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Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

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Date prior to or same as filing date

Department of State Lands, Finance and Administration Division 141  
Agency and Division Administrative Rules Chapter Number

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to become effective [ January 1, 2009 ]. Rulemaking Notice was published in the [September 2008] Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

Implementing statutory changes to certain dormancy periods and updating reporting formatting requirements

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:** 141-045-0010, 141-045-0021, 141-045-0031, 141-045-0041, 141-045-0061, 141-045-0100, 141-045-0115, 141-045-0126 and 141-045-0130

**REPEAL:**

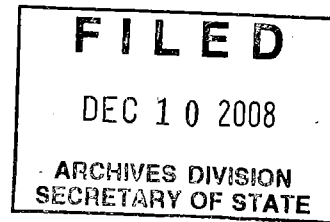
**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 98.302-98.436 and 273.045

Other Auth.:

Stats. Implemented: ORS 98



**RULE SUMMARY**

OARs 141-045-0005 through 0185 provide consistent procedures for the administration of the Uniform Disposition of Unclaimed Property Act, ORS 98.302 to 98.436, 98.991 and 992 and to ensure that all unclaimed money and property held in safekeeping are reported and paid over to the Department in an accurate and timely manner. The Department is updating these rules to implement statutory changes that went into effect on January 1, 2008, regarding certain dormancy periods and to update reporting formatting requirements.

*Louise Solliday*

Authorized Signer

Louise Solliday

Printed name

12/9/08

Date

\*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. \*\*The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

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DEPARTMENT OF STATE LANDS

DIVISION 45

ADMINISTRATION OF UNCLAIMED PROPERTY

141-045-0010

**Definitions**

- (1) "Capital Gain" means gain or profit realized on the sale or exchange of a capital asset, or the excess of proceeds over cost, or other basis, from the sale of a capital asset.
- (2) "Credit Memorandum" or "Credit Memo" means a transaction posted to a customer account which reduced the account balance and is related to a previously posted invoice or charge, correcting and reducing the amount originally charged.
- (3) "Department" means the Department of State Lands.
- (4) "Dividend" means cash which accrues by the earnings of a company and which is paid to the owner of securities issued by that company.
- (5) "Dividend Reinvestment Plan" means additional securities of the same company which are credited to an owner's account in lieu of cash.
- (6) "Dormant" means without owner generated activity or owner contact for a prescribed time.
- (7) "Due Diligence" means the degree of effort required by statute that holders of unclaimed property must take to find the rightful owner of property before the property is remitted to the state.
- (8) "Financial Institution" means a financial institution, or a trust company, as those terms are defined in ORS 706.008, a safe deposit company, a private banker, a savings and loan association, a building and loan association or an investment company.
- (9) "Holder" means a person, wherever organized or domiciled, who is:
  - (a) In possession of property belonging to another;
  - (b) A trustee; or
  - (c) Indebted to another on an obligation.
- (10) "Inactive" means a lack of owner generated activity or owner contact for a prescribed time.
- (11) "Insurance Company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including, but not limited to, 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.
- (12) "Intangible Property" includes but is not limited to:
  - (a) Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
  - (b) Stocks and other intangible ownership interests in business associations;

(c) Money deposited to redeem stock, 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) Money, checks, drafts, deposits, interest, dividends, and income.

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

(14) "Negative Report" means a report showing the holder had no inactive accounts or other unclaimed assets to report for a particular reporting period.

(15) "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.

(16) "Person" means an individual, business association, state or other governmental 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.

(17) "Positive Owner Contact" means documented contact by an owner to the holder either generated or initiated by the owner or in response to the holder.

(18) "Property" includes tangible and intangible property.

(19) "Reportable" means the appropriate dormancy period as set forth in OAR 141-045-026 after which time an owner has not claimed his or her asset from a holding company, and the holder has taken appropriate steps to find the owner, as described in OAR 141-045-0061.

(20) "Safekeeping Depository" means any leased or rented depository used as a deposit for safekeeping of tangible or intangible property.

(21) "Tangible Property" means:

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

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

(B) Contents of safekeeping repositories located in hospitals, health-care facilities, motels, hotels, jewelry stores, department stores, professional offices, or any other site where the holder is acting as a safekeeping custodian for the rightful owner.

(b) Property held for the owner by a court, state or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority (for instance unclaimed court exhibits).

(22) "Third Party Administrator" is a person contracted by the holder to manage and process account records.

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98

**141-045-0021**

## **Dormancy Periods**

(1) Except as provided in this rule, the dormancy period for all tangible and intangible property is three years. After the expiration of the dormancy period, the property is presumed abandoned and subject to the provisions of these rules pertaining to unclaimed property.

