Chapter 98

1957 REPLACEMENT PART

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RIGHTS AND DUTIES OF FINDERS

98.010 Duties of finders of money or goods. (1) If any person finds money or goods valued at $5 or more, and if the owner thereof is unknown, such person shall, within five days after finding the money or goods, give notice of the finding in writing to the county clerk of the county in which the property was found. He shall also, within such five days, cause a notice thereof to be posted in two public places in the county.

(2) Every finder of lost goods valued at $15 or more shall, in addition to the requirements of subsection (1) of this section, cause notice of the finding to be published in a newspaper published in the county where the goods were found, within 15 days after the finding. If no newspaper is published in that county, notice of the finding shall be posted in three of the most public places in the county. If no person appears to claim the goods who may be entitled thereto, the finder shall, within two months after finding such goods and before injuring the goods procure an appraisal thereof by a justice of the peace of his county, which appraisal shall be certified to by the justice, and filed in the office of the county clerk of such county.

98.020 Rights of owner. If the owner of lost money or goods appears within one year after notice is given to the clerk as provided in ORS 98.010, and establishes his right thereto, he shall have restitution of the lost property or its value upon paying all the costs and charges thereon, including a reasonable compensation to the finder for his trouble.

98.030 Finder's obligation to county if owner does not appear. If no owner appears within one year as provided in ORS 98.020, the finder shall pay one-half the value of the lost money or goods, after deducting all legal charges, to the treasurer of the county where the property was found. If the finder neglects to pay the same on demand, after the expiration of such time, the same may be sued for and recovered by the treasurer in the name of the county.

98.040 Liability of noncomplying finder. If any finder of lost money or goods valued at $5 or upwards fails to comply with the provisions of ORS 98.010 and 98.030, he shall be liable for the full value of the money or goods; one-half to the use of the county, and the other half to the person who sues for the same. The finder shall also be responsible to the owner for the lost money or goods.

98.050 to 98.100 [Reserved for expansion]

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 him 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 his possession, he shall immediately notify the owner, by letter directed to him and deposited in the postoffice, 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 his name and residence are known, either personally or by mail, or by leaving a notice at his residence or place of doing business, 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 pub-

lished 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, his agent or attorney 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 him of the affidavit as provided in ORS 98.150, the justice shall cause the property to be examined in his presence, and a true inventory thereof to be made. He shall annex to such inventory an order under his hand that the property therein described be sold at public auction by any constable of the constable district where the property is located.

98.170 Sale by constable. The constable 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, and sell the property at public auction to the highest bidder in the same manner as provided by law for sales under execution from justices' courts.

98.180 Delivery of proceeds to justice. Upon completing the sale provided for in ORS 98.170, the constable making the sale shall indorse upon the order provided for in ORS 98.160 a return of his proceedings. He shall deliver the order to the justice, together with the inventory and the proceeds of sale, after deducting his fees.

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, he 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 him and the time when received, and shall file in his office the statement delivered to him by the justice pursuant to ORS 98.190.

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

Note: See notes for ORS 98.302 and 98.991.

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. A justice of the peace shall receive $3 for each day's service rendered pursuant to ORS 98.160 to 98.230; and a constable shall receive the same fees as are allowed by law for sales upon an execution, and 10 cents a folio for making an inventory of property.

98.250 to 98.300 [Reserved for expansion]

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

98.302 Definitions. As used in this Act, unless the context otherwise requires:

(1) "Banking organization" means any bank, trust company, savings bank or safe deposit company engaged in business in this state.

(2) "Board" means the State Land Board.

(3) "Business association" means any corporation (other than a public corporation), joint stock company, business trust,

partnership, or any association for business purposes of two or more individuals.

(4) "Financial organization" means any savings and loan association, building and loan association, credit union, or investment company, engaged in business in this state.

(5) "Holder" means any person in possession of property subject to this Act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this Act.

(6) "Life insurance corporation" means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(7) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this Act, or his legal representative.

