

# Chapter 98

2009 EDITION

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### RIGHTS AND DUTIES OF FINDERS AND OWNERS

**98.005 Rights and duties of finder of money or goods.** (1) If any person finds money or goods valued at \$100 or more, and if the owner of the money or goods is unknown, such person, within 10 days after the date of the finding, shall give notice of the finding in writing to the county clerk of the county in which the money or goods was found. Within 20 days after the date of the finding, the finder of the money or goods shall cause to be published in a newspaper of general circulation in the county a notice of the finding once each week for two consecutive weeks. Each such notice shall state the general description of the money or goods found, the name and address of the finder and final date before which such goods may be claimed.

(2) If no person appears and establishes ownership of the money or goods prior to the expiration of three months after the date of the notice to the county clerk under subsection (1) of this section, the finder shall be the owner of the money or goods. [1973 c.642 §1; 1989 c.522 §1]

**98.010** [Repealed by 1973 c.642 §13]

**98.015 Liability of noncomplying finder; forfeiture to county of unclaimed money or goods.** If any person who finds money or goods valued at \$100 or more fails to comply with ORS 98.005, the person shall be liable, upon conviction for violation of ORS 164.065, to the county for the money or goods or the full value of the money or goods. The county treasurer shall hold the money or goods or their value for owner thereof and shall publish notice of the finding of the money or goods in the manner provided in ORS 98.005. If the owner has not reclaimed such money or goods within three months after the date of the first publication of notice by the county treasurer, the owner shall forfeit the rights of the owner to the value of such money or goods and the value of such money or goods shall be placed in the general fund of the county to be used for the payment of the general operating expenses of the county. [1973 c.642 §2; 1989 c.522 §2]

**98.020** [Repealed by 1973 c.642 §13]

**98.025 Rights of owner.** If an owner of money or goods found by another person appears and establishes a claim to such money or goods within the time period prescribed by ORS 98.005 or 98.015, whichever applies, the owner shall have restitution of such money or goods or their value upon payment of all costs and charges incurred in the finding, giving of notice, care and custody of such money or goods. [1973 c.642 §3]

**98.030** [Repealed by 1973 c.642 §13]

**98.040** [Repealed by 1973 c.642 §13]

### FINDER'S REPORTS

**98.050 Finder's reports; rules; fee.** (1) The administrator may compile information or data in the possession of the Department of State Lands into finder's reports at the request of any person to assist in finding the owners of abandoned or unclaimed property.

(2) The administrator shall adopt by rule a fee for copies of finder's reports. The fee charged shall be commensurate with preparation costs including production, duplication and staff time involved.

(3) Any person requesting a copy of a finder's report shall be charged the fee.

(4) As used in subsections (1) to (3) of this section:

(a) "Administrator" has the same meaning as given by ORS 98.302.

(b) "Person" includes any natural person, corporation, partnership, firm or association.

(c) "Finder's report" means any report prepared by the administrator for the benefit of any person to assist in finding the owners of abandoned or unclaimed property. [1987 c.708 §§1,2; 2001 c.237 §2]

### DISPOSAL OF CONSIGNED OR BAILED PROPERTY THAT IS UNCLAIMED

**98.110 Record to be kept by consignee or bailee of property.** When personal property is consigned to or deposited with any forwarding merchant, wharf, warehouse, tavern keeper or the keeper of any depot for the reception and storage of trucks, baggage, merchandise or other personal property, the consignee or bailee shall immediately cause to be entered in a book kept by the consignee or bailee a description of such property, with the date of its reception.

**98.120 Notice to owner of receipt of property by consignee or bailee.** If personal property left with a consignee or bailee referred to in ORS 98.110 was not left for the purpose of being forwarded or disposed of according to directions received by the consignee or bailee at or before the time of its reception, and if the name and residence of the owner of the property is known to the person having the property in the possession of the person, the person shall immediately notify the owner, by letter directed to the owner and deposited in the post office, of the reception of such property.

**98.130 Right of custodian to sell property.** If personal property deposited with a consignee or bailee as mentioned in ORS 98.110 or 98.120 is not claimed and taken away within one year after the time it was received, the person having possession thereof may at any time thereafter proceed

to sell the property in the manner provided in ORS 98.140 to 98.240.

**98.140 Notice of sale.** Before property shall be sold pursuant to ORS 98.130, at least 60 days' notice of sale shall be given the owner of the property, if the name and residence of the owner are known, either personally or by mail, or by leaving a notice at the residence or place of doing business of the owner, or, if the name and residence of the owner is not known, a notice shall be published containing a description of the property for six weeks successively in a newspaper published in the county where the property was deposited. If there is no newspaper published in that county, then the notice shall be published in a newspaper nearest thereto in the state. The last publication of the notice shall be at least 18 days prior to the time of sale.

**98.150 Affidavit by custodian when no response to notice.** If the owner or person entitled to the property to be sold pursuant to ORS 98.130 shall not take it away and pay the charges thereon after 60 days' notice is given, the person having possession thereof, the agent or attorney of the person shall deliver to a justice of the peace of the county where the property was received an affidavit setting forth a description of the property remaining unclaimed, the time of its reception, the publication of the notice, and whether the owner of the property is known or unknown.

**98.160 Inventory and order to sell.** Upon the delivery to the justice of the peace of the affidavit as provided in ORS 98.150, the justice shall cause the property to be examined in the presence of the justice, and a true inventory thereof to be made. The justice shall annex to such inventory an order under the hand of the justice that the property therein described be sold at public auction by any constable of the constable district where the property is located, or if there is no constable, then by the county sheriff. [Amended by 1963 c.228 §1]

**98.170 Sale.** The constable or sheriff receiving the inventory and order provided for in ORS 98.160 shall give 10 days' notice of the sale by posting written notices thereof in three or more places in such constable district, or in the county, and sell the property at public auction to the highest bidder in the same manner as provided by law for sales under execution from justice courts. [Amended by 1963 c.228 §2]

**98.180 Delivery of proceeds to justice.** Upon completing the sale provided for in ORS 98.170, the constable or sheriff making the sale shall indorse upon the order pro-

vided for in ORS 98.160 a return of the proceedings. The constable or sheriff shall deliver the order to the justice, together with the inventory and the proceeds of sale, after deducting fees. [Amended by 1963 c.228 §3]

**98.190 Disposal of proceeds by justice.** From the proceeds of the sale provided for in ORS 98.170, the justice shall pay all legal charges that have been incurred in relation to the property, or a ratable proportion of each charge if the proceeds of the sale are not sufficient to pay all the charges; and the balance, if there is any, the justice shall immediately pay over to the treasurer of the county in which the property was sold, and deliver a statement therewith containing a description of the property sold, the gross amount of the sale, and the costs, charges and expenses paid to each person.

**98.200 Procedure by county treasurer.** The county treasurer shall make an entry of the amount received by the county treasurer and the time when received, and shall file in the office of the county treasurer the statement delivered to the county treasurer by the justice pursuant to ORS 98.190.

**98.210 Payment to person proving ownership.** If the owner of the property sold, or the legal representative of the owner, furnishes satisfactory evidence to the treasurer of ownership of the property deposited in the county treasury pursuant to ORS 98.190, the owner shall be entitled to receive from the treasurer the amount deposited with the treasurer. [Amended by 1957 c.670 §30]

**98.220** [Repealed by 1957 c.670 §37]

**98.230 Sale of perishable property.** Perishable property consigned or left as mentioned in ORS 98.110, if not reclaimed within 30 days after it was left, may be sold by giving 10 days' notice thereof. The sale shall be conducted and the proceeds of the sale shall be applied as provided in ORS 98.170 to 98.210. Any property in a state of decay or manifestly liable to immediately become decayed, may, after inspection, be summarily sold by order of a justice of the peace, as provided in ORS 98.160.

**98.240 Fees allowed to justice of peace and constable or sheriff.** A justice of the peace shall receive \$9 for each day's service rendered pursuant to ORS 98.160 to 98.230; and a constable or sheriff shall receive the same fees as are allowed by law for sales upon an execution, and 50 cents a folio for making an inventory of property. [Amended by 1963 c.228 §4; 1965 c.619 §33]

**UNCLAIMED PROPERTY  
IN POSSESSION OF  
LAW ENFORCEMENT AGENCY**

**98.245 Disposition of unclaimed property; notice of pending disposition; procedure.** (1) As used in this section:

(a) "Removing authority" means a sheriff's office, a municipal police department, a state police office, a law enforcement agency created by intergovernmental agreement or a port as defined in ORS 777.005 or 778.005.

