

Chapter 98

1993 EDITION

Lost, Unordered and Unclaimed Property; Unlawfully Parked Vehicles

RIGHTS AND DUTIES OF FINDERS AND OWNERS	
98.005	Rights and duties of finder of money or goods
98.015	Liability of noncomplying finder; forfeiture to county of unreclaimed money or goods
98.025	Rights of owner
FINDER'S REPORTS	
98.050	Finder's reports; fee
DISPOSAL OF CONSIGNED OR BAILED PROPERTY THAT IS UNCLAIMED	
98.110	Record to be kept by consignee or bailee of property
98.120	Notice to owner of receipt of property by consignee or bailee
98.130	Right of custodian to sell property
98.140	Notice of sale
98.150	Affidavit by custodian when no response to notice
98.160	Inventory and order to sell
98.170	Sale
98.180	Delivery of proceeds to justice
98.190	Disposal of proceeds by justice
98.200	Procedure by county treasurer
98.210	Payment to person proving ownership
98.230	Sale of perishable property
98.240	Fees allowed to justice of peace and constable or sheriff
UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT	
98.302	Definitions for ORS 98.302 to 98.436
98.304	When intangible property subject to custody of state
98.308	Intangible property held by banking or financial institution
98.309	When traveler's check or money order presumed abandoned
98.311	Service charge on unclaimed property
98.314	Unclaimed funds held by insurance companies
98.316	Deposits and refunds held by utilities
98.322	Intangible equity ownership interests in business associations
98.326	Property of business associations and banking or financial institutions held in the course of dissolution
98.328	Property held in safe deposit box
98.329	Delivery of property before presumed abandoned
98.332	Property held by fiduciaries
98.334	Unpaid wages unclaimed by owner for more than five years
98.336	Property held by government and public authorities
98.338	Gift certificate or credit memo unclaimed by owner
98.342	Miscellaneous personal property held for another person
98.346	Reciprocity for property presumed abandoned or escheated under the laws of another state
98.348	Recovery of abandoned property by another state; form of claim; indemnification of this state
98.352	Report of abandoned property
98.354	Records of ownership or issuance of instruments to be maintained
98.356	Notice and publication of lists of unclaimed property
98.362	Delivery of certificate of ownership of intangible equity ownership interest
98.366	Relief from liability by payment or delivery
98.372	Income accruing after payment or delivery
98.376	Periods of limitation not a bar
98.382	Sale of abandoned and unclaimed property
98.384	Destruction or disposition of unclaimed property
98.386	Deposit of funds
98.388	Unclaimed Property Revolving Fund
98.392	Claim for unclaimed property delivered to Division of State Lands; time for claim
98.396	Determination of claim; payment; reimbursement
98.402	Judicial action on determination
98.412	Records and reports; examination
98.416	Proceeding to compel delivery of unclaimed property; interest
98.422	Rules
98.424	Agreements with other states; exchange of information; Attorney General may bring action in name of other state
98.432	Uniformity of interpretation
98.436	Short title
UNORDERED GOODS	
98.450	Unordered goods presumed gifts
MOLDS AND FORMS	
98.470	Definitions for ORS 98.470 to 98.490
98.475	Molder may take title to unclaimed mold
98.480	Notice to customer; contents
98.485	Duty to make mold unusable when title not taken
98.490	Effect of written agreement between molder and customer

PROPERTY RIGHTS AND TRANSACTIONS

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
- 98.620 Effect of failure to remove logs
- 98.630 Landowner's rights following removal of logs
- 98.640 Owner's duty to remove trees, logs, poles or piling deposited on state highways
- 98.642 Effect of failure to remove trees, logs, poles or piling
- 98.644 ORS 98.640 and 98.642 inapplicable to certain trees, logs, poles or piling
- 98.650 Owner's duty to remove trees, logs, poles or piling deposited on county roads
- 98.652 Effect of failure to remove trees, logs, poles or piling
- 98.654 ORS 98.650 and 98.652 inapplicable to certain trees, logs, poles or piling and to certain county roads

DISPOSITION OF UNLAWFULLY PARKED VEHICLES

- 98.805 Definitions for ORS 98.810 to 98.818
- 98.810 Unauthorized parking of vehicle at proscribed property prohibited
- 98.812 Storage of unlawfully parked vehicle; lien for storage charges; notice requirements
- 98.818 Preference of lien

