reported or delivered to the Treasurer under ORS 98.352 because the Owner cannot be found by the company or person holding the asset.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.422, ORS 178.050

ADOPT: 170-140-0010

RULE TITLE: Maximum Percentage of Costs

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the maximum percentage the State Treasurer may deduct from a verified claim

RULE TEXT:

When the total value of Property of a verified Claim is \$100.00 or more, the Treasurer may deduct a maximum of ten percent of the total value for the cost of locating the Owners under ORS 98.356(4).

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.356

ADOPT: 170-140-0015

RULE TITLE: Proof of Safe Deposit Fee Payment or Waiver

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Provides that a claimant must pay rental fees on safe deposit boxes before property will be released, unless the fee is waived by a financial institution

RULE TEXT:

(1) Unless waived, a Claimant must pay outstanding rental fees owed to a financial institution when the contents of a safe deposit box were delivered to the Treasurer as abandoned or Unclaimed Property before the Treasurer will release the contents or proceeds from the contents to the Claimant.

(2) When the contents of a safe deposit box were delivered to the Treasurer within the five years preceding the Claim, the Claimant must provide proof that the fees under section (1) were paid or waived. Proof may include, but is not limited to:

(a) Safe deposit box rental receipt;

(b) A waiver of the rental fee issued by the financial institution; or

(c) If the proof required under subsection (a) or (b) of this rule is not available, the Claimant may submit testimonial evidence, including an affidavit.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.328

ADOPT: 170-140-0020

RULE TITLE: Finder's List of Unclaimed and Escheat Property

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process for requesting a Finder's List of Unclaimed and Escheat Property and sets the fee amount

RULE TEXT:

- (1) Any Person may request a Finder's List of Unclaimed and Escheat Property.
- (2) To complete the request, the Person must:
 - (a) Submit the request electronically through the Treasurer's Electronic Payment Gateway.
 - (b) Email the completed Finder's List Order Form to claims@ost.state.or.us; or
 - (c) Mail or deliver the completed the Finder's List Order Form to the following address:

Oregon's Unclaimed Property Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

(3) The Person must pay the fee of not less \$150.00 prior to receiving the report. The report will not be released for 20 calendar days unless the request is by credit card, debit card, electronic check, money order, or cashier's check at the time the request is made.

[You may order a Finder's List from Treasurer's website at <https://www.oregon.gov/treasury/electronic-payment-gateway/Pages/default.aspx>]

STATUTORY/OTHER AUTHORITY: ORS 98.050, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.050

ADOPT: 170-140-0100

RULE TITLE: Information Required on Property Claim Form

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process for requesting a Finder's List of Unclaimed and Escheat Property and sets the fee amount

RULE TEXT:

(1) To be complete, the Property Claim Form must include the Claimant's:

(a) Name:

(A) If the Claimant is an individual, the Claimant's first and last names; or

(B) If the Claimant is an Entity, the Entity's legal name.

(b) Current mailing address;

(c) Current street address if different than the mailing address;

(d) Current and reliable phone number;

(e) Current email address, if applicable;

(f) Prior names or alias(es), if applicable; and

(g) Previous address(es), if applicable.

(h) A description of:

(A) The nature of the Property being claimed; and

(B) The Claimant's interest in the Property.

(2) If the Property is co-owned by another Person, the completed form may include the co-Owner's:

(a) Name:

(A) If the Claimant is an individual, the Claimant's first and last names; or

(B) If the Claimant is an Entity, the Entity's legal name.

(b) Current mailing address;

(c) Current street address if different than the mailing address;

(d) Current and reliable phone number;

(e) Current email address, if applicable;

(f) Prior names or alias(es), if applicable; and

(g) Previous address(es), if applicable.

(3) An indemnity declaration immediately above the Claimant's signature and in prominent letters (e.g., bold type) that states, "I declare under penalty of perjury or mail fraud that to the best of my knowledge I am entitled to the assets of this Claim and agree to indemnify and hold the State Treasurer harmless for and from all claims, loss, costs, damages and expenses that State Treasurer may sustain by turning this asset over to me, or refusal to pay this asset or any part of it to any other person(s)."

(4) Claimant's signature. If the total value of the Property being claimed is more than \$2,500.00, the Claimant's signature must be notarized.

(5) If the Claimant is not the original Owner, then the Claimant must provide a description of the relationship between the Claimant and the original Owner.

(6) If the Claimant is the heir or devisee of a deceased Owner, the Claimant must provide a description of the Claimant's relationship to the deceased Owner.

(7) To help expedite the Claim, the Claimant may voluntarily provide the Claimant's full or partial (i.e., last four digits) Social Security number to the Treasurer. The Treasurer will only:

(a) Use the Social Security number to verify the Claimant's entitlement to Property; and

(b) Release Claimant's Social Security number when required by law or court order.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392

ADOPT: 170-140-0105

RULE TITLE: Required Attachments to Property to Property Claim Form

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the required documentation or attachments when submitting a property claim

RULE TEXT:

The Claimant must provide all the documents or other records required under this rule as attachments to the Property Claim Form or uploaded through the online Unclaimed Property Portal.

(1) Original Owner. If the Claimant is the original Owner, the Claimant must provide:

(a) The Claimant's current photo identification or other evidence to prove the identity of the Claimant (e.g., Driver's license);

(b) Proof of current mailing address; and

(c) Sufficient evidence to establish the Owner's legal entitlement to Property.

(2) Successor of Original Owner. If the Claimant is a Successor of the original Owner, the Claimant must provide the Claimant's current photo identification or other evidence to prove the identity of the Claimant (e.g., Driver's license), proof of current mailing address, and sufficient evidence to establish:

(a) The original Owner's legal entitlement to the claimed Property; and

(b) Sufficient evidence to establish the Claimant's legal entitlement to the claimed Property as a Successor.

(3) Heirs. If the Claimant is an heir of a Decedent, the Claimant must provide:

(a) When the value of the Property is \$1,000.00 or more, but not more than \$10,000:

(A) an Affidavit in Lieu of Probate; or

(B) Evidence of probate or the filing of probate under ORS chapters 111, and 113 – 117.

(b) When the value of the Property is more than \$10,000.00, evidence of probate or the filing of probate under ORS chapters 111, and 113 – 117.