(b) "Unclaimed property" means personal property that was seized by a removing authority as evidence, abandoned property, found property or stolen property, and that has remained in the physical possession of that removing authority for a period of more than 60 days following conclusion of all criminal actions related to the seizure of the evidence, abandoned property, found property or stolen property, or conclusion of the investigation if no criminal action is filed.

(2) Notwithstanding ORS 98.302 to 98.436, and in addition to any other method provided by law, a removing authority may dispose of unclaimed property as follows:

(a) An inventory describing the unclaimed property shall be prepared by the removing authority.

(b) The removing authority shall publish a notice of intent to dispose of the unclaimed property described in the inventory prepared pursuant to paragraph (a) of this subsection. The notice shall be posted in three public places in the jurisdiction of the removing authority, and shall also be published in a newspaper of general circulation in the jurisdiction of the removing authority. The notice shall include a description of the unclaimed property as provided in the inventory, the address and telephone number of the removing authority and a statement in substantially the following form:

**NOTICE**

The (removing authority) has in its physical possession the unclaimed personal property described below. If you have any ownership interest in any of that unclaimed property, you must file a claim with the (removing authority) within 30 days from the date of publication of this notice, or you will lose your interest in that property.

(c) A copy of the notice described in paragraph (b) of this subsection shall also be sent to any person that the removing authority has reason to believe has an ownership or security interest in any of the

unclaimed property described in the notice. A notice sent pursuant to this paragraph shall be sent by regular mail to the last known address of the person.

(d) Prior to the expiration of the time period stated in a notice issued pursuant to this section, a person may file a claim that presents proof satisfactory to the removing authority issuing the notice that the person is the lawful owner or security interest holder of any property described in that notice. The removing authority shall then return the property to that person.

(e) If a removing authority fails to return property to a person that has timely filed a claim pursuant to paragraph (d) of this subsection, the person may file, within 30 days of the date of the failure to return the property, a petition seeking return of the property to the person. The petition shall be filed in the circuit court for the county in which the removing authority is located. If one or more petitions are filed, the removing authority shall hold the property pending receipt of an order of the court directing disposition of the property or dismissing the petition or petitions with prejudice. If the court grants the petition, the removing authority shall turn the unclaimed property over to the petitioner in accordance with the order.

(f) Unless the removing authority or court upholds the claim or petition under paragraph (d) or (e) of this subsection, title to all unclaimed property described in a notice issued pursuant to this section shall pass to the removing authority free of any interest or encumbrance thereon in favor of any person who has:

(A) A security interest in the property and to whom the removing authority mailed a copy of the notice described in paragraph (b) of this subsection in accordance with paragraph (c) of this subsection; or

(B) Any ownership interest in the property.

(g) The removing authority may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts and governmental agencies. Any department, agency or officer of the state or any political subdivision whose official functions include the issuance of certificates or other evidence of title shall be immune from civil or criminal liability when such issuance is pursuant to a bill of sale issued by the removing authority. [1997 c.480 §2; 2003 c.693 §13]

**98.260** [1967 c.181 §3; repealed by 1985 c.336 §1]

**98.270** [1967 c.181 §1; repealed by 1985 c.336 §1]

**98.280** [1967 c.181 §2; repealed by 1985 c.336 §1]

**UNIFORM DISPOSITION OF  
UNCLAIMED PROPERTY ACT**

**98.302 Definitions for ORS 98.302 to 98.436.** As used in ORS 98.302 to 98.436 and 98.992, unless the context otherwise requires:

(1) “Administrator” means the Director of the Department of State Lands.

(2) “Apparent 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.

(3) “Business association” means a non-public corporation, joint stock company, business trust, partnership, investment company or an association for business purposes of two or more individuals, whether or not for profit, including a financial institution, insurance company or utility.

(4) “Domicile” means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(5) “Financial institution” means a financial institution or a trust company, as those terms are defined in ORS 706.008, a safe deposit company, a private banker, a savings and loan association, a building and loan association or an investment company.

(6) “Holder” means a person, wherever organized or domiciled, who is in possession of property belonging to another, a trustee or indebted to another on an obligation.

(7) “Insurance company” means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, workers’ compensation, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety and wage protection insurance.

(8) “Intangible property” includes:

(a) Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets and unidentified remittances;

(b) Stocks and other intangible ownership interests in business associations;

(c) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(d) Amounts due and payable under the terms of insurance policies;

(e) Amounts distributed from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supple-

mental unemployment insurance or similar benefits; and

(f) Moneys, checks, drafts, deposits, interest, dividends and income.

(9) “Last-known address” means a description of the location of the apparent owner sufficient for the purpose of delivery of mail.

(10) “Lawful deduction” means a deduction related to the purpose of an account or deposit, for example, to satisfy unpaid utility bills.

(11) “Owner” means a depositor in case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in case of other intangible property, or a person, or the person’s legal representative, having a legal or equitable interest in property.

(12) “Person” means an individual, business association, state or other government or political subdivision or agency, public corporation, public authority, two or more persons having a joint or common interest, or any other legal or commercial entity.

(13) “Service charge” means fees or charges that are limited to a specific situation and that meet basic contractual and notice requirements.

(14) “State” means any state, district, commonwealth, territory, insular possession or any other area subject to the legislative authority of the United States.

(15) “Utility” means a person who owns or operates for public use, any plant, equipment, property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas. [1957 c.670 §3; 1983 c.716 §1; 1993 c.694 §40; 1997 c.416 §1; 1997 c.631 §396; 2003 c.272 §1; 2009 c.294 §14]

**98.304 When intangible property subject to custody of state.** Unless otherwise provided in ORS 98.302 to 98.436 and 98.992 or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under ORS 98.342 are satisfied, and one or more of the following is true:

(1) The last-known address, as shown on the records of the holder, of the apparent owner is in this state.

(2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state.

(3) The records of the holder do not reflect the address of the apparent owner, and one or more of the following is established:

(a) The last-known address of the person entitled to the property is in this state.

(b) The holder is a domiciliary or a government or political subdivision or agency of this state and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property.

(c) The last-known address, as shown on the records of the holder, or the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or political subdivision or agency of this state.

(4) The last-known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or political subdivision or agency of this state.

(5) The transaction out of which the property arose occurred in this state, and:

(a) There is no known address of the apparent owner or other person entitled to the property;

(b) The last-known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheats or custodial taking of the property or its escheats or unclaimed property law is not applicable to the property; or

(c) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property. [1983 c.716 §28; 1993 c.694 §1]

**98.306** [1957 c.670 §4; 1967 c.357 §1; 1973 c.797 §424; repealed by 1983 c.716 §26]

**98.308 Intangible property held by financial institution.** (1) 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 is presumed abandoned unless the owner, within three years, has done one or more of the following:

(a) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(b) Communicated in writing with the financial institution concerning the property.

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the financial institution.

(d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the financial institution has communicated in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent.

(e) Had another relationship with the financial institution concerning which the owner has:

(A) Communicated in writing with the financial institution; or

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the financial institution, and the financial institution has communicated in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(2) With respect to property described in subsection (1) of this section, 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 gives written notice to the owner at the owner's last-known address whenever an account becomes dormant or 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 applies a service charge to that account or stops paying interest on that account.

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

(4) Property described in subsection (1) of this section that is automatically renewable is matured for purposes of subsection (1) of this section upon the expiration of its initial time period. However, if the

owner consents to a renewal at or about the time of renewal, the property is matured upon the expiration of the last time period for which consent was given. The owner shall be deemed to have consented to a renewal if:

(a) The owner communicates in writing with the financial institution or otherwise indicates consent as evidenced by a memorandum or other record on file prepared by an employee of the institution; or

(b) The financial institution has sent an account statement or other written or electronic statement pertaining to the account by first class mail or by electronic mail and the statement has not been returned to the financial institution and the financial institution has not been notified that the statement was undeliverable as addressed.

(5) If the delivery of funds or property required by ORS 98.352 would result in a penalty or forfeiture in the payment of interest from the delivery of the funds or property, the delivery may be delayed until the time when no penalty or forfeiture would result.

(6) Except for those instruments subject to ORS 98.309, any sum payable on a check, draft or similar instrument, on which a financial institution is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within three years, has communicated in writing with the financial institution concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(7) A holder may not deduct from the amount of any instrument subject to subsection (6) of this section any charge imposed by reason of the failure to present the instrument for payment unless:

(a) 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;

(b) The holder regularly imposes such charges; and

(c) The holder does not regularly reverse or otherwise cancel the charges.