(8) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(9) "Utility" means any person who owns or operates within this state, 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]

Note: No substitution of specific ORS section numbers for the words "this Act" has been made in the above section or in the other sections of chapter 670, Oregon Laws 1957. Chapter 670, Oregon Laws 1957, consists of new sections which are compiled as ORS 98.302 to 98.436 and 98.991 and amendments to the following previously existing ORS sections: ORS 57.625, 98.210, 327.405, 699.050, 711.225 and 722.740.

98.306 Property held by banking or financial organizations. The following property held or owing by a banking or financial organization is presumed abandoned.

(1) Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within seven years:

(a) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(b) Corresponded in writing with the banking organization concerning the deposit; or

(c) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

(2) Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven years:

(a) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(b) Corresponded in writing with the financial organization concerning the funds or deposit; or

(c) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

(3) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, and traveler's checks, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, unless the owner has within seven years corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

(4) Except as provided in ORS 711.580, any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired. [1957 c.670 §4]

98.310 [Repealed by 1957 c.670 §37]

98.312 Unclaimed funds held by life insurance corporations. (1) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be pre-

sumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known 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 corporation.

(2) "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than seven years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years:

(a) Assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan; or

(b) Corresponded in writing with the life insurance corporation concerning the policy.

Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required. [1957 c.670 §5]

98.316 Deposits and refunds held by utilities. The following funds held or owing by any utility are presumed abandoned:

(1) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the termination of the services for which the deposit or advance payment was made.

(2) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the date it became payable in accordance with the final determination or order providing for the refund. [1957 c.670 §6]

98.320 [Repealed by 1957 c.670 §37]

98.322 Undistributed dividends and distributions of business associations. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

(2) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state. [1957 c.670 §7]

98.326 Property of business associations and banking or financial organizations held in the course of dissolution. All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within two years after the date for final distribution, is presumed abandoned. [1957 c.670 §8]

98.330 [Repealed by 1957 c.670 §37]

98.332 Property held by fiduciaries. All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven 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:

(1) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

(2) If it is held by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person. [1957 c.670 §9]

98.336 Property held by state courts and public officers and agencies. All intangible personal property held for the owner by any court, public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than seven years is presumed abandoned. [1957 c.670 §10]

98.340 [Repealed by 1957 c.670 §37]

98.342 Miscellaneous personal property held for another person. All intangible personal property, not otherwise covered by this Act, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned. [1957 c.670 §11]

Note: See note for ORS 98.302.

98.346 Reciprocity for property presumed abandoned or escheated under the laws of another state. If specific property which is subject to the provisions of ORS 98.306, 98.322, 98.326, 98.332 and 98.342 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, the specific property is not presumed abandoned in this state and subject to this Act if:

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

(2) The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such 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]

Note: See note for ORS 98.302.

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 this Act shall report to the board with respect to the property as hereinafter provided.

(2) The report shall be verified and shall include:

(a) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of $3 or more presumed abandoned under this Act;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his 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 $3 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 which the board prescribes by rule as necessary for the administration of this Act.

(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 changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(4) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The board may postpone the reporting date upon written request by any person required to file a report.

(5) If the holder of property presumed abandoned under this Act 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) 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.

(7) The initial report filed under this Act shall include all items of property presumed abandoned under this Act which could have been subject to the provisions (as compiled in the 1953 part) of repealed ORS 98.310 to 98.440 and 98.710 had said repealed sections remained in effect. Items of property presumed abandoned under this Act which were not or could not have been subject to the provisions (as compiled in the 1953 part) of repealed ORS 98.310 to 98.440 and 98.710 must be included in the initial report under this Act if the time period resulting in the presumption of abandonment commenced running after June 30, 1949. Items of property presumed abandoned under this Act on August 20, 1957, which are not required to be included in the initial report may be included in the initial or any subsequent report; if so included, the holder thereof shall be entitled to the protective provisions of ORS 98.366. [1957 c.670 §13]

Note: See note for ORS 98.302.

98.356 Notice and publication of lists of abandoned property. (1) Within 120 days from the filing of the report required by ORS 98.352, the board shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.

(2) The published notice shall be entitled "Notice of Names of Persons Appearing to Be Owners of Abandoned Property," and shall contain:

(a) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(b) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing a legal or equitable interest in the property by addressing an inquiry to the board.