(4) Creditor. If the Claimant is a creditor of a Property Owner, the Claimant must provide:

(a) A valid Writ of Garnishment; and

(b) Any other evidence sufficient to establish the Claimant is legally entitled to the claimed Property.

(5) Purchaser of a Negotiable Instrument. If a Claimant purchased a negotiable instrument (e.g., cashier's check, money order, certified check, traveler's check), from the Owner (i.e., the payee), the Claimant must provide:

(a) the Claimant's current photo identification or other evidence to prove the identity of the Claimant (e.g., Driver's license);

(b) Proof of current mailing address; and

(c) The negotiable instrument, lost instrument bond if required by the Treasurer, or evidence of payment satisfying the obligation to the payee.

(6) Claim for Securities. If the Claimant is claiming securities, the Claimant must provide:

(a) the Claimant's current photo identification or other evidence to prove the identity of the Claimant (e.g., Driver's license);

(b) Proof of current mailing address;

(c) The original security certificate, or lost instrument bond if required by the Treasurer; and

(d) The Owner's social security number as provided by the United States Security and Exchange Commission under 17 CFR § 240.17a-3.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.932

ADOPT: 170-140-0110

RULE TITLE: Required Attachments when Claim Filed on Behalf of a Claimant

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the documentation required to be submitted when an agent files a property claim on behalf of a claimant

RULE TEXT:

In addition to the requirements under OAR 170-040-0105, an Agent or Employee filing a Claim on behalf of a Claimant must provide all the documents or other records required under this rule.

(1) Generally. An Agent must provide an original Power of Attorney or other written notarized statement provided by each Claimant authorizing the Agent to file a Claim on behalf of the Claimant.

(2) Licensed Finder. The Licensed Finder must provide the following documents with the Property Claim Form:

(a) An original Power of Attorney or other written notarized statement provided by each Claimant authorizing the Licensed Finder to file a Claim on behalf of the Claimant;

(b) A copy of the Licensed Finder's Investigator license issued by the Oregon Department of Public Safety, Standards and Training under ORS 703.430; and

(c) An affidavit signed by each Claimant for the specified types of Property as determined by the Treasurer.

(3) Guardian or Conservator. The Person filing a Claim on behalf of an incapacitated Person or a minor must provide a certified copy of the guardianship or conservatorship appointment.

(4) Employee on behalf of a Business or Governmental Entity. The Person filing a Claim on behalf of a Business Entity or Governmental Entity must provide the following documents with the Property Claim Form:

(a) Evidence of the Claimant's Business Tax ID or Federal Tax ID number; and

(b) An original statement delegating the authority to the Employee to file a Claim on behalf of the Entity on the Entity's letterhead. The delegation must be signed by an individual authorized to bind the Entity, such as an officer of the corporation, the director of a state agency, county executive, or city manager, managing member of the limited liability company, or partner of a partnership; and

(5) Agent on behalf of a Business or Governmental Entity. The Person filing a Claim on behalf of a Business Entity or Governmental Entity must provide the following documents with the Property Claim Form:

(a) Evidence of the Claimant's Business Tax ID or Federal Tax ID number;

(b) If the Entity directs the Treasurer to deliver Property to the Agent rather than the Entity, then evidence of the Agent's Federal Tax ID number;

(c) An original Power of Attorney authorizing the Agent to submit a Claim on behalf of the Entity. The Power of Attorney must be signed by an individual authorized to bind the Entity, such as, such as an officer of the corporation, director of a state agency, county executive, or city manager, managing member of the limited liability company, or partner of a partnership; and

(d) An original statement on the Entity's letterhead signed by an individual authorized to bind the Entity, such as an officer of the corporation, the director of a state agency, county executive, or city manager, managing member of the limited liability company, or partner of a partnership, that:

(A) Recites the authority of the individual to bind the Entity;

(B) Acknowledges that the individual has executed a Power of Attorney authorizing the Agent to submit a Claim on behalf of the Entity;

(C) Includes the name and address of the Agent; and

(D) Directs the Treasurer to whom payment should be delivered if any Property is due the Entity under the Claim.

(6) Agent on behalf of a Dissolved Business Entity. The Person filing a Claim on behalf of a Dissolved Business Entity must provide the documents required under section (5) of this rule and the following documents with the Property Claim Form:

(a) If the Business Entity is a corporation or a limited liability company, a copy of the articles of dissolution; or
(b) If the Business Entity is a partnership, a copy of the partnership agreement or other agreement between the partners describing how partnership assets are to be distributed.

(7) Agent on Behalf of a Business Entity in Bankruptcy. The Person filing a Claim on behalf of Business Entity in bankruptcy must provide the documents required under section (5) of this rule and the following documents with the Property Claim Form:

(a) A copy of the order appointing the bankruptcy trustee; and

(b) An original Power of Attorney that authorizes the Agent to submit a Claim on behalf of the trustee in bankruptcy or on behalf of the Person or Entity authorized by the bankruptcy court to make a Claim on behalf of the bankruptcy estate.

(8) Business Entity Formerly in Bankruptcy. The Person filing a Claim on behalf of a Business Entity formerly in bankruptcy must include the documents required under section (4) of this rule and a copy of the order of discharge or other order establishing that the bankruptcy trustee abandoned the bankruptcy estate's interest in the Unclaimed Property.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392

ADOPT: 170-140-0115

RULE TITLE: Evidence Supporting a Claim

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the types of evidence that tends to support a claimant's burden of proof

RULE TEXT:

(1) Generally. The Claimant may submit documents or records to establish a legal entitlement to Property. Documents or other records establishing entitlement include, but are not limited to:

(a) Copies of documents showing addresses, including but not limited to utility bills, tax records, or original correspondence addressed to the Owner at the address reported to the Director;

(b) Passbooks, statements of accounts, canceled checks, deposit slips;

(c) Copy of, or original stock certificate in the Owner's name, copy of prior dividend payment or statement, stock transmittal receipt, brokerage firm statement;

(d) Original insurance policies, premium or dividend statements;

(e) Original deposit slips or receipts;

(f) Original certified or photo copies of court documents;

(g) Newspaper articles including marriage announcements, birth or obituary notices;

(h) Family or church records, baptismal certificates, or personal correspondence;

(i) Public or business records;

(j) Signature verification cards from financial institutions;

(k) Testimonial evidence, including properly notarized affidavits; or

(l) Any other forms of evidence sufficient to meet the burden of proof under the circumstances.