(8) For purposes of subsection (1) of this section, "property" includes interest and dividends. [1983 c.716 §§30, 31; 1993 c.694 §2; 1997 c.631 §397; 2003 c.272 §2; 2007 c.539 §1]

**98.309 When traveler's check or money order presumed abandoned.** (1) Subject to subsection (4) of this section, any sum payable on a traveler's check that has

been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(2) Subject to subsection (4) of this section, any sum payable on a money order or similar written instrument, other than a third party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within that seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(3) A holder may not deduct from the amount of a traveler's check or money order 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 issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(4) Other than a third party bank check, no sum payable on a traveler's check, money order or similar written instrument described in subsections (1) and (2) of this section may be subjected to the custody of this state as unclaimed property unless:

(a) The records of the issuer show that the traveler's check, money order or similar written instrument was purchased in this state;

(b) The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check, money order or similar written instrument was purchased; or

(c) The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check, money order or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(5) Notwithstanding any other provision of ORS 98.302 to 98.436 and 98.992, subsection (4) of this section applies to sums payable on traveler's checks, money orders and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974. [1983 c.716 §29]

**98.310** [Repealed by 1957 c.670 §37]

**98.311 Service charge on unclaimed property.** Notwithstanding the provisions in ORS 98.308, a holder may not deduct a service charge or fee or otherwise reduce an owner's unclaimed account unless:

(1) There is a valid written contract between the holder and the owner that allows the holder to impose a charge;

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

(3) 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. [1993 c.694 §45; 2007 c.539 §2]

**98.312** [1957 c.670 §5; repealed by 1983 c.716 §26]

**98.314 Unclaimed funds held by insurance companies.** (1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than three years after the funds become due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (3)(b)(A) of this section is presumed abandoned if unclaimed for more than two years.

(2) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(3) For purposes of ORS 98.302 to 98.436 and 98.992, 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 is matured and the proceeds due and payable if:

(a) The company knows that the insured or annuitant has died; or

(b) All of the following are true:

(A) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

(B) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph.

(C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted or paid premiums on the

policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(4) For purposes of ORS 98.302 to 98.436 and 98.992, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (1) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing two years after August 3, 1983, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

(a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

(b) The address of each beneficiary; and

(c) The relationship of each beneficiary to the insured. [1983 c.716 §32; 2007 c.539 §3]

**98.316 Deposits and refunds held by utilities.** The following funds held or owing by any utility are presumed abandoned if unclaimed by the apparent owner for more than one year after the date of termination of services or when the funds otherwise become payable or distributable:

(1) A deposit made by a subscriber with a utility to secure payment, or a sum paid in advance for utility services, less any lawful deductions.

(2) A sum received for utility services which a utility has been ordered to refund, together with any interest thereon and less any lawful deductions. [1957 c.670 §6; 1983 c.716 §2]

**98.320** [Repealed by 1957 c.670 §37]

**98.322 Intangible equity ownership interests in business associations.** (1) Stock, certificates of ownership or other intangible equity ownership interests in a business association are presumed abandoned when all of the following occur:

(a) The interest is evidenced by records of the business association.

(b) A dividend, distribution or other sum payable as a result of the interest has remained unclaimed for three years.

(c) The owner has not otherwise communicated with the business association for three years from the date the sum was payable.

(d) The business association has sent written notice of the payment and underlying interest to the owner at the last-known address of the owner as shown in the records of the business association.

(2) With respect to any interest presumed abandoned under subsection (1) of this section, the business association is the holder.

(3) At the time an interest is presumed abandoned under subsection (1) of this section, any payment then held for or owing to the owner as a result of the interest is also presumed abandoned.

(4) Subsection (1) of this section shall not apply to any stock, certificate of ownership or other intangible equity ownership interests in a business association that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interests, unless:

(a) The records of the business association show that the person also owns any stock, certificate of ownership or other intangible equity ownership interest in the business association that is not enrolled in the reinvestment plan; and

(b) The interest referred to in paragraph (a) of this subsection has been presumed abandoned under subsection (1) of this section.

(5) Any dividend, profit distribution, interest, payment on principal or other sum held or owing by a business association is presumed abandoned if, within three years after the date prescribed for payment, all of the following have occurred:

(a) The owner has not claimed the payment or corresponded in writing with the business association concerning the payment.

(b) The business association has sent written notice of the payment to the owner at the last-known address of the owner as shown in the records of the business association. [1957 c.670 §7; 1983 c.716 §3; 1985 c.408 §1; 2007 c.539 §4]

**98.326 Property of business associations or financial institutions held in the course of dissolution.** All intangible personal property distributable in the course of a dissolution of a business association or financial institution that is unclaimed by the owner for more than one year after the date for final distribution is presumed abandoned. [1957 c.670 §8; 1983 c.716 §4; 1993 c.694 §41; 2003 c.272 §3]

**98.328 Property held in safe deposit box.** Except property subject to ORS 711.582 and 711.590, all tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business, which remains unclaimed by the owner for more than two years after the lease or rental period on the box or other repository has expired, is presumed abandoned. [1983 c.716 §35; 1993 c.694 §3]

**98.329 Delivery of property before presumed abandoned; rules.** A holder, with the written consent of the Department of State Lands, and in compliance with rules prescribed by the department, may report and deliver property before the property is presumed abandoned. [1993 c.694 §46; 2001 c.302 §3]

**Note:** 98.329 was added to and made a part of 98.302 to 98.436 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**98.330** [Repealed by 1957 c.670 §37]

**98.332 Property held by fiduciaries.** (1) All intangible personal property and any income or increment thereon, held in a fiduciary capacity is presumed abandoned unless the owner has, within two years after 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.

(2) 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 are not payable or distributable within the meaning of subsection (1) of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory. [1957 c.670 §9; 1983 c.716 §5; 2003 c.580 §1]

**98.334 Unpaid wages unclaimed by owner.** Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than three years after becoming payable are presumed abandoned. [1983 c.716 §34; 2001 c.302 §4]

**98.336 Property held by government and public authorities.** (1) Intangible property, including uncashed warrants and wages represented by unrepresented payroll checks, held for the owner by a court, state or other government, governmental subdivision or agency, public corporation, or public authority, that has remained unclaimed by the owner for more than two years is presumed abandoned.

(2) Tangible property held for the owner by a court, state or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority that has remained unclaimed by the owner for more than two years is presumed abandoned. [1957 c.670 §10; 1983 c.716 §6; 1987 c.708 §3; 1993 c.694 §4; 2001 c.302 §5]

**98.338 Credit memo unclaimed by owner.** (1) A credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.

(2) For a credit memo presumed abandoned under subsection (1) of this section, the amount presumed abandoned is the amount credited to the recipient of the memo. [1983 c.716 §33; 1997 c.416 §2; 2001 c.302 §6]

**98.340** [Repealed by 1957 c.670 §37]

**98.342 Miscellaneous personal property held for another person.** (1) All intangible personal property, not otherwise covered by ORS 98.302 to 98.436 and 98.992, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

(2) Property is payable or distributable for the purpose of ORS 98.302 to 98.436 and 98.992 notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment. [1957 c.670 §11; 1983 c.716 §7; 2001 c.302 §7]

**98.346 Reciprocity for property presumed abandoned or escheated under the laws of another state.** Specific property described in ORS 98.308 to 98.314, 98.322 to 98.334, 98.338 or 98.342 which is held for or owed or distributable to an owner whose last-known address is in another state by a

holder who is subject to the jurisdiction of that state is not presumed abandoned in this state and subject to ORS 98.302 to 98.436 and 98.992 if:

(1) It may be claimed as abandoned or escheated under the laws of the other state; and

(2) The laws of the other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by the other state when held for or owed or distributable to an owner whose last-known address is within this state by a holder who is subject to the jurisdiction of this state. [1957 c.670 §12; 1983 c.716 §8]

**98.348 Recovery of abandoned property by another state; form of claim; indemnification of this state.** (1) At any time after property has been paid or delivered to the Department of State Lands under ORS 98.352, another state may recover the property if one or more of the following is true:

(a) The property was subjected to custody by this state because the records of the holder did not reflect the last-known address of the apparent owner when the property was presumed abandoned under ORS 98.302 to 98.436 and 98.992; and the other state establishes that the last-known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.

(b) The last-known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state.

(c) The records of the holder were erroneous in that they did not accurately reflect the owner of the property and the last-known address of the owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.

(d) The property was subjected to custody by this state and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state.

