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## DIVISION 1

### PROCEDURAL RULES

#### 160-001-0000

##### Notice of Intent to Adopt, Amend or Repeal Rules

Prior to the adoption, amendment or repeal of any permanent rule under ORS Chapters 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 194, 554, 647, 648, 649 and 661 the Secretary of State shall give notice of the proposed adoption, amendment, or repeal at least 21 days prior to the effective date.

(1) By placing a notice in the Secretary of State's Bulletin referred to in ORS 183.360;

(2) By mailing a copy of the notice to persons on the Division mailing list established pursuant to ORS 183.335(7); and

(3) By mailing a copy of the proposed rule to other persons who request such in writing.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 183, 554, 647, 648, 649 & 661

Stats. Implemented: ORS 183.335

Hist.: CC 2-1985, f. & ef. 3-6-85; Renumbered from 815-050-0001; PRD 1-1988, f. & cert. ef. 2-5-88; Renumbered from former paragraphs 164-001-0000(3)(b)(A) - (K) & (c)(A) - (M); CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2004, f. & cert. ef. 5-3-04; CORP 1-2010, f. 1-22-10 cert. ef. 2-1-10

#### 160-001-0005

##### Model Rules of Procedure

The Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act effective January 1, 2010, are adopted as the rules of procedure for the Corporation Division of the Secretary of State's office.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Corporation Division.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: CC 1-1988, f. & cert. ef. 8-12-88; CORP 3-1990, f. & cert. ef. 12-5-90; CORP 3-1991, f. & cert. ef. 12-6-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2004, f. & cert. ef. 5-3-04; CORP 2-2009, f. & cert. ef. 11-3-09

## DIVISION 5

### FEES AND REFUNDS

#### 160-005-0005

##### Fees For Business Registry Public Records

(1) Definition

(a) "Document File" A document file includes:

(A) Documents initially filed for corporations, limited partnerships, limited liability companies, limited liability partnerships, business trusts, and trade and service marks; and

(B) Supplementary documents for corporations, limited partnerships, limited liability companies, limited liability partnerships, business trusts, and trade and service marks; and

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(C) Assumed Business Name applications, amendments, withdrawals, cancellations, and renewals.

(b) “Single Documents” Examples of single documents include:

(A) Annual Reports;

(B) Change of Registered Agent.

(2) Certified paper copies of a document file — \$15 per file.

(3) Regular paper copies of a document file — \$5 per file.

(4) Certified paper copies of single documents — \$15 per document.

(5) Regular paper copies of single documents — \$5 per document.

(6) Regular paper copies of a document at the time of filing — \$5.

(7) Certificate of Existence — \$10.

(8) Certificate of Record — \$10.

(9) Certificate of No Record — \$10.

(10) Regular paper copies of inactive corporate records — \$10.

(11) Decorative Certificate of Incorporation/Organization/Registration — \$20.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 192, 554, 647 & 648  
Stats. Implemented: ORS 56.140

Hist.: CC 9-1985(Temp), f. & ef. 9-25-85; CC 4-1986, f. & ef. 1-6-86; Renumbered from 815-010-0004, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91, Renumbered from 160-001-0010; CORP 2-1991, f. 6-21-91, cert. ef. 7-1-91; CORP 1-1992, f. & cert. ef. 3-18-92; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95; CORP 4-1995, f. 12-5-95, cert. ef. 12-6-95; CORP 2-2008, f. 4-15-08, cert. ef. 5-1-08

### 160-005-0007

#### Fees For Business Registry Special Services

(1) Customized Searches: Business Registry (.txt format).

(a) Standard Search Requests.

(A) Associated Person Name Search — \$10 per name.

(B) City Search — \$10 per city.

(C) Zip Code Search — \$10 per zip code.

(D) Entity Type Search — \$50 per search.

(b) Special Search request — \$150 per search.

(Customer supplied list of conditions. A condition may be any combination of data elements stored in the database such as city, entity type, status, date range, associated name type, etc.)

(2) Standard Information Sets: Business Registry.

(a) Entire Database extract (.txt format) — \$500 per file.

(b) Monthly New Business List (.txt format) — \$50 per file.

(c) Trade and Service mark registrations by date range \$25 per search.

(d) Trade and Service Mark registrations — \$100 per file. (Monthly CD images w/entire database index.)

(3) Research Fees for Business Registry programs. The fees for research service shall be — \$50 per hour. Based on actual costs incurred (amounts of less than one-hour charged in .1-hour increments).

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 192, 554, 647 & 648  
Stats. Implemented: ORS 68.675, 56.140 & 647.009

Hist.: CORP 2-2008, f. 4-15-08, cert. ef. 5-1-08

### 160-005-0008

#### Fees for notarial acts by Corporation Division employees

The Secretary of State shall collect \$10 per notarial act performed by a notary public employed by the Secretary of State during the course of that person’s employment. Notarial acts performed by the employee outside of the course of employment shall be subject to OAR 160-100-0400 through 0420.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.164

Hist.: CORP 7-2009, f. 12-22-09 cert. ef. 1-1-10

### 160-005-0010

#### Refund of Monies

(1) This rule, pursuant to ORS 293.445, provides for the refund of fees paid in excess of the amount legally due to the Corporation Division.

(2) The Secretary of State shall not refund fees paid in excess of the amount legally due to the Division if the amount is \$10 or less,

unless a refund is requested by the applicant or the applicant’s legal representative. However, the Secretary of State shall not make refunds unless the request is received within three years after the date payment is received by the Division.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 183, 194, 293, 554, 647 & 648

Stats. Implemented: ORS 56.140

Hist.: CC 15, f. 1-11-74, ef. 2-11-74; CC 6-1985, f. & ef. 5-3-85; Renumbered from 815-010-0001, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91, Renumbered from 160-001-0015; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 4-1995, f. 12-5-95, cert. ef. 12-6-95; CORP 2-2008, f. 4-15-08, cert. ef. 5-1-08

## DIVISION 10

### BUSINESS REGISTRY SECTION

#### 160-010-0010

##### Definitions

For the purposes of OAR 160-010-0010 through 160-010-0014:

(1) “Distinguishable” means visually distinct, in writing, as opposed to a comparison of words as they sound. Thus, homonyms, such as “fair” and “fare” are permitted; whereas heteronyms such as “wind” and “wind” are not distinguishable.

(2) “Entity identifier” means the words “corporation”, “company”, “incorporated”, “limited”, “limited liability company”, “limited liability partnership”, “business trust”, “professional corporation” or “limited partnership” or any abbreviation or derivation thereof. An entity identifier must be separate from other words or parts of words in the business name to be considered an entity identifier. Example: “ProCorp” does not have an entity identifier. “ProCorp, Inc.” does.

(3) “Key Word” means a word other than an article, preposition, conjunction, or entity identifier at the end of a business name.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580, 554.005 & 648.051

Hist.: CC 14-1986, f. & ef. 7-23-86; Renumbered from 815-050-0041, 815-050-0043, 815-050-0045, 815-050-0051 & 815-050-0055, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95; CORP 3-1995, f. 8-31-95, cert. ef. 9-1-95; CORP 4-2006, f. & cert. ef. 6-26-06; CORP 9-2010, f. 6-22-10, cert. ef. 7-1-10

#### 160-010-0011

##### General Guidelines

This rule furnishes general guidelines to determine whether a proposed name is distinguishable on the active records of the Secretary of State Business Registry office. For the purposes of determining whether a name is available for registration, OAR 160-010-0010 through 160-010-0014 will be applied jointly.

(1) The records consist of business, professional, cooperative and nonprofit corporations, limited liability companies, limited liability partnerships, limited partnerships, business trust names, reserved or registered names, and assumed business names.

(2) Registration or filing of a name by the Secretary of State Business Registry office only advises the public that the name is registered to individuals or a particular entity. Registration or filing of a name does not grant exclusive rights or interests in that name. A name may be available for registration; however, someone else may hold a prior right to that name, or the name may be too similar to another, and may result in a case of legal action brought against the registrant for dilution or unfair competition of someone else’s business.

(3) The Secretary of State’s role is ministerial. The Secretary of State does not have the power to determine or settle competing claims to a name under other statutes or under the common law. Unresolved disputes between parties regarding ownership rights to a business name should be directed to the appropriate court of jurisdiction.

(4) Business entity, reserved, or registered names that become inactive through administrative or voluntary dissolution, cancellation, or failure to renew are not considered part of the active records, and

inactive names will be considered available for purposes of registration.

(5) Names submitted for registration must be comprised of the English letters “a” through “z,” and the Arabic and Roman numerals 0 through 9, in integers or spelled out.

(6) The following special characters and punctuation marks will also be allowed in the name, however they will not, by themselves, make a name distinguishable:

(a) Special Characters — asterisk (\*); “at” sign (@); backslash (\); left brace ( { ); right brace ( } ); caret (^); dollar sign (\$); “equal to” sign (=); “greater than” sign (>); “less than” sign (<); number sign (#); percentage sign (%); plus sign (+); tilde (~); and underscore (\_).

(b) Punctuation Marks — apostrophe ( ‘ ); left bracket ( [ ); right bracket ( ] ); colon (:); comma (,); dash or hyphen (-); exclamation point (!); left parenthesis ( ( ); right parenthesis ( ) ); period (.); question mark ( ? ); single quote mark ( ‘ ‘ ); double quote mark ( “ ” ); semicolon (;); and slash ( / ).

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 & 648.051

Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

## 160-010-0012

### Distinguishable on Record

For purposes of the reservation, registration, or use of a name under ORS Chapters 58, 60, 62, 63, 65, 67, 70, 128, 554, and 648, a name is distinguishable on the records of the Secretary of State Business Registry office from the name of any other active organized entity, and from a reserved or registered name, if:

(1) Each name contains one or more different letters or numerals, or has a different sequence of letters or numerals, except that adding or deleting the letter “s” to make a word plural, singular, or possessive shall not cause a name to be distinguishable;

(2) One of the key words is different;

(3) The key words are the same, but they are in a different order; or

(4) The key words are the same, but the spelling is creative or unusual.

(5) The difference in key words is between how a number is expressed, as a numeral, Roman numeral, or word representing a numeral.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 & 648.051

Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

## 160-010-0013

### Not Distinguishable on Record

A name is not distinguishable on the records of the Secretary of State Business Registry office from the name of any other active organized entity, or from a reserved or registered name, if the names only differ in one or more of the following ways:

(1) Entity identifiers at the end of a name

(2) Punctuation or special characters

(3) Capitalization

(4) Spacing

(5) The presence or absence of an article, preposition, or conjunction, or a symbol for that word, including “a,” “an,” “and,” “at,” “by,” “for,” “in,” “plus,” “the,” “to,” and “with.” Examples of symbols include “&,” “@,” and “+.”

(6) An “s” is added or deleted to make the word plural, singular, or possessive.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 & 648.051

Hist.: CORP 4-2006, f. & cert. ef. 6-26-06; CORP 9-2010, f. 6-22-10, cert. ef. 7-1-10

## 160-010-0014

### Prohibitions

(1) An entity identifier, except for “company” and abbreviations thereof, cannot be used with an assumed business name, unless all the registrants on the assumed business name are entities identified in the name.

(2) The Secretary of State Business Registry office shall not approve requested names that imply in any way that the business is an agency of the state, or any of its political subdivisions, without proof of authorization to register such a name.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648

Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 & 648.051

Hist.: CORP 4-2006, f. & cert. ef. 6-26-06; CORP 9-2010, f. 6-22-10, cert. ef. 7-1-10

## 160-010-0020

### Designation of Authorized Representative

If the authorized representative of an assumed business name registration withdraws and the registrants fail within the time prescribed to replace the withdrawn authorized representative, the new authorized representative shall be the first listed registrant who has not resigned as authorized representative.

Stat. Auth.: ORS 648

Stats. Implemented: ORS 648.010

Hist.: CC 8-1985(Temp), f. & ef. 9-25-85; CC 1-1986, f. & ef. 1-6-86; Renumbered from 815-050-0070, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94

## 160-010-0100

### Code List for Designating Primary Business Activity

(1) The Secretary of State designates the classification codes found in the current Standard Industrial Classification Manual as the codes to be used for designating primary business activity. This federal manual may be obtained at public libraries, through bookstores, or by ordering from: Standard Industrial Classification Manual, National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, Order No. PB 87-10012.

(2) A description of the category of the primary business activity shall be sufficient for coding purposes.

Stat. Auth.: ORS 56, 58, 60, 62, 65, 68, 70, 128, 554 & 648

Stats. Implemented: ORS 58.225, 60.787, 62.453, 63.787, 65.787, 68.715, 70.460, 128.595, 554.315 & 648.010

Hist.: CC 10-1985, f. & ef. 9-25-85; Renumbered from 815-050-0030, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95

## 160-010-0210

### Definitions

(1) “Specimen” means a facsimile of a mark that is an attached drawing, photocopy, or electronic version in PDF format, for the purposes of 647.015 and 647.055. The words and design that comprise the mark must be clear and legible.

(2) “Stamped filed date” on the filed copy sent to registrant means the registration date, for purposes of 647.045(2).

(3) “Correspondent name and mailing address” means the registrant’s mailing address for purposes of 647.055.

(4) “Applicant,” after the application has been filed under 647.015, means a “registrant.”

(5) “Proof of concurrent United States Patent and Trademark office registration” has the same effect as a renewal for the purposes of 647.075(2).

Stat. Authority: ORS 647.015

Stat. Implemented: ORS 647

Hist.: CORP 3-2009, f. 12-22-09 cert. ef. 1-1-10

## 160-010-0220

### Application for Trade or Service Mark

An application for trade or service mark may be submitted, if the Secretary of State’s systems permit, by fax, mail, electronically, and in person. The content of the application to file a trade or service mark must include:

(1) Applicant name and address. The applicant can be either:

(a) An individual, or

(b) An entity.

(2) If the applicant is an entity, the following must be included:

(a) Entity type,

(b) State of domicile, if the entity is a corporation, partnership, or an LLC, and

(c) Names of the general partners, if the entity is a partnership.

- (3) Correspondent name and address for mailing notices.
- (4) Goods or services on or in connection with which the mark is used.
- (5) Mode and manner in which the mark is used on or in connection with the goods or services.
- (6) Class into which the goods or services fall.
- (7) Date mark was first used anywhere.
- (8) Date mark was first used by applicant or a predecessor in interest in Oregon.
- (9) Written description that comprises all words and designs included in the mark.
- (10) One specimen of the mark as actually used.
- (11) A statement that the applicant owns the mark, the mark is in use, and no other person has registered the mark with the federal government or in Oregon or has the right to use the mark or a mark that resembles the mark as to be likely to cause confusion or mistake or deceive when applied to the goods or services of the other person.
- (12) The trade or service mark application must be signed and verified by the applicant by declaration under penalties of perjury. If the applicant is an entity, the application must be signed by a member of the firm, officer of the corporation, limited liability company or association applying to register the mark, as evidenced by title.

Stat. Authority: ORS 647.015

Stat. Implemented: ORS 647.015

Hist.: CORP 3-2009, f. 12-22-09 cert. ef. 1-1-10

#### 160-010-0230

##### Renewal of Trade/Service Mark

A trade or service mark specimen cannot be altered through renewal. A new application must be filed if the design or words that comprise the trade or service mark is altered.

Stat. Auth: ORS 56.022

Stats. Implemented: ORS 647.055

Hist.: CORP 3-2009, f. 12-22-09 cert. ef. 1-1-10

#### 160-010-0240

##### Classes of Goods and Services

Pursuant to ORS 647.024, the Secretary of State establishes the following classes of goods and services. Applications to register a trade or service mark must designate the code number for goods or services with which the mark is being used:

- (1) **Goods:**
  - (a) **101:**
    - (A) Chemical Products used in industry;
    - (B) Artificial and Synthetic Resins;
    - (C) Plastics in the Form of Powders, Liquids or Paste;
    - (D) Fertilizers;
    - (E) Tanning and Adhesive Substances.
  - (b) **102:**
    - (A) Paints, Varnishes, and Lacquers;
    - (B) Coloring Matters and Natural Resins.
  - (c) **103:**
    - (A) Laundry, Cleaning, and Polishing Substances;
    - (B) Cleansing and Cosmetic Items;
    - (C) Perfumery and Essential Oils.
  - (d) **104:**
    - (A) Industrial Oils and Greases;
    - (B) Lubricants and Absorbing Compositions;
    - (C) Fuels and Illuminants.
  - (e) **105:**
    - (A) Pharmaceutical, Veterinary and Sanitary Substances;
    - (B) Infants' and Invalids' Foods;
    - (C) Bandaging Material;
    - (D) Dental Wax;
    - (E) Disinfectants and Weed Killers.
  - (f) **106:** Metal and Articles Made from Metal and not Included in Other Classes.
  - (g) **107:**
    - (A) Machines and Machine Tools;
    - (B) Motors (Except for Land Vehicles);
    - (C) Large Size Agricultural Implements;
    - (D) Incubators.
  - (h) **108:** Hand Tools and Cutlery.