(2) The dormancy period for the following deposits or refunds held by a utility is one year if unclaimed by the apparent owner after the date of termination of services or when the funds otherwise become payable or distributable:

(a) A deposit to secure payment, or a sum paid in advance for utility services, less lawful deductions; and

(b) A sum received for utility services, which the utility has been ordered to refund, including interest on the sum, less lawful deductions.

(3) The dormancy period is one year for all intangible personal property distributable in the course of dissolution of a business association or financial institution.

(4) The dormancy period for the following property is two years:

(a) Tangible and intangible property held in a safe deposit box or other safekeeping repository;

(b) Assets of dissolved cooperatives;

(c) Stale dated government checks or warrants including unrepresented payroll checks;

(d) Tangible and intangible property held by a court, state, or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority;

(e) Life or endowment insurance policies where the insured would have attained the limiting age under the mortality table of an existing policy; and

(f) All intangible personal property and any income or increment on such property held in a fiduciary capacity.

(6) The dormancy period for money orders is seven years.

(7) The dormancy period for traveler's checks is 15 years.

Stat. Auth.: ORS 98.302 - 98.436, 273.045

Stats. Implemented: ORS 98

## **141-045-0031**

### **Examples of Unclaimed Property**

(1) The following types of property are considered unclaimed and reportable to the Department after three years without positive owner contact:

(a) Any account deposited in a financial institution and any accrued interest and dividends;

(b) Any account including shares, dividends, deposit accounts, and interest held by credit unions as defined in ORS 723.006 that are due or standing in the name of a member, beneficiary or other person who cannot be contacted by first class mail at the last address shown on the records of the credit union;

(c) Any sums payable for which a financial institution is directly liable, including checks, drafts, cashier's checks, certified checks, or similar instruments;

(d) Any stock, mutual fund, or other certificate of ownership, dividend, profit, distribution interest, payment on principal or other sum held or owing by a business association for a shareholder, certificate holder, member, bondholder or the actual instrument or book entry shares which shows ownership or interest in stocks, bonds, or mutual funds;

(e) Any certificate of deposit. If the account is in the form of a dividend reinvestment plan, the dormancy period shall begin at the first maturity date after the holder determines that the owner cannot be located;

(f) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated and has become due and payable as established from the records of the insurance company.

(g) Credit memos issued in the ordinary course of the holder's business;

(h) Except as provided in OAR 141-045-0031(3)(c), unpaid wages, including commissions and wages represented by uncashed payroll checks owing in the ordinary course of the holder's business;

(i) Any other disbursements generated during the ordinary course of the holder's business; and

(j) All intangible personal property not otherwise covered by ORS 98.302 through 98.436 that is held or owing in the ordinary course of the holder's business after it becomes due and payable.

(3) The following types of property are considered unclaimed and payable to the Department after two years without owner contact:

(a) 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 insurance company, pursuant to ORS 98.314(3);

(b) All tangible and intangible property held in a safe deposit box or any other safekeeping depository in the ordinary course of the holder's business after the lease or rental period has expired. This category of property does not include personal property that has been willfully abandoned by the owner, such as automobiles, furniture, household goods, or property covered by other statutes;

(c) All intangible property held for the owner by any court, state or other government, governmental subdivision or agency, county fiscal officer, public corporation, public authority, quasi-governmental agency, public officer of this state, political subdivision of this state, or Public Employees' Retirement System, except those with a court order prohibiting the withdrawal of same, including, but not limited to:

(A) Fines;

(B) Bail;

(C) Restitution;

(D) Child support;

(E) Condemnation payments;

(F) Judgment proceeds;

(G) Unclaimed municipal bonds and the interest thereon.

(d) All intangible personal property and any accrued interest held in a fiduciary capacity, including but not limited to property management security deposits, attorney trust accounts, escrow accounts, trust accounts and funds in an

individual retirement account or a retirement plan or a similar account or plan established under the Internal Revenue laws of the United States if under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(e) Tangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation or public authority; law enforcement agency, other than property seized by a removing authority as defined by ORS 98.245(1)(b);

(f) Property held by a dissolved cooperative.

(4) Funds in an individual retirement account or a retirement plan or a similar account or plan established according to the Internal Revenue laws of the United States of America are not payable or distributable within the meaning of OAR 141-045-0021(4)(f) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(5) The following types of property are considered unclaimed and reportable to the Department after one year without positive owner contact:

(a) Deposits made by a subscriber with a utility to secure payment or any sum paid in advance for utility services;

(b) Sums received for utility services which a utility has been ordered to refund;

(c) All unclaimed intangible personal property distributable in the course of a dissolution of a business association, or financial institution.

(6) Any sums 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 considered unclaimed and reportable to the Department.

(7) Any sum payable on a traveler's check that has been outstanding for more than 15 years is considered unclaimed and reportable to the Department.

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98

#### **141-045-0041**

##### **Report Forms**

(1) A holder reporting more than 15 properties shall submit reports electronically in a format prescribed by the Department.

(2) A holder reporting 15 or less properties may submit a report electronically or by hard copy report either on the form available on the Department's website or on an internally generated form that contains all of the information required by OAR 141-0045-0100(5) through (10).

(3) The Department shall post on its website the printed report forms, electronic formatting requirements, and instructions. Any changes to electronic formatting requirements shall be posted at least one reporting cycle prior to the effective date.

(4) The Department may provide a separate reporting form to holders of any safekeeping repository, for a detailed listing of all contents and owners.

(5) The Department may, at its discretion, require holders to file negative reports.

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98

#### **141-045-0061**

##### **Actions Required of Holders Before Reporting**

- (1) As soon as it appears that an account with a value of \$100 or more is inactive, but not less than 60 (sixty) days prior to filing the annual report, each holder shall exercise due diligence in making a reasonable, good faith effort to:
- (a) Confirm that an account is in fact inactive;
  - (b) Notify the owner that the holder will report the account to the Department as unclaimed property; and
  - (c) Locate the owner.
- (2) In exercising due diligence under subsection (1) of this section, a holder may:
- (a) Verify that the owner has not communicated in writing with the holder concerning the asset;
  - (b) Verify that the owner has not otherwise indicated an interest in the asset as evidenced by a memorandum or other record on file prepared by an employee of the holder;
  - (c) Verify that the owner does not own other accounts in the holder's organization about which the owner has communicated with the holder (for example, the Trust Department of a financial institution could contact other departments of that institution); or
  - (d) Where the account is that of a credit union member, verify that the member has participated in voting during a regularly scheduled credit union meeting.
- (3) If a holder is unable to locate an owner, the holder may exercise due diligence under subsection (1) of this section by:
- (a) Verifying that the owner is not a current employee of the holder;
  - (b) Reviewing telephone books to verify address and telephone number;
  - (c) Verifying that the owner is not a well-known individual or organization (for example, Department of Treasury, IRS); or
  - (d) Any other effort the holder may take to find an owner.
- (4) A holder shall retain records or documentation of its compliance with the requirements of this section for three years and make the records or documentation available for inspection by the Department upon request.
- Stat. Auth.: ORS 98.302 - 98.436 & 273.045  
Stats. Implemented: ORS 98

#### **141-045-0100**

##### **Report and Delivery of Unclaimed Property to Division**

- (1) Every person holding funds or other tangible or intangible property, presumed abandoned according to ORS 98.302 to 98.352 shall report and pay or deliver all such property to the Department, except that funds transferred to the General Fund by governmental agencies pursuant to ORS 293.455(1)(a) shall only be reported to the Department.
- (2) Each holder shall be responsible for the content, accuracy, and timeliness of the holder's report, regardless of whether the report is prepared by the holder or its agent. The holder shall designate a staff contact person responsible for the report.

- (3) For accounts dormant as of June 30, the holder shall file the report after October 1, but not later than November 1.
- (4) The Department may, at its discretion, postpone the reporting date, or allow early reporting and payment or delivery upon written request by any person required to file a report.
- (5) A holder shall report property having a value of \$50 or more per account or owner of record, individually, and shall include the following information, if known:
- (a) The complete name, address of record, Social Security number, previous names, and any previous addresses of each listed owner; and
  - (b) The type of account, identification number, reference number, and any specific description of the unclaimed property according to the records of the holder.
- (6) A holder may report all property having a value of \$49.99 or less per account or owner of record, as a lump sum representing various accounts without breaking the amount down by account or by owner. However, the holder shall report separately the total amount held for any one owner who has several small accounts that individually total \$49.99 or less, but collectively equal or exceed \$50 dollars. In order to assist the Department in locating owners of record, the holder may report the information required under subsection (5) of this rule for property having a value of \$49.99 or less per account or owner of record.
- (7) In addition to the information required above, a life insurance company shall also report the following information, if known:
- (a) The full name of each insured or annuitant, or if a class of beneficiaries is named, the full name of each current beneficiary in the class, and last known address according to the holder's records;
  - (b) The address of each beneficiary; and
  - (c) The relationship of each beneficiary to the insured.
- (8) A holder of safekeeping depositories shall comply with the following additional requirements:
- (a) The holder shall complete the specific report form for safekeeping contents or include the required information in the holder's computer-generated format and file the report, separate from the contents, no later than November 1.
  - (b) In addition to the information required in subsection (5) of this section, list each item left in a safekeeping depository, and the identity of the owner. The holder shall include information about the original box if the holder moved items to a safekeeping area.
  - (c) In accordance with directions from the Department, the holder shall deliver the package of safekeeping depository contents marked "to be delivered unopened," to the Department by certified mail, return receipt requested or hand carried by a courier. The Department shall sign a receipt for the unopened package upon delivery to the Department, and forward the receipt to the holder within five working days.
  - (d) The holder shall clearly identify on the package the holder's complete name and return address.

(e) The holder shall forward the complete contents of safekeeping depositories to the Department intact. The holder may not convert, substitute or exchange any coins and currency found in the box.

(f) The holder may include information about safekeeping depository costs in its report to the Department. When the owner files a claim for the property, the Department shall require the owner to furnish a paid receipt or waiver for these costs from the holder before the claim will be approved.

(9) Any holder, business association, transfer agent, registrar or other person acting on behalf of the holder of an intangible equity ownership interest deemed unclaimed according to ORS 98.322 shall, in addition to supplying the information required in OAR 141-045-0100(5) above:

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

(b) When an electronic method of transfer is not available the holder shall: (A) Where the original certificate is being held by the holder for the owner (i.e., stock or other certificate of ownership of a business association which has been returned to the holder, who cannot find the owner), cancel that certificate and issue a replacement certificate of ownership to the Department; or

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

(c) In any case, the holder shall report and forward to the Department all outstanding accrued dividends, along with the certificate.

(10) In addition to supplying the information required in OAR 141-045-0100(5), a holder reporting mutual funds in book entry form shall:

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

(b) Forward future income in the form of cash (for example, dividends, capital gains, etc.) payable to the Department from mutual fund accounts with dividend reinvestment plans.

(11) If the holder is a dissolved agricultural cooperative, the holder shall forward the original reports detailing unclaimed dissolved agricultural cooperative accounts to the Department along with the funds, and file a copy of the report with the State Board of Higher Education. The Department shall reconcile the report to the delivered funds, deduct the costs as provided for in ORS 62.720 and forward the funds to the State Board of Higher Education within 14 working days after receiving the funds.

(12) The receiver or other liquidating agent for a dissolved corporation shall prepare a report containing the names and last-known addresses of the persons entitled to such funds.

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

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

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

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

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

(15) If the holder of the unclaimed account is a successor to other persons who previously held the property, or if the holder has had a name change, the holder shall include in the initial report prior known names and addresses of the original or previous holder.

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98

#### **141-045-0115**

##### **Requirements of the Department of State Lands to Locate Owners**

(1) Within one year after receipt of reports, payment, and delivery of accounts as required by OAR 141-045-0100, the Department shall provide public notice that the names of owners of unclaimed property have been added to the Department's unclaimed property Website by publishing notice at least twice in a newspaper or other generally circulated periodical published in this state.

(2) The Department also shall make reasonable efforts to locate the owners of unclaimed property reported and received by the Department. The Department's efforts shall include, but need not be limited to the following:

(a) Contracted services with established firms, credit bureaus, telephone networking companies; or

(b) Interagency agreements with other governmental agencies, such as Social Security Administration, Insurance Commission, Motor Vehicles Division, Corporation Commission; or

(c) Use of the internet, reverse directories, telephone books, or other such publications.

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98

#### **141-045-0126**

##### **Appeal of Examination Findings**

(1) Request for a contested case hearing. Any holder adversely affected by the findings or decision of the Department may request a contested case hearing

pursuant to the provisions of ORS 183.413 to 183.470. The request for a contested case hearing must be received by the Department within 21 days of the date of mailing or delivery of the final written report described in OAR 141-045-0121(4). If a holder fails to request a contested case herein within the time allowed, the findings and decision shall become final.

(2) Collaborative Dispute Resolution for Findings Based on Estimates. Any holder who is adversely affected by the findings or decision of the Department where the findings or decision are based on estimates as described in OAR 98.412(4) may request the Department engage in collaborative dispute resolution. A holder may retain the right to a contested case while requesting collaborative dispute resolution, but a request to engage in collaborative dispute resolution does not enlarge the time allowed for a holder to request a contested case hearing, as set forth is (1) above. The Department may decline to engage in collaborative dispute resolution and set the case for a contested case hearing. If the Department decides to participate in collaborative dispute resolution the Department shall postpone the contested case hearing to give the parties a reasonable opportunity to complete the collaborative dispute resolution, but in no event shall the hearing be postponed more the 45 days from the date of the request for a contest case hearing. The collaborative dispute resolution shall consist of mediation or such other process as the parties may agree. Department and the holder shall select a trained facilitator/mediator from a list of pre-qualified individuals and share the costs of the facilitator/mediator.

Stat. Auth.: ORS 98.302 - 98.436, 273.045

Stats. Implemented: ORS 98

#### **141-045-0130**

##### **Service Charges and Payments of Interest on Deposit Accounts**

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

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

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

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

(d) Three months written notice is given by first-class mail to the last-known address of the owner of a dormant or inactive account before the holder may apply a service charge to the account or stop paying interest on that account.

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

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

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

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

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

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

Stat. Auth.: ORS 98.302 - 98.436 & 273.045

Stats. Implemented: ORS 98