(2) Military Medals. If the Claim is for Military Medals, evidence to prove legal entitlement includes, but is not limited to:

(a) Military discharge documents;

(b) An award certificate of the Military Medal; or

(c) Proof of purchase.

(3) Successor. If the Claimant is a Successor, evidence to prove legal entitlement includes, but is not limited to:

(a) Certified copies of probate documents;

(b) Small estate affidavit;

(c) Final Decree of Distribution;

(d) A will;

(e) A death certificate; or

(f) Letters Testamentary.

(4) Property held for the benefit of a business under an assumed business name (Doing Business As). If the Claim is filed on behalf of an individual, but the Claim relates to Property held for the benefit under an assumed business name or "doing business as", evidence to prove legal entitlement includes, but is not limited to:

(a) Tax statements; or

(b) Business license.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392

ADOPT: 170-140-0120

RULE TITLE: Filing a Property Claim

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process for claiming property held by the State Treasurer

RULE TEXT:

(1) A Person may submit a Claim for Property at any time after the Person learns that the Property has been reported to the Treasurer by submitting a completed Property Claim Form and required attachments.

(2) The Person filing the Claim must file under subsection (a) or subsection (b) of this section:

(a) Complete and submit the online Property Claim Form through the Treasurer's website:

<https://unclaimed.oregon.gov/>; and

(A) When an original document is not required, the Claimant may provide the document through the Treasurer's website: <https://unclaimed.oregon.gov/app/claim-doc-upload>;

(B) When an original document is not required and the Claimant does not upload the document through the website, the document must be mailed or delivered under subsection (2)(b); or

(C) When an original document is required, the Claimant must include the assigned Claim number to each document and mail or deliver the document to the Treasurer.

(b) Mail or deliver a complete Property Claim Form with attachments to:

Oregon's Unclaimed Property Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

(A) A Claimant may request a Property Claim Form from the Treasurer at claims@ost.state.or.us; or

(B) A Claimant may download a Property Claim Form from Treasury's website:

<https://unclaimed.oregon.gov/app/forms>.

(3) A Claim is filed on the date the Treasurer receives the completed Property Claim Form.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392

ADOPT: 170-140-0125

RULE TITLE: Incomplete Claims

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirement the State Treasurer will only process completed claims

RULE TEXT:

Only a completed Claim will be processed. A Claim is incomplete until:

- (1) The Claimant provides all required information on the Property Claim Form and all required attachments;
- (2) The Claimant provides additional or supplemental evidence requested by the Treasurer;
- (3) An Entity designates a single Agent or Employee as the authorized Agent of the Entity;
- (4) The Claimant surrenders a security certificate, original negotiable instrument, or, if required by the Treasurer, provides a lost instrument bond; or
- (5) Two or more Claimants resolve any conflicts between or among the Claimants and notify the Treasurer of the resolution.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392

ADOPT: 170-140-0130

RULE TITLE: Burden of Proof and Standard of Review

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes a claimant's burden of proof and the State Treasurer's standard of review

RULE TEXT:

(1) The Claimant must prove legal entitlement to Property by a preponderance of the evidence. The Claimant is responsible for contacting Persons and submitting evidence sufficient to meet the burden of proof. Name similarity alone is not sufficient to prove entitlement to Unclaimed Property.

(2) Whether the Claimant meets the burden of proof is determined by:

- (a) The veracity of the evidence;
- (b) The age of the evidence;
- (c) The nature of the evidence (e.g., direct, indirect, or circumstantial evidence);
- (d) The existence of any competing evidence for the claimed Property; and
- (e) Any other related evidence appropriate under the circumstances of the Claim.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.392, ORS 98.396

ADOPT: 170-140-0135

RULE TITLE: Claim Disposition

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes how the State Treasurer will dispose of claims and to whom payment will be made

RULE TEXT:

(1) The Treasurer may close a Claim when:

(a) The Claimant fails to complete Property Claim Form, the online Unclaimed Property Portal, or provide required documents within 90 days of the date the Claimant last provided the Claim Form or required Claim documents;

(b) The Claimant fails to provide additional or supplemental evidence within 90 days of the date the Treasurer requested;

(c) An Entity fails to designate a single Agent or Employee as the individual authorized to file a Claim on behalf of the Entity within 90 days of the Treasurer providing notice; or

(d) A conflict exists between or among two or more Claimants who filed Claims for the same Property and does not resolve the conflict with 90 days of the Treasurer providing notice.

(2) The Treasurer will deny a Claim when the Claimant fails to prove by a preponderance of the evidence that the Claimant is legally entitled to the Property.

(3) When the Treasurer finds that the Claimant has sufficiently proven a legal entitlement to the Property, the Treasurer will deliver, or cause to be delivered, the Property due under the Claim. Property will be delivered to or payment issued in the name of the Claimant, except:

(a) Agent. If an Agent filed the Claim, the payment will be issued in the name of the Claimant unless otherwise directed by the Claimant.

(b) Licensed Finder. If a Licensed Finder filed the Claim, the payment will be issued in the name of the Claimant and the Licensed Finder when the Power of Attorney authorizes disbursement to the Licensed Finder. If the Power of Attorney does not authorize disbursement to the Licensed Finder, the payment will be issued in the name of the Claimant.

(c) Heirs. Payment will be issued for the benefit of the Heirs of the decedent (FBO) when the value of the Property is \$10,000.00 or less. When the value is more than \$10,000.00 the payment will be issued under the probate terms.

(d) Business or Governmental Entity. Issued in the name of the Entity, the Agent, or both as directed by the Entity; or

(e) Assumed Business Name. Issued in the name of the Claimant doing business as the assumed business name.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.396

ADOPT: 170-140-0140

RULE TITLE: Requesting a Contested Case Hearing

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process and requirements when requesting a contested-case hearing

RULE TEXT:

(1) A Claimant who disagrees with a decision of the Treasurer under OAR 170-140-0135 may file a request for a contested case hearing.

(2) The request must:

(a) Be filed within 60 days of the date of the Treasurer's decision;

(b) Be in writing;

(c) Identify the issues of law or fact being contested; and

(d) Provide a summary of the evidence asserted in the petition.