PENALTIES

- 98.991 Penalties relating to unclaimed property
- 98.992 Penalty for failure to report, pay or deliver property under ORS 98.302 to 98.436

CROSS REFERENCES

- Abandoned boats, 830.905 to 830.935
- Abandoned vehicles, disposition, 819.110 to 819.270
- Boats, owners to report loss or abandonment, 830.710
- Estrays, Ch. 607
- Liens on chattels in possession, 87.152 to 87.212
- Property of deceased in custody of medical examiner or district attorney, 146.125

- Residential Landlord and Tenant Act, disposition of personal property abandoned by tenant, 90.425
- Transfer of boat title by operation of law, 830.755
- Treasure-trove, removal from state lands, 273.718 to 273.742

- Unclaimed stolen property, disposal, 142.040
- Wages collected by Commissioner of Bureau of Labor and Industries, disposition if unclaimed, 652.405

98.110

- Goods abandoned by hotel guest, disposal, 699.050

98.308

- Deposits remaining unclaimed six months after notice escheat to State of Oregon, 711.225

- Unclaimed credit union deposits, 723.457, 723.463

- Unclaimed deposits in dissolved savings banks, 716.905

- Unclaimed deposits in liquidated banks, 711.590

- Unclaimed savings association deposits, 722.262

98.322

- Unclaimed cooperative corporation distributions and payments, 62.425

98.326

- Disposition of unclaimed assets upon dissolution of nonprofit corporation, 65.674

98.328

- Contents of deposit box in liquidated bank, 711.580, 711.582

98.402

- Appeal bond not needed by state, county or city, 22.010

98.422

- Rules, making and filing, 183.310 to 183.550.

98.610

- Branded logs, presumption of ownership, 532.040

- County removing or destroying drifts and drifting materials, 549.720

- Recovery of tree parts cast on another's land by high water, 99.050

98.812

- Removal of vehicles illegally parked in disabled parking spaces, 811.620

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 unreclaimed 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; fee. (1) The administrator may compile information or data in the possession of the Division 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" has the same meaning as given by ORS 192.410.

(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]

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 justices' 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]

Note: See note under 98.432.

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]

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 Division 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) "Banking institution" means a bank, trust company, investment company, savings bank, safe deposit company or private banker.

(4) "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 banking institution, financial institution, insurance company or utility.

(5) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(6) "Financial institution," as defined in ORS 706.005, means a savings and loan association, building and loan association, credit union or investment company.

(7) "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.

(8) "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.

(9) "Intangible property" includes:

(a) Credit balances, customer overpayments, gift certificates, 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, supplemental unemployment insurance or similar benefits; and

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

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

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

(12) "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.

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

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

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

(16) "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]

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 banking or financial institution. (1) Any demand, savings or matured time deposit with a banking or 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 banking or financial institution is presumed abandoned unless the owner, within five 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 banking or 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 banking or financial institution.

(d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the banking or 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 banking or financial institution concerning which the owner has:

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

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial institution, and the banking or 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) For purposes of subsection (1) of this section "property" includes interest and dividends.

(3) 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 shall give written notice to the owner at the owner's last-known address whenever an account becomes dormant or inactive; and

(d) Notwithstanding the provisions of ORS 708.500, three months' written notice is given by certified mail to the last-known address of the owner of a dormant or inactive account before the holder may apply a service charge to that account or stop paying interest on that account.

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

(5) 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 by communicating in writing with the banking or financial institution or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the institution, the property is matured upon the expiration of the last time period for which consent was given. If at the time provided for delivery in ORS 98.362, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended 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 banking or financial institution is directly liable, including a cashier's check and a certified check, which has been outstanding for more than five years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five years, has communicated in writing with the banking or 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 subsections (6) and (7) of this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them. [1983 c.716 §§30, 31; 1993 c.694 §2]

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 certified mail to the last-known address of all owners before the charge or fee is levied. [1993 c.694 §45]

Note: 98.311 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.

98.312 [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 five 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 con-

cerning 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]

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 five years.