(c) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the second published notice, the abandoned property will be placed not later than 85 days after such publication date in the custody of the board to whom all further claims must thereafter be directed.

(3) The board is not required to publish in such notice any item of less than $50 unless it deems such publication to be in the public interest.

(4) Within 120 days from the receipt of the report required by ORS 98.352, the board shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of $50 or more presumed abandoned under this Act.

(5) The mailed notices shall contain:

(a) A statement that, according to a report filed with the board, property is being held to which the addressee appears entitled.

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the board to whom all further claims must be directed. [1957 c.670 §14]

Note: See note for ORS 98.302.

98.360 [Repealed by 1957 c.670 §37]

98.362 Payment or delivery of abandoned property. Every person who has filed a report as provided by ORS 98.352 shall within 20 days after the time specified in ORS 98.356 for claiming the property from the holder pay or deliver to the board all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in ORS 98.356, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will

no longer be presumed abandoned, to the board, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment. [1957 c.670 §15]

98.366 Relief from liability by payment or delivery. Upon the payment or delivery of abandoned property to the board, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the board under this Act 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. [1957 c.670 §16]

Note: See note for ORS 98.302.

98.370 [Repealed by 1957 c.670 §37]

98.372 Income accruing after payment or delivery. When property is paid or delivered to the board under this Act, the owner is not entitled to receive income or other increments accruing thereafter. [1957 c.670 §17]

Note: See note for ORS 98.302.

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 property, nor affect any duty to file a report required by this Act or to pay or deliver abandoned property to the board, provided that this section shall not affect any property interests which became vested prior to August 20, 1957. [1957 c.670 §18]

Note: See note for ORS 98.302.

98.380 [Repealed by 1957 c.670 §37]

98.382 Sale of abandoned property. (1) All abandoned property other than money delivered to the board under this Act shall be sold by it to the highest bidder at public sale in whatever city in the state affords in its judgment the most favorable market for the property involved. The board may decline the highest bid and reoffer the property for sale if it considers the price bid insufficient. It need not offer any property for sale if, in its opinion, the probable cost of sale exceeds the value of the property.

(2) Any sale held under this section shall be preceded by a single publication of notice thereof at least three weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

(3) The purchaser at any sale conducted by the board pursuant to this Act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The board shall execute all documents necessary to complete the transfer of title. [1957 c.670 §19]

Note: See note for ORS 98.302.

98.386 Deposit of funds. (1) All funds received under this Act, including the proceeds from the sale of abandoned property under ORS 98.382, shall forthwith be deposited by the board in the Common School Fund Account with the State Treasurer. Before making the deposit it shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of 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) Before making any deposit to the credit of the Common School Fund Account, the board may deduct:

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

(b) Any costs of mailing and publication in connection with any abandoned property; and

(c) Reasonable service charges. [1957 c.670 §20]

Note: See note for ORS 98.302.

98.390 [Repealed by 1957 c.670 §37]

98.392 Claim for abandoned property paid or delivered. Any person claiming an interest in any property delivered to the state under this Act or under the provisions of ORS 98.310 to 98.440 (as compiled in the 1953 part) may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the board. [1957 c.670 §21]

Note: See note for ORS 98.302.

98.396 Determination of claim. (1) The board shall consider any claim filed un-

der this Act and may hold a hearing and receive evidence concerning it. If a hearing is held, it shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by it and the reasons for its decision. The decision shall be a public record.

(2) If the claim is allowed, the board shall make payment forthwith. [1957 c.670 §22]

Note: See note for ORS 98.302.

98.400 [Repealed by 1957 c.670 §37]

98.402 Judicial action on determination. Any person aggrieved by a decision of the board or as to whose claim the board has failed to act within 90 days after the filing of the claim, may commence an action in an appropriate court to establish his claim. The proceeding shall be brought within 60 days after the decision of the board or within 180 days from the filing of the claim if the board fails to act. The action shall be tried de novo without a jury. [1957 c.670 §23]

98.406 Election to take payment or delivery. The board, after receiving reports of property deemed abandoned pursuant to this Act, may decline to receive any property reported which it deems to have a value less than the cost of giving notice and holding sale, or it may, if it deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under ORS 98.352, the board shall be deemed to have elected to receive the custody of the property. [1957 c.670 §24]

Note: See note for ORS 98.302.