(3) The Claimant must file the request for contested case hearing either by:

(a) Emailing the request to claims@ost.state.or.us; or

(b) Mailing or delivering the request to the following address:

Oregon's Unclaimed Property Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

(4) The Office of Administrative Hearings will conduct the contested case hearing as provided under OAR 137-003-0515 and 137-003-0520. The Administrative Law Judge may only issue a Proposed and Final Order.

(5) No new evidence may be submitted at the contested case hearing. If new evidence is discovered after the request is filed, the administrative law judge must remand the case to the Treasurer for further review.

STATUTORY/OTHER AUTHORITY: ORS 98.422, ORS 178.050

STATUTES/OTHER IMPLEMENTED: ORS 98.402

ADOPT: 170-145-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the purpose of OAR 170-145

RULE TEXT:

The purpose of these rules is to provide consistent procedures for the administration of the Uniform Disposition of Unclaimed Property Act, Oregon Revised Statutes (ORS) 98.302 to 98.436, 98.991 and 98.992, and to ensure that all unclaimed money and Property held in safekeeping are reported and paid over to the Treasurer in an accurate and timely manner.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 178.050, ORS 98.422

ADOPT: 170-145-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the definitions for words and phrases under OAR 170-145

RULE TEXT:

For the purposes of these rules, unless the context requires otherwise, the capitalized words and phrases used in these rules have the same meaning as provided in ORS 98.302 and:

- (1) "Capital Gains" means gains or profit realized on the sale or exchange of a capital asset, or the excess of proceeds over cost, or other basis, from the sale of a capital asset.
- (2) "Credit Memorandum" or "Credit Memo" means a transaction posted to a customer account which reduced the account balance and is related to a previously posted invoice or charge, correcting and reducing the amount originally charged.
- (3) "Descendant" has the meaning given that term in ORS 111.005.
- (4) "Dividend" means cash which accrues by the earnings of a company and which is paid to the Owner of securities issued by that company.
- (5) "Dividend Reinvestment Plan" means additional securities of the same company which are credited to an Owner's account in lieu of cash.
- (6) "Dormant" means without Owner generated activity or Owner contact for a prescribed time. See also "Inactive".
- (7) "Due Diligence" means taking reasonable and necessary steps in good faith to locate the rightful Owner of Property before the Property is reported to the state.
- (8) "Government Body" means a court, state or other government, governmental subdivision or agency, law enforcement agency, county fiscal officer, public corporation, public authority, quasi-governmental agency, public officer of this state, political subdivision of this state, or Public Employees' Retirement System.
- (9) "Holder" means a Person, wherever organized or domiciled, who is:
 - (a) In possession of Property belonging to another;
 - (b) A trustee; or
 - (c) Indebted to another on an obligation.
- (10) "Inactive" means a lack of Owner generated activity or Owner contact for a prescribed time. See also "Dormant".
- (11) "Intangible Property" has the same meaning as ORS 98.302(7), and includes:
 - (a) Stored value card balances or similar electronically maintained credit balances except gift cards as defined in ORS 646A.274;
 - (b) Cryptocurrency (e.g. Bitcoin); and
 - (c) Unidentified remittances.
- (12) "Military Medal" means a medal or decoration awarded to a Service Member for military service.
- (13) "NAUPA" means the National Association of Unclaimed Property Administrators.
- (14) "Negative Report" means the Holder did not have any Inactive accounts or other unclaimed assets to report for a particular reporting period.
- (15) "Person" has the same meaning as ORS 98.302, and includes an estate and a trust.
- (16) "Positive Owner Contact" means documented contact between an Owner and the Holder; either generated or initiated by the Owner or in response to the Holder.
- (17) "Property" has the same meaning as ORS 98.302, and includes Tangible and Intangible Property.
- (18) "Reportable" means the appropriate Dormant or Inactive period as set forth in OAR 170-145-0010 after which time an Owner has not claimed his or her asset from a holding company, and the Holder has taken appropriate steps to find the Owner, as described in 170-145-0015.
- (19) "Safekeeping Depository" means any leased or rented depository used as a deposit for safekeeping of Tangible or Intangible Property.

(20) "Service Member" means the Person to whom a Military Medal was initially awarded.

(21) "Tangible Property" means:

(a) Property actually being held in a Safekeeping Depository and includes, but is not limited to:

(A) Contents of safe deposit boxes in financial organizations;

(B) Contents of safekeeping repositories located in hospitals, health-care facilities, motels, hotels, jewelry stores, department stores, professional offices, or any other site where the Holder is acting as a safekeeping custodian for the rightful Owner subject to the following exceptions:

(i) Used personal clothing or similar items with little or no commercial value.

(ii) Items that are hazardous including, but not limited to: batteries, chemicals, explosives, medical waste, ammo, drugs or similar controlled substances.

(b) Property held for the Owner by a court, state or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority (for instance unclaimed court exhibits) subject to the following exceptions:

(A) Used personal clothing or similar items with little or no commercial value; and

(B) Items that are hazardous including, but not limited to: batteries, chemicals, explosives, medical waste, ammo, drugs or similar controlled substances.

(c) Notwithstanding the above, Military Medals are considered Tangible Property.

(22) "Third-party Administrator" is a Person contracted by the Holder to manage and process account records.

(23) "Treasurer" means the State Treasurer as established under Article VI, section 4 of the Oregon Constitution, the State Treasurer's designee, or the State Treasurer's Authorized Representative.

(24) "Treasurer's Authorized Representative" means a Treasury, Department of Consumer and Business Services, or Office of the Secretary of State employee or any other Person under contract with the Treasurer to conduct the examination.

(24) "Treasury" means the Oregon State Treasury, which is the administrative branch of the Office of the State Treasurer.