(c) The owner has not otherwise communicated with the business association for five 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 five 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]

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

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. A holder, with the written consent of the Division of State Lands, and upon conditions and terms prescribed by the division, may report and deliver property before the property is presumed abandoned. [1993 c.694 §46]

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 five 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 for self-employed individuals 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]

98.334 Unpaid wages unclaimed by owner for more than five years. Unpaid wages, including wages represented by un-presented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more

than five years after becoming payable are presumed abandoned. [1983 c.716 §34]

98.336 Property held by government and public authorities. (1) Intangible property, including uncashed warrants, 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]

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

(2) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo. [1983 c.716 §33]

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 five 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]

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 Division 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 Division of State Lands. The division shall decide the claim within 90 days after it is presented.

(3) The division 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 Division of State Lands all property presumed abandoned as provided in this section, except that funds transferred to the General Fund pursuant to ORS 293.455 (1)(a) shall only be reported to the division.

(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 which the division 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 division 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 division.

(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) 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]

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 five years after the property has been remitted to the Division 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 division.

(3) Companies that conduct business in Oregon shall obtain the name and address of the purchasers of gift certificates and other related credit memos for the purposes of keeping adequate address records for proof of ownership. [1983 c.716 §38; 1993 c.694 §7]

98.356 Notice and publication of lists of unclaimed property. (1) The Division of State Lands shall cause notice of owners' accounts reported under ORS 98.352 to be published at least once each week for two successive weeks in a newspaper or other generally circulated periodical published in this state. The division 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 division is not required to publish in such notice any item of less than \$100 unless the division 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 division shall undertake reasonable efforts to locate owners of unclaimed property reported to the division under ORS 98.352. The costs of such efforts shall be deducted from the proceeds that are paid to the owners when and if an owner is located. The division shall specify, by rule, a maximum percentage of costs that can be deducted from a verified claim for unclaimed property.

(5) The division shall 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]

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 Division of State Lands as follows:

(a) The original certificate shall be delivered to the division 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 division 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 bona fide purchaser of the original certificate shall be governed by ORS 78.4050. In such event, recovery by the bona fide purchaser shall be against the division 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]

98.366 Relief from liability by payment or delivery. (1) Upon the payment or delivery of unclaimed property to the Division 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 division 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 division under ORS 98.352 may make payment to any person appearing to the holder to be entitled to payment. The division 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 division 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 Division 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 Division 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. (1) All unclaimed property other than money and securities delivered to the Division of State Lands under ORS 98.362 shall be sold by the division to the highest bidder at public sale in whatever city in the state affords in the division's judgment the most favorable market for the property involved. The division may decline the highest bid and reoffer the property for sale if the division considers the price bid insufficient. The division need not offer any property for sale if, in the division's opinion, the probable cost of sale exceeds the value of the property.

(2) A sale held under subsection (1) of this section shall be preceded by a single publication of 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.

(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 division shall be sold by the division at such time and place and in such manner as in the division's judgment will bring the highest return.

(5) The division shall indemnify the holder of securities presumed abandoned under ORS 98.322 to the extent allowed by the Oregon Constitution. The division 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 division 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 division shall execute all documents necessary to complete the transfer of title. [1957 c.670 §19; 1983 c.716 §15; 1993 c.694 §13]

98.384 Destruction or disposition of unclaimed property. If the Division of State Lands determines after investigation that any property delivered under ORS 98.352 has insubstantial commercial value, the division 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 division pursuant to this section. [1983 c.716 §37; 1993 c.694 §14]

98.386 Deposit of funds. (1) 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 Division of State Lands in the Common School Fund Account with the State Treasurer. Before making the deposit the division shall record the name and last-known address of each person appearing from the holders' reports to be entitled 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) Before making a deposit to the credit of the Common School Fund Account, the division 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]

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 Division 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 delivered to Division of State Lands; time for claim. A person claiming an interest in unclaimed property reported to the Division 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 division. Claims shall be filed on the form prescribed by the division. [1957 c.670 §21; 1977 c.609 §1; 1983 c.716 §18; 1991 c.213 §1; 1993 c.694 §17]