- (i) **109:**
  - (A) Scientific, Nautical, Surveying and Electrical Apparatus and Instruments;
  - (B) Photographic, Cinematographic, Optical, Lifesaving, and Teaching Apparatus;
  - (C) Cash Registers and Calculating Machines.
- (j) **110:** Surgical, Medical, Dental, and Veterinary Instruments and Apparatus.
- (k) **111:** Installations for Lighting, Heating, Steam Generating, Cooking, Refrigerating, Drying, Ventilating, Water Supply and Sanitary Purposes.
- (l) **112:** Vehicles.
- (m) **113:** Firearms, Ammunition, and Fireworks.
- (n) **114:** Precious Metals and Jewelry.
- (o) **115:** Musical Instruments and Supplies; Phonographs, Recording Tapes, Records, and Tape Recorders.
- (p) **116:**
  - (A) Paper Articles and Bookbinding Materials;
  - (B) Printed Matter, Photographs and Stationery;
  - (C) Artists' Materials and Paint Brushes;
  - (D) Instructional and Teaching Material.
- (q) **117:**
  - (A) Plastics in the Form of Sheets, Blocks and Rods;
  - (B) Packing or Insulating Materials;
  - (C) Hose Pipes (Non-metallic).
- (r) **118:**
  - (A) Leather, Imitations and Articles Made from Both and Not Included in Other Classes;
  - (B) Skins and Hides;
  - (C) Travel Gear, Umbrellas and Walking Sticks;
  - (D) Saddlery.
- (s) **119:**
  - (A) Building and Road Materials;
  - (B) Stone, Stone Products; Cement and Earthenware Pipes.
- (t) **120:**
  - (A) Furniture, Mirrors, Picture Frames;
  - (B) Articles (not Included in Other Classes) of Wood, Wicker, Ivory, Shell;
  - (C) Substitutes for all These Materials, or of Plastics.
- (u) **121:**
  - (A) Small Domestic Utensils and Containers;
  - (B) Combs, Sponges and Brushes (Other than Paint Brushes);
  - (C) Brush Making Materials;
  - (D) Glassware, Porcelain and Earthenware, Not Included in Other Classes.
- (v) **122:**
  - (A) Ropes, String and Nets;
  - (B) Canvas Products and Stuffing Materials.
- (w) **123:** Yarns and Threads.
- (x) **124:**
  - (A) Bed and Table Covers;
  - (B) Textile Articles not Included in Other Classes.
- (y) **125:** Clothing and Footwear.
- (z) **126:** Garment Decorations and Buttons.
- (aa) **127:** Floor Coverings and Non-textile Wall Hangings.
- (bb) **128:** Toys; Sporting Articles (except Clothing); Decorations.
- (cc) **129:**
  - (A) Meats; Fruits and Vegetables (Except Fresh);
  - (B) Dairy Products; Jams; Oils; Fats; Preserves and Pickles.
- (dd) **130:** Coffee, Tea, Cocoa and Coffee Substitutes, Rice, Tapioca, Sago, Flour, Cereals, Yeast, Baking Powder and Condiments, Breads, Pastry, Confectionary, and Honey.
- (ee) **131:**
  - (A) Agricultural, Horticultural, Forestry Products and Grains not Included in Other Classes;
  - (B) Living Animals, Plants and Flowers;
  - (C) Fruits, Vegetables and Seeds;
  - (D) Foodstuffs for Animals.
- (ff) **132:** Beer and Nonalcoholic Drinks.
- (gg) **133:** Wines, Spirits and Liqueurs.

- (hh) **134:** Tobacco and Smokers' Articles.
- (2) **Services:**
- (a) **135:** Advertising and Business;
- (b) **136:** Insurance and Financial;
- (c) **137:** Construction and Repair;
- (d) **138:** Communication;
- (e) **139:** Transportation and Storage;
- (f) **140:** Material Treatment;
- (g) **141:** Education and Entertainment;
- (h) **142:** Miscellaneous.

Stat. Auth.: ORS 647.024

Stats. Implemented: ORS 647.024

Hist.: Corp 3-2009, f. 12-22-09 cert. ef. 1-1-10

#### 160-010-0310

##### Eligibility for Waiver of Reinstatement Limit

The five year limit for reinstating a nonprofit corporation whose status has been administratively dissolved pursuant to ORS 65.647 may be waived by the Secretary of State upon proof of good cause submitted by the nonprofit corporation.

(1) A nonprofit corporation that wishes to reinstate shall submit to the Director of the Corporation Division a reinstatement application, current annual report, appropriate fee, and documentation showing good cause for waiver.

(2) Good cause shall be shown by:

(a) Documentation provided by nonprofit corporation demonstrating continued operation or existence, such as tax or financial records, and

(b) A statement signed by an officer of the corporation setting forth reasons for failure to keep the corporate status active, and

(c) Additional documentation the Secretary of State may require.

(3) Failure to maintain the following with the Secretary of State does not constitute good cause and shall not alone qualify the corporation for a waiver:

(a) Current mailing address for mailing notices;

(b) Registered agent and office in this state;

(c) Current period of duration.

Stat. Auth.: ORS 65.031

Stats. Implemented: ORS 65.654

Hist.: CORP 1-2009, f. & cert. ef. 9-3-09

#### 160-010-0400

##### Professional Corporation Limit on Joint and Several Liability

(1) The Secretary of State, assisted by the Office of Economic Analysis, Department of Administrative Services, has calculated the inflation factor affecting joint and several liability caps of Professional Corporations to be 1.334019204, following the formula prescribed in ORS 58.187.

(2) Therefore, joint and several liability claims under ORS 58.185(5) & (8) made against a single shareholder shall not exceed \$400,000.

(3) The total joint and several liability for a single claim made against one or more licensed Oregon shareholders under ORS 58.185(5) and (8) shall not exceed \$2,650,000.

(4) As required by ORS 58.187(1), the Corporation Division hereby adopts said figures.

Stat. Auth.: ORS 58.187

Stats. Implemented: ORS 58.187

Hist.: CORP 1-2000, f. & cert. ef. 2-1-00; CORP 1-2006, f. & cert. ef. 2-1-06

#### 160-010-0500

##### Personal Safety Exemption

The Secretary of State Corporation Division may dissolve, cancel or otherwise terminate a filing that is submitted with required information that is nondisclosable under ORS 192.445.

(1) For purposes of this rule, "personal information" means a person's home address, personal telephone number and personal electronic mail address.

(2) The following information included in records filed with the Corporation Division must be available for public inspection without regard to whether it constitutes personal information:

(a) The street address of a Registered Agent required to be filed under ORS 58, 60, 62, 63, 65, 67, 70, 128, and 554.

(b) The address of an applicant, authorized representative, incorporator, manager, member, organizer, partner, registrant or trustee required to be filed under ORS 58, 60, 62, 63, 65, 67, 70, 128, 554, 647, and 648.

(3) Pursuant to ORS 192.445, Personal Safety Exemption (PSE) requests that personal information contained in records filed with the Secretary of State Corporation Division be withheld from public disclosure will be processed in accordance with the procedures set out in OAR 137-004-0800.

(4) If the PSE request accompanies the submission of the record to which it pertains, the record will be filed and will be subject to public disclosure pending the Division's consideration of and issuance of a decision on the PSE request. If the PSE request applies to a record previously filed with the Division, the filing will remain effective and subject to public disclosure pending the Division's consideration of and issuance of a decision on the PSE request.

(5) If the Division grants a PSE request and the personal information subject to the PSE is of a type listed in paragraph (3) of this rule, the Division will include in the notice to the requestor a statement that in order for the filed record to remain valid and effective, disclosable information to substitute for the exempt personal information must be submitted to the Division within 30 days of the date of the notice. The statement will inform the requestor of the consequences of failure to provide substitute information. This statement will also be sent to the registered agent of any entity on whose behalf the filing was made if that entity might be affected by failure to provide substitute information.

(6) If the Division does not receive substitute information from the requestor or from an affected entity within the time provided in paragraph (5), the Division will cancel the filing to which the PSE request applies and will commence administrative dissolution of the affected entity or take such other action as is required by law as a consequence of the invalidity of the filing.

Stat. Auth.: ORS 56.014 & 56.022

Stats. Implemented:

Hist.: CORP 2-2005, f. & cert. ef. 3-1-05

#### 160-010-0600

##### Going Out of Business Notice of Intent

This rule refers to a special notice filed by businesses that advertise sales or auctions held out to the public as the disposal of merchandise in anticipation of cessation of business, under Senate Bill 684 (2007).

(1) The Notice of Intent will contain:

(a) The name, address, and telephone number of the owner of the merchandise to be sold.

(b) The signature of the owner of the merchandise.

(c) The title of the signer, if owner is a legal entity.

(d) The name, address and telephone number of the person who will be in charge and responsible for the conduct of the sale.

(e) The descriptive name, location, and beginning and ending dates of the sale.

(f) Confirmation that no person who has an ownership interest in the business or in the merchandise to be sold is subject to a court order resulting from a civil enforcement action under ORS 646.608.

(2) When filing a Notice of Intent, the Secretary of State is not required to check for previous filings by the owner of the merchandise to be sold.

(3) For the purposes of this section, "location" is considered to be the physical location where the merchandise is sold, including street address, city, state and zip code.

Stat. Auth.: ORS 56.022

Stats. Implemented: 2007 SB 684

Hist.: CORP 3-2007, f. 12-14-07 cert. ef. 1-1-08

#### 160-010-0610

##### Filing Format

(1) The notice of intent filed with the Secretary of State shall use a format approved by the Secretary of State, Corporation Division.

(2) The Corporation Division shall use an electronic method of filing the notice of intent and any amendments or cancellations thereof.

Stat. Auth.: ORS 56.022  
Stats. Implemented: 2007 SB 684  
Hist.: CORP 3-2007, f. 12-14-07 cert. ef. 1-1-08

#### 160-010-0620

##### Signatures

(1) If the owner is a legal entity, the person signing the notice must be an officer of the entity and must identify the person's title.

(2) The signatures filed in the notice of intent will be electronic signatures, as provided in ORS Ch. 84.

Stat. Auth.: ORS 56.022  
Stats. Implemented: 2007 SB 684  
Hist.: CORP 3-2007, f. 12-14-07 cert. ef. 1-1-08

#### 160-010-0630

##### Owner's Business Name

(1) If the owner of the merchandise to be sold is a business or other legal entity, the name may, but is not required to be, registered in the Business Entity Registry of the Corporation Division.

(2) The business name of the owner of the merchandise to be sold shall not be verified or validated against the records of the Corporation Division when filing notice.

Stat. Auth.: ORS 56.022  
Stats. Implemented: 2007 SB 684  
Hist.: CORP 3-2007, f. 12-14-07 cert. ef. 1-1-08

### DIVISION 40

### UNIFORM COMMERCIAL CODE — ARTICLE 9

#### General Provisions

#### 160-040-0100

##### Definitions

Terms used in these filing-office rules but not defined in this section that are defined in the UCC must have the respective meanings accorded such terms in the UCC.

(1) "Active record" means an initial filing that has not yet lapsed on its lapse date, or a continuation that has not lapsed, and any lapsed filing up to the first anniversary of its lapse date.

(2) "Address" means either a) a street address, route number (may include box) or PO Box number plus the city, state and zip code, or b) an address that purports to be a mailing address outside the United States of America.

(3) "Amendment" means a UCC record that amends the information contained in a financing statement. Amendments include assignments, continuations and terminations.

(4) "Assignment" is an amendment that assigns all or a part of a secured party's secured interest in collateral named in a financing statement.

(5) "Correction statement" means a UCC record that indicates that a financing statement is inaccurate or wrongfully filed. A debtor may file a correction statement to notify the public that the debtor believes the information on record is inaccurate or that the record was wrongfully filed. The filing of a correction statement does not affect the status of any UCC filing, nor does the filing officer effect changes on the index as a result of a correction statement. A secured party should file a UCC-3 amendment form if the secured party wants to change or correct an existing filing.

(6) "Filing office" and "filing officer" mean the Secretary of State, Corporation Division; the Division Director and deputies of the Director, respectively.

(7) "Filing officer statement" means a statement entered into the filing office's information system to correct an error made by the filing office.

(8) "Individual" means a human being or a decedent in the case of a debtor that is such decedent's estate.

(9) "Initial financing statement" means a UCC record that causes the filing office to establish the initial record of filing of a financing statement.

(10) "Organization" means a legal person who is not an individual under (8).

(11) "Remitter" means a person who tenders a UCC record to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the record for filing. "Remitter" does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.

(12) "Searchable indexes" means the searchable index of individual debtor names and the searchable index of organization debtor names maintained in the UCC information management system.

(13) "Secured party of record" includes a secured party of record as defined in the UCC, as well as a person who has been a secured party of record with respect to whom an amendment has been filed purporting to delete them as a secured party of record.

(14) "UCC" means the Uniform Commercial Code as adopted in this state.

(15) "UCC record" means an initial financing statement, an amendment, an assignment, a continuation statement, a termination statement, a filing officer statement, or a correction statement, and includes a record thereof maintained by the filing office. The term shall not be deemed to refer exclusively to paper or paper-based writings.

(16) "Unlapsed record" means a UCC record that has been stored and indexed in the UCC information management system, which has not yet lapsed under ORS Ch. 79.0515 with respect to all secured parties of record.

Stat. Auth.: ORS 79.0526  
Stats. Implemented: ORS 79.0526  
Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0101

##### UCC Document Delivery

For the purposes of this section, "delivery" means receipt by the filing office. UCC records may be tendered for filing at the filing office as follows.

(1) Personal delivery, at the filing office's street address. The file time for a UCC record delivered by this method is when delivery of the UCC record is accepted by the filing office (even though the UCC record may not yet have been accepted for filing and subsequently may be rejected).

(2) Courier delivery, at the filing office's street address. The file time for a UCC record delivered by this method is the time the UCC record is first examined by a filing officer for processing within the next close of business following the time of delivery, (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected).

(3) Postal service delivery, to the filing office's mailing address. The file time for a UCC record delivered by this method is the time the UCC record is first examined for processing within the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected).

(4) Fax delivery, to the filing office's fax filing telephone number. The file time for a UCC record delivered by this method is, notwithstanding the time of delivery, the time the UCC record is first examined by a filing officer for processing (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected).

(5) Means of communication. Regardless of the method of delivery, information for recording in the UCC information management system should be communicated to the filing only in the form of the English alphabet A-Z, numbers 0-9, and symbols and characters found on a standard QWERTY keyboard. A financing statement or amendments form that does not designate separate fields for organization and individual names, and separate fields for first, middle and last names and suffixes for individual names is not an acceptable means of communication to the filing office.

Stat. Auth.: ORS 79.0526  
Stats. Implemented: ORS 79.0526

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### **160-040-0102**

#### **Search Request Delivery**

UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office. A search request may not be delivered by checking a box or otherwise including a search request in or on an initial financing statement, but may be delivered in or on a separate search request after the initial financing statement is filed.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### **160-040-0103**

#### **Forms**

Acceptable forms. In addition to the forms outlined in ORS 79.0521(1), the Secretary of State shall accept for filing only the standard forms approved for use by the International Association of Commercial Administrators up to May 21, 2009.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0515 & 79.0521

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2002, f. 11-15-02, cert. ef. 12-1-02; CORP 1-2005, f. & cert. ef. 2-1-05; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08; CORP 4-2009, f. 12-22-09 cert. ef. 1-1-10

### **160-040-0104**

#### **Fees**

(1) Filing fee. The fee for filing and indexing a UCC record is prescribed in ORS Ch. 79.525(1). However, if the UCC record is rejected, the submission of the record shall be deemed a filing in accordance with 79.0516, and the accompanying fee shall therefore be nonrefundable.

(2) UCC search fee. The fee for a UCC search request is prescribed in ORS Ch. 79.525(3).

(3) UCC search — copies. The fee for UCC search copies is prescribed in ORS Ch. 79.525(3).

(4) UCC search — state seal certificate. The fee for a state seal certificate is \$10 per certificate, plus (for requested copies) — \$5 per document number.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0525

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08; CORP 5-2009, f. 12-22-09 cert. ef. 1-1-10

### **160-040-0105**

#### **Methods of Payment**

Filing fees and fees for public records services may be paid by the following methods.

(1) Cash. Payment in cash shall be accepted if paid in person at the filing office.

(2) Checks. Personal checks, cashier's checks and money orders made payable to the filing office shall be accepted for payment provided that the drawer (or the issuer in the case of a cashier's check or money order) is deemed creditworthy by the filing office in its discretion.

(3) Electronic funds transfer. The filing office may accept payment via electronic funds transfer under National Automated Clearing House Association ("NACHA") rules from remitters who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules.

(4) Debit and/or credit cards. The filing office shall accept payment by debit cards and credit cards issued by approved issuers. Remitters shall provide the filing officer with the card number and the expiration date of the card. Payment will not be deemed tendered until the issuer or its agent has confirmed payment.

(5) Prepaid account. A remitter may open an account for prepayment of fees associated with summaries of records by submitting an application prescribed by the filing officer and prepaying the appropriate weekly or monthly fee per file, according to the sched-

ule found in OAR 160-040-0107. The remitter will be sent a monthly statement of the deductions from their account.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0525

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### **160-040-0106**

#### **Summaries of Records**

Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC records and copies of data from the UCC information management system.

(1) Individually identified records. Copies of individually identified UCC records are available in paper format.

(2) Bulk copies of records. Bulk copies of UCC records are available by weekly subscription.

(3) Data from the information management system. A list of available data elements from the UCC information management system, and the file layout of the data elements, is available from the filing officer upon request. Data from the information management system is available as follows.

(a) Full extract. A bulk data extract of information from the UCC information management system is available. The UCC Active Filing List contains all active UCC filings, and is provided weekly or monthly by subscription.

(b) New Filing lists. The UCC New Filings List is provided weekly or monthly by subscription.

(c) Custom Extracts. Specialized searches on data stored in the UCC database. Custom searches are limited to one secured party name per search fee. Requests for information based on cities or zip codes is limited to 5 cities or 5 zip codes per search fee. Information on custom searches will be provided in tab delimited text format or MS Excel on CD ROM, FTP or by e-mail.

(d) Format. Extracts from the UCC information management system are available in the following formats.

(A) CD-ROM — UCC New Filings List & UCC Custom Search (tab-delimited text — .txt).

(B) FTP — Bulk UCC image extracts (.tif) and UCC Data extracts (tab-delimited text — .txt).

(C) E-Mail — UCC New Filings List & UCC Custom Search (tab delimited text — .txt).

(D) Internet Download — Bulk UCC image extracts (.tif) and UCC Data extracts (tab-delimited text — .txt).

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### **160-040-0107**

#### **Fees for Summaries of Records**

(1) Bulk copies of records. In accordance with ORS Ch. 79.0523(6), copies of UCC filings may be provided at \$20 per week.

(2) Data from the information management system.

(a) Full extract. The UCC Active Filing List fee for this subscription is \$200 per extract

(b) New Filing Lists. The UCC New Filing List fees are \$15 each.

(c) Custom extracts. The UCC Custom Search fee shall be \$50 per search paid in advance.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523 & 79.0525

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### **Acceptance and Refusal of Records**

### **160-040-0200**

#### **Role of Filing Officer**

The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record pursuant to these rules, the filing officer does not:

- (1) Determine the legal sufficiency or insufficiency of a record.
  - (2) Determine that a security interest in collateral exists or does not exist.
  - (3) Determine that information in the record is correct or incorrect, in whole or in part.
  - (4) Create a presumption that information in the UCC record is correct or incorrect, in whole or in part.
- Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.516, 79.519, 79.520  
 Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0201

##### Time for Filing a Continuation Statement

(1) First day permitted. The first day on which a continuation statement may be filed is the date six months before the lapse date of the current financing statement.

(2) Last day permitted. The last day on which a continuation statement may be filed is the date upon which the related financing statement lapses.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.0515  
 Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0202

##### Rejection Reasons

(1) The reasons for rejecting a filing submitted to the filing officer shall be those listed in Oregon Revised Statute (ORS) Ch. 79.0516 and as delineated in the Jurisdictions Guidelines for Accepting a UCC Record for Filing Chart, published by the International Association of Commercial Administrators.

(2) For the purposes of ORS 79.0516(2)(h), collateral “within the scope of this chapter” shall include:

- (a) Interest accounts (79.0310);
- (b) Tangible chattel paper (79.0312);
- (c) Electronic chattel paper (79.0312);
- (d) Commercial tort claim (79.0310);
- (e) Certain consumer goods interests (79.0310);
- (f) Negotiable documents (79.0312);
- (g) Equipment (79.0310);
- (h) Farm products (79.0310);
- (i) Certain general intangible transactions (79.0310);
- (j) Instruments (79.0312);
- (k) Inventory (79.0310);
- (l) Interests in investment property created by debtor other than broker or intermediary (79.0312).

(3) For the purposes of ORS 79.0516(2)(h), factors that indicate “the record is being filed for a purpose not within the scope of this chapter” shall include, but are not limited to:

- (a) Collateral description/attachments that contain:
  - (A) Birth Certificate, Certificate of Live Birth, etc.
  - (B) Driver’s License.
  - (C) Treasury Account number.
  - (D) Employer ID number.
  - (E) Private Setoff Account number.
  - (F) Marriage Certificate number.
  - (G) Bill of Exchange.
  - (H) Dollar amount(s) that are disproportionately large.
- (b) References to:
  - (A) Public Policy HJR-192, Public Law 73-10.
  - (B) House Joint Resolution 192 of June 1933.
  - (C) UCC 1-103, UCC 1-104, UCC 10-104, UCC 1-201(39), UCC 3-419, UCC-401.

- (c) Words and phrases:
  - (A) “Exempt from Levy.”
  - (B) “Exempt from all taxes, burden, charges and duty” or parts thereof.
  - (C) “Accepted for value.”
  - (D) “Actual and Constructive Notice.”
  - (E) “Strawman.”
  - (F) “Non negotiable Notice of Transfer.”
  - (G) “Notice of Dishonor.”

(4) In determining under ORS 79.0516 whether or not there is one or more grounds to refuse a UCC record, the filing office will refuse a record that does not provide an address that meets the minimum requirements for an address as set forth in these administrative rules.

(5) In addition to rejection reasons under ORS 79.516, the filing office will refuse a record that contains a Social Security Number, a state identification number, a driver license number, a credit or debit card number or an account number that is not redacted so that not more than the last four digits of a number are accessible.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 56.037 & 79.0516  
 Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2002, f. 11-15-02, cert. ef. 12-1-02; CORP 2-2004, f. & cert. ef. 9-1-04; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0203

##### Procedure Upon Refusal

If the filing officer finds grounds to refuse a UCC record, communication of the refusal, the reason(s) for the refusal and other related information will be made to the Remitter as soon as practicable and in any event within two business days after the refused UCC record was received by the filing office, by the same means as the means by which such UCC record was delivered to the filing office, or by mail or such more expeditious means as the filing office shall determine. Records of the refusal, including a copy of the refused UCC record and the ground(s) for refusal, must be maintained for 90 days after the date of the refusal notice.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.0520  
 Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0204

##### Refusal Errors

If, within ninety days of the date of the refusal notice, a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been refused, the filing officer will file the UCC record with the filing date and time the UCC record was originally tendered for filing. The filing officer shall also file a filing officer statement noting when and why the record was changed.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.0520  
 Hist.: CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0205

##### Notification of Defects

Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.0520  
 Hist.: CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### UCC Information Management System

#### 160-040-0300

##### Policy Statement

The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not lapsed. The rules in this section describe the UCC information management system.

Stat. Auth.: ORS 79.0526  
 Stats. Implemented: ORS 79.0519  
 Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0301**

**Primary Data Elements**

The primary data elements used in the UCC information management system are the following.

(1) Identification numbers.

(a) Initial financing statements. Each initial financing statement is identified by its file number. Identification of the initial financing statement is stamped on written UCC records or otherwise permanently associated with the record maintained for UCC records in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement.

(b) Other UCC records. A UCC record other than an initial financing statement is identified by a unique file number assigned by the filing officer. In the information management system, records of all UCC records other than initial financing statements are linked to the record of their related initial financing statement.

(2) Type of record. The type of UCC record from which data is transferred is identified in the information management system from information supplied by the remitter.

(3) Filing date and filing time. The filing date and filing time of UCC records are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.

(4) Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC records to the UCC information management system using one or more data entry or transmittal techniques.

(5) Status of financing statement. In the information management system, each financing statement has a status of active or inactive.

(6) Page count. The total number of pages in a UCC record is maintained in the information management system.

(7) Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in rule 160-040-0400.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0302**

**Individual Debtor Names**

For purposes of these rule, an "individual debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an individual, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Individual name fields. Individual debtor names are stored in files that include only the individual debtor names, and not organization debtor names. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals. The name of a debtor with a single name (e.g., "Cher") is treated as a last name and shall be entered in the last name field. The filing officer assumes no responsibility for the accurate designation of the components of a name but shall accurately enter the data in accordance with the filer's designations.

(2) Titles, prefixes and suffixes. Titles, prefixes (e.g. "Ms.") and suffixes or indications of status (e.g. "M.D.") are not typically part of a debtor's name. However, when entering a "name" into the UCC information management system, the data will be entered exactly as they appear.

(4) Truncation — individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The length of data entry name fields are as follows.

(a) First name: 20 characters.

(b) Middle name: 40 characters.

(c) Last name: 40 characters.

(d) Suffix: 10 characters.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0303**

**Organization Debtor Names**

For purposes of these rules, an "organization debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an organization, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Single field. Organization debtor names are stored in files that include only organization debtor names and not individual debtor names. A single field is used to store an organization debtor name.

(2) Truncation organization names. The organization debtor name field in the UCC database is fixed in length. The maximum length is 250 characters. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the organization debtor name field.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0304**

**Estates**

The debtor name to be provided on a financing statement for a debtor that is an estate is the name of the relevant decedent. In order for the information management system to function in accordance with the usual expectations of filers and searchers, the filer should provide the debtor name as an individual debtor name. However, the filing office will enter data submitted by a filer in the fields designated by the filer exactly as it appears in such fields.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0305**

**Trusts**

If the trust is named in its organic record(s), its full legal name, as set forth in such record(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC record that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor. If this is done in, or as part of, the name of the debtor, it will be entered as if it were a part of the name under rule 160-040-0402.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

**160-040-0306**

**Initial Financing Statement**

Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows.

(1) Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC record names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.

(2) Status of debtor. Each debtor name provided by the initial financing statement shall be indexed in the UCC information management system so long as the financing statement is an Active Record.

(3) Status of financing statement. The financing statement shall be an Active Record. A lapse date shall be calculated, five years from the file date, unless (i) the initial financing statement indicates as provided in rule 0306(4) that it is filed with respect to a public-financing transaction in which case the lapse date shall be thirty years from the file date, or (ii) the initial financing statement indicates as provided in rule 0306(4) that it is filed against a transmitting utility, in which case there shall be no lapse date.

(4) Transmitting utility and public-finance transactions. The only means to indicate to the filing office that an initial financing statement is being filed in connection with a public-finance transaction, or that a financing statement is being or has been filed against a debtor that is a transmitting utility, to affect the filing office's determination of the lapse date under rule 0306(3) or 0307, is to so indicate by checking the appropriate box on a UCC1 Addendum filed with respect to the financing statement or by transmitting the requisite information in the proper field in an electronic filing that is such initial financing statement or is part of such financing statement.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0307

##### Amendment

Upon the filing of an amendment the status of the parties and the status of the financing statement shall be as follows.

(1) Status of secured party and debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows:

(a) Collateral amendment or address change. An amendment that amends only the collateral description or one or more addresses has no effect upon the status of any debtor or secured party. If a statement of amendment is authorized by fewer than all of the secured parties (or, in the case of an amendment that adds collateral, fewer than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor).

(b) Debtor name change. An amendment that changes a debtor's name has no effect on the status of any debtor or secured party, except that the related initial financing statement and all UCC records that include an identification of such initial financing statement shall be cross indexed in the UCC information management system so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC records. Such a statement of amendment affects only the rights of its authorizing secured party(ies).

(c) Secured party name change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party, but the new name is added to the index as if it were a new secured party of record.

(d) Addition of a debtor. An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment.

(e) Addition of a secured party. An amendment that adds a new secured party shall not affect the status of any party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement.

(f) Deletion of a debtor. An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors.

(g) Deletion of a secured party. An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record.

(2) Status of financing statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0512

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0308

##### Assignment of Powers of Secured Party of Record

(1) Status of the parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record.

(2) Status of financing statement. An assignment shall have no effect upon the status of the financing statement.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0514

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0309

##### Continuation

(1) Continuation of lapse date. Upon the timely filing of one or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be extended for five years.

(2) Status of parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement.

(3) Status of financing statement. Upon the filing of a continuation statement, the status of the financing statement remains active.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0510 & 79.0526

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0310

##### Termination

(1) Status of parties. The filing of a termination shall have no effect upon the status of any party to the financing statement.

(2) Status of financing statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until the lapse date, and accessible until one year after it lapses.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0510 & 79.0526

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0311

##### Statement of Claim

(1) Status of parties. The filing of a statement of claim shall have no effect upon the status of any party to the financing statement.

(2) Status of financing statement. A statement of claim shall have no effect upon the status of the financing statement.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0518

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08; CORP 4-2009, f. 12-22-09 cert. ef. 1-1-10

#### 160-040-0312

##### Procedure Upon Lapse

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date and the information management system renders or is caused to render the financing statement inactive. On the first anniversary of such lapse date, the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.515 & 79.526

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### Filing and Data Entry Procedures

#### 160-040-0400

##### Lapse Date and Time

A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if timely continuation statement is filed, but if the initial financing statement indicates that it is filed with respect to a public

finance transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. The lapse takes effect at the end of the business day of the lapse date. The relevant anniversary for a February 29 filing date shall be the March 1 in the fifth year following the year of the filing date.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0515

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0401

#### Errors of the Filing Officer

The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction occurs after the filing officer has issued a certification date that includes the filing date of the corrected document, the filing officer shall enter a filing officer statement in the UCC information management system identifying the record to which it relates, stating the date of the correction, and explaining the nature of the corrective action taken. The record shall be preserved as long as the record of the initial financing statement is preserved in the UCC information management system.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0515

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0402

#### Data Entry of Names

A filing should designate whether a name is a name of an individual or an organization. Filers should be aware that the inclusion of names in an incorrect field or failures to transmit names accurately to the filing office may cause filings to be ineffective.

(1) Organization names. Organization names are entered into the UCC information management system exactly as set forth in the UCC record, even if it appears that multiple names are set forth in the record or if it appears that the name of an individual has been included in the field designated for an organization name.

(2) Individual names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the first, middle, and last name and suffix fields in the UCC information management system exactly as set forth on the form.

(3) If a UCC record is tendered that provides characters not permitted under rule 0101(5), and the filing office nevertheless accepts the form for filing, the filing office will substitute in its information management system, for each such character, the character of the English alphabet A–Z, and symbols found on a standard QWERTY keyboard, that is its closest visual counterpart.

**Example:** an “è” will be entered as an “e”. A “ç” will be entered as a “c”.

“©” would not be entered at all and the filing will be rejected.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0519

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0403

#### Notice of Bankruptcy

The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. Accordingly, financing statements will lapse as scheduled unless properly continued.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0522

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0404

#### Redaction of Certain Information

The filing officer is obliged to redact certain information from the information it provides to searchers and bulk data purchasers in accordance with ORS 56.037. Such information should not be included in UCC records and will be redacted in accordance with such laws.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 56.037

Hist.: CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

## Search Requests and Reports

### 160-040-0500

#### General Requirements

The filing officer maintains for public inspection a searchable index for all Active Records in the UCC information management system. Active Records will be retrievable by the name of the debtor or by the file number of the related initial financing statement, and each Active Record related to an initial financing statement is retrieved with the initial financing statement using either retrieval method.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0501

#### Search Requests

Search requests shall contain the following information.

(1) Name searched. A search request must set forth the name of the debtor to be searched using designated fields for organization and individual first, middle and last names. A search request will be processed using the data and designated fields exactly as submitted, including the submission of no data in a given field, without regard to the nature or character of the debtor that is the subject of the search.

(2) Requesting party. The name and address of the person to whom the search results is to be sent.

(3) Fee. The appropriate fee shall be tendered by a method described in rule 160-040-0105.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0502

#### Search Requests — Optional Information

A UCC search request may contain any of the following information.

(1) Copy request. The request may ask for copies of UCC records identified on the primary search response.

(2) Mode of delivery. A search request may specify a mode of delivery for search results and that request will be honored if the requested mode is made available by the filing office, and all requisite fees are tendered.

(3) Scope of search. A search request may ask for a search that reports all Active Records retrieved by the search rather than only Unlapsed Records retrieved by the search.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

### 160-040-0503

#### Rules Applied to Search Requests

Search results are produced by the application of standardized search logic to the name presented to the filing officer. Human judgment does not play a role in determining the results of the search. The following rules apply to searches:

(1) Number of matches. There is no limit to the number of matches that may be returned in response to the search criteria.

(2) Case. No distinction is made between upper and lower case letters.

(3) “&” (and). The character “&” (the ampersand) is deleted and replaced with the characters “and” each place it appears in the name.

(4) Punctuation. Punctuation marks and accents are disregarded. For the purposes of this rule, punctuation and accents include all characters other than the numerals 0 through 9 and the letters A through Z (in any case) of the English alphabet.

(5) Organization names. The following words and abbreviations at the end of an organization name that indicate the existence or

nature of the organization are “disregarded” to the extent practicable as determined by the filing office’s programming of its UCC information management system: regon “Ending Noise Words” List: [List not included. See ED. NOTE.]

(6) “The.” The word “the” at the beginning of an organization debtor name is disregarded.

(7) Spaces. All spaces are disregarded.

(8) First and middle names. For first and middle names of individual debtor names, initials are treated as the logical equivalent of all names that begin with such initials, and first name and no middle name or initial is equated with all middle names and initials. For example, a search request for “John A. Smith” would cause the search to retrieve all filings against all individual debtors with “John” or the initial “J” as the first name, “Smith” as the last name, and with the initial “A” or any name beginning with “A” in the middle name field. If the search request were for “John Smith” (first and last names with no designation in the middle name field), the search would retrieve all filings against individual debtors with “John” or the initial J as the first name, “Smith” as the last name and with any name or initial or no name or initial in the middle name field.

(9) Last name only. If the name being searched is the last name of an individual debtor name without any first or middle name provided, the search will retrieve from the UCC information management system all Unlapsed Records or, if requested by the searcher, all Active Records that pertain to financing statements with individual debtor names that consist of such last name, any or no middle name or initial and no first name.