(25) "U.S. Savings Bonds" has the same meaning as ORS 98.319.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.302 to 98.436

STATUTES/OTHER IMPLEMENTED: ORS 98.302 to 98.436, 98.992

ADOPT: 170-145-0010

RULE TITLE: Determining When Holders Must Report Property

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Provides the method of determining when property can be presumed abandoned and reportable to the State Treasurer

RULE TEXT:

Property becomes Reportable when presumed abandoned under Exhibit A in the table attached to this rule.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS Chapter 98

STATUTES/OTHER IMPLEMENTED: ORS 62.720, ORS 98.302 to 98.436, ORS 98.992



**OAR 170-145-0010
Determining When Holders Must Report Property**

Property becomes Reportable when presumed abandoned under the following table:

(1) All Holders

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Intangible personal property in the course of a dissolution of a business association or Financial Institution	One year	The date of final distribution
(b) Property held in a safety deposit box or any other safekeeping repository in Oregon	Two years	Date the lease or rental period expired
(c) Assets of a dissolved cooperative	Two years	Date of final distribution
(d) Unpaid wages, including commissions, and wages represented by uncashed payroll checks owing in the Holder's ordinary course of business	Three years	Date the instrument becomes due and payable
(e) Any Credit Memo issued in the Holder's ordinary course of business	Three years	Credit Memo becomes payable or distributed without Positive Owner Contact
(f) Any other disbursements issues during the Holder's ordinary course of business	Three years	Date it became payable or distributable notwithstanding the Owner's failure to make demand or to present any instrument or document required to receive payment
(g) All intangible personal property, not otherwise covered by ORS 98.302 to 98.436 and 98.992, including any income or increment thereon	Three years	Date it became payable or distributable notwithstanding the Owner's failure to make demand or to present any instrument or document required to receive payment



If the Property is:	And has been Dormant or Inactive for more than:	After the:
(h) Money order or similar written instrument other than a third-party bank check	Seven years	Money order has been outstanding after its issuance
(i) Traveler's check	15 years	After its issuance, unless the owner has communicated in writing with the issuer concerning the traveler's check

(2) All Holders holding Property in a fiduciary capacity

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Intangible personal property and any income or increment thereon, including but not limited to, property management security deposits, attorney trust accounts, escrow accounts, and trust accounts	Two years	It becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary
(b) Funds in an individual retirement account or a retirement plan or a similar account or plan established under the Internal Revenue laws of the United States	Two years	Distribution of all or part of the funds comes mandatory under the terms of the account or plan and the Holder is unable to distribute



(3) Business Association

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Stock, certificates of ownership, or other intangible equity ownership interests in a Business Association	Three years	The requirements under ORS 98.322(1) are met
(b) Dividends, profit distributions, interest, payment on principle, or other sum	Three years	The requirements of ORS 98.322(5) are met

(4) Financial Institution

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Any sum payable on a Credit Union drawn check, draft or similar instrument, including a cashier's check and a certified check that are due or standing in the name of a member, beneficiary, or other Person	Three years	Date it became payable or the date of its issuance if payable on demand subject to the requirements of ORS 98.308
(b) Any demand, savings or matured time deposit, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mutual investment certificate or any other interest	Three years	Date of the last Positive Owner Contact subject to the requirements under ORS 98.308
(c) Any certificate of deposit in the form of a Dividend Reinvestment Plan	Three years	First maturity date after the Holder determines that the Owner cannot be located
(d) Any funds payable for which a Financial Institution is directly liable, including checks, drafts, cashier's checks, certified checks, or similar instruments	Three Years	After it was payable or after its issuance if payable on demand subject to the requirements of ORS 98.308



(5) Government Body

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Fines, bail, restitution, child support, condemnation payments, judgment proceeds, municipal bonds and the interest thereon, and all other Intangible Property	Two years	Date of the most recent Positive Owner Contact
(b) Tangible Property other than Property seized by a removing authority under ORS 98.245(1)(b), personal Property willfully abandoned by the Owner (e.g., automobiles, furniture, household goods, or other Property specifically addressed by statute); Tangible Property consistent of used personal clothing or household items with little or no commercial value, except Military Medal or any hazardous materials	Two Years	Date of the most recent Positive Owner Contact
(c) Intangible Property, including uncashed warrants and wages represented by unrepresented payroll checks	Two Years	The Property has remained unclaimed

(6) Insurance Company

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Funds owing under a life or endowment insurance policy or annuity contract	Three years	Funds become due and payable
(b) A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company	Two years	Date the policy or annuity contract matured and the proceeds became due and payable under requirements in ORS 98.314(3)



(7) Utility company or municipality

If the Property is:	And has been Inactive for more than:	After the:
(a) A Deposit or other sum paid in advance for Utility services	One year	Date of termination of services or funds otherwise become payable
(b) A refund the Utility has been ordered to return	One year	The date the refund became payable

ADOPT: 170-145-0015

RULE TITLE: Holder's Due Diligence Requirements

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes a Holder's due diligence responsibility to locate owners or property and accounts

RULE TEXT:

- (1) A Holder must report all Property presumed abandoned under Oregon law to the Treasurer.
- (2) When the value of the Property being reported is more than \$100.00, the Holder must comply with section (3) of this rule.
- (3) More than 60 days prior to reporting Property presumed abandoned under OAR 170-145-0015, each Holder must:
 - (a) Exercise Due Diligence to locate an Owner of the Property or account when the Property or account has been Inactive for the length of time required under ORS 98.302 to 98.436 and 98.992; and
 - (b) If the Owner is located, notify the Owner of:
 - (A) The type of Property being held;
 - (B) The process for claiming the Property from the Holder; and
 - (C) That if the Owner fails to claim the Property, the Holder will report the Property or account to the Treasurer as unclaimed Property.
- (4) A Holder must clearly demonstrate that it complied with the requirements of this rule by:
 - (a) Verifying that the Holder has not had any Positive Owner Contact related to:
 - (A) The subject Property or account; and
 - (B) Any other Property or account belonging to the Owner (e.g., the trust department of a Financial Institution should contact other departments of the institution);
 - (b) Verifying the lack of a memorandum or other record on file indicating an interest in the Property;
 - (c) If the Holder is a credit union, verify that the Owner has not participated in voting during a regularly scheduled meeting; and
 - (d) If the Holder is unable to locate the Owner:
 - (A) Verify that the Owner is not a current employee of the Holder;
 - (B) Review telephone directories, or other available databases to verify the Owner's address and telephone number;
 - (C) Verify the Owner is not a well-known individual or organization (e.g., Department of Treasury, IRS); and
 - (D) Any other effort the Holder may take to find an Owner.
- (5) A Holder must retain the records or documentation of its compliance with the requirements of this rule for three years and make the records or documentation available for inspection when requested by the Treasurer.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422, ORS 98.352

STATUTES/OTHER IMPLEMENTED: ORS 98.352

ADOPT: 170-145-0020

RULE TITLE: Reporting Form and Format

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the form and format for submitting Holder Reports to the State Treasurer

RULE TEXT:

- (1) A Holder must submit reports electronically using the NAUPA II Standard Electronic File Format. The reports must be submitted through the Unclaimed Property Portal located at <https://unclaimed.oregon.gov/app/submit-a-report>.
- (2) Notwithstanding section (1) of this rule, a Holder may request permission to submit a hard-copy report. The request must be in writing and include an explanation of the difficulty of filing electronically. The Holder must follow the form and format required by the Treasurer if the request is approved.
- (3) A Holder must file a Negative Report if required by the Treasurer.

