

CHAPTER 80. UNCLAIMED PROPERTY

Editor's Note: Effective July 1, 1999, "all administrative rules promulgated by the Tax Commission [at OAC 710:80] pursuant to the Uniform Unclaimed Property Act [were] transferred to [this Chapter] and [became] a part of the administrative rules of the State Treasurer" [Laws 1999, c. 10, § 1(D)]. For additional information about this transfer, see Laws 1999, c. 10, 60 O.S., §§ 681, 683.1, and 688, and the Editor's Notice published at 17 Ok Reg 217.

[Authority: 60 O.S., §§ 681, 683.1, and 688]

[Source: Codified 7-1-99]

SUBCHAPTER 1. GENERAL PROVISIONS

735:80-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration and enforcement of the provisions of the Oklahoma Uniform Unclaimed Property Act (60 O.S. §§651 et seq.).

[Source: Transferred from 710:80-1-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

735:80-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the Administrator of the Unclaimed Property Division of the Office of the State Treasurer.

"Aggregate reporting" means the reporting of monies in the aggregate when the monies are due unknown owners, or reporting of property less than fifty dollar (\$50.00) amounts which are not one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions, and other sums presumed abandoned pursuant to subsection D of

Section 655 of this title.

"Apparent owner" means the name of the owner who appears, from the records of the holder, to be the owner of the unclaimed property held by the holder.

"Attorney general" means the Chief Legal Officer of the State of Oklahoma.

"Audit costs" means any cost incurred during the normal course of an audit. Costs shall include travel, lodging, meals, hourly cost, and miscellaneous costs such as toll, parking, etc. Travel, lodging, and meals will be computed at the statutorily mandated cost as set forth by Oklahoma statutes. [See: 74 O.S. §§500.1 et seq.]

"Claim" means the demand with the necessary supporting ownership documents made by any person, who has or appears to have an interest in the unclaimed property or the proceeds from the sale of unclaimed property.

"Claimant" means a person or entity making a claim, who has stated his interest in the unclaimed property or the proceeds from the sale of unclaimed property.

"Claims process" means the review process designed to match claimant documentation submitted in support of the claim, to the information reported by the holder for the purpose of returning unclaimed or abandoned property to the rightful owner. Claims inquiries, submitted by claimants on appropriate claim forms, are reviewed by the designated employees of the Office of State Treasurer authorized to make recommendations to the Treasurer for payment or delivery of unclaimed property, or proceeds thereof, to the claimant.

"Commission" or **"Tax Commission"** means the Oklahoma Tax Commission.

"Current balance" means all monies held for an owner which has accrued to the "as of" date for the current report year.

"Date of last transaction" means the last date of owner contact or owner generated activity, or the date when property became due and payable. For mineral interest proceeds, the "date of the last transaction" means the first payable date of monies due the owner, the pooling order date, or in the case of unsigned division orders, the date monies first became due and payable to other owners in the same property.

"Documentation" means information supplied to the Office of State Treasurer by the claimant and/or the holder, which is used as a basis to determine ownership of the property which has been deemed to be abandoned or unclaimed. Insufficient documentation will result in claims denial.

"Domicile" means the state of incorporation of a holder or the state of the principal place of business of an unincorporated holder.

"Hearing" means an administrative review of a decision made by the Unclaimed Property Division of the Office of State Treasurer, held before a hearing examiner designated by the State Treasurer, to resolve a formal protest filed by a holder or a claimant against the decision made by the Unclaimed Property Division. After the review of the documentation and, based upon the recommendations of the hearing examiner, the Treasurer issues an Order stating the final decision.

"Holder" means any person, partnership, corporation, or any other form of legal or commercial entity who has filed or is required to file an unclaimed property report(s) with the Treasurer under the Uniform Unclaimed Property Act.

"Income" or "Increment" means any increases in the amount of unclaimed property, including but not limited to, dividends, interest, or additional royalty payments due after the property was initially reported to the Treasurer.

"Inquiry" means a request for information concerning an apparent owner of unclaimed property.

"Intangible personal property" means:

- (A) monies, checks, drafts, deposits, interests, dividends and income;
- (B) credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.
- (C) stocks and other intangible ownership interests in business associations;
- (D) monies deposited to redeem stocks, bonds, coupons and other securities, or to make distributions;
- (E) amounts due and payable under the terms of insurance policies;
- (F) amounts due and payable under the terms of mining or mineral leases; and
- (G) amounts distributable from trusts or custodial funds established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

"Last known address" means the address of an apparent owner of unclaimed property as shown on the records of the holder for the purpose of delivery of mail.

"Listed owner" means the name of the apparent owner as reported by the holder.

"Memorandum" means a mark, symbol, or statement indicating knowledge of or interest in funds on deposit.

"Mineral proceeds" means net revenue interest, royalties, overriding royalties, production payments, payments under joint operating agreements including working interests, lease bonuses, delay rentals, shut-in royalties, minimum royalties, and all other proceeds resulting from production and sale of mineral interests and acquisition and retention of mineral leases.

"No last known address or address unknown" means that the holder's records do not show any last known address of the owner or show that the address of the owner is unknown.

"Office of State Treasurer" or "OST" means the agency governed by the State Treasurer.

"Owner" means a person, or his legal representative, who has a legal or equitable interest in the property that is subject to the Uniform Unclaimed Property Act. Examples of an owner include, but are not limited to, a depositor in the case of a deposit, a beneficiary in the case of a trust, a creditor, claimant, or payee in the case of other intangible property. If a property is owned by more than one person, the presumption of abandonment shall occur when the property has been abandoned by all owners for the applicable abandonment period.

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

"Service charges, cessation of interest or dividend payments due to dormancy or inactivity" means imposition of charges or discontinuance of interest or dividend payments due to dormancy or inactivity after giving reasonable

notice to the owner of the property. The owner may be notified at the time the account is opened, by mailing a schedule of service charges or brochure containing interest or dividend payment policy, or by incorporating such service charge and interest or dividend payment policies in the form of a statement in the Rules, Regulations, or Bylaws of the holder.

"Treasurer" or "State Treasurer" means the duly elected or appointed State Treasurer of Oklahoma.

"Unclaimed Property Division" means the division of employees within the Office of State Treasurer designated to administer the Oklahoma Uniform Unclaimed Property Act, 60 O.S. §§651 et seq.

"Undelivered shares" means any certificate or other instrument of ownership which represents