(e) The property is the sum payable on a traveler's check, money order or other similar instrument that was subjected to custody by this state under ORS 98.309, and the instrument was purchased in the other state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(2) The claim of another state to recover escheated or unclaimed property must be presented in a form prescribed by the Department of State Lands. The department shall decide the claim within 90 days after it is presented.

(3) The department shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property. [1983 c.716 §36; 1993 c.694 §5]

**98.350** [Repealed by 1957 c.670 §37]

**98.352 Report of abandoned property.**

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under ORS 98.302 to 98.436 and 98.992 shall report and pay or deliver to the Department of State Lands all property presumed abandoned as provided in this section, except that:

(a) Funds transferred to the General Fund under ORS 293.455 (1)(a) shall only be reported to the department.

(b) Funds in the possession of the Child Support Program described in ORS 180.345 shall only be reported to the department.

(c) Funds in lawyer trust accounts shall only be reported to the department.

(2) The report shall be verified as to the accuracy of the information contained and shall include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and address, if known, of each person appearing from the records of the holder to be the owner of any property of value of \$50 or more presumed abandoned under ORS 98.302 to 98.436 and 98.992;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and last-known address according to the life insurance corporation's records;

(c) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$50 each may be reported in aggregate;

(d) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(e) Other information that the department prescribes by rule as necessary for the administration of ORS 98.302 to 98.436 and 98.992.

(3) If the person holding property presumed abandoned is a successor to other persons who previously held the property for

the owner, or if the holder has had a name change while holding the property, the holder shall file with the report all prior known names and addresses and effective dates of changes if known of each holder of the property.

(4) The report shall be filed after October 1, but no later than November 1 of each year for accounts dormant as of June 30. The department may postpone the reporting date upon written request by any person required to file a report. All records are exempt from public review for 12 months from the time the property is reportable and for 24 months after the property has been remitted to the department. All lists of records or property held by a government or public authority under ORS 98.336 shall be exempt from public review until 24 months after the property is remitted to the department.

(5) If the holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(6) If the property presumed abandoned is a lawyer trust account established by an attorney or law firm, the report required by this section must indicate that the account is a lawyer trust account in addition to providing the information required by subsection (2) of this section.

(7) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer. [1957 c.670 §13; 1967 c.357 §2; 1981 c.475 §4; 1983 c.716 §9; 1993 c.694 §6; 1997 c.86 §1; 1999 c.798 §2; 2003 c.73 §48; 2009 c.462 §1]

**98.353 Information on filing report provided by Department of State Lands.**

(1) The Department of State Lands shall, on a regular basis, provide educational or informational materials to persons required to file a report under ORS 98.352. The educational or informational materials shall contain, but shall not be limited to, information describing:

(a) The types of property, tangible and intangible, that are subject to reporting;

(b) Persons who typically hold, knowingly or unknowingly, unclaimed property;

(c) Record keeping requirements for persons holding unclaimed property; and

(d) Any penalties for failing to comply with the provisions of ORS 98.302 to 98.436.

(2) Upon request by the Department of State Lands, the Department of Revenue and the Office of the Secretary of State shall:

(a) Assist the Department of State Lands in determining which persons are required to file a report under ORS 98.352; and

(b) Allow the Department of State Lands to include information about unclaimed property reporting requirements in the regular mailings of the Department of Revenue. [2001 c.302 §2; 2003 c.7 §2]

**Note:** 98.353 was added to and made a part of 98.302 to 98.436 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**98.354 Records of ownership or issuance of instruments to be maintained.** (1) Every holder required to file a report under ORS 98.352 as to any property for which the holder has obtained an address of the owner, shall 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 Department of State Lands.

(2) Any business association that sells in this state traveler's checks, money orders or other similar written instruments, other than third party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue, for five years after the date the property has been remitted to the department. [1983 c.716 §38; 1993 c.694 §7; 1995 c.219 §1; 2001 c.302 §8]

**98.356 Notice and publication of lists of unclaimed property; rules.** (1) The Department of State Lands shall publish notice of owners' unclaimed accounts reported under ORS 98.352. The notice shall be published at least twice in a newspaper or other generally circulated periodical published in this state. The department may publish such notices at intervals to locate owners of accounts received under ORS 98.352 (4) in an expedient manner, but shall complete publication of all such accounts within one year of remittance.

(2) The department is not required to publish in such notice any item of less than \$100 unless the department deems such publication to be in the public interest.

(3) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under ORS 98.309.

(4) The department shall undertake reasonable efforts to locate owners of unclaimed property reported to the department under ORS 98.352. The costs of such efforts may be

deducted from the proceeds that are paid to the owners when and if an owner is located. The department shall specify, by rule, a maximum percentage of costs that may be deducted from a verified claim for unclaimed property.

(5) The Department of State Lands may not disclose to the general public any confidential information provided by the Department of Revenue from taxpayer returns. [1957 c.670 §14; 1967 c.357 §3; 1983 c.716 §10; 1989 c.183 §1; 1993 c.694 §8; 1997 c.134 §1; 2003 c.253 §5]

**98.360** [Repealed by 1957 c.670 §37]

**98.362 Delivery of certificate of ownership of intangible equity ownership interest.** (1) The holder of an intangible equity ownership interest presumed abandoned under ORS 98.322 shall deliver a certificate of ownership or other evidence of ownership to the Department of State Lands as follows:

(a) The original certificate shall be delivered to the department when it is held by the business association, transfer agent, registrar or other person acting on behalf of the business association.

(b) A duplicate certificate shall be issued to the department when the business association, transfer agent, registrar or other person acting on behalf of the holder does not hold the original.

(2) After issuance of a duplicate certificate under subsection (1) of this section, the rights of a protected purchaser of the original certificate shall be governed by ORS 78.4050. In such event, recovery by the protected purchaser shall be against the department to the extent allowed under the Oregon Constitution. [1957 c.670 §15; 1967 c.357 §4; 1983 c.716 §11; 1985 c.403 §2; 1993 c.694 §9; 1995 c.328 §70]

**98.366 Relief from liability by payment or delivery.** (1) Upon the payment or delivery of unclaimed property to the Department of State Lands, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers unclaimed property to the department under ORS 98.352 is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(2) A holder who has paid money to the department under ORS 98.352 may make payment to any person appearing to the holder to be entitled to payment. The department shall reimburse the holder within 60 days of receiving proof that payment was made to a person who appeared to the holder to be entitled to payment. The department shall reimburse the holder for the payment without imposing any fee or other charge. [1957 c.670 §16; 1983 c.716 §12; 1993 c.694 §10]

**98.370** [Repealed by 1957 c.670 §37]

**98.372 Income accruing after payment or delivery.** The owner is not entitled to receive income or other increments which have accrued on the property after the property is paid or delivered to the Department of State Lands under ORS 98.352. [1957 c.670 §17; 1983 c.716 §13; 1993 c.694 §11]

**98.376 Periods of limitation not a bar.** The expiration of any period of time specified by statute or court order, during which an action, suit or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned, nor affect any duty to file a report required by ORS 98.352 or to pay or deliver unclaimed property to the Department of State Lands, provided that this section shall not affect any property interests which became vested prior to August 20, 1957. [1957 c.670 §18; 1983 c.716 §14; 1993 c.694 §12]

**98.380** [Repealed by 1957 c.670 §37]

**98.382 Sale of abandoned and unclaimed property; methods; rules.** (1)(a) All unclaimed property other than money and securities delivered to the Department of State Lands under ORS 98.362 shall be sold by the department to the highest bidder at public sale by the method and at the location that the department determines are the most favorable for receiving the highest price for the property involved. The department may decline the highest bid and reoffer the property for sale if the department considers the price bid insufficient. The department need not offer any property for sale if, in the department's opinion, the probable cost of sale exceeds the value of the property.

(b) In choosing the most favorable method for the sale of property under this subsection, the department may consider:

- (A) A public oral auction;
- (B) An electronic commerce forum; and
- (C) Any other method for sale that ensures the highest returns and provides for open, public participation.

(c) In choosing the most favorable location for the sale of property under this subsection, the department may consider:

- (A) The population of the location;
- (B) The cost of conducting the sale in the location;
- (C) The type of property being sold;
- (D) The public access to the proposed sale location, including parking; and
- (E) Any other indicator of market potential of the location.

(2) For a sale by public oral auction held under subsection (1) of this section, the de-

partment shall publish at least a single notice of the sale at least 10 days in advance of the sale in a newspaper of general circulation in the county where the property is to be sold. For a sale by a method other than public oral auction, the department shall publish at least a single notice in a newspaper of general circulation in Marion County.