[Ed Note: You may request of a copy of the NAUPA Standard Electronic File Format from the Treasurer, or you may download a copy from the NAUPA website by copying and pasting the following address:

<https://mk0unclaimedproo4yy1.kinstacdn.com/wp-content/uploads/NAUPAStandardElectronicFileFormat-11.20.19.pdf>]

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422, ORS 98.352

STATUTES/OTHER IMPLEMENTED: ORS 98.352

ADOPT: 170-145-0025

RULE TITLE: Reporting and Delivery of Property to the Treasurer

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the methods of reporting and delivering property presumed abandoned to the State Treasurer

RULE TEXT:

(1) Every Person holding funds or other Tangible or Intangible Property, presumed abandoned according to ORS 98.302 to 98.352 must report and pay or deliver all such Property to the Treasurer, except that funds transferred to the General Fund by governmental agencies pursuant to ORS 293.455(1)(a) must only be reported to the Treasurer.

(2) The Holder must designate an employee to serve as the contact Person responsible for the report.

(3) For accounts Inactive as of June 30, the Holder must file the report after October 1, but not later than November 1.

(4) The Treasurer may, at its discretion, postpone the reporting date, or allow early reporting and payment or delivery upon written request by any Person required to file a report.

(5) A Holder must report Property having a value of \$50 or more per account or Owner of record, individually, and must include the following information, if known:

(a) The complete name, address of record, Social Security number, previous names, and any previous addresses of each listed Owner; and

(b) The type of account, identification number, reference number, last activity or transaction date used to presume abandonment, and any specific description of the Unclaimed Property according to the records of the Holder.

(6) If the Holder believes it is more efficient, it may report a lump sum value, known as an aggregate, for the total of individual accounts \$49.99 or less, except when the total amount held for any one Owner of several small amounts equal or exceed \$50 dollars. If Owner detail is not submitted, the Treasurer may request the Holder to certify ownership when a potential claim exists for a portion of the lump sum reported.

(7) To assist the Treasurer in returning funds to the Owner of record, a Holder may report the Owner detail information required under subsection (5) of this rule for Property having a value of \$49.99 or less per account or Owner of record but the Treasurer may not require this action.

(8) In addition to the information required above, a life insurance company must also report the following information, if known:

(a) The full name of each insured or annuitant, or if a class of beneficiaries is named, the full name of each current beneficiary in the class, and according to the Holder's records;

(b) The address of each beneficiary; and

(c) The relationship of each beneficiary to the insured.

(9) A Holder of Safekeeping Depositories must comply with the following additional requirements:

(a) The Holder must complete the specific report form for safekeeping contents or include the required information in the Holder's computer-generated format and file the report, separate from the contents, no later than November 1.

(b) In addition to the information required in section (5) of this rule, list each item left in a Safekeeping Depository, and the identity of the Owner. The Holder must include information about the original box if the Holder moved items to a safekeeping area.

(c) In accordance with directions from the Treasurer, the Holder must deliver the package of Safekeeping Depository contents marked "to be delivered unopened," to the Treasurer by certified mail, return receipt requested or hand carried by a courier. The Treasurer must sign a receipt for the unopened package upon delivery to the Treasurer, and forward the receipt to the Holder within five working days.

(d) The Holder must clearly identify on the package the Holder's complete name and return address.

(e) With the exception of hazardous Tangible Property, the Holder must forward the complete contents of Safekeeping Depositories to the Treasurer intact. The Holder may not convert, substitute or exchange any coins and currency found in the box.

(f) The Holder must include information about Safekeeping Depository costs in its report to the Department. The Treasurer may require the Owner to furnish proof from the Holder pursuant to OAR 170-145-0015 before a claim for a safe deposit box is approved.

(10) Any Holder, business association, transfer agent, registrar or other Person acting on behalf of the Holder of an intangible equity ownership interest deemed unclaimed according to ORS 98.322 must, in addition to supplying the information required in section (5) of this rule:

(a) Report and transfer the shares directly to the Treasurer's designated stock broker or transfer agent via available electronic medium and include a confirmation of the transfer with the report.

(b) When an electronic method of transfer is not available the Holder must:

(A) Where the original certificate is being held by the Holder for the Owner (i.e., stock or other certificate of ownership of a business association which has been returned to the Holder, who cannot find the Owner), cancel that certificate and issue a replacement certificate of ownership to the Treasurer; or

(B) When the Holder does not hold the original certificate, issue a replacement certificate i.e., a duplicate certificate of ownership or other distribution or stock or other certificates of ownership of a business association issued in the name of the Office of the State Treasurer as custodian of unclaimed Property. The original certificate of ownership is presumed to be in the possession of the missing Owner.

(c) In any case, the Holder must report and forward to the Treasurer all outstanding accrued Dividends, along with the certificate.

(11) In addition to providing the information required in section (5) of this rule, a Holder reporting mutual funds in book entry form must:

(a) Transfer the account directly into the Treasurer's account at the Treasurer's designated broker dealer and forward a confirmation of account transfer to the Treasurer along with the report; and

(b) Forward future income in the form of cash (for example, Dividends, Capital Gains, etc.) payable to the Treasurer from mutual fund accounts with Dividend Reinvestment Plans.

(12) If the Holder is a dissolved agricultural cooperative, the Holder must forward the original reports detailing unclaimed dissolved agricultural cooperative accounts to the Treasurer along with the funds, and file a copy of the report with Oregon State University. The Treasurer must reconcile the report to the delivered funds, deduct the costs as provided for in ORS 62.720 and forward the funds to Oregon State University within 14 working days after receiving the funds.

(13) The receiver or other liquidating agent for a dissolved corporation must prepare a report containing the names and Last-known Addresses of the Persons entitled to such funds.