(10) Suffixes. Suffixes of individual names, such as “Jr.” and “III” will be disregarded as search criteria.

(11) After using the preceding rules to modify the name being searched, the search will retrieve from the UCC information management system all Unlapsed Records, or, if requested by the searcher, all Active Records, that pertain to financing statements with debtor names that, after being modified as provided in this rule 503, exactly match the modified name being searched.

[ED. NOTE: List referenced are available from the agency.]

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0506, 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0504

##### Notice of Changes

Changes in standard search logic. If the filing office changes its standard search logic or the implementation of its standard search logic in a manner that could alter search results, the filing office will provide public notice of such change.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0506, 79.0523

Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0505

##### Search Responses

Reports created in response to a search request shall include the following.

(1) Filing officer. Identification of the filing officer responsible for search report.

(2) Report date. The date and time the report was generated.

(3) Name searched. Identification of the name searched.

(4) Unique search report identification number. Unique number which identifies the search report.

(5) Through date. The date at or prior to which a UCC record must have been filed with the filing office in order for it to be reflected on the search.

(6) Copies. Copies of all UCC records revealed by the search and requested by the searcher. Copies of all UCC records retrieved by the search will reflect any redaction of personal identifying information required by law.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0506

##### Search Report

The search report shall contain the following.

(1) Identification of financing statement. Identification of each initial financing statement, including a listing of all related amendments, correction statements, or filing officer notices, filed on or prior to the through date corresponding to the search criteria (including whether the searcher has requested Active Records or only Unlapsed Records). Financing statement information shall include, but is not limited to the following:

(a) Initial financing statement file number. The initial financing statement file number.

(b) Initial financing statement filing date. The date it was filed.

(c) Lapse date. Provide lapse date as calculated as of the through date established under rule 505(5).

(2) Debtor name. The debtor name(s) that appear(s) of record.

(3) Debtor address. The debtor address(es) that appear(s) of record.

(4) Secured party name. The secured party name(s) that appear(s) of record.

(5) Secured party address. The secured party address(es) that appear(s) of record.

(6) Amendment type. An indication of type of each amendment, if any.

(7) Amendment filing date and time. The date and time each amendment, if any, was filed.

(8) Amendment file number. The amendment file number of each amendment, if any.

(9) Correction statement filing date and time. The date and time a correction statement, if any, was filed.

(10) Filing officer statement filing date and time. The date and time a filing officer statement, if any, was filed.

(11) Filing Type. The type of filing, including UCC financing statement, type of statutory lien or warrant, or EFS filing.

Stat. Auth.: ORS 79.0526

Stats. Implemented: ORS 79.0523

Hist.: CORP 4-2008, f. 7-15-08, cert. ef. 8-1-08

#### 160-040-0507

##### Renewal Report

In accordance with ORS 79.0515, a renewal notice report will be posted on the Corporation Division website twice a year: January 1 and July 1.

(1) The renewal notice report shall contain the following:

(a) Secured party name and address;

(b) Filing/lien number;

(c) Lien type:

(A) UCC;

(B) EFS; or

(C) Revenue warrants;

(d) Lapse date; and

(e) Debtor name.

(2) The Renewal Report will be posted in the following formats:

(a) Microsoft Excel, and

(b) Tab-delimited text.

(3) A statement will be posted on the Corporation Division website that the secured party must file a continuation statement or an initial financing statement to continue a financing statement or effective financing statement.

Stat Auth: 79.0526

Stats. Implemented 79.0515

Hist.: CORP 4-2009, f. 12-22-09 cert. ef. 1-1-10

## DIVISION 50

## UNIFORM COMMERCIAL CODE

### Statutory Liens

#### 160-050-0100

##### Definitions and Abbreviations

(1) “APL”: Agricultural Produce Lien

- (2) "ASL": Agricultural Services Lien.
- (3) "GPL": Grain Producer's Lien
- (4) "Standard Form": Those forms approved by the Secretary of State's Office for use in the ASL system. The approval specifications include the content, layout, and manner of printing. Forms that do not meet every criterion may not be considered standard forms.
- (5) "UCC": Uniform Commercial Code.  
Stat. Auth.: ORS 87.226, 87.246, 87.346, OL 2001 Ch. 301 Sec. 26 & 87.767  
Stats. Implemented: ORS 87.226, 87.705 & 87.755  
Hist.: PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02

#### 160-050-0110

##### Statutory Lien Standard Forms

The following forms have been approved by the Secretary of State as the standard forms for general use in filing statements. These forms are available through the Secretary of State's web site and by fax. Some may also be purchased from publishers of legal forms.

- (1) Agricultural Services Lien:
  - (a) Notice of Claim of Agricultural Services Lien — Farm Labor, Services, Materials;
  - (b) Certificate of Satisfaction of Agricultural Services Lien;
  - (c) Cessation Form.
- (2) Agricultural Produce Lien:
  - (a) Notice of Claim of Agricultural Produce Lien;
  - (b) Certificate of Satisfaction of Agricultural Produce Lien.
- (3) Grain Producer's Lien:
  - (a) Notice of Claim of Grain Producer's Lien;
  - (b) Certificate of Satisfaction of Grain Producer's Lien.  
Stat. Auth.: ORS 87.246, 87.346, 2001 OL Ch. 301 Sec. 2 & 87.767  
Stats. Implemented: ORS 87.242, 87.346, 87.710, 87.735, 87.762 & 87.777  
Hist.: PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02

#### 160-050-0130

##### Statutory Filing Standards

- (1) A filing officer is not required to determine if a lien is properly prepared or presented to the appropriate filing officer. This is the sole responsibility of the individual filing the lien.
- (2) All forms filed with a UCC filing officer must comply with all information requirements and include all required fees and signatures.
- (3) A filing officer is not required to determine if an Agricultural Produce Lien is filed for extension within the dates specified by ORS 87.710.
- (4) Statutory Liens filed with the Secretary of State's office shall use the forms listed in OAR 160-050-0110.  
Stat. Auth.: ORS 87.242, 87.346, 87.710, 87.735, 87.762, 87.777, 465.335 & 466.835  
Stats. Implemented: ORS 87.242, 2001 OL Ch. 301 Sec. 2, 87.762, 465.335 & 466.835  
Hist.: PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02

#### 160-050-0140

##### Statutory Lien Filing and Search Fees

- (1) The Statutory Lien filing fees are:
  - (a) Agricultural Services Lien:
    - (A) Notice of Claim of Agricultural Services Lien — \$15 per form;
    - (B) Certificate of Satisfaction — No Charge;
    - (C) Cessation — \$15 per form.
  - (b) Agricultural Produce Lien:
    - (A) Notice of Claim of Agricultural Produce Lien — \$15 per form;
    - (B) Certificate of Satisfaction of Agricultural Produce Lien — No Charge.
  - (c) Grain Producer's Lien:
    - (A) Notice of Claim of Grain Producer's Lien — \$15 per form;
    - (B) Certificate of Satisfaction — No Charge.

- (d) Hazardous Waste Lien: Notice of Claim of Lien for Environmental Cleanup of Hazardous Waste — \$15 per form.
- (2) The Statutory Lien search fees are:
  - (a) Lien Search — \$10 per name;
  - (b) Requested Lien Copy(ies) — \$5;
  - (c) Certificate (State seal) — \$10 per cert.  
Stat. Auth.: ORS 87.246(3), 87.767, 177.130 & 192.440  
Stats. Implemented: ORS 87.246, 87.736, 87.767, 177.130 & 192.440  
Hist.: PRD 4-1988, f. & cert. ef. 3-17-88; Renumbered from 164-010-0030; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1995, f. 2-8-95, cert. ef. 9-1-95; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 3-2010(Temp), f. 2-3-10, cert. ef. 2-27-10 thru 8-26-10; CORP 5-2010, f. 3-24-10, cert. ef. 4-2-10

#### 160-050-0160

##### Statutory Lien Miscellaneous Services

- (1) In addition to debtor name based search requests and summaries, the Secretary of State, Corporation Division, Uniform Commercial Code Section may provide other information retrieval and research services:
  - (a) The fees for research service shall be \$20 per hour based on actual costs incurred. Amounts of less than one hour shall be charged in 1/2 hour increments;
  - (b) The fee for research service computer printouts shall be \$1 per page.
  - (2) The UCC section may charge a fee for supplying copies of the Farm Products and Statutory Lien electronically stored records on request. Farm Products and Statutory Liens information shall be furnished according to the fees and formats outlined in OAR 160-040-0106 and 160-040-0107.
  - (3) Upon filing an agricultural statutory lien (ASL, APL, and GPL), the filer will be provided with a list of persons who have filed a financing statement under ORS 79.4010 that perfects a security interest in the inventory, proceeds or accounts receivable of the lien debtor or purchaser.
    - (a) This list will be produced using the same search logic as for search requests under OAR 160-040-0502.
    - (b) The information provided to the filer will correspond to a search report as defined in OAR 160-040-0504(1) through (6).
    - (c) The search report will be provided at the same time as the acknowledgment of the ASL, APL or GPL filing.  
Stat. Auth.: ORS 177.130, 87.246(3), 2001 OL Ch. 301 Sec. 3 & 2001 SB 171 Sec. 97.9-526  
Stats. Implemented: 2001 SB 171 Sec. 94.9-523 & 2001 OL Ch. 301 Sec. 3  
Hist.: PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02

#### 160-050-0165

##### Statutory Lien Duration

- (1) **Agricultural Services Lien.** Unless made inactive by a Certificate of Satisfaction filing, an ASL shall remain in the index maintained by the secretary for financing statements for two years from the date of its filing with that office.
- (2) **Agricultural Produce Lien.** Unless made inactive by a Certificate of Satisfaction filing, an APL shall remain in the index maintained by the secretary for financing statements for one year from the date of its filing with that office.
- (3) **Grain Producer's Lien.** Unless made inactive by a Certificate of Satisfaction filing, a GPL shall remain in the index maintained by the secretary for financing statements for two years from the date of its filing with that office.  
Stat. Auth.: ORS 87.246, 2001 OL Ch. 301 Sec. 2 & ORS 87.767  
Stats. Implemented: ORS 87.266, 2001 OL Ch. 301 Sec. 3 & ORS 87.762.  
Hist.: CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02

#### Oregon Farm Products Central Filing System

#### 160-050-0180

##### Oregon Farm Products Central Filing System

- (1) Oregon Farm Products Central Filing System is a statewide filing system that permits the registering of a security interest in farm products by filing an effective financing statement (EFS) with the Office of the Secretary of State.

(2) Within the context of the Oregon Farm Products Central Filing System, farm products means an agricultural commodity including but not limited to wheat, corn, soybeans, or a species of fish or livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop, fish or livestock in its unmanufactured state, including but not limited to wool clip, milk and eggs, that is in the possession of a person engaged in farming operations.

(3) In Oregon, the effective financing statement does not create a security interest in the farm products. It is not the same as a financing statement or security agreement filed under the Uniform Commercial Code laws. The effective financing statement is a document that meets the requirements of Section 1324 of Public Law 99-198.

(4) The secured party must submit a UCC filing under ORS Chapter 79 to perfect a security interest in farm products.

Stat. Auth.: ORS 79.6020(4), 79.6020(5) & 79.6030

Stats. Implemented: ORS 79.6030

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; SOS 24-1987, f. 11-5-87, ef. 11-15-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0010; CORP 1-2008, f. & cert. ef. 1-15-08

### **160-050-0190**

#### **Definitions and Abbreviations**

(1) Where terms used in this rule are not explicitly or completely defined in ORS 80.100 or herein, definitions and usage of terms from the references are applicable.

(2) "EFS": An effective financing statement relating to farm products.

(3) "Debtor": For purposes of this rule, the term "debtor" shall mean any person subjecting farm products to security interests, even if such person does not owe a debt to the secured party but is subjecting farm products to a security interest for the debt of another.

Stat. Auth.: ORS 79.6020 - 79.7010

Stats. Implemented: ORS 79.6030

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0020; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2008, f. & cert. ef. 1-15-08

### **160-050-0200**

#### **EFS Requirements**

(1) An EFS must be filed on a form prescribed and approved by the Secretary of State. The form shall be designated "EFS-1."

(2) The information on the Form EFS-1 should meet the following requirements:

(a) Name, address and telephone number of the secured party:

(A) The name and address of the secured party are required;

(B) The secured party name or names must be entered completely and precisely;

(C) The name of an individual must be entered in order of last name (surname), first name, and, if any, middle initial or name;

(D) Assumed business names and business entity names must appear beginning with first word or character that is not an article or punctuation mark;

(E) The address of the secured party must be the address where information pertaining to the security interest may be obtained;

(F) The telephone number of the secured party is requested.

(b) Name and address of each debtor:

(A) The name and address of each debtor is required;

(B) The name of each debtor must be entered completely and precisely;

(C) The name of an individual must be entered in order of last name (surname), first name, and, if any, middle initial or name;

(D) Assumed business names and business entity names must be entered beginning with the first word or character that is not an article or punctuation mark;

(E) The address of the debtor is the mailing address of such person;

(c) Farm Product name or code:

(A) Each farm product that is produced in Oregon is assigned a four-digit numerical code. The codes are located on the back side of the Form EFS-1;

(B) The farm product code is required;

(C) Each filing party is responsible for listing the appropriate farm product code for a farm product on which the EFS or notice of security interest is being filed;

(D) The four-digit product code for each farm product subject to the security interest must be entered. A table of product codes appears on the back of the Form EFS-1;

(E) If the space provided on the Form EFS-1 for farm product codes is not adequate, Form EFS-5 should be used to submit additional codes.

(d) Crop year:

(A) The crop year, for crops grown in soil, is the calendar year in which it is harvested or to be harvested;

(B) For animals, the crop year is the calendar year in which they are born or acquired;

(C) For poultry or eggs, the crop year is the calendar year in which they are sold or to be sold;

(D) If an EFS does not show a crop year, it will be regarded as applicable to the crop or farm product in question for every year the EFS is effective;

(E) The crop year is a two-digit or four-digit code representing the actual year;

(F) The crop year must be shown on the Form EFS-1, unless every year of the farm product in question, for the duration of the EFS, is subject to the particular security interest.

(e) County Code:

(A) Each county in Oregon is assigned a two-digit numerical code. The county code represents the county in which the farm product is produced or is to be produced. The county codes are located on the back side of the Form EFS-1;

(B) The county code is required;

(C) Below is a list of the county codes for Oregon:

(i) Baker — 01;

(ii) Benton — 02;

(iii) Clackamas — 03;

(iv) Clatsop — 04;

(v) Columbia — 05;

(vi) Coos — 06;

(vii) Crook — 07;

(viii) Curry — 08;

(ix) Deschutes — 09;

(x) Douglas — 10;

(xi) Gilliam — 11;

(xii) Grant — 12;

(xiii) Harney — 13;

(xiv) Hood River — 14;

(xv) Jackson — 15;

(xvi) Jefferson — 16;

(xvii) Josephine — 17;

(xviii) Klamath — 18;

(xix) Lake — 19;

(xx) Lane — 20;

(xxi) Lincoln — 21;

(xxii) Linn — 22;

(xxiii) Malheur — 23;

(xxiv) Marion — 24;

(xxv) Morrow — 25;

(xxvi) Multnomah — 26;

(xxvii) Polk — 27;

(xxviii) Sherman — 28;

(xxix) Tillamook — 29;

(xxx) Umatilla — 30;

(xxxi) Union — 31;

(xxxii) Wallowa — 32;

(xxxiii) Wasco — 33;

(xxxiv) Washington — 34;

(xxxv) Wheeler — 35;

(xxxvi) Yamhill — 36.

(D) The county code(s) must be listed for each product code shown.

(f) Amount of farm product (where applicable):

(A) The amount of farm product may or may not be shown on every EFS and master list entry;

(B) The need to supply this additional information arises only where some of the debtor's farm product is subject to the security interest and some is not;

(C) If the EFS does not show an amount, this constitutes a representation that all of such product owned by the debtor is subject to the security interest in question;

(D) The amount shown must be sufficient to enable a reader of the information to identify what part of the debtor's farm product owned by the debtor is subject to the security interest, and what is not;

(E) Twenty characters have been allotted on the master list for providing information on the amount of farm product. The description of the amount should not be more than 20 characters.

(g) Brief Description of farm product:

(A) A brief description of the farm product maybe shown on the EFS and master list entry.

(B) The need to supply this additional information arises only where some of the debtor's farm product is subject to the security interest and some is not.

(C) Seventy-five characters have been allotted on the master list for providing information on the description of the farm product. The farm product description should not be more than 75 characters.

(h) Signature of the debtor, unless the debtor has executed a security agreement granting a security interest in the farm products to the secured party.

(3) The EFS will be rejected if it does not contain the name and address of the debtor, name and address of the secured party, farm product code, county code, or if it is not accompanied by the EFS filing fee.

(4) For the purposes of filing an effective financing statement, an electronically submitted document shall be considered an original document under ORS 80.115.

