

D R A F T

SUMMARY

Modifies provisions relating to mailing of notice of appeal.

A BILL FOR AN ACT

Relating to notices of appeal; amending ORS 19.260.

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

SECTION 1. ORS 19.260 is amended to read:

19.260. (1)(a) Filing a notice of appeal in the Court of Appeals or the Supreme Court may be accomplished by mail or delivery. Regardless of the date of actual receipt by the court to which the appeal is taken, the date of filing the notice is the date of mailing or dispatch for delivery, if the notice is:

(A) Mailed by [*registered or certified mail*] **any class of mail from the United States Postal Service** and the party filing the notice has proof from the United States Postal Service of the mailing date; or

(B) Mailed or dispatched via [*the United States Postal Service or*] a commercial delivery service by a class of delivery calculated to achieve delivery within three calendar days, and the party filing the notice has proof from [*the United States Postal Service or*] the commercial delivery service of the mailing or dispatch date.

(b)(A) Proof of the date of mailing or dispatch under this subsection must be certified by the party filing the notice and filed thereafter with the court to which the appeal is taken. Any record of mailing or dispatch from the United States Postal Service or the commercial delivery service showing the date that the party initiated mailing or dispatch is sufficient proof of the

1 date of mailing or dispatch. If the notice is received by the court on or before
2 the date by which the notice is required to be filed, the party filing the no-
3 tice is not required to file proof of mailing or dispatch.

4 **(B) If the notice is mailed via the United States Postal Service first**
5 **class mail, the date shown on the postmark affixed by the United**
6 **States Postal Service constitutes sufficient proof of mailing or dis-**
7 **patch under this subsection.**

8 (2)(a) Service of notice of appeal on a party, transcript coordinator or the
9 trial court administrator, or service of a petition for judicial review on a
10 party or administrative agency may be accomplished by:

11 (A) First class, registered or certified mail; or

12 (B) Mail or dispatch for delivery via the United States Postal Service or
13 a commercial delivery service by a class of delivery calculated to achieve
14 delivery within three calendar days.

15 (b) The date of serving the notice under this subsection is the date of
16 mailing or dispatch. The party filing the notice must certify the date and
17 method of service.

18 (3) Notwithstanding subsections (1) and (2) of this section, if the party
19 filing a notice of appeal is involuntarily confined in a state or local gov-
20 ernmental facility, the date of filing of a notice of appeal in the Court of
21 Appeals or the Supreme Court, and the date of service under subsection (2)
22 of this section, is the date on which the party delivers the original notice
23 of appeal, and the appropriate number of copies of the notice for service
24 under subsection (2) of this section, to the person or place designated by the
25 facility for handling outgoing mail.

26 (4) Except as otherwise provided by law, the provisions of this section are
27 applicable to petitions for judicial review, cross petitions for judicial review
28 and petitions under the original jurisdiction of the Supreme Court or Court
29 of Appeals.

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