(14) Before October 1 each year, each state agency must prepare a report of all checks, warrants, and orders drawn by it which have been outstanding for a period of more than two years prior to July 1, and that have not been paid by the State Treasurer. The report must not include checks or orders that have already been paid pursuant to indemnity bonds. The agency must forward the report to the Treasurer before November 1.

(15) After October 1, the State Treasurer may refuse payment of the unrepresented checks or orders included in the report, and upon instructions by the issuing agency must:

(a) Transfer and credit the amounts of the unrepresented checks or orders dedicated for general funding to the General Fund;

(b) Except for federal funds governed by federal laws and rules as provided in ORS 291.003 and 409.040(2), transfer all other funds to the Treasurer; and

(c) Report information about any payment made to an Owner subsequent to filing the report, but before transferring the funds to the Treasurer.

(16) If the Holder of the unclaimed account is a successor to other Persons who previously held the Property, or if the Holder has had a name change, the Holder must include in the initial report prior known names and addresses of the original or previous Holder.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422, ORS 98.352

STATUTES/OTHER IMPLEMENTED: ORS 98.412

ADOPT: 170-145-0030

RULE TITLE: Service Charges and Interest on Deposit Accounts

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements for services charges and interest on deposit accounts

RULE TEXT:

(1) With respect to any demand, savings or matured time deposit with a Financial Institution, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mutual investment certificate or any other interest in a Financial Institution, a Holder may not impose any charge or cease payment of interest due to dormancy or inactivity unless:

(a) There is a written contractual agreement between the Holder and the Owner of the account clearly and prominently setting forth the conditions under which a service charge may be imposed, or the payment of interest terminated;

(b) The establishment of a service charge, the change of an existing service charge or the change of a policy pertaining to the payment of interest is uniformly applied to all Dormant or Inactive accounts;

(c) The Holder must give written notice to the Owner at the Owner's Last-known Address whenever an account becomes Inactive; and;

(d) Three months written notice is given by first-class mail to the Last-known Address of the Owner of a Dormant or Inactive account before the Holder may apply a service charge to the account or stop paying interest on that account.

(2) A signature card is not a written contractual agreement for the purposes of subsection (1)(a) of this section, however, the signature card and the written contractual agreement may be contained in one instrument.

(3) A Holder may not deduct from the amount of any instrument subject to ORS 98.308(5) or (6) any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the Holder and the Owner of the instrument pursuant to which the Holder may impose a charge, and the Holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(4) Notwithstanding the provisions in subsections (1) to (3) of this section, a Holder may not deduct a service charge or fee or otherwise reduce an Owner's unclaimed account unless:

(a) There is a valid written contract between the Holder and the Owner that allows the Holder to impose a charge;

(b) The service charge or fee is imposed uniformly on all accounts; and

(c) Three months' written notice is given by first-class mail to the Last-known Address of all Owners before the charge or fee is levied.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 98.422

ADOPT: 170-145-0035

RULE TITLE: Holder Request for Reimbursement

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the ability of a Holder to request reimbursement when the Holder pays an owner after the property has been delivered to the State Treasurer

RULE TEXT:

If a Holder pays or delivers Property to an Owner or the Holder overpaid or made an error when remitting property to the Treasurer, the Holder may request reimbursement from the Treasurer. The Holder must provide to the Treasurer sufficient evidence to establish the Owner was paid or the Holder made an error or overpayment. The Holder will not be assessed any fees or other service charges by the Treasurer. When the Holder receives the reimbursement, the Holder assumes liability for the asset and holds the Treasurer harmless from all future claims to the Property. If a Holder pays or delivers Property to an Owner, the Holder may request reimbursement from the Treasurer. The Holder must provide to the Treasurer sufficient evidence to establish the Owner was paid. The Holder will not be assessed any fees or other service charges by the Treasurer. When the Holder receives the reimbursement, the Holder assumes liability for the asset and holds the Treasurer harmless from all future claims to the Property.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 98.422

ADOPT: 170-145-0040

RULE TITLE: Holder Examinations

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process and requirements for any Person subject to a Holder Examination

RULE TEXT:

Every Person receiving at least 10 business days written notice is subject to an examination by the Treasurer:

(1) The Person subject to an exam must provide all records necessary to determine whether the Person has complied with the requirements of ORS 98.352.

(2) A Holder subject to an examination under ORS 98.412(4) must provide all records to the Treasurer or the Treasurer's authorized representative, including those records created or maintained by any Person serving as the Holders' registrar, paying agent, Third-Party Administrator, or any other Person creating or maintaining records on behalf of the Holder.

(3) The Person or Holder subject to examination must present all records and accounts requested and include, but are not limited to:

(a) Contractual agreements between depositors and the Financial Institution regarding the deduction of service charges authorized according to ORS 708.500, account increases or decreases, and the cessation of interest payments;

(b) Records of current accounts, Inactive accounts, and accounts that may have been closed and archived;

(c) The Holder's procedures for administering Inactive accounts, including searching for and notifying Owners to ensure compliance with OAR 170-145-0015;

(d) Bank reconciliations, outstanding checklists and bank statements;

(e) Aged accounts receivable reports;

(f) Reports from transfer agents showing last date of positive contact with stockholders;

(g) Uncashed checks that have been returned as undeliverable;

(h) Uncashed payroll checks that have been returned by a company plant or office;

(i) Journal entries that specifically write off stale dated checks;

(j) Third Party Administrators' contracts, records and reconciliations; and

(k) Holder trial balance of accounts or chart of accounts.

(4) The Holder must respond to the Treasurer's preliminary findings by providing a written response within 30 days.

(5) The Holder must deliver to the Treasurer any Property, interest, and penalties due based on final examination findings within 60 days unless the Holder requests to resolve the dispute through a collaborative dispute resolution process or files a request for contested case hearing. If the Holder fails to request a collaborative dispute resolution process or contested case hearing within the time allowed, the examination findings and decisions become final. The Holder may request a payment plan or payment period adjustment from the Treasurer.

(6) A Holder that has been subject to an examination by the Treasurer is required to file an annual Holder's report, including a Negative Report, for the five years immediately following the examination date.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 98.412

ADOPT: 170-145-0045

RULE TITLE: Records Maintenance, Retention, and Disclosure

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the requirements for maintaining, retaining, and disclosing reportable property under ORS 98.302 to 98.436, and 98.992

RULE TEXT:

(1) The Holder is responsible for the content, accuracy, and timeliness of the reports and retention of all records associated with the reports as defined in ORS 98.354 whether the report is filed by the Holder or another Person on behalf of the Holder.

(2) Every Holder must maintain a record of the name and Last-known Address of the Owner and such signature cards and other evidence which would assist in the identification of the owner for three years after the Property has been remitted to the Treasurer.

(3) Except as provided in section (4) of this rule, a Person may not release a list of records within:

(a) Twelve months after the date the Property is Reportable; and

(b) Twenty-four months after the date the Property has been delivered or remitted to the department.

(4) Lists of uncashed warrants, stale dated checks, or other Property held by a Government Body under ORS 98.336 are exempt from public review for 24 months after the Property is remitted to the Treasurer.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 98.302 to 98.436, ORS 98.992

ADOPT: 170-145-0050

RULE TITLE: Request for Collaborative Dispute Resolution

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the availability and process for entering into a collaborative dispute process

RULE TEXT:

- (1) Either the Holder or the Treasurer may request the other to engage in a collaborative dispute resolution process when the findings or decision are based on estimates as described in OAR 98.412(4). Both parties must agree to the process, and either party can terminate the process at any time.
- (2) A Holder who disagrees with examinations findings by or a decision of the Treasurer under these rules may request to resolve the dispute through a collaborative process.
- (3) The Holder's request must:
 - (a) Be filed within 60 days of the date of the Treasurer's final examination findings; and
 - (b) Be in writing.
- (4) The Holder must file the request to resolve the dispute through a collaborative process either by:
 - (a) Emailing the request to holder@ost.state.or.us; or
 - (b) Mailing or delivering the request to the following address:

Oregon's Unclaimed Property Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

- (5) The parties may agree to use mediation or other facilitated process to complete the collaborative dispute resolution process.
- (6) To preserve the right to a contested case hearing, a Holder must file a request for contested case hearing under OAR 170-145-0055. A Holder's request to resolve the dispute through a collaborative process does not stay or suspend the time that the Holder may request a contested case hearing.
- (7) If the Holder files a contested case hearing and both the Holder and the Treasurer have agreed to enter into a collaborative resolution process, the Treasurer will not refer the contested case to the Office of Administrative Hearings for up to 45 days.
- (8) If the request for contested case hearing has been referred to the Office of Administrative Hearing, the Administrative Law Judge will postpone the hearing for not more than 45 days when both the Holder and the Treasurer agree to enter into a collaborative resolution process.
- (9) If the dispute is resolved through a collaborative process, the agreement must be in writing and signed by both the Holder and the Treasurer. Once the agreement is signed by both parties, the request for contested case hearing will be dismissed with prejudice.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 183.502

ADOPT: 170-145-0055

RULE TITLE: Requesting a Contested Case Hearing

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the process and requirements for requesting a contested case hearing

RULE TEXT:

(1) A Holder who disagrees with a decision, examinations findings, or penalties issued by the Treasurer under these rules may file a request for a contested case hearing.

(2) The request must:

(a) Be filed within 60 days of the date of the Treasurer's decision.

(b) Be in writing;

(c) Identify the issues of law or fact being contested; and

(d) Provide a summary of the evidence asserted in the petition.

(3) The Holder must file the request for contested case hearing either by:

(a) Emailing the request to holder@ost.state.or.us; or

(b) Mailing or delivering the request to the following address:

Oregon's Unclaimed Property Program

Oregon State Treasury

775 Summer Street NE, Ste 100

Salem, OR 97301-1279

(4) The Office of Administrative Hearings will conduct the contested case hearing as provided under OAR 137-003-0515 and 137-003-0520. The administrative law judge may only issue a Proposed Order.

(5) No new evidence may be submitted at the contested case hearing. If new evidence is discovered after the request is filed, the administrative law judge must remand the case to the Treasurer for further review.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.422

STATUTES/OTHER IMPLEMENTED: ORS 98.402, ORS 98.412

ADOPT: 170-145-0100

RULE TITLE: Voluntary Disclosure Program

NOTICE FILED DATE: 04/09/2021

RULE SUMMARY: Establishes the Voluntary Disclosure Program to allow Holders to comply with reporting and delivery requirements without penalty

RULE TEXT:

(1) The Voluntary Disclosure Program allows a Holder to come into compliance with the reporting and delivery of Property presumed abandoned under ORS 98.302 to 98.436 and these rules without penalty under ORS 98.992 during the period the Holder participates.

(2) To participate in the Voluntary Compliance Program, a Holder must meet the following criteria. The Holder:

(a) Has identified that it did not report or underreported Property that was Reportable and deliverable in a prior year;

(b) Is not subject to a current examination under these rules; and

(c) Has not participated in the Voluntary Compliance Program or the Self-audit Program within the past ten years. The Treasurer may waive this requirement if the Property type is new or associated with a merger or acquisition of a new company.

(3) If qualifies to participate in the Voluntary Disclosure Program, the Holder must:

(a) Enter into a Voluntary Disclosure Agreement with the Treasurer.

(b) Conduct a complete examination of the Holder's, the Holder's subsidiaries or other related entities books and records for the six years immediately prior to participation;

(c) Report and deliver Property that are required under ORS 98.302 to 98.436;

(d) Disclose the following for each subsidiary or related entity:

(A) The Employer Identification or Tax Identification Number issued by the Internal Revenue Service;

(B) The state of domicile;

(C) The state of incorporation; and

(D) The Holder's corporate structure.

(e) Disclose, in writing, all business positions, methodologies, and estimation techniques, if applicable, used to determine Reportable Property;

(f) Disclose the Due Diligence performed to locate Owners under the examination period;

(g) To verify the content and accuracy of the records examined to the Treasurer, including the reason for each missing or unavailable record; and

(h) File an electronic report in the form and format required by the director under OAR 170-145-0020 within 180 days after the Holder enters the Voluntary Disclosure Program.

(4) When the Holder completes the Voluntary Disclosure Program, the Holder becomes subject to a penalty for failing to report, pay, or delivery Property under ORS 98.302 to 98.436.

(5) The Treasurer at any time may conduct an examination of the Holder's records under ORS 98.412.

STATUTORY/OTHER AUTHORITY: ORS 178.050, ORS 98.302 to 98.436, ORS 98.992

STATUTES/OTHER IMPLEMENTED: ORS 98.302 to 98.436, ORS 98.992