Stat. Auth.: ORS 80.106 & 80.115

Stats. Implemented: ORS 80.115

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0030; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 2-2006, f. & cert. ef. 2-6-06; CORP 1-2008, f. & cert. ef. 1-15-08

#### 160-050-0210

##### Amendment, Continuation, Assignment and Lapse of EFS

(1) An EFS may be amended, assigned, continued or lapsed by the secured party of record. An amendment, assignment, continuation or lapse must be filed on a form prescribed and approved by the Secretary of State. The form shall be designated "Form EFS-3."

(2) The EFS-3 must include the document number assigned by the Secretary of State to the original effective financing statement.

(3) A Secured Party must sign, authorize or otherwise authenticate an EFS-3 that declares the lapse of an EFS.

(4) Unless the Debtor has executed a security agreement granting a security interest in the farm products to the secured party, the Debtor must sign, authorize or otherwise authenticate the EFS-3.

(5) For the purposes of uniformity, "lapse" will be considered synonymous with "termination" under ORS 79.0513 and this chapter. The EFS-3 form may refer to a "termination," instead of a "lapse."

(6) The EFS remains effective for a period of five years from the date of filing. Its effectiveness may be extended by an additional five years by filing a continuation statement within six months before the expiration of the current five-year period.

(7) Under the conditions described in ORS 80.115(4), if there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value under the security interest, the secured party should file a statement of termination or lapse.

(8) Upon the expiration of the effective period of an EFS, the EFS lapses, unless effectively extended pursuant to ORS 80.115 and OAR 160-050-0210.

Stat. Auth.: ORS 80.106 & 80.115

Stats. Implemented: ORS 80.115

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 7-1987(Temp), f. & ef. 5-13-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0040; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2006, f. & cert. ef. 2-6-06; CORP 1-2008, f. & cert. ef. 1-15-08

#### 160-050-0215

##### Filing fees

(1) The fee for filing a Form EFS-1 is \$15 for the first debtor name. Additional debtors may be added at no charge. The filing fee is required to be submitted with the EFS.

(2) If the Form EFS-3 is not accompanied by the filing fee, it will be rejected;

(3) The filing fees of Form EFS-3 transactions are set out in paragraphs (a) through (d) of this subsection as follows:

(a) Amendments: The filing fee for an amendment is \$15 for the first debtor name. Additional debtors may be added at no charge.

(b) Assignment: The filing fee for an assignment is \$15 for the first debtor name. Additional debtors may be added at no charge.

(c) Continuation: The filing fee for a continuation is \$15 for the first debtor name. Additional debtors may be added at no charge.

(d) Termination: There is no filing fee for filing a termination/lapse statement.

Stat. Auth.: ORS 80.106 & 80.115

Stats. Implemented: ORS 80.115

Hist.: CORP 1-2008, f. & cert. ef. 1-15-08; CORP 3-2010(Temp), f. 2-3-10, cert. ef. 2-27-10 thru 8-26-10; CORP 5-2010, f. 3-24-10, cert. ef. 4-2-10

#### 160-050-0220

##### Farm Products

(1) The list of Oregon farm products and codes is as follows:

(a) **Grains:**

(A) Barley — 0101;

(B) Corn for grain — 0102;

(C) Oats — 0103;

(D) Rye — 0104;

(E) Triticale — 0105;

(F) Wheat — 0106.

(b) **Hay and Forage:**

(A) Alfalfa — 0201;

(B) Ensilage — 0202;

(C) Grass and Grain Straw — 0203;

(D) Hay — 0204;

(E) Sorghum — 0205.

(c) **Grass and Legume Seeds:**

(A) Alfalfa Seed — 0301;

(B) Bentgrass — 0302;

(C) Bluegrass — 0303;

(D) Brome — 0304;

(E) Clover — 0305;

(F) Fescue — 0306;

(G) Field Peas — 0307;

(H) Orchardgrass — 0308;

(I) Rape Seed — 0309;

(J) Ryegrass — 0310;

(K) Timothy — 0311;

(L) Vetch — 0312;

(M) Wheat Grass — 0313;

(N) Other Grass Seed — 0314;

(O) Other Legume Seed — 0315;

(d) **Field Crops:**

(A) Herbs — 0401;

(B) Hops — 0402;

(C) Mint — 0403;

(D) Oil Seed — 0404;

(E) Potatoes — 0405;

(F) Sugarbeet — 0406;

(G) Vegetable and Flower Seeds — 0407;

(H) Canola — 0408.

(e) **Fruits:**

(A) Apples — 0501;

(B) Apricots — 0502;

(C) Cantaloupes — 0503;

- (D) Cherries — 0504;
- (E) Grapes — 0505;
- (F) Peaches — 0506;
- (G) Pears — 0507;
- (H) Plums — 0508;
- (I) Prunes — 0509;
- (J) Watermelons — 0510;
- (K) Kiwi — 0511.
- (f) **Nuts:**
  - (A) Filberts — 0601;
  - (B) Walnuts — 0602.
- (g) **Berries:**
  - (A) Blackberries — 0701;
  - (B) Blueberries — 0702;
  - (C) Boysen and Youngberries — 0703;
  - (D) Other Caneberries — 0704;
  - (E) Cranberries — 0705;
  - (F) Currants — 0706;
  - (G) Elderberries — 0707;
  - (H) Gooseberries — 0708;
  - (I) Loganberries — 0709;
  - (J) Marionberries — 0710;
  - (K) Raspberries — 0711;
  - (L) Strawberries — 0712.
- (h) **Vegetables:**
  - (A) Artichokes — 0801;
  - (B) Asparagus — 0802;
  - (C) Beans — 0803;
  - (D) Beets — 0804;
  - (E) Broccoli — 0805;
  - (F) Brussel Sprouts — 0806;
  - (G) Cabbage — 0807;
  - (H) Carrots — 0808;
  - (I) Cauliflower — 0809;
  - (J) Celery — 0810;
  - (K) Corn — 0811;
  - (L) Cucumbers — 0812;
  - (M) Eggplant — 0813;
  - (N) Garlic — 0814;
  - (O) Kohlrabi — 0815;
  - (P) Lettuce — 0816;
  - (Q) Mushrooms — 0817;
  - (R) Onions — 0818;
  - (S) Peas — 0819;
  - (T) Peppers — 0820;
  - (U) Pumpkins — 0821;
  - (V) Radishes — 0822;
  - (W) Rhubarb — 0823;
  - (X) Rutabagas — 0824;
  - (Y) Spinach — 0825;
  - (Z) Squash — 0826;
  - (AA) Tomatoes — 0827;
  - (BB) Turnips — 0828.
- (i) **Specialty Products:**
  - (A) Bees — 0901;
  - (B) Bees Wax — 0902;
  - (C) Bulbs — 0903;
  - (D) Greenhouse Stock — 0904;
  - (E) Honey — 0905;
  - (F) Logs — 0906;
  - (G) Nursery Stock — 0907;
  - (H) Standing Timber — 0908;
  - (I) Trees (Except Standing Timber) — 0909;
  - (J) Turf Sod — 0910;
  - (K) Worms — 0911.
- (j) **Livestock:**
  - (A) Cattle and Calves — 1001;
  - (B) Goats — 1002;
  - (C) Hogs and Pigs — 1003;
  - (D) Horses — 1004;
  - (E) Llamas — 1005;

- (F) Milk — 1006;
- (G) Mink — 1007;
- (H) Mules — 1008;
- (I) Rabbits — 1009;
- (J) Sheep and Lamb — 1010;
- (K) Wool — 1011;
- (L) Buffaloes — 1012;
- (M) Alpaca — 1013;
- (N) Reindeer — 1014.

(k) **Poultry:**

- (A) Broilers — 1101;
- (B) Chickens — 1102;
- (C) Ducks — 1103;
- (D) Eggs — 1104;
- (E) Geese — 1105;
- (F) Turkeys — 1106;
- (G) Ostriches — 1107;
- (H) Emu — 1108;
- (H) Rhea — 1109.

(l) **Fish and Shellfish:** Fish and Shellfish — 1201.

(2) Pursuant to the Administrative Procedures Act, the Secretary of State may add, modify or delete farm products and codes.

(3) Buyers, commission merchants, selling agents, farmers or any interested person may suggest changes to the farm product list. These suggestions must be submitted in writing.

Stat. Auth.: ORS 79.6020, 79.6030 & 79.6070(1)

Stats. Implemented: ORS 79.6070

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0050; CORP 2-1995, f. 7-31-95, cert. ef. 8-1-96; CORP 1-2008, f. & cert. ef. 1-15-08

**160-050-0230**

**Master List and Portions of Master List**

(1) The master list shall contain all the information submitted on EFSs filed in the Secretary of State's Office. It contains the name and address of the debtor, name and address of secured party, farm product code, farm product name, description of farm product, description of location, amount of farm product, crop year, county, date of filing, time of filing, and EFS file number. This information shall be compiled and entered into a computerized record for farm products in the system.

(2) The Secretary of State shall produce a monthly master list. The master list may be organized alphabetically by debtor name and farm product, and shall be made available for all counties and crop years.

(3) Portions of the master list may be provided by an online search engine. Registrants may enter the debtor name and receive all the data from EFSs filed on that individual.

(4) After data entry is complete at the end of the month, the master list will be available online. It will include all filings as of the last business day of the month.

Stat. Auth.: ORS 79.6070

Stats. Implemented: ORS 79.6070

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; SOS 24-1987, f. 11-5-87, ef. 11-15-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0060; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 1-2011, f. & cert. ef. 9-22-11

**160-050-0240**

**Registration of Buyers, Commission Merchants and Selling Agents; Subscription to Master Lists or Portions of Master Lists**

(1) The proper place to register as a buyer, commission merchant or selling agent of farm products is in the Secretary of State's Office. The registration or renewal of registration must be submitted on a form prescribed and approved by the Secretary of State. The form shall be designated "EFS FPR-1". The registration fee is part of the subscription fee.

(2) Registration is part of the process to subscribe for master lists. Each registrant will be assigned a permanent registration number by the Secretary of State. A copy of the administrative rules on

registration is available upon request at no charge. The master list will be accessible to registrants online.

(3) Registration is effective for a period of 12 calendar months. Renewal of registration may be filed at any time after 90 days prior to expiration of a current registration period. The registrant must indicate the registration number on the renewal registration form.

(4) The registration may be amended by filing an amended registration.

(5) The Secretary of State shall maintain a list of all buyers of farm products, commission merchants and selling agents who register with the Secretary of State.

(6) Subscriptions for master lists are made at the time of registration.

(7) A subscription for any master list will be for the period of the registration.

(8) The person registering with the Secretary of State must provide the following information on the Form EFS FPR-1:

(a) Name and mailing address of the registrant. The registrant must identify the registration as being for a buyer, commission merchant or selling agent;

(b) Telephone number;

(c) Number of farm product(s) included in the registration;

(d) Farm product code(s);

(e) Crop year or years for which master list or portion of master list is to be sent;

(f) Indication of the type of master list or portion of master list requested;

(g) Signature of the registrant;

(h) Registration/Subscription fee;

(i) Original registration number, if renewal or amended registration.

(9) Lists will be made available for download in spreadsheet format online to the registrant within seven working days from the end of the month.

(10) Fees.

(a) The registration/subscription fee for the online master list is \$20 per year;

(b) The registration/subscription fee for the alternative paper master list is \$500 per year per product;

(c) Amendment to change a registration name or address is \$10.  
Stat. Auth.: ORS 79.6070 & 79.7010

Stats. Implemented: ORS 79.6070 & 79.7010

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0070; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 1-2011, f. & cert. ef. 9-22-11

### 160-050-0250

#### Forms Used in Oregon Farm Products Central Filing System

The Secretary of State prescribes and approves the list of forms below for use in the Oregon Farm Products Central Filing System:

(1) Form EFS-1 — Farm Products Effective Financing Statement;

(2) Form EFS-3 — Farm Products — Statement of Continuation, Amendment, Assignment and Lapse;

(3) Form EFS-4 — Buyer, Commission Merchant, Selling Agent Registration/ Subscription.

Stat. Auth.: ORS 79.6030

Stats. Implemented: ORS 79.6030

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 2-1987(Temp), f. & ef. 1-9-87; SOS 4-1987, f. & ef. 2-24-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0080; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2008, f. & cert. ef. 1-15-08

### 160-050-0280

#### EFS Search Fees

(1) The Effective Financing Statement search fees are:

(a) UCC-11 information search, Standard form — \$10 per name (each distinct debtor name to be searched);

(b) Requested copies of EFS documents — \$5 per name searched.

(2) Copy fee will be levied per request, whether or not any copies are found.

#### EXAMPLES:

The copy fee for EFS documents found on a search for *John Doe* is:

For Information search, \$10;

Plus, for requested copies, \$5;

Total, \$15.

The copy fee for EFS documents found on a search for *John and Jane Doe* is:

For information search (\$10 per name x 2 =), \$20;

Plus, for requested copies, (\$5 per name x 2 =), \$10;

Total, \$30.

(a) State Seal Certificate — \$10 per certificate; plus, for requested copies — \$5 per name searched;

(b) Copy(ies) of a EFS (filing number provided) — \$5.

Stat. Auth.: ORS 79.6030

Stats. Implemented: ORS 79.6080

Hist.: CORP 1-1995, f. 2-8-95, cert. ef. 9-1-95; CORP 1-2008, f. & cert. ef. 1-15-08

## DIVISION 100

### NOTARIES PUBLIC

#### 160-100-0000

##### Definitions

As used in ORS 194.005 to 194.200, 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620:

(1) “Days” means calendar days.

(2) “File,” “Filed” and “Deliver” means cause to be actually received by the Secretary of State.

(3) “Notarial Record” means any record of any notarial act performed by a notary public, except when a specified record or act is excluded.

(4) “Notary Fee” means any money or other thing of value as consideration for performing a notarial act. A notary fee does not include a fee for traveling to perform a notarial act.

(5) “Official Seal” or “Official Notary Seal” means a stamp made of any substance, capable of making a legible imprint on paper in black ink that can be legibly reproduced by a photographic method and that meets the description of OAR 160-100-0100. An official seal does not include the mechanism to which the stamp is attached.

(6) “Official Seal Embosser” or “Official Notary Seal Embosser” means any device capable of creating an embossed imprint on paper that meets the description of OAR 160-100-0120. An official seal embosser does not include the mechanism to which the embosser plate is attached.

(7) “Secretary of State” means the Notary Public Section of the Secretary of State’s office.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0000

#### 160-100-0010

##### Date of Mailing

Whenever ORS 194.005 to 194.200, 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a document or object to be mailed to the Secretary of State, the date of mailing shall be the date the document or object was actually received by the Secretary of State.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0010; CORP 1-2007, f. 2-15-07, cert. ef. 3-1-07

#### 160-100-0020

##### Name of Notary Public

Whenever ORS 194.005 to 194.200, 194.505 to 194.595, and OAR 160-100-0000 to 160-100-0620 refer to the name of a notary public, the name shall be the legal name of the notary public as it appears on the notary public’s written application for appointment and commission.

For the purposes of this chapter, the legal name on the notary public’s written application for appointment and commission must be proven with satisfactory evidence per ORS 194.515(8).

Stat. Auth.: ORS 194.335  
 Stats. Implemented: ORS 194.014  
 Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0020; CORP 5-2008, f. 9-15-08 cert. ef. 10-15-08

### 160-100-0030

#### Signature of Notary Public

Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a notary public to sign his or her name, the notary public shall sign the legal name that appears on the notary public's written application for appointment and commission.

For the purposes of this chapter, the legal signature on the notary public's written application for appointment and commission must be proven with satisfactory evidence per ORS 194.515(8).

Stat. Auth.: ORS 194.335  
 Stats. Implemented: ORS 194.014  
 Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0030; CORP 5-2008, f. 9-15-08 cert. ef. 10-15-08

### 160-100-0040

#### Administrative Services Fees

The Secretary of State shall charge the following fees for performing the administrative services indicated:

- (1) \$10 for apostilles for public officials and notaries public.
- (2) \$10 for each notary public certificate of good standing.
- (3) \$10 for each notarial act performed by a Corporation Division notary public.
- (4) \$10 for each duplicate notary public commission.
- (5) \$10 for each duplicate Certificate of Authorization to Obtain Official Seal.

(6) \$10 for processing a request to change the notary public's name on the notary public's written commission.

- (7) \$50 for each list of new notaries public.
- (8) \$50 for each standard list of all active notaries public.

Stat. Auth.: ORS 194.052 & 194.164  
 Stats. Implemented: ORS 177.130, 192.440, 194.020 194.052 & 194.164  
 Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; Suspended by SOS-AD 2-1992(Temp), f. & cert. ef. 2-14-92; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0040; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95; CORP 7-2009, f. 12-22-09 cert. ef. 1-1-10; CORP 6-2010, f. 4-27-10, cert. ef. 5-3-10

#### Certificate of Authorization, Official Seal, and Official Seal Embosser

### 160-100-0100

#### Description of Imprint of Official Seal

(1) The reasonably legible imprint of an official seal of a notary public shall contain:

- (a) The state seal, as described in ORS 186.020;
- (b) The following words, in descending order, centered in the official seal to the right of the state seal:
  - (A) The words "Official Seal";
  - (B) The printed name of the notary public;
  - (C) The words "Notary Public — Oregon";
  - (D) The words "Commission No." immediately followed by the notary public's commission number;

(E) The words "My Commission Expires", immediately followed by the notary public's commission expiration date, expressed in terms of the month, two-digit date, and complete year.

(2) The imprint of an official seal of a notary public shall be made with permanent black ink.

EXAMPLES: [Examples not included. See ED. NOTE.]  
 [ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 194.031  
 Stats. Implemented: ORS 194.031  
 Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0010; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0100; CORP 2-2010, f. 1-22-10 cert. ef. 2-3-10; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10; CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10

### 160-100-0110

#### Use of Official Seal

(1) A notary public shall use the notary public's official seal to perform a notarial act.

(2) A notary public shall use the notary public's official seal by placing a legible imprint of the official seal on a notarial certificate.

(3) A notary public shall not place an imprint of the notary public's official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, a notary public may use an additional imprint of the notary public's official seal to mark for identification the document or attachment if the imprint does not make any part of the document or attachment illegible. The additional seal will be partially stamped on the notarial certificate, and partially on the document or attachment to the notarized document.

(5) A notary public shall not use the notary public's official seal for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public's official seal for any purpose.

(7) A notary public shall not use any other notary public's official seal or any other object in lieu of the notary public's official seal to perform a notarial act.

Stat. Auth.: ORS 194.031  
 Stats. Implemented: ORS 194.005 & 194.031  
 Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0110; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10; CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10

### 160-100-0120

#### Description of Official Seal Embosser

(1) An official seal embosser of a notary public shall be two concentric circles each formed by a continuous solid or intermittent line.

(2) The embossment of the official seal embosser of a notary public shall contain the following legible printing:

- (a) The name of the notary public centered at the top and between the two circles;
- (b) The words "STATE OF OREGON" centered at the bottom and between the two circles;
- (c) The word "NOTARY" above the word "PUBLIC" both centered within the inner circle.

Example: [Example not included. See ED. NOTE.]  
 [ED. NOTE: Example referenced is available from the agency.]

Stat. Auth.: ORS 194.031  
 Stats. Implemented: ORS 194.031  
 Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0005; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0120; CORP 8-2010(Temp), f. 6-11-10, cert. ef. 7-1-10 thru 12-28-10; CORP 10-2010, f. 8-30-10, cert. ef. 9-1-10

### 160-100-0130

#### Use of Official Seal Embosser

(1) A notary public may use an official seal embosser to perform a notarial act but only *in addition to* the notary public's official seal.

(2) If a notary public uses an official seal embosser, the notary public shall use it by placing the embossment on a notarial certificate.

(3) A notary public shall not place the embossment over any signature in a document to be notarized or in a notarial certificate nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, such as pictures, a notary public may use an additional embossment of the notary public's official seal to mark for identification the document or attachment if the embossment does not make any part of the document or attachment illegible.

(5) A notary public shall not use the notary public's official seal embosser for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public's official seal embosser for any purpose.

(7) A notary public shall not use any other notary public's official seal embosser or any other object in lieu of the notary public's official seal embosser to perform a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0130

**160-100-0140**

**Filing Imprint of Official Seal with Secretary of State**

A notary public shall file the following information with the Secretary of State within ten days after the date the notary public receives the notary public's official seal and Certificate of Authorization from a vendor of official seals:

(1) An imprint of the notary public's official seal. The imprint shall be placed in the location designated for the imprint on the Certificate of Authorization;

(2) The Certificate of Authorization. The Certificate of Authorization shall be the original Certificate of Authorization issued by the Secretary of State to the notary public. The Certificate of Authorization shall be completed by the vendor with the information required on the Certificate of Authorization.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0140

**160-100-0150**

**Notification of Secretary of State That Certificate of Authorization is Unusable**

(1) A notary public whose Certificate of Authorization is lost, misplaced, destroyed or otherwise unusable shall file with the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable.

(2) The statement shall set forth:

(a) A statement of whether the Certificate of Authorization is lost, misplaced, destroyed or in some other manner made unusable;

(b) An explanation of how the Certificate of Authorization became unusable;

(c) The date the notary public discovered that the Certificate of Authorization was unusable;

(d) If lost or misplaced, a statement that the notary public does not possess the Certificate of Authorization and does not know who possesses it or where it is located;

(e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced Certificate of Authorization, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization;

(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) The Secretary of State shall issue a duplicate Certificate of Authorization to the notary public as if the notary public had made a request pursuant to ORS 194.031(5).

(4) A notary public who is issued a duplicate Certificate of Authorization pursuant to this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's seal and the duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from a vendor of official seals.

(5) If a notary public subsequently reacquires possession of a lost or misplaced Certificate of Authorization, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced Certificate of Authorization within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0150

**160-100-0160**

**Notification of Secretary of State that Official Seal is Unworkable**

(1) A notary public whose official seal is lost, misplaced, destroyed, broken, damaged or otherwise unworkable shall personally deliver or mail to the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable.

(2) The statement shall include:

(a) A statement of whether the official seal is lost, misplaced, destroyed, broken, damaged or in some other manner made unworkable;

(b) An explanation of how the official seal became unworkable;

(c) The date the notary public discovered that the official seal was unworkable;

(d) If lost or misplaced, a statement that the notary public does not possess the official seal and does not know who possesses it or where it is located;

(e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced official seal, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced official seal;

(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) A notary public who is issued a duplicate Certificate of Authorization pursuant to ORS 194.031(5) and this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's official seal and duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from the official seal vendor or vendor's representative.

(4) If a notary public subsequently reacquires possession of a lost or misplaced official seal, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquires possession of the lost or misplaced official seal.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0160

**160-100-0170**

**Concurrent Official Seal**

(1) In addition to the original official seal, a notary public may apply for one duplicate, concurrent official seal.

(2) A notary public requesting a concurrent official seal under this rule shall personally deliver or mail to the Secretary of State a written request under oath or affirmation for a duplicate Certificate of Authorization to Obtain an Official Seal.

(3) The request shall include:

(a) An explanation that the concurrent official seal is needed due to circumstances that would otherwise hinder or prevent carrying out notarial duties in more than one location. Such circumstances could include duty in a secured facility, e.g. a correctional institution, courthouse or jail.

(b) A statement that the concurrent official seal will be kept in a single, secure location for the remainder of the current notary commission, or until the notary no longer has access to that location.

(c) The address of the concurrent official seal location.

(d) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(4) A request for a duplicate Certificate of Authorization may be approved or rejected at the discretion of the Secretary of State. Notification of approval or rejection shall be sent to the applicant within 5 business days of the decision.

(5) The reason(s) for rejection shall be listed on the notification sent to the applicant.

(6) A notary public who is issued a duplicate Certificate of Authorization pursuant to ORS 194.031(5) and this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's concurrent official seal and duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from the official seal vendor or vendor's representative.

(7) Every law governing use of the original official seal applies with equal force to use of a concurrent official seal authorized by this rule.

(8) For purposes of this rule, "original official seal" includes any replacement official seal authorized under OAR 160-100-0160.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.031

Hist.: CORP 3-2005, f. & cert. ef. 11-1-05

### Notarial Journal

#### 160-100-0200

##### Form and Content of Notarial Journal

A notarial journal of a notary public may be in any form that meets the physical requirements set out in this rule and the entry requirements set out in OAR 160-100-0210:

(1) The cover and pages inside the cover shall be bound together by any binding method that is designed to prevent the insertion or removal of the cover or a page;

(2) Each page shall be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number shall be preprinted;

(3) Each line shall be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line shall be numbered with the same number on both pages. A line number shall be preprinted;

(4) A notarial journal of a notary public shall contain on the inside of the front cover or on the first page the following information in any order:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The notary public's residence or business street or mailing address;

(e) The earliest date the journal may be destroyed, which shall be seven years after expiration of the last commission in which entry was made in the journal;

(f) One of the following statements:

(A) That, in the event of the decease of this notary public, the journal shall be delivered or mailed to the Secretary of State; or

(B) That, in the event the notary public has entered into a written agreement with his/her employer pursuant to OAR 160-100-0360, the date such written agreement was entered into, the name and address of the employer and instructions that the journal shall be delivered or mailed to the employer in the event of the decease of the notary public;

(g) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal;

(h) The signature of the notary public;

(i) At the respective time of entry, the dates of the first and last notarial acts recorded in the notarial journal.

**EXAMPLE:** First entry on July 6, 1990, last entry on January 7, 1992.

(5) If a notary public's name, commission number, commission expiration date, destruction date or address that is written in the notarial journal changes before the notary public ceases to use the notarial journal, the notary public shall draw a single line through the old information and write the new information to the side of the old information.

(6) Notwithstanding OAR 160-100-0170, a notary public may not have more than one journal in active use, even if he or she has been issued a concurrent seal. All entries of notarizations shall comply with chronologically consecutive entries in the format outlined by the rules of this chapter.

Stat. Auth.: ORS 194.152

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0200; CORP 2-2007, f. 12-14-07 cert. ef. 1-15-08

#### 160-100-0210

##### Information Required to Be Recorded in Notarial Journal

Except as provided in OAR 160-100-0220 and 160-100-0230, a notary public shall record in a notarial journal the following information about each notarial act performed by the notary public:

(1) The date and time the notarial act was performed;

(2) The type of notarial act performed;

(3) The date of the document notarized;

(4) The type of document notarized;

(5) The printed name of the person whose statement, signature or document was notarized;

(6) The signature of the person whose statement, signature or document was notarized.

(7) A description of how the notary public identified the person whose statement, signature or document was notarized. The description shall be as follows:

(a) If the notary public identified such person by personally knowing the person, then the description shall consist of the statements either "personally known" or "personal knowledge";

(b) If the notary public identified such person by seeing and hearing a credible witness personally known to the notary public testify under oath or affirmation, then the description shall consist of, in the following order, the legal name and residence street address of the witness;

(c) If the notary public identified such person by seeing identification documents, then the description shall consist of, in the following order, the name of the organization that issued the document; the type of document and the document's expiration date. For example, State of Oregon Driver License 8-8-2008.

(8) An entry may contain any other information.

Stat. Auth.: ORS 194.152

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0210; CORP 3-2008, f. 4-15-08, cert. ef. 5-1-08

#### 160-100-0220

##### Abbreviated Multiple Entry in Notarial Journal

(1) If a notary public notarizes duplicate originals of a single statement or document for the same person on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized duplicate original, record a single entry in the notarial journal for all notarizations of the statement or document, which shall set forth all the information required by 160-100-0210, and the total numbers of the statement or document notarized.

(2) If a notary notarizes different statements or documents for the same person on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized statement or document, record a single entry in the notarial journal for all notarizations of such statements or documents, which shall set forth the number of statements or documents and the information required by 160-100-0210(1), (2), (5), (6) and (7), and for each statement or document the information required by 160-100-0210(3) and (4) and, if there are duplicate originals of any statement or document, the total number of the statement or document notarized.

(3) If a notary public notarizes more than one statement, signature or document for the same person but not on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210(5) and (7) for each notarization for that person, record a reference to a prior

entry in the notarial journal for that person (identifying the page and line numbers of the prior entry) which prior entry shall set forth the information required by 160-100-0210(5) and (7).

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0220

#### 160-100-0230

##### Notarial Acts Not Required to Be Recorded in Notarial Journal

A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or documents notarized by the notary public:

- (1) Administering an oath or affirmation;
- (2) Certifying or attesting a copy of a document;
- (3) Affidavits;
- (4) Billing statements for media advertising;
- (5) Protests of commercial paper (to be recorded as provided in

ORS 194.090 and 73.0505).

- (6) Verifications upon oath or affirmation.

Stat. Auth.: ORS 194.152(2)

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; SOS-AD 3-1990(Temp), f. & cert. ef. 7-2-90; SOS-AD 1-1991, f. & cert. ef. 1-7-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0230

#### 160-100-0240

##### Information Required to Be Recorded in Record of Protests

A notary public shall maintain a record of information about each protest of commercial paper performed by the notary public consisting of copies of source originals.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.090

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0240

#### Disposition of Notarial Records Upon Termination of Commission

#### 160-100-0301

##### Disposition of Notarial Records Upon Termination of Commission, Termination of Commission Due to Expiration — No Application for New Commission — ORS 194.154

(1) A notary public whose commission was terminated because of expiration, and who has not applied for a new commission within 30 days after the date of termination shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., expiration;

- (e) The date the notary public stored such notarial records;

(f) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of commission expiration. After the seven-year period, the notary public may destroy such records.

(4) A notary public shall destroy the official seal and/or official seal embosser immediately upon expiration of the commission.

Stat. Auth.: ORS 194.154

Stats. Implemented: ORS 194.154

Hist.: CORP 4-2010, f. 2-22-10, cert. ef. 3-1-10

#### 160-100-0310

##### Termination of Commission Due to Expiration — Application for New Commission Made Within 30 Days

(1) A notary public whose commission was terminated because of expiration and who has filed with the Secretary of State an application for a new commission within 30 days after the date of termination shall retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable.

(2) If the notary public is issued a new commission within three months after the date of termination, then the notary public shall continue to retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable. Such records shall be retained for a period of seven years after the date of expiration of the prior commission during which the records were kept. After the seven-year period, the notary public may destroy such records.

(3) If the notary public is not issued a commission for any reason within three months after the date of expiration, then the notary public shall arrange for the storage of his/her notarial records as required by OAR 160-100-0301.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0310

#### 160-100-0320

##### Termination of Commission Due to Resignation

(1) A notary public whose commission was terminated because of resignation shall arrange for the storage of his/her notarial records, *except records of protests of commercial paper (see OAR 160-100-0350)*, in any form and at any location within 30 days following resignation. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., resignation and an explanation why the notary public is resigning;

- (e) The notary public's resignation date;

- (f) The date the notary public stored such notarial records;

(g) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of resignation. After the seven-year period, the notary public may destroy such records.

(4) At the same time that the notary public files the statement required by section (2) of this rule with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0320

#### 160-100-0330

##### Termination of Commission Due to Revocation

(1) A notary public whose commission was terminated because of revocation shall file his/her notarial records with the Secretary of State within 30 days after the date of revocation.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., revocation;
- (e) The notary public's commission revocation date.

(3) At the same time that the notary public files such records and statement with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of revocation. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0330

### 160-100-0340

#### Termination of Commission Due to Death

(1) Within 30 days of termination of a notary public's commission as a result of death, an heir or personal representative of the notary public shall file the notary public's notarial records with the Secretary of State, *unless the notary public entered into a written agreement with his/her employer pursuant to OAR 160-100-0360.*

(2) The heir or personal representative shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., the notary public is deceased;
- (e) The notary public's date of death.

(3) At the same time that an heir or personal representative files such record and statement with the Secretary of State, an heir or personal representative shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of death of the notary public. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.156

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0340

### 160-100-0350

#### Record of Protests of Commercial Paper

(1) A notary public whose commission terminates because of expiration, resignation or revocation, shall file his/her records of protests of commercial paper and any other notarial record relating only to protests of commercial paper with the Secretary of State within 30 days after the date of termination.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., expiration, resignation or revocation;
- (e) The notary public's commission termination date.

(3) The Secretary of State shall store such records for a period of seven years after the date of termination. After the seven-year period, the Secretary of State may destroy such records.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.130

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0350

### 160-100-0360

#### Notary Public's Responsibilities When Agreement Has Been Entered Into with Employer

A notary public who has entered into an agreement with his/her employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) shall retain a written copy of the agreement which may be examined by the Secretary of State upon request. The agreement shall contain at least the following information:

- (1) Date agreement was entered into;
- (2) Names of parties to agreement;
- (3) Terms of agreement, including retention of records by the employer for a period not less than seven years after termination of the notary's commission;
- (4) Signatures of all parties to agreement.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0360

### Notarial Fees and Waiver of Notarial Fees

### 160-100-0400

#### Maximum Amount of Notary Fees Permitted to be Charged

A notary public shall not charge, attempt to charge, or receive a notary fee that is more than:

- (1) \$10 for taking an acknowledgment;
- (2) \$10 for taking a verification upon an oath or affirmation;
- (3) \$10 for administering an oath or affirmation without a signature;
- (4) \$10 for certifying a copy of a document;
- (5) \$10 for witnessing or attesting a signature;
- (6) \$10 for protesting commercial paper, except a check drawn on an insolvent financial institution in which case the fee is \$0.

Stat. Auth.: ORS 194.164

Stats. Implemented: ORS 194.164

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0400; CORP 7-2009, f. 12-22-09 cert. ef. 1-1-10

### 160-100-0410

#### Displaying List of Notary Fees

A notary public who charges a fee for a notarial act shall either display a list of notary fees specified in OAR 160-100-0400 in a conspicuous location in the notary public's place of business or give a copy of the notice to any person requesting a notarial act to read before having the notarial act performed. A place of business is the notary public's residence, business office or any other location in which the notary public performs a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.162

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0410

### 160-100-0420

#### Filing Statement of Waiver of Notary Fees; Withdrawing Statement of Waiver

(1) A notary public may file with the Secretary of State a statement waiving the right to charge a notary fee.

(2) If a notary public files a written statement of waiver, then the notary public shall:

- (a) Not charge, attempt to charge or receive any notary fee for a notarial act performed after the date the notary public filed the statement of waiver;
- (b) Not display a list of notary fees otherwise required by OAR 160-100-0410.

(3) If a notary public who has filed a statement of waiver wants to charge a fee to perform a notarial act, then notary public shall file with the Secretary of State a written statement withdrawing the statement of waiver and shall comply with the requirements of OAR 160-100-0400 and 160-100-0410.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.010

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0420

### Complaints Against Notaries Public

#### 160-100-0430

##### **Filing Complaint Against Notary Public; Investigation of Notary Public by Secretary of State — ORS 194.335**

(1) A person may file a complaint against a notary public with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of a notary public as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the accused notary public and others under ORS 192.410 to 192.505.

(4) Notwithstanding paragraph (3), personal information of the complainant revealed in a notary public complaint shall not be disclosed if:

(a) The complainant can show that public disclosure thereof would constitute an unreasonable invasion of privacy, unless

(b) In the determination of the Secretary of State, the public interest by clear and convincing evidence requires disclosure in the particular instance.

(c) "Personal information" shall, in this context, include but not be limited to the residence address, phone number and identifying information, such as Social Security Number, driver's license. The name of the complainant and incidental information do not fall within the definition of "personal information."

(5) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

(a) An initial request for information from the accused notary;

(b) A copy of the complaint forwarded to the accused; and

(c) A request for supporting documentation and other sources of information.

(6) A notary, upon request by the Secretary of State, shall disclose the contents of the notary's journal or journals, or any parts thereof, as part of the investigative process. The notary shall provide accurate, true and complete copies of the requested information, and/or shall provide the journal in question for examination by the Secretary of State.

(7) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(8) Failure of an accused notary to comply with Secretary of State investigation directives shall result in revocation of the commission, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0430; CORP 1-2001, f. 6-14-01, cert. ef. 7-1-01

##### **Conviction of a Notary Public or Notary Public Applicant of a Felony or Lesser Offense Incompatible with the Duties of a Notary Public**

#### 160-100-0500

##### **Notification of Secretary of State of Conviction**

Within 30 days of having been convicted of any felony or lesser offense incompatible with the duties of a notary public, the notary public shall file a written statement with the Secretary of State containing the following information:

(1) The name of the notary public;

(2) The notary public's commission number;

(3) The notary public's Commission expiration date;

(4) Type of conviction;

(5) Court and jurisdiction of court in which convicted;

(6) Sentence imposed by court.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0500

#### 160-100-0510

##### **Conviction of a Lesser Offense Incompatible with the Duties of a Notary Public**

"Conviction of a lesser offense incompatible with the duties of a notary public" as cited in ORS 194.166(4) and OAR 160-100-0610(67) shall mean having been convicted in any court of the State of Oregon or any other state or federal jurisdiction of one of the crimes listed below or any comparable crime:

(1) 162.075 — False swearing;

(2) 162.085 — Unsworn falsification;

(3) 162.235 — Obstructing governmental or judicial administration;

(4) 162.295 — Tampering with physical evidence;

(5) 162.305 — Tampering with public records;

(6) 162.335 — Compounding a felony;

(7) 162.355 — Simulating legal process;

(8) 162.365 — Criminal impersonation;

(9) 162.375 — Initiating a false report;

(10) 162.385 — Giving false information to police officer for a citation;

(11) 162.425 — Misuse of confidential information;

(12) 165.007 — Forgery in the 2nd degree;

(13) 165.017 — Criminal possession of a forged instrument in the 2nd degree;

(14) 165.037 — Criminal simulation;

(15) 165.042 — Fraudulently obtaining a signature;

(16) 165.080 — Falsifying business records;

(17) 165.095 — Misapplication of entrusted property;

(18) 165.100 — Issuing a false financial statement;

(19) 165.102 — Obtaining execution of documents by deception;

(20) Any misconduct identified of the notary offenses listed in ORS 194.990;

(21) Any other offense of a similar nature to the above listed crimes which is incompatible with the duties of a notary public.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0510

### Administrative Actions

#### 160-100-0600

##### **Refusal to Issue, Revocation, Suspension, Civil Penalties and Official Warning for Official Misconduct**

(1) OAR 160-100-0610 identifies official misconduct, as defined in ORS 194.005(8), and identifies sanctions that may be taken by the Secretary of State for first acts of misconduct, including refusing to issue, revoking, or suspending a commission in ORS 194.166, assessing a civil penalty in ORS 194.980, or issuing an official warning in ORS 194.985.

(2) The Secretary of State may assess increasingly severe sanctions up to and including a \$1500 civil penalty and revocation of a notary public's commission, where applicable, for:

(a) Failure to correct or cease official misconduct within time periods specified by the Secretary of State in a final order (final notice of assessment) or Official Warning letter;

(b) A repeated act or acts of official misconduct which occur subsequent to any previous sanction assessed by the Secretary of State for the same type of misconduct;

(c) Accumulation of more than one different notary misconducts occurring during a seven-year period.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166, 194.980 & 194.985

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0600

**160-100-0610**

**Conduct Which Constitutes Official Misconduct**

As provided in OAR 160-100-0600, the following conduct constitutes official misconduct, as defined in ORS 194.005, for purposes of refusing to issue, revoke or suspend a notary public's commission pursuant to 194.166, assessing a civil penalty against a person pursuant to 194.980, or issuing an official warning to a person pursuant to 194.985:

(1) A person, who is in the business of making or selling official seals, provided an official seal to a person who did not present to such vendor the original Certificate of Authorization issued by the Secretary of State to the person pursuant to ORS 194.010(2). See 194.010(4)(a). Sanction for First Act of Misconduct: Official warning.

(2) A person performed a notarial act within the state of Oregon when the person was not commissioned as a notary public. See ORS 194.012. Sanction for First Act of Misconduct: Refuse to commission. (Class B Misdemeanor)

(3) A notary public used as an official seal an object that was not a stamp, or was a stamp but the stamp was made of a substance that was incapable of making a legible imprint on paper or was incapable of making an imprint that could be legibly reproduced under a photographic method. See ORS 194.031(1). Sanction for First Act of Misconduct: Official warning.

(4) A notary public, who received the notary public's official seal from a vendor of official seals, did not file with the Secretary of State an imprint of the notary public's official seal and the information required by OAR 160-100-0140 within ten days after the date the notary public received the official seal from the vendor. See ORS 194.031(5). Sanction for First Act of Misconduct: Official warning.

(5) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not personally deliver or mail to the Secretary of State a written notice of that fact within ten days after the date the notary public discovered that the notary public's official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable. See ORS 194.031(6) and OAR 160-100-0160(1). Sanction for First Act of Misconduct: Official warning.

(6) A notary public used the notary public's seal embosser in lieu of the notary public's official seal. See ORS 194.031(7) and OAR 160-100-0130(1). Sanction for First Act of Misconduct: Official warning.

(7) A notary public performed a notarial act in another state pursuant to the authority of the notary public's Oregon commission. See ORS 194.043. Sanction for First Act of Misconduct: Official warning.

(8) A notary public did not deliver or mail to the Secretary of State a written notice of change of address within 30 days after the date the notary public changed the notary public's residence or business street or mailing address. See ORS 194.047 and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(9) A notary public performed a notarial act using a new name different than the notary public's name as it appeared on the notary public's written commission. See ORS 194.052(1). Sanction for First Act of Misconduct: Official warning.

(10) A notary public did not deliver or mail to the Secretary of State a written notice of change of name within 30 days after the date the notary public's name changed. See ORS 194.052(2) and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(11) A notary public who does not meet the qualifications of ORS 194.070(1) protested commercial paper, as provided in 73.0505. Sanction for First Act of Misconduct: Official Warning.

(12) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) but in the certificate did not identify the negotiable instrument protested, certify that due presentment was made or the reason why presentment was excused, or certify that the instrument protested was dishonored by nonacceptance or nonpayment, as required by 73.0505(2). ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(13) A notary public did not keep a record of all certificates of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) issued by the notary public during the term of a commission. See 194.090. Sanction for First Act of Misconduct: Official warning.

(14) A notary public performed an acknowledgment of a document executed by a corporation of which the notary public was a shareholder, director, officer or employee at the time of the notarization when the notary public was a party to the document either in an individual or representative capacity. See ORS 194.100(2)(a). Sanction for First Act of Misconduct: Official warning.

(15) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) that was owned or held for collection by a corporation of which the notary public was a shareholder, director, officer or employee of a corporation at the time of the notarization when the notary public was a party to the negotiable instrument in an individual capacity. See 194.100(2)(b). Sanction for First Act of Misconduct: Official warning.

(16) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) of a non-commercial or other document that does not fit the definition of negotiable instrument as defined in 73.0104. See 194.070. Sanction for First Act of Misconduct: Official warning.

(17) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) in a manner not in accordance with 73.0505. See 194.070. Sanction for First Act of Misconduct: Official warning.

(18) A notary public did not provide, keep, maintain or protect a chronological journal of notarial acts performed by the notary public during the term of a commission. See ORS 194.152(1). Sanction for First Act of Misconduct: Official warning.

(19) A notary public whose commission was terminated because of expiration and who did not reapply did not arrange for the storage of his/her notarial records, file a statement with Secretary of State or destroy the notary public's official seal and official seal embosser, if any. See ORS 194.154 and OAR 160-100-0301. Sanction for First Act of Misconduct: Official warning.

(20) A notary public whose commission terminated because of resignation did not arrange for the storage of his/her notarial records, file a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0320. Sanction for First Act of Misconduct: Official warning.

(21) A notary public whose commission terminated because of revocation did not file his/her notarial records, a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0330. Sanction for First Act of Misconduct: \$500.

(22) A notary public whose commission terminated because of expiration and who filed an application for a new commission within 30 days after the date of termination but was not issued a new commission within 90 days after the date of termination, did not dispose of the notary public's notarial records in accordance with OAR 160-100-0310 within 90 days after the date of termination. See ORS 194.154(3). Sanction for First Act of Misconduct: Official warning.

(23) A notary public notarized a document in which the notary public signed or was named other than as a notary public. See ORS 194.158(1). Sanction for First Act of Misconduct: Official warning.

(24) A notary public endorsed or promoted a product, service, contest or other offering by using the notary public's title or official seal. See ORS 194.158(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(25) A notary public made a representation that the notary public had powers, qualifications, rights or privileges that the notary public did not have. See ORS 194.162(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(26) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement the statement: "I am not licensed to practice law in the state of

Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice.” This should be written in the same language used in the advertisement and in English and prominently displayed. See ORS 194.162(3)(a) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(27) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement a list of notarial fees specified in OAR 160-100-0410. See ORS 194.162(3)(b) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(28) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not display the statement and list of notarial fees required by ORS 194.162(3) in a conspicuous place in the notary public’s place of business. See ORS 194.162(4) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(29) A notary public used the term “notario publico” or a non-English equivalent term in a business card, advertisement, notice, sign or in any other manner which misrepresents the authority of the notary public. See ORS 194.162(5). Sanction for First Act of Misconduct: Official warning.

(30) A notary public who charged a fee for traveling to perform a notarial act did not explain to the person who requested the notarial act that the traveling fee was in addition to the fee to perform the notarial act or was not required by law, or did not obtain in advance the agreement of the person who requested the notarial act to the amount of the traveling fee. See ORS 194.164(2). Sanction for First Act of Misconduct: Official warning.

(31) A notary public, except a notary public who filed with the Secretary of State a statement waiving the right to charge a notary fee, did not comply with the fee display requirements specified in OAR 160-100-0410. See ORS 194.164(3). Sanction for First Act of Misconduct: Official warning.

(32) A notary public failed to maintain the qualifications to be a notary public required under ORS 194.022. See ORS 194.166(1). Sanction for First Act of Misconduct: Revocation of commission.

(33) A notary public purports to be a citizen of a country other than one officially recognized by the United States Department of State. See ORS 194.005(3). Sanction for First Act of Misconduct: Official warning.

(34) A notary public or notary public applicant made a substantial and material misstatement or omission of fact in an application submitted to the Secretary of State. See ORS 194.166(2). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(35) A notary public or notary public applicant was convicted of a felony, or of a lesser offense incompatible with the duties of a notary public. See ORS 194.166(4) and OAR 160-100-0510. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(36) A notary public or a notary public applicant had a professional license that was issued by a governmental entity revoked, suspended, restricted or denied for misconduct, dishonesty or a cause substantially relating to the duties or responsibilities of a notary public. See ORS 194.166(5). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(37) A notary public was judicially determined to be liable for damages in a suit for fraud or misrepresentation or in a suit for failing to discharge fully and faithfully the duties as a notary public. See ORS 194.166(6). Sanction for First Act of Misconduct: Revocation of commission.

(38) A notary public used a false or misleading advertisement in which the notary public represented that the notary public had powers, qualifications, rights or privileges that the office of notary public does not have, including but not limited to the power to counsel on immigration matters. See ORS 194.166(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(39) A notary public engaged in the unauthorized practice of law. See ORS 194.166(8). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(40) A notary public charged a notary fee that was more than the maximum fee specified in OAR 160-100-0400. See ORS 194.166(9). Sanction for First Act of Misconduct: \$500 civil penalty.

(41) A notary public committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another. See ORS 194.166(11). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(42) A notary public executed a notarial certificate that contained a statement known to the notary public to be false. See ORS 194.166(13). Sanction for First Act of Misconduct: \$500 civil penalty.

(43) A notary public used an official seal or official seal embosser that did not conform to ORS 194.031, OAR 160-100-0100 and 160-100-0120 to perform a notarial act. See ORS 194.166(14). Sanction for First Act of Misconduct: Official warning.

(44) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in 194.515(6) and 194.515(8) that the person acknowledging a document as defined in 194.505(1) in the presence of the notary public was the person whose signature was on the document. See 194.515(1). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(45) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in 194.515(6) and 194.515(8) that the person verifying a statement by oath or affirmation as defined in 194.505(3) in the presence of the notary public is the person whose signature was on the statement. See 194.515(2). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(46) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in 194.515(6) and 194.515(8) that the signature on a document was the signature of the person signing the document in the presence of the notary public and named in the document. See 194.515(3). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(47) A notary public did not determine from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) that the copy of a document presented to the notary public was a complete and correct transcription or reproduction of the document presented. See 194.515(4). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(48) A notary public did not determine or from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) the identity of the negotiable instrument, that presentment was required and made, or that presentment was excused and not made and the reason why presentment was excused, that the instrument was dishonored by nonacceptance or nonpayment, or all or any combination of the above. See 194.515(5). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(49) A notary public did not evidence a notarial act by issuing a notarial certificate as defined in ORS 194.005(5) containing the signature of the notary public, the title of the notary public, the date the notary public’s commission expires, the date the notary public performed the notarial act, the name of the governmental jurisdiction in which the notarial act was performed, the official seal of the notary public, and, if a United States commissioned officer on active duty, then also the notary public’s military rank. See 194.565(1). Sanction for First Act of Misconduct: Official warning.

(50) A notary public did not evidence a notarial act by a notarial certificate as defined in ORS 194.005(5) in a form prescribed by a law of the United States or of the State of Oregon or, if not prescribed, then in a form permitted by ORS 194.575 or in a form designed by the notary public that describes the acts of the notary public and such acts meet all of the requisite elements of the notar-

ial act. See ORS 194.565(2). Sanction for First Act of Misconduct: Official warning.

(51) A notary public engaged in any other act or omission involving any act prohibited or mandated by ORS 194.005 to 194.200, 194.505 to 194.595 or any rule adopted by the Secretary of State or any other law governing notarization. See ORS 194.005(8). Sanction for First Act of Misconduct: \$500 civil penalty.

(52) A notary public did not use the notary public's official seal in performing a notarial act. See ORS 160-100-0110(1). Sanction for First Act of Misconduct: Official warning.

(53) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but did not place an imprint of the official seal or official seal embosser on a notarial certificate. See ORS 160-100-0110(2) and 160-100-0130(2). Sanction for First Act of Misconduct: Official warning.

(54) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but placed an imprint of the official seal or official seal embosser over any signature in a document to be notarized or in a notarial certificate or over any writing in a notarial certificate. See ORS 160-100-0110(3) and 160-100-0130(3). Sanction for First Act of Misconduct: Official warning.

(55) A notary public used the notary public's official seal or official seal embosser for a purpose other than to perform a notarial act. See ORS 160-100-0110(5) and 160-100-0130(5). Sanction for First Act of Misconduct: Official warning.

(56) A notary public permitted another person to use the notary public's official seal or official seal embosser. See ORS 160-100-0110(6) or 160-100-0130(6). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(57) A notary public used another notary public's official seal or official seal embosser or an object in lieu of the notary public's official seal or official seal embosser to perform a notarial act. See ORS 160-100-0110(7) and 160-100-0130(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(58) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement, under oath or affirmation within ten days after the date the notary public discovered that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable. See ORS 160-100-0150(1). Sanction for First Act of Misconduct: Official warning.

(59) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement containing the information required by ORS 160-100-0150(2). See ORS 160-100-0150(2). Sanction for First Act of Misconduct: Official warning.

(60) A notary public, who was issued a duplicate Certificate of Authorization pursuant to ORS 160-100-0150 and 160-100-0160, did not file with the Secretary of State an imprint of the notary public's seal and duplicate Certificate of Authorization within ten days after the notary public received the completed duplicate Certificate of Authorization from a vendor of official seals. See ORS 160-100-0150(4) and 160-100-0160(3). Sanction for First Act of Misconduct: Official warning.