98.410 [Repealed by 1957 c.670 §37]

98.412 Examination of records. The board may at reasonable times and upon reasonable notice examine the records of any person if it has reason to believe that such person has failed to report property that should have been reported pursuant to this Act. [1957 c.670 §25]

Note: See note for ORS 98.302

98.416 Proceeding to compel delivery of abandoned property. If any person refuses to deliver property to the board as required under this Act, it shall bring a suit or action in a court of appropriate jurisdiction to enforce such delivery. [1957 c.670 §26]

Note: See note for ORS 98.302.

98.420 [Repealed by 1957 c.670 §37]

98.422 Rules and regulations. The board hereby is authorized to make necessary rules and regulations to carry out the provisions of this Act. [1957 c.670 §27]

Note: See note for ORS 98.302.

98.426 Effect of actions taken prior to August 20, 1957. (1) This Act shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to August 20, 1957.

(2) The provisions (as compiled in the 1953 part) of ORS 98.310 to 98.380, 98.410, 98.710 and 98.990 shall remain in effect with regard to property in the hands of any holder or custodian which should have been reported or accounted under said repealed sections prior to August 20, 1957. [1957 c.670 §§28, 35]

Note: See note for ORS 98.302.

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: See note for ORS 98.302.

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

Note: See note for ORS 98.302.

98.440 [Repealed by 1957 c.670 §37]

98.450 to 98.500 [Reserved for expansion]

UNORDERED PUBLICATIONS

98.510 Unordered newspapers and periodicals deemed gifts. If any owner, controller, editor or proprietor of any newspaper or periodical mails or sends a paper or periodical to any person in this state without first receiving an order for the newspaper or periodical from such person, the newspaper or periodical is deemed to be a gift and no debt or obligation shall accrue against such person.

98.520 to 98.600 [Reserved for expansion]

REMOVAL OF TREES OR LOGS FROM ANOTHER'S LAND, COUNTY ROADS OR STATE HIGHWAYS

98.610 Recovery of any part of tree from private property lost from a railroad or motor vehicle. Any person may enter upon private property where any part of a fallen tree belonging to or under the control of the person has been lost from a railroad or motor vehicle, for the purpose of recovering and reclaiming the same. Before entering the land he shall post a bond with the Public Utility Commissioner, to be approved by the commissioner, in such sum as the commissioner may provide. The bond shall run to the Public Utility Commissioner to insure to any landowner the payment of any damage resulting from removal or reclaiming of such property. The owner of the land shall be compensated for any damages resulting from the removal or for damage to his property caused by any part of a felled tree falling from motor vehicles or railroads.

98.620 Effect of failure to remove logs. (1) If any person fails to remove and reclaim logs, timber or any part of a fallen tree within one year after it is lost upon private property, as provided in ORS 98.610, it is deemed abandoned, and the title thereto vests in the person entitled to the possession of the land upon which the same is found.

(2) If any part of a felled tree which falls from a log truck or a railroad is not removed from the land within seven days after written notice from the owner of the land to remove the same, title to that part of the felled tree is forfeited and shall vest in the owner of the land.

98.630 Landowner's rights following removal of logs. The Public Utility Commissioner has the power, upon application of any landowner mentioned in ORS 98.610 to determine the damages mentioned in ORS 98.610 resulting to the landowner and require the payment thereof. In lieu of such application for award of damages, the landowner may pursue an action at law for such damages or sue on the bond provided for in ORS 98.610 in the circuit court of the county in which the land is situated. [Amended by 1957 c.459 §2]

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 State Highway Commission, 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 483.534.

(2) Any trees, timber, logs, poles or piling so placed or deposited whether pursuant to said permission of a weighmaster 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]

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 State Highway Commission, shall be conclusively presumed abandoned, and title thereto shall vest in the state, by and through its State Highway Commission, and the commission 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 and 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 State Highway Commission, 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 483.534.