(3) Securities listed on an established stock exchange shall be sold on the exchange at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(4) All securities and other intangible properties presumed abandoned under ORS 98.362 and delivered to the department shall be sold by the department at such time and place and in such manner as in the department's judgment will bring the highest return.

(5) The department shall indemnify the holder of securities presumed abandoned under ORS 98.322 to the extent allowed by the Oregon Constitution. The department shall establish procedures by administrative rule to pay the rightful owner proceeds received from securities that were sold before the owner filed a claim to recover such securities.

(6) The purchaser at a sale conducted by the department pursuant to this section shall receive title to the property purchased, free from all claims of the owner or prior holder of the property and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of title. [1957 c.670 §19; 1983 c.716 §15; 1993 c.694 §13; 2003 c.272 §4]

**98.384 Destruction or disposition of unclaimed property.** If the Department of State Lands determines after investigation that any property delivered under ORS 98.352 has insubstantial commercial value, the department may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the department pursuant to this section. [1983 c.716 §37; 1993 c.694 §14]

**98.386 Deposit of funds.** (1) Except as provided in subsection (2) of this section, all funds received under ORS 98.302 to 98.436 and 98.992, including the proceeds from the sale of unclaimed property under ORS 98.382, shall be deposited by the Department of State Lands in the Common School Fund Account with the State Treasurer. Before making the deposit the department shall record the name and last-known address of each person appearing from the holders' reports to be enti-

tled to the unclaimed property and the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due.

(2) Any amounts identified as lawyer trust account funds in the report required by ORS 98.352 shall be paid or delivered by the person holding the amounts to the Oregon State Bar along with a copy of the report. All amounts paid or delivered to the Oregon State Bar under this section are continuously appropriated to the Oregon State Bar, and may be used only for the funding of legal services provided through the Legal Services Program established under ORS 9.572, the payment of claims allowed under ORS 98.392 (2) and the payment of expenses incurred by the Oregon State Bar in the administration of the Legal Services Program.

(3) Before making a deposit to the credit of the Common School Fund Account, the department may deduct:

(a) Any costs in connection with sale of unclaimed property;

(b) Any costs of mailing and publication in connection with efforts to locate owners of unclaimed property as prescribed by rule; and

(c) Reasonable service charges. [1957 c.670 §20; 1983 c.716 §16; 1989 c.183 §2; 1993 c.694 §15; 2009 c.462 §2]

**98.388 Unclaimed Property Revolving Fund.** There is created from unclaimed property funds an Unclaimed Property Revolving Fund. The moneys in the fund are appropriated continuously to the Department of State Lands for the purpose of repaying claims as provided under ORS 98.396. [1969 c.594 §66; 1983 c.716 §17; 1993 c.694 §16]

**98.390** [Repealed by 1957 c.670 §37]

**98.392 Claim for unclaimed property reported to Department of State Lands; timing and processing of claim; claims for securities; rules.** (1) A person claiming an interest in unclaimed property reported to the Department of State Lands may file a claim to the property or to the proceeds from the sale of the property at any time after the person learns that the property has been reported to the department. Claims shall be filed on the form prescribed by the department. The department may require the person to provide a lost instrument bond if the claim is for securities and the person does not surrender the original certificate to the department.

(2) If a claim is filed under this section for amounts identified as lawyer trust account funds in the report required by ORS

98.352, the department shall forward the claim to the Oregon State Bar for review and for payment by the Oregon State Bar if the claim is allowed. The department and the Oregon State Bar shall adopt rules for the administration of claims subject to this subsection. [1957 c.670 §21; 1977 c.609 §1; 1983 c.716 §18; 1991 c.213 §1; 1993 c.694 §17; 1997 c.85 §1; 2009 c.462 §3]

**98.396 Determination of claim; payment; reimbursement.** (1) The Department of State Lands shall consider any claim filed under ORS 98.392 and may hold a hearing and receive evidence concerning the claim. If a hearing is held, the department shall prepare findings and a decision in writing on each claim filed, stating the substance of any evidence heard by the department and the reasons for the decision. The decision shall be a public record.

(2) If the claim allowed is for property deposited in the Common School Fund Account, the department shall return the property or make payment of the proceeds of the sale of the property to the claimant.

(3) If the claim allowed is for funds deposited in the General Fund, the department shall pay the claim and file a request for reimbursement with the State Treasurer. The State Treasurer shall reimburse the department within five working days from the fund against which the check or order represented in the claim was issued. [1957 c.670 §22; 1983 c.716 §19; 1989 c.183 §3; 1993 c.694 §18]

**98.400** [Repealed by 1957 c.670 §37]

**98.402 Hearing on claim; judicial action if administrator fails to act.** (1) A person aggrieved by a decision of the administrator may request a hearing regarding the decision. The Department of State Lands shall conduct the hearing as a contested case proceeding in accordance with ORS 183.413 to 183.470.

(2) If the administrator fails to act on a claim within 120 days after a person files the claim under ORS 98.392, the person may file a petition under ORS 183.484 to request a court to compel the department to act pursuant to ORS 183.490. [1957 c.670 §23; 1983 c.716 §20; 2003 c.272 §5]

**98.406** [1957 c.670 §24; 1983 c.716 §21; repealed by 1993 c.694 §39]

**98.410** [Repealed by 1957 c.670 §37]

**98.412 Records and reports; examination; hearing.** (1) The Department of State Lands may require a person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under ORS 98.352.

(2) The department may at reasonable times and upon reasonable notice examine the records of any person to determine

whether the person has complied with the provisions of ORS 98.352. The department may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this section.

(3) To the extent possible, the department shall enter into agreements with state and federal agencies that regularly examine the records of financial institutions, trust companies, financial holding companies and bank holding companies, as defined in ORS 706.008, and of subsidiaries of such financial institutions, trust companies, financial holding companies and bank holding companies. Under the agreements, the state and federal agencies shall examine the records of the financial institution, trust company, financial holding company, bank holding company or subsidiary to determine compliance with ORS 98.352. If a state or federal agency does not enter into an agreement with the department under this subsection, the department shall conduct the examination of the records of financial institutions, trust companies, financial holding companies and bank holding companies to determine compliance with ORS 98.352.

(4) If a holder fails to maintain the records required by ORS 98.354 and the records of the holder available for the periods subject to ORS 98.302 to 98.436 and 98.992 are insufficient to permit the preparation of a report, the department may issue a finding that requires the holder to report and pay the amounts that the department reasonably estimates from the report and available records. The department shall include in its finding a notice substantially similar to that specified under ORS 183.415. Additionally, the notice shall include information about opportunities to resolve disputes through a collaborative dispute resolution process.

(5) Any holder subject to examination under this section may request a hearing regarding the findings issued by the department. The department shall conduct a hearing under this subsection as a contested case proceeding in accordance with ORS 183.413 to 183.470. [1957 c.670 §25; 1983 c.716 §22; 1993 c.694 §20; 1997 c.480 §§1,1a; 2001 c.377 §41; 2003 c.272 §6]

**98.416 Proceeding to compel delivery of unclaimed property; interest.** (1) If any person refuses to deliver property to the Department of State Lands as required under ORS 98.352, the department may bring a suit or action in a court of appropriate jurisdiction to enforce delivery of the property.

(2) The department may require a person who fails to pay or deliver property within the time prescribed by ORS 98.302 to 98.436 and 98.992 to pay interest from the date the

department determines interest should have been paid. Interest shall be paid at the rate set by the Director of the Department of Revenue pursuant to ORS 305.220 (1) and (3). [1957 c.670 §26; 1983 c.716 §23; 1993 c.694 §26; 2003 c.272 §7]

**98.418** [1983 c.716 §40; repealed by 1985 c.336 §1]

**98.420** [Repealed by 1957 c.670 §37]

**98.422 Rules.** The administrator is authorized to adopt necessary rules to carry out the provisions of ORS 98.302 to 98.436 and 98.992. [1957 c.670 §27; 1983 c.716 §25]

**98.424 Agreements with other states; exchange of information; rules; Attorney General action in name of other state.** (1) The Department of State Lands may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that this state or another state may be entitled to subject to a claim of custody under ORS 98.348. The department may adopt rules requiring the other states to report information needed to enable compliance with agreements made pursuant to this section and prescribing the form for making a claim of custody under ORS 98.348.

(2) To avoid conflicts between the department's procedures and the procedures of administrators in other jurisdictions that enact an unclaimed property act, the department, so far as is consistent with the purposes, policies and provisions of ORS 98.302 to 98.436 and 98.992, before adopting, amending or repealing rules, shall advise and consult with administrators in other jurisdictions that enact a substantially similar unclaimed property act and take into consideration the rules of administrators in other jurisdictions that enact an unclaimed property act.