(61) A notary public who subsequently reacquired possession of a lost, misplaced, destroyed or otherwise unusable Certificate of Authorization did not file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquired possession of the unusable Certificate of Authorization. See ORS 160-100-0150(5). Sanction for First Act of Misconduct: Official warning.

(62) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not file with the Secretary of State a written statement containing the information required by ORS 160-100-0160(2). See ORS 160-100-0160(2). Sanction for First Act of Misconduct: Official warning.

(63) A notary public who subsequently reacquired possession of a lost or misplaced official seal did not file with the Secretary of State a written statement of explanation and the lost or misplaced

official seal within ten days after the date the notary public reacquired possession of the lost or misplaced official seal. See ORS 160-100-0160(4). Sanction for First Act of Misconduct: Official warning.

(64) A notary public used a notarial journal that was not in the form required by ORS 160-100-0200. See ORS 160-100-0200. Sanction for First Act of Misconduct: Official warning.

(65) A notary public did not enter in a notarial journal the information about each notarial act performed by the notary public required by ORS 160-100-0210. See ORS 160-100-0210. Sanction for First Act of Misconduct: Official warning.

(66) A notary public recorded information about multiple notarial acts performed by the notary public in a manner that did not comply with the requirements of ORS 160-100-0220. See ORS 160-100-0220. Sanction for First Act of Misconduct: Official warning.

(67) A notary public used a record of protests that did not contain the information about each certificate of dishonor issued by the notary public required by ORS 160-100-0240. See ORS 160-100-0240. Sanction for First Act of Misconduct: Official warning.

(68) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the notary public's record of protests and any other notarial records relating only to protests of commercial paper in accordance with ORS 160-100-0350 within 30 days after the date of termination. See ORS 160-100-0350(1). Sanction for First Act of Misconduct: Official warning.

(69) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the statement required by ORS 160-100-0350(2) within 30 days after the date of termination. See ORS 160-100-0350(2). Sanction for First Act of Misconduct: Official warning.

(70) A notary public who entered into an agreement with an employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) did not retain a written copy of the agreement or make such available upon request of the Secretary of State. See ORS 160-100-0360. Sanction for First Act of Misconduct: Official warning.

(71) A notary public who was convicted for a felony or lesser offense incompatible with the duties of a notary public did not file a statement with the Secretary of State within 30 days of conviction. See ORS 160-100-0500. Sanction for First Act of Misconduct: \$500 civil penalty.

(72) A notary public who submits the following types of documents to the Secretary of State in reply to correspondence from the Secretary of State or other government agency or seeks to initiate proceedings through the following document types:

(a) Conditional Acceptance, or a similar document purporting to "conditionally accept" presentment of an official document, and demanding proof of a list of claims in order to fully accept the official document.

(b) Affidavit in Support of Conditional Acceptance, or a similar document purporting to attest to the facts of a document described in paragraph (71)(1) and signed by the same notary public who is attesting.

(c) Notice of Dishonor, or a similar document purporting to give notice that a Conditional Acceptance (see paragraph (71)(1)) has not been accepted by the government agency to which it was sent and thereby was dishonored.

(d) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official document sent to the notary public by the Secretary of State or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(e) Notice of Protest, or a similar document purporting to be a Protest of Commercial Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under ORS Chapter 73 and subject to the laws stated therein regarding dishonor and protest.

(f) Other documents attempting to apply ORS Chapter 73 to non-negotiable instruments or other documents not included in the scope of said chapter.

(g) Other document type purporting to follow the Uniform Commercial Code (U.C.C.), and not related to an ORS Ch. 79 filing.

(h) Other document type purporting to be according to ORS Ch. 79 that does not constitute filing under ORS Ch. 79.0516. See ORS 194.166. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.166, 194.980 & 194.070

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0610; CORP 1-2003, f. 3-14-03, cert. ef. 4-1-03; CORP 6-2009, f. 12-22-09 cert. ef. 1-1-10

#### 160-100-0620

##### Appeal Process

In the event the Secretary of State sanctions a notary public for official misconduct or proposes to refuse to appoint or proposes to revoke or suspend a commission, an opportunity for a public hearing will be provided pursuant to ORS 194.168, 194.990, the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.168

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0620

#### 160-100-0700

##### Satisfactory Evidence

For the purposes of 194.515:

(1) "Current" means not expired.

(2) "United States passport" means a U.S. passport and a U.S. passport card issued by the U.S. Department of State.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.515

Hist.: CORP 8-2009, f. 12-22-09 cert. ef. 1-1-10

#### Notary Public Education

#### 160-100-1000

##### Definitions

(1) Certificate of Approval. The Oregon Secretary of State Certificate of Approval (OAR 160-100-1010) signifies only that the provider named therein offers an education program curriculum similar to the education program curriculum offered by the Secretary of State and has complied with the requirements of these rules. The Certificate of Approval does not imply endorsement of the provider, nor any products or services offered by the provider.

(2) Certificate of Education. The Certificate of Education (OAR 160-100-1060) signifies that the person named therein has completed the approved three-hour education program provided by the provider.

(3) Course of study. For the purposes of this division, "course of study" applies only to a live classroom or on-line education.

(4) Notary public applicant. For the purposes of this division, a "notary public applicant" is a person who applies for a commission as an Oregon notary public, who does not already hold a current notary public commission, and who must attend a three-hour course of instruction in order to qualify for commission as a notary public.

(5) Provider. For purposes of this division, a "provider" is an individual or business entity that provides a notary public education course of study.

(6) Oregon business registration number. For the purposes of these rules, an Oregon business registration number is the number assigned by the Corporation Division to a corporation, partnership or assumed business name that indicates registration in the public record of the Division.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1010

##### Provider Certificate of Approval

Before offering any course of study pursuant to ORS 194.028, a provider must obtain a Certificate of Approval from the Secretary of State for each course of study offered.

(1) To apply for a Certificate of Approval, a provider must submit to the Secretary of State a completed Notary Public Education Provider Application or Amendment form, hereby incorporated by reference, an active Oregon business registration number, and a lesson plan satisfying the requirements in OAR 160-100-1020.

(2) The Secretary of State will issue either a Certificate of Approval, in accordance with paragraph (3), or a deficiency notice, in accordance with OAR 160-100-1030, within 90 days of receipt of an application and lesson plan.

(3) Upon approval of an application and lesson plan, the Secretary of State will send a Certificate of Approval to the provider by first class mail to the address listed on the Notary Public Education Provider Application or Amendment form.

(4) The Certificate of Approval will include the following:

(a) The name of the approved provider as listed on the Notary Public Education Provider Application or Amendment form.

(b) The address listed on the Notary Public Education Provider Application or Amendment form.

(c) The three letter provider identification code issued by the Secretary of State.

(d) The date the course of study was approved by the Secretary of State.

(5) An approved provider must not alter or substitute the lesson plan reviewed and approved by the Secretary of State, unless the revisions are approved by the Secretary of State in accordance with OAR 160-100-1050.

(6) For the purposes of this chapter, a provider must be authorized to transact business in Oregon in order to be certified. Authorization to transact business must be evidenced by an active Oregon business registration number.

(7) For the purposes of this chapter, an approved provider is responsible for all employees, agents, instructors, contractors, and subcontractors providing or involved in providing an approved course of study on behalf of the approved provider and the acts of the employees, agents, instructors, contractors, and subcontractors will be deemed the acts of the approved provider.

(8) The Certificate of Approval will expire 3 years from the date of issuance, and it must be renewed to continue as a state-approved course of instruction. A provider may apply for renewal up to 90 days before the expiration of the Certificate. Upon expiration of the Certificate, the provider must submit a new application, not a renewal, in order to offer state-approved education.

(9) A Certificate of Approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1020

##### Lesson Plan

A lesson plan must meet the following requirements:

(1) The lesson plan must be based on the laws of Oregon concerning the functions and duties of a notary public. The lesson plan must cover at least the Oregon Notary Public Knowledge Statements, hereby incorporated by reference. The Oregon Notary Public Knowledge Statements may be obtained from the Secretary of State by request.

(2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Secretary to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan must contain the procedures to ensure that a person attending a course of study is present for the required time.

(5) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any;

(b) Each major subject area;

(c) Each audio visual aid to be used, if any;

(d) Each student participation activity, if any;

(e) Completion, correction, and discussion of any practice tests used and the method of correction to be used, if any.

(6) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider must include the movie or video in the materials presented to the Secretary of State for review.

(7) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.

(8) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of instruction.

(9) All materials submitted to the Secretary of State under this rule become the property of the Secretary of State and may be returned to the provider at the sole discretion of the Secretary.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

### 160-100-1030

#### Deficient Application or Lesson Plan

(1) If the Secretary of State determines that a Notary Public Education Provider Application or Amendment form is incomplete, or that a lesson plan does not satisfy the requirements of ORS 194.028 or this chapter, the Secretary of State will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider's address listed on the Notary Public Education Provider Application or Amendment form.

(2) A provider has 30 days from the date on which the deficiency notice was mailed by the Secretary of State to submit documentation to the Secretary of State curing the deficiencies identified in the deficiency notice.

(3) The Secretary of State may issue more than one deficiency notice to a provider regarding the same Notary Public Education Provider Application or Amendment form and lesson plan at any time during the review process.

(4) The Secretary of State may disapprove a Notary Public Education Provider Application or Amendment form if the deficiencies are not cured in accordance with paragraph (2).

(5) After the disapproval of a provider's application or amendment, the provider has the right to a hearing on the matter, and the proceeding will be conducted in accordance with the contested case procedures set out in ORS 184.413 through 183.500, and the Attorney General's Model Rules of Procedure for Contested Cases.

(6) Upon the effective date of a final order in a contested case, or if the final order is appealed, a final appellate judgment disapproving an application or amendment, a provider may cure the deficiencies identified in the decision by submitting a Notary Public Education Provider Application or Amendment form in accordance with OAR 160-100-1030.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

### 160-100-1040

#### Notification of Changes of Approved Provider Information

Within 30 days of any changes in the information contained in the most recent application approved by the Secretary of State, an approved provider must submit to the Secretary of State a Notary Public Education Provider Application or Amendment form identifying the changes. An approved provider may confirm receipt by the Secretary of State by phone or e-mail.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

### 160-100-1050

#### Lesson Plan Revisions

(1) Within 30 days of the effective date of a new Oregon law or rule concerning the duties and functions of notaries public, an approved provider must revise an approved lesson plan as necessary

to ensure that the information provided in an approved course of study reflects the new Oregon law or rule.

(2) Any provider-initiated revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Secretary of State at least 30 days before implementing the proposed revisions in an approved course of study.

(3) To apply for a Certificate of Approval for a revised lesson plan, an approved provider must submit a completed Notary Public Education Provider Application or Amendment form, and a revised lesson plan in accordance with OAR 160-100-1020.

(4) The provisions in OAR 160-100-1010, 160-100-1020, and 160-100-1030 apply to a revised lesson plan.

(5) Upon approval of a revised lesson plan, the Secretary of State will issue a Certificate of Approval pursuant to OAR 160-100-1010.

(6) A provider may only follow the lesson plan corresponding to the most current Certificate of Approval.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

### 160-100-1060

#### Certificate of Education

(1) An approved provider must issue a Certificate of Education to a notary public applicant upon completion of an approved course of study, as provided in section (3).

(2) The Certificate of Education shall be issued by the provider to a notary public applicant only after the person has completed the approved course of study.

(3) The Certificate of Education must consist of a certificate signed by an approved provider or an employee, agent, instructor, contractor, or subcontractor of an approved provider, which contains the following information:

(a) The name of the approved provider as it appears on the Certificate of Approval issued by the Secretary of State for the approved course of study;

(b) The name of the notary public applicant who completed the approved course of study;

(c) The date the notary public applicant completed the approved course of study;

(d) The Notary Education Identification Number, consisting of the Provider Identification Code and a unique six-digit number;

(e) The statements that:

(i) The Certificate of Education must be valid for a period of six months from the date of issuance; and

(ii) The student must provide the Notary Education Identification Number on the notary public application when submitted to the Secretary of State.

(4) The Certificate of Education of an approved course of study is for six months from the date of issuance.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

### 160-100-1070

#### List of Attendees

(1) An approved provider must maintain a list of persons who attend each session of an approved course of study.

(2) The List of Attendees must be maintained for a period of five years from the date of issuance of the Certificates of Education corresponding to that session.

(3) The list must include the following:

(a) The name of the approved provider as listed in the Certificate of Approval for the approved course of study;

(b) The provider identification code issued by the Secretary of State;

(c) The name of the instructor or instructors who taught the approved course of study;

(d) The date, time, and location of the approved course of study;

(e) The names of all the attendees in alphabetical order by the last name of the attendee;

(f) The Notary Education Identification Number corresponding to the attendee, if any.

(4) An approved provider must not collect the social security numbers of any attendees.

(5) Upon request, an approved provider must submit a list of attendees in a data format approved by the Secretary of State.

(6) An approved provider, former approved provider, or employee, agent, instructor, contractor, or subcontractor of an approved provider or former approved provider must not copy or release any list of attendees or any information contained therein to any person, except the Secretary of State, Attorney General, a district attorney, or a city attorney.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1080

##### Secretary of State Attending Approved Course of Study

An approved provider must permit the Secretary of State or representatives of the Secretary of State to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing, and investigating the instruction given.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1090

##### Duty to Respond to a Written Request from the Secretary of State

An approved provider must respond in writing within 30 days of receiving a written request for information from the Secretary of State. A written request may be sent to the mailing address, facsimile number, or e-mail address listed on the most current Notary Public Education Provider Application or Amendment form filed pursuant to OAR 160-100-1020 or 160-100-1050.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1100

##### Cancellation or Delay of Scheduled Approved Course of Study

(1) Before charging any fees to a notary public applicant for an approved course of study, an approved provider must disclose the refund policy of the approved provider.

(2) An approved provider must refund all fees within 30 days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(a) An instructor fails to appear at the scheduled time, date, or place of the approved course of study;

(b) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, and a notary public applicant immediately informs the approved provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start; or

(c) The provider does not hold a current Certificate of Approval from the Secretary of State.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1105

##### Complaints Against an Approved Provider

(1) A person may file a complaint against an approved provider with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of an approved provider as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the approved provider and others in conformity with ORS 192.410 to 192.505.

(4) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

(a) An initial request for information from the accused provider;

(b) A copy of the complaint forwarded to the accused; and

(c) A request for supporting documentation and other sources of information.

(5) A provider, upon request by the Secretary of State, shall provide accurate, true and complete copies of the requested information.

(6) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(7) Failure of an approved provider to comply with Secretary of State investigation directives shall result in revocation of the Certificate of Approval, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1110

##### List of Approved Providers

(1) The Secretary of State may also make a list of approved providers available online at the Corporation Division's website. The approved provider list may include the following information:

(a) The name of approved provider.

(b) Contact information — a mailing address; a telephone number; a fax number; an e-mail address; and a website address.

(2) The Secretary of State may only update the list of approved providers to add, delete, or amend approved provider information that is filed in accordance with OAR 160-100-1040. A list of approved providers may be updated by the first day of each month following the month during which there were additions, deletions, or amendments to the list of approved providers.

(3) The Secretary of State reserves the right to delete any information from the list compiled pursuant ORS 194.028 or section (2) of this rule that the Secretary of State determines is misleading to the public or of an inappropriate nature.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06; CORP 7-2010, f. & cert. ef. 6-1-10

#### 160-100-1120

##### Renewal of a Certificate of Approval

Ninety days before the certificate's expiration, the Secretary of State will notify a provider, by e-mail, fax, or written mail, of the need to renew the provider's Certificate of Approval.

Statutes Implemented: ORS 194.028

Statutory Authority: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

#### 160-100-1130

##### Grounds for Termination of a Certificate of Approval

The Secretary of State may terminate a Certificate of Approval upon any of the following grounds:

(1) Violation of any of the provisions of this chapter or ORS 194.028.

(2) Misrepresentation of the laws of Oregon concerning the duties and functions of a notary public.

(3) Deviation from the lesson plan for a course of study approved by the Secretary of State.

(4) Failure to respond to a request from the Secretary of State.

(5) Representations by the provider that any product, goods, or services provided by the provider are endorsed, recommended or required by the Secretary of State. Certification only recognizes that the education program curriculum of the provider is similar to the state's curriculum.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

**160-100-1140**

**Termination of Certificate of Approval**

(1) If the Secretary of State proposes to terminate the Certificate of Approval of a provider, opportunity for hearing shall be accorded as provided in the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

(2) If the provider does not request a hearing, termination shall be effective 21 days after the termination notice.

(3) The cancellation of the provider's Certificate of Approval does not bar the Secretary of State from instituting or continuing an investigation or disciplinary proceedings.

(4) Upon completion of the disciplinary proceedings, the Secretary of State may enter an order finding the facts and stating the conclusion that the fact would or would not have constituted grounds for termination of the Certificate of Approval if the Certificate of Approval had still been in effect.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

**160-100-1150**

**Cancellation of Certificate of Approval**

(1) An approved provider may cancel its Certificate of Approval by submitting a written notice of cancellation to the Secretary of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the Certificate of Approval is 30 days after receipt of the notice of cancellation. The provider may confirm receipt by the Secretary of State by phone or e-mail.

(2) Within 30 days of the effective date of a cancellation of a Certificate of Approval, a provider must refund all fees to all individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