98.396 Determination of claim; payment; reimbursement. (1) The Division 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 division shall prepare findings and a decision in writing on each claim filed, stating the substance of any evidence heard by the division 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 division 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 division shall pay the claim and file a request for reimbursement with the State Treasurer. The State Treasurer shall reimburse the division 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 Judicial action on determination. A person aggrieved by a decision of the administrator or as to whose claim the administrator has failed to act within 90 days after the filing of the claim, may commence an action in an appropriate court to establish a claim. The proceeding shall be brought within 60 days after the decision of the administrator or within 180 days from the filing of the claim if the administrator fails to act. The action shall be tried de novo without a jury. [1957 c.670 §23; 1983 c.716 §20]

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. (1) The Division 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 division 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 division may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this section. The division may enter into agreements to perform joint examinations with other state or federal entities who regularly examine the records of financial institutions defined in ORS 706.005 (33). Administrative rules shall be prescribed to establish procedures and criteria to accomplish such cooperative audits.

(3) If a holder fails after August 3, 1983, 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 division may require the holder to report and pay the amounts which the division reasonably estimates from the report and available records. [1957 c.670 §25; 1983 c.716 §22; 1993 c.694 §20]

98.416 Proceeding to compel delivery of unclaimed property; interest. (1) If any person refuses to deliver property to the Division of State Lands as required under ORS 98.362, the division may bring a suit or action in a court of appropriate jurisdiction to enforce delivery of the property.

(2) The division 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 division determines interest should have been paid. Interest shall be paid at the rate set pursuant to ORS 305.220 (1) and (3). [1957 c.670 §26; 1983 c.716 §23; 1993 c.694 §26]

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; Attorney General may bring action in name of other state. (1) The Division of State Lands may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise deter-

mine unclaimed property that this state or another state may be entitled to subject to a claim of custody under ORS 98.348. The division 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 division's procedures and the procedures of administrators in other jurisdictions that enact an unclaimed property act, the division, 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 division 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 division, 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 division 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 division 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: 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 98.302 to 98.436 and 98.991 and amendments to the following previously existing ORS sections: 57.625, 98.210, 327.405, 699.050 and 711.225.

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 98.475, the molder shall render the mold unusable as a mold and destroy or otherwise dispose of the mold. [1981 c.333 §4]

98.490 Effect of written agreement between molder and customer. ORS 98.470 to 98.490 applies 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]

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 the person shall post a bond or an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005 with the Public Utility Commission, to be approved by the commission, in such sum as the commission may provide. The bond or irrevocable letter of credit shall run to the Public Utility Commission 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 the property of the owner caused by any part of a felled tree falling from motor vehicles or railroads. [Amended by 1991 c.331 §24]

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 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 Commission 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 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

98.805 Definitions for ORS 98.810 to 98.818. As used in ORS 98.810 to 98.818:

(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 motor vehicle parking.

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

(a) Where parking is not normally permitted at all; or

(b) That is used primarily for residences, including but not limited to houses and apartments, where there is designated parking for not more than 10 vehicles. [1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2]

98.810 Unauthorized parking of vehicle at proscribed property prohibited. No person, without the permission of:

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

(2) The owner of proscribed property, shall 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]

98.812 Storage of unlawfully parked vehicle; lien for storage charges; notice requirements. (1) If a motor vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property, after notice to the local law enforcement agency, may have the motor vehicle towed from the parking facility or the proscribed property and placed in storage at a public garage or public parking lot.

(2) The garagekeeper or public parking operator is entitled to a lien on the vehicle and its contents for the garagekeeper's or operator's just and reasonable charges and may retain possession thereof until the just and reasonable charges for the towage, care and storage of the vehicle have been paid if the garagekeeper or public parking operator:

(a) Notifies the local law enforcement agency of the location of the vehicle within one hour after the vehicle is placed in storage; and

(b) Unless the vehicle is claimed, gives notice, within 20 days after the vehicle is placed in storage, to the vehicle owner or any other person with an interest in the vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 20-day period, but need not be received within that period, but within a reasonable time. If the garagekeeper or public parking operator 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 20-day period for towage, care and storage of the 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. [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2]

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 such motor vehicle. [1953 c.575 §3]

98.990 [Repealed by 1957 c.670 §37]

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 Division 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 Division of State Lands pursuant to ORS 183.090 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 division has provided the person with written instructions, including copies of applicable laws and policies. The division may waive any penalty due under this section with appropriate justification. [1993 c.694 §25]

Note: 98.992 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.