(3) The department may join with other states to seek enforcement of ORS 98.302 to 98.436 and 98.992 against any person who is or may be holding property reportable under ORS 98.352.

(4) At the request of another state, the Attorney General of this state may bring an action in the name of another state to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action, including attorney fees.

(5) The department, through the Attorney General of this state, may request the attorney general of another state or any other person to bring an action in the other state in the name of the department against the holder of property in the other state that is

subject to escheat or a claim of abandonment by this state. This state shall pay all expenses including attorney fees in any action under this subsection. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under ORS 98.302 to 98.436 and 98.992.

(6) The Department of State Lands shall not disclose to any other state any confidential information provided by the Department of Revenue from taxpayer returns. [1983 c.716 §39; 1985 c.403 §3; 1993 c.694 §21]

**98.426** [1957 c.670 §§28, 35; 1983 c.716 §25; repealed by 1993 c.694 §39]

**98.430** [Repealed by 1957 c.670 §37]

**98.432 Uniformity of interpretation.**

This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact the Uniform Disposition of Unclaimed Property Act. [1957 c.670 §2]

**Note:** Pursuant to 173.160, Legislative Counsel has not substituted specific ORS references for the words "this Act" in sections 1, 2 and 36, chapter 670, Oregon Laws 1957, compiled as 98.432, 98.436 and 98.991. The sections for which substitution otherwise would be made may be determined by referring to the 1957 Comparative Section Table located in Volume 20 of ORS.

**98.436 Short title.** This Act may be cited as the Uniform Disposition of Unclaimed Property Act. [1957 c.670 §1]

**Note:** See note under 98.432.

**98.440** [Repealed by 1957 c.670 §37]

## UNORDERED GOODS

**98.450 Unordered goods presumed gifts.** (1) If a person mails or sends goods, newspapers or periodicals of a value of less than \$20 to a person in this state without first receiving an order for such items, the items are conclusively presumed to be a gift and no obligation shall accrue against the recipient.

(2) If a person deliberately and intentionally mails or sends goods, newspapers, or periodicals of a value in excess of \$20 to a person in this state without first receiving an order for such items, the items are presumed to be a gift. [1969 c.354 §1]

## MOLDS AND FORMS

**98.470 Definitions for ORS 98.470 to 98.490.** As used in ORS 98.470 to 98.490, unless the context requires otherwise:

(1) "Customer" means any person who causes a molder to:

(a) Fabricate, cast or otherwise make a mold; or

(b) Use a mold to manufacture, assemble or otherwise make any product.

(2) "Mold" includes any die, mold or form used to manufacture, assemble or otherwise make any product.

(3) "Molder" means any person including, but not limited to a tool or die maker, who:

(a) Fabricates, casts or otherwise makes a mold; or

(b) Uses a mold to manufacture, assemble or otherwise make any product. [1981 c.333 §1]

**98.475 Molder may take title to unclaimed mold.** If a customer fails to take possession of any mold within three years after the date on which the customer last caused the molder to use the mold, the molder may take all rights, title and interest in the mold pursuant to ORS 98.480. [1981 c.333 §2]

**98.480 Notice to customer; contents.**

(1) If a molder chooses to take all rights, title and interest in any mold, the molder shall mail to the customer, at the customer's last-known address, a notice. The molder shall send the notice by registered or certified mail, return receipt requested.

(2) The notice required by subsection (1) of this section shall state that the molder intends to terminate all of the customer's rights, title and interest in the mold unless the customer:

(a) Responds within 120 days from the date the notice was mailed; and

(b) Arranges with the molder that the customer shall take possession of the mold or that the molder shall store the mold for the customer. [1981 c.333 §3; 1991 c.249 §11]

**98.485 Duty to make mold unusable when title not taken.** If a molder does not choose to exercise the rights provided under ORS 87.870 to 87.876 or 98.475, the molder shall render the mold unusable as a mold and destroy or otherwise dispose of the mold. [1981 c.333 §4; 2001 c.863 §5]

**98.490 Effect of written agreement between molder and customer.** ORS 98.470 to 98.490 apply except as otherwise provided by written agreement between any molder and the molder's customer. [1981 c.333 §5]

**98.510** [Repealed by 1969 c.354 §2]

## SHOPPING CARTS

**98.515 Unauthorized appropriation of shopping carts.** (1) A local government may enact or adopt an ordinance, charter provision, resolution or other regulation to prohibit the unauthorized appropriation of a shopping cart from the business premises of the person that owns the shopping cart and to provide for the salvage or reclamation of an abandoned shopping cart.

(2) An ordinance, charter provision, resolution or other regulation enacted or adopted as described in subsection (1) of this section shall substantially conform with the requirements set forth in ORS 98.520. This subsection does not preclude a local government from enacting or adopting an ordinance, charter provision, resolution or other regulation related to persons that supply shopping carts for public use and that are subject to but not in compliance with ORS 98.520 (1).

(3) For purposes of this section, "local government" means a city, county, special district or other public commission, authority or entity organized under state statute or city or county charter. [Formerly 199.890]

**98.520 Notice of crime of unauthorized appropriation of shopping carts; recovery of abandoned shopping carts.** (1) A local government in an ordinance, charter provision, resolution or other regulation enacted or adopted in accordance with ORS 98.515 shall provide that a person that supplies shopping carts for public use at the person's business shall:

(a) Post signs in sufficient number to give notice to members of the public entering onto or leaving the business premises that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and to provide a toll-free telephone number that members of the public may use to report abandoned shopping carts.

(b) Identify the person's business on each shopping cart and post a sign on the shopping cart that:

(A) Notifies any member of the public using the shopping cart that unauthorized appropriation of a shopping cart is a crime under ORS 164.015; and

(B) Provides a toll-free telephone number for use in reporting an abandoned shopping cart.

(c) Establish, maintain and make available to the public, at the person's own expense, a toll-free telephone line for the purpose of reporting abandoned shopping carts. The person shall forward each report the person receives concerning an abandoned shopping cart to the owner of the shopping cart and to the appropriate local government within one business day after the person receives the report. The person may forward the report to the local government by means of electronic mail or in any other manner provided for in a local government regulation.

(d) Retrieve or contract for the retrieval of abandoned shopping carts.

(2) An ordinance, charter provision, resolution or other regulation enacted or adopted in accordance with ORS 98.515 shall provide that a person may agree with other persons to share and to pay expenses related to the toll-free telephone line described in subsection (1)(c) of this section. The agreement shall provide that any person designated to operate the toll-free telephone line and receive reports concerning abandoned shopping carts must forward the reports in accordance with subsection (1)(c) of this section.

(3) An ordinance, charter provision, resolution or other regulation enacted or adopted in accordance with ORS 98.515 shall provide that a person shall retrieve a shopping cart that the person owns within 72 hours after receiving notification that the shopping cart has been abandoned.

(4) An ordinance, charter provision, resolution or other regulation enacted or adopted in accordance with ORS 98.515 shall provide that:

(a) A local government that identifies, salvages or reclaims an abandoned shopping cart shall use the toll-free telephone line described in subsection (1)(c) of this section to report the existence and location of an abandoned shopping cart to the owner of the shopping cart, if the owner is identifiable;

(b) A local government may take custody of an abandoned shopping cart and impose a fine of \$50 on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the local government makes a report under paragraph (a) of this subsection or after the owner receives a report under subsection (1)(c) of this section;

(c) A local government may release a shopping cart held in the local government's custody to the owner upon payment of the fine; and

(d) A local government may take title to a shopping cart in the local government's custody and dispose of the shopping cart as the local government deems appropriate, if the owner does not claim the shopping cart within 30 days.

(5) For purposes of this section, "local government" means a city, county, special district or other public commission, authority or entity organized under state statute or city or county charter. [Formerly 199.891]

**98.610** [Amended by 1991 c.331 §24; repealed by 1995 c.733 §74]

**98.620** [Repealed by 1995 c.733 §74]

**98.630** [Amended by 1957 c.459 §2; repealed by 1995 c.733 §74]

**REMOVAL OF TREES OR LOGS  
FROM COUNTY ROADS  
OR STATE HIGHWAYS**

**98.640 Owner's duty to remove trees, logs, poles or piling deposited on state highways.** (1) No person shall place or deposit any trees, timber, logs, poles or piling upon the right of way of any state highway or upon any real property adjacent thereto which is owned by the state, by and through its Department of Transportation, except with permission of any duly authorized weighmaster, motor carrier enforcement officer or peace officer given in connection with the removal of portions of loads, which removal is pursuant to ORS 810.490.

(2) Any trees, timber, logs, poles or piling so placed or deposited whether pursuant to said permission of a weighmaster, motor carrier enforcement officer or peace officer or accidentally or in violation of this section, or which have fallen, dropped or been blown upon said right of way or said adjacent property, shall be removed by the owner thereof within a period of not more than 30 days. [1953 c.312 §1; 1983 c.338 §884; 1993 c.741 §103]

**98.642 Effect of failure to remove trees, logs, poles or piling.** Any trees, timber, logs, poles or piling which remain for a period of more than 30 days upon the right of way of any state highway or upon real property adjacent thereto which is owned by the state, by and through its Department of Transportation, shall be conclusively presumed abandoned, and title thereto shall vest in the state, by and through its Department of Transportation, and the department is hereby authorized to remove, destroy, sell or otherwise dispose of the same. [1953 c.312 §2]

**98.644 ORS 98.640 and 98.642 inapplicable to certain trees, logs, poles or piling.** The provisions of ORS 98.640 and 98.642 shall not apply to trees, timber, logs, poles or piling which have been placed or deposited or allowed to remain upon the right of way of a state highway or real property adjacent thereto under the provisions of a permit granted by the Department of Transportation, nor to poles erected upon the right of way of a state highway for the purpose of carrying telegraph, telephone or electric lines or wires. [1953 c.312 §3]

**98.650 Owner's duty to remove trees, logs, poles or piling deposited on county roads.** (1) No person shall place or deposit any trees, timber, logs, poles or piling upon the right of way of any county road, except with permission of any duly authorized weighmaster or peace officer given in connection with the removal of portions of loads, which removal is pursuant to ORS 810.490.

(2) Any trees, timber, logs, poles or piling so placed or deposited, accidentally or in violation of this section, or which have fallen, dropped or been blown upon said right of way, shall be removed by the owner thereof within a period of not more than 30 days. [1953 c.339 §1; 1983 c.338 §885]

**98.652 Effect of failure to remove trees, logs, poles or piling.** Any trees, timber, logs, poles or piling which remain for a period of more than 30 days upon the right of way of any county road shall be conclusively presumed abandoned, and title thereto shall vest in the county having jurisdiction over such county road, and the county court or board of county commissioners of said county may remove, destroy, sell or otherwise dispose of the same. [1953 c.339 §2]

**98.654 ORS 98.650 and 98.652 inapplicable to certain trees, logs, poles or piling and to certain county roads.** The provisions of ORS 98.650 and 98.652 shall not apply to trees, timber, logs, poles or piling which have been placed or deposited or allowed to remain upon the right of way of a county road under the provisions of a permit granted by the county court or board of county commissioners having jurisdiction over said county road, nor to poles placed upon the right of way of a county road under authority of ORS 758.010 or 758.020, nor to any county road which is not maintained for public travel by the county court or board of county commissioners of the county in which the road is located. [1953 c.339 §3]

**98.710** [Repealed by 1957 c.670 §37]

**DISPOSITION OF UNLAWFULLY  
PARKED VEHICLES AND  
ABANDONED VEHICLES**

**98.805 Definitions for ORS 98.810 to 98.818, 98.830, 98.835 and 98.840.** As used in this section and ORS 98.810 to 98.818, 98.830, 98.835 and 98.840:

(1) "Owner of a parking facility" means:

(a) The owner, lessee or person in lawful possession of a private parking facility; or

(b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

(a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or

(b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205.

(6) "Vehicle" has the meaning given that term in ORS 801.590. [1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9]

**98.810 Unauthorized parking of vehicle on proscribed property prohibited.** A person may not, without the permission of:

(1) The owner of a parking facility, leave or park any vehicle on the parking facility if there is a sign displayed in plain view at the parking facility prohibiting or restricting public parking on the parking facility.

(2) The owner of proscribed property, leave or park any vehicle on the proscribed property whether or not there is a sign prohibiting or restricting parking on the proscribed property. [1953 c.575 §1; 1979 c.100 §3; 1981 c.861 §24; 1983 c.436 §3; 2007 c.538 §10]

**98.811 Notice of parking violation; certificate of nonliability; dismissal of notice.** (1) If the owner of a parking facility or the owner of proscribed property has issued a citation or other notice of a parking violation alleging that a vehicle owned by a person engaged in the business of selling, renting, leasing or repairing motor vehicles has been left or parked in violation of ORS 98.810 and mailed a copy of the citation or notice to the person, the person is relieved of liability for the violation if, within 30 days from the mailing of the citation or notice, the person:

(a) Submits a certificate of nonliability stating that the vehicle was not in the custody and control of the person, under the terms of an agreement permitting an individual to use a motor vehicle owned by the person, when the alleged violation occurred; and

(b) Provides the name and address of the individual who was in control of the vehicle at the time of the alleged violation.

(2) Upon receipt of the certificate of nonliability and information described in subsection (1) of this section, the owner of the parking facility or the owner of the proscribed property must dismiss the citation or notice with respect to the person and may reissue the citation or notice in the name of the individual in control of the vehicle when the alleged violation occurred. [2009 c.90 §2]

**98.812 Towing and storage of unlawfully parked vehicle; photograph required; lien for towage, care and storage charges; notice requirements.** (1) If a ve-

hicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

(2) Prior to towing a vehicle under this section, a tower who tows a vehicle at the request of an owner of a parking facility shall take at least one photograph of the vehicle and record the time and date of the photograph. A photograph must show the vehicle left or parked in violation of ORS 98.810. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph.

(3) A tower who tows a vehicle at the request of an owner of a parking facility or the owner of proscribed property under this section shall provide to the owner or operator of the vehicle the information required in ORS 98.856 in the manner provided in ORS 98.856.

(4) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession thereof until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

(a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;

(b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the

owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the towed vehicle.

(5) The lien created by subsection (4) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2; 2001 c.424 §1; 2007 c.538 §11; 2009 c.622 §1]

**98.814** [1953 c.575 §4; 1965 c.343 §21; repealed by 1983 c.436 §15]

**98.816** [1953 c.575 §5; 1965 c.343 §22; repealed by 1983 c.436 §15]

**98.818 Preference of lien.** The lien created by ORS 98.812 shall have preference over any and all other liens or encumbrances upon the vehicle. [1953 c.575 §3; 2007 c.538 §11a]

**98.830 Towing abandoned vehicle from private property; conditions.** A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:

(1) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed. The notice required by this subsection must remain on the vehicle for 72 hours before the vehicle may be removed.

(2) The person fills out and signs a form that includes:

(a) A description of the vehicle to be towed;

(b) The location of the property from which the vehicle will be towed; and

(c) A statement that the person has complied with subsection (1) of this section. [1995 c.758 §1; 2007 c.538 §12]

**98.835 Immunity from civil liability for towing abandoned vehicle; lien for towage, care and storage charges; notice requirements.** (1) A tower who tows a vehicle pursuant to ORS 98.830 is immune from civil liability for towing the vehicle if the tower has a form described in ORS 98.830 (2), filled out by a person purporting to be the owner or a person in lawful possession of the

private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to a lien on the towed vehicle and its contents for the tower's just and reasonable charges. The tower may retain possession of the towed vehicle until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

(a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;

(b) If the towed vehicle is registered in Oregon, the tower shall give notice by first class mail with a certificate of mailing, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle and any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the towed vehicle.

(3) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1995 c.758 §2; 2001 c.424 §2; 2007 c.538 §13]

**98.840 Towing vehicle alternative to procedure in ORS 98.810 to 98.818.** The procedure authorized by ORS 98.830 and 98.835 for removal of abandoned vehicles from private property may be used by persons described in ORS 98.805 as an alternative to the procedures described in ORS 98.810 to 98.818. [1995 c.758 §4; 2007 c.538 §13a]

**98.990** [Repealed by 1957 c.670 §37]

### INVOLUNTARY LOSS OF USE OF VEHICLES

**98.850 Legislative findings and declaration.** (1) The Legislative Assembly finds that:

(a) 49 U.S.C. 14501(c)(1) limits the authority of the state and political subdivisions of the state to enact or enforce laws or ordinances related to price, route or service of motor carriers with respect to the transportation of property.

(b) 49 U.S.C. 14501(c)(2)(A) exempts, from the limits described in paragraph (a) of this subsection, safety regulations with respect to motor vehicles.