(2) Any trees, timber, logs, poles or piling so placed or deposited, accidentally or in viola-

tion 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]

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]

98.656 to 98.700 [Reserved for expansion]

98.710 [Repealed by 1957 c.670 §37]

98.720 to 98.800 [Reserved for expansion]

DISPOSITION OF MOTOR VEHICLES UNLAWFULLY PARKED ON PRIVATE PARKING LOT

98.810 Unauthorized parking of motor vehicle on private parking lot prohibited. No person shall, without the permission of the owner, lessee or person, firm or corporation in lawful possession of any private property used for motor vehicle parking, leave or park any motor vehicle thereon, if there is in plain view on such private property a sign prohibiting public parking thereon or restricting parking thereon. [1953 c.575 §1]

98.812 Storage of unlawfully parked motor vehicle in public garage or parking lot; lien of garagekeeper or parking lot operator. (1) The owner, lessee or person, firm or corporation in lawful possession of private property upon which a motor vehicle has been left or parked in violation of ORS 98.810 may after notice to the office of the city police wherein said motor vehicle is parked have said motor vehicle towed off said private property and placed in storage at a public garage or public parking lot.

(2) The garagekeeper or public parking operator shall be entitled to a lien for his just and reasonable charges on said motor vehicle and may retain possession thereof until the just and reasonable charges for the towage, care and storage of said motor vehicle have been paid. [1953 c.575 §2]

98.814 Sale of motor vehicle to satisfy lien; notice of sale. (1) If such just and reasonable charges be not paid within 60 days after they have begun to accrue the garagekeeper or public parking operator having such lien may proceed to sell such motor vehicle at public auction and apply the proceeds of such sale; first, to the payment of the expenses of said sale, including 10 days' storage; second, to the discharge of said lien; and third, the balance, if any, to the county clerk of the county in which such sale is made, to be held by said county clerk in trust for the owner of said vehicle. Such sale must be held in the county where said vehicle was left or parked.

(2) Before any sale is made notice thereof must be given by registered mail to the legal owner as appears on the motor vehicle registration card and to any other person whose interest is shown in the motor vehicle records of the Department of Motor Vehicles. Said registered notice must be mailed to the above mentioned parties at least 10 days prior to sale, which notice shall be directed to the above mentioned party or parties at his or their last known address, if known, and also by posting notice thereof in three public places in said county, one of which shall be at or near the front door of the county courthouse of said county, for 10 days prior to the day of sale.

(3) Said notice shall contain a particular description of the vehicle to be sold, the name of the owner or reputed owner thereof, the amount due on said lien, and the time and place of said sale. [1953 c.575 §4]

98.816 Limitations on lien. No garagekeeper or public parking operator shall be entitled to a lien for storage covering a period

in excess of 15 days, unless within such period he shall have given notice of the location of the motor vehicle, by registered mail, to the legal owner as appears on the motor vehicle registration card, and to any other person whose interest is shown in the motor vehicle records of the Department of Motor Vehicles. In no event, shall such garagekeeper or public parking operator be entitled to a lien for storage for a period in excess of 70 days. [1953 c.575 §5]

98.818 Preference of lien. The lien created by ORS 98.812 shall have preference over any and all other liens or encumbrances upon such motor vehicle. [1953 c.575 §3]

98.820 to 98.980 [Reserved for expansion]

PENALTIES

98.990 [Repealed by 1957 c.670 §37]

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

(2) Any person who wilfully refuses to pay or deliver abandoned property to the board as required under this Act is guilty of a misdemeanor. [1957 c.670 §36]

Note: No substitution of specific ORS section numbers for the words "this Act" has been made in the above section or in the other sections of chapter 670, Oregon Laws 1957. Chapter 670, Oregon Laws 1957, consists of new sections which are compiled as ORS 98.302 to 98.436 and 98.991 and amendments to the following previously existing ORS sections: ORS 57.625, 98.210, 327.405, 699.050, 711.225 and 722.740.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel