

Enrolled
Senate Bill 687

Sponsored by COMMITTEE ON JUDICIARY (at the request of Representative Tina Kotek)

CHAPTER

AN ACT

Relating to lawyer trust accounts; amending ORS 98.352, 98.386 and 98.392; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 98.352 is amended to read:

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

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

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

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

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

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

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

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

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

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

(3) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has had a name change while holding the property, the holder shall file with the report all prior known names and addresses and effective dates of changes if known of each holder of the property.

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

remitted to the department. All lists of records or property held by a government or public authority under ORS 98.336 shall be exempt from public review until 24 months after the property is remitted to the department.

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

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

[6] (7) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

SECTION 2. ORS 98.386 is amended to read:

98.386. (1) **Except as provided in subsection (2) of this section**, all funds received under ORS 98.302 to 98.436 and 98.992, including the proceeds from the sale of unclaimed property under ORS 98.382, shall be deposited by the Department of State Lands in the Common School Fund Account with the State Treasurer. Before making the deposit the department shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the unclaimed property and the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due.

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

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

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

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

(c) Reasonable service charges.

SECTION 3. ORS 98.392 is amended to read:

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

(2) If a claim is filed under this section for amounts identified as lawyer trust account funds in the report required by ORS 98.352, the department shall forward the claim to the Oregon State Bar for review and for payment by the Oregon State Bar if the claim is allowed. The department and the Oregon State Bar shall adopt rules for the administration of claims subject to this subsection.

Passed by Senate May 5, 2009

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Secretary of Senate

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President of Senate

Passed by House June 2, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State