(c) 49 U.S.C. 14501(c)(2)(C) exempts, from the limits described in paragraph (a) of this subsection, laws or ordinances relating to the price of for-hire motor vehicle transportation by a tow truck if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public.

(b) ORS 98.810 to 98.818 do not preempt any authority that a local government, as defined in ORS 174.116, may have to regulate the price of for-hire motor vehicle transportation by a tow vehicle if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. [2007 c.538 §1]

**98.852 Definitions for ORS 98.854 to 98.862.** As used in ORS 98.854 to 98.862:

(1) "Consideration" has the meaning given that term in ORS 171.725.

(2) "Motor vehicle" has the meaning given that term in ORS 801.360.

(3) "Parking facility" has the meaning given that term in ORS 98.805.

(4) "Tower" means a person that:

(a) Owns or operates a tow vehicle for profit; or

(b) Is employed by a person that owns or operates a tow vehicle for profit.

(5) "Tow vehicle" has the meaning given that term in ORS 801.530. [2007 c.538 §2]

**98.854 Prohibitions placed on tower; exceptions; conditions allowing towing.** (1) A tower may not:

(a) Except as provided in subsection (3) of this section, tow a motor vehicle from a parking facility without first contacting the owner of the facility or the owner's agent at the time of the tow.

(b) Tow a motor vehicle from a parking facility if the parking facility owner or owner's agent is an employee of a tower.

(c) Tow a motor vehicle without providing to the owner or operator of the motor vehicle the information required under ORS 98.856 in the manner required under ORS 98.856.

(d) Charge more than a price disclosed under ORS 98.856.

(e) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between the tower and a motor vehicle road service company.

(f) Except as provided in subsection (2) of this section, park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

(g) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:

(A) Signs by a tower under ORS 98.862 does not constitute consideration.

(B) Goods or services by a tower below fair market value constitutes consideration.

(h) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:

(A) The reason for the tow;

(B) The validity or amount of charges; or

(C) The responsibility of the tower for the condition of the motor vehicle or personal property in the motor vehicle.

(i) Hold a towed motor vehicle for more than 24 hours without:

(A) Taking an inventory of all personal property in the motor vehicle that is visible from the exterior of the motor vehicle; and

(B) Holding the personal property in the motor vehicle in a secure manner.

(j) Accept cash as a method of payment for towing services unless the tower provides exact change not later than the end of the business day following receipt of payment.

(2) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business if the tower provides notice of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(3) A tower may tow a motor vehicle if the motor vehicle:

(a) Blocks or prevents access by emergency vehicles;

(b) Blocks or prevents entry to the premises;

(c) Blocks a parked motor vehicle;

(d) Violates a prominently posted parking prohibition; or

(e) Parks without permission in a parking facility used for residents of an apartment and:

(A) There are more residential units than there are parking spaces;

(B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and

(C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility. [2007 c.538 §3; 2009 c.622 §2]

**98.856 Conditions requiring release of vehicle; tower responsibility of disclosure to owner or operator of vehicle.**

(1) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in subsection (2)(a) of this section.

(2) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written statement of at least 10-point boldfaced type:

(a) The prices the tower charges for goods and services;

(b) The location where the tower will:

(A) Store the motor vehicle and personal property in the motor vehicle; or

(B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a location under the control of the tower;

(c) The telephone number and any other means of contacting the tower, and the hours of availability at that telephone number and at the other means of contacting the tower;

(d) The methods of payment that the tower accepts; and

(e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower will provide, in person or by mail, exact change not later than the end of the business day following receipt of payment.

(3) If the owner or operator is present at the time of the tow, the tower shall provide the information required under subsection (2) of this section to the owner or operator of the motor vehicle before towing the motor vehicle.

(4) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower shall provide the information required under subsection (2) of this section to the owner or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the motor vehicle redeems the motor vehicle.

(5)(a) As used in this subsection, "business day" means Monday through Friday, excluding legal holidays.

(b) If the owner or operator of the motor vehicle is not present at the time of the tow:

(A) Within five business days from the date of the tow, the tower shall request the name and address of the owner of the motor vehicle from the state motor vehicle agency for the state in which the motor vehicle is registered.

(B) The tower shall provide the information required under subsection (2) of this section to the owner of the motor vehicle by mail by the end of the first business day following receipt of the information from the state motor vehicle agency.

(C) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower is not required to contact the state motor vehicle agency.

(6) If the owner or operator of the motor vehicle is not present at the time of the tow but the owner or operator of the motor vehi-

cle requested the tow and arranged to pay the tower directly, the tower may obtain the name and address of the owner of the motor vehicle from the owner or operator of the motor vehicle and may provide the information required under subsection (2) of this section:

(a) Within five business days after the tow; or

(b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs. [2007 c.538 §4; 2009 c.622 §3]

**98.858 Right of owner or person in lawful possession of vehicle to redeem vehicle, contact tower and obtain property of emergency nature.** (1) A tower in physical possession of a motor vehicle shall permit the owner or person in lawful possession of a motor vehicle the tower has towed to:

(a) Redeem the motor vehicle:

(A) Between 8 a.m. and 6 p.m. Monday through Friday, excluding legal holidays;

(B) At all other hours, within 60 minutes after asking the tower to release the motor vehicle; and

(C) Within 30 minutes of a time mutually agreed upon between the tower and the owner or person in lawful possession of the motor vehicle;

(b) Contact the tower at any time to receive information about the location of the motor vehicle and instructions for obtaining release of the motor vehicle; and

(c) Obtain all personal property of an emergency nature in the motor vehicle within the time allowed under paragraph (a) of this subsection.

(2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee in any amount to obtain personal property of an emergency nature except for a gate fee between the hours of 6 p.m. and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holiday.

(3) As used in this section, "personal property of an emergency nature" includes but is not limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and child safety car and booster seats. [2007 c.538 §5]

**98.860 Conditions for release of vehicle to insurance company undertaking to adjust claim; tower's good-faith release of vehicle.** (1) For purposes of this section, an insurance company undertaking to adjust a claim involving a towed motor vehicle is a person in lawful possession and entitled to release of the motor vehicle if:

(a) The insurance company has obtained permission from the owner or another person in lawful possession of the motor vehicle to secure release of the motor vehicle; and

(b) The insurance company transmits to the tower by facsimile or electronic mail a document that reasonably identifies the insurance company as a person in lawful possession and directs the tower to release the motor vehicle to a person designated by the insurance company.

(2) A tower who, in good faith, releases a motor vehicle under subsection (1) of this section is not liable for damages for releasing the motor vehicle to a person designated by the insurance company or for damages that arise after release of the motor vehicle.

(3) This section does not prohibit a tower from releasing a motor vehicle to an insurance company in a manner other than that provided for in subsection (1) of this section. [2007 c.538 §6]

**98.862 Exceptions to requirements of ORS 98.856.** A tower need not provide the written information required under ORS 98.856 if:

(1) The motor vehicle is towed from a parking facility where the tower has provided the information on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(2) The tower is hired or otherwise engaged by an agency taking custody of a vehicle under ORS 819.140.

(3) The tower tows the motor vehicle under a prenegotiated payment agreement between the tower and a motor vehicle road service company or an insurance company.

(4) The tower is hired or otherwise engaged by a business entity at the request of the owner or operator of the motor vehicle to tow the motor vehicle. [2007 c.538 §7]

**98.864 Rules.** The Attorney General may adopt rules to implement ORS 98.854 to 98.862. [2007 c.538 §8]

## PENALTIES

**98.991 Penalties relating to unclaimed property.** (1) Any person who willfully fails to render any report or perform other duties required under this Act is guilty of a misdemeanor.

(2) Any person who willfully refuses to pay or deliver unclaimed property to the Department of State Lands as required under this Act is guilty of a misdemeanor. [1957 c.670 §36; 1993 c.694 §22]

**Note:** See note under 98.432.

**98.992 Penalty for failure to report, pay or deliver property under ORS 98.302 to 98.436.** A person who willfully fails to render any report, to pay or deliver property or to perform other duties required by ORS 98.302 to 98.436 and 98.992 may be required to forfeit and pay to the State Treasurer to be deposited in the Common School Fund Account, an amount determined by the Department of State Lands pursuant to ORS

183.745 of not more than \$1,000 for individuals and \$50,000 for corporations. This penalty shall be assessed only after at least one reporting cycle, and only after the department has provided the person with written instructions, including copies of applicable laws and policies. The department may waive any penalty due under this section with appropriate justification. [1993 c.694 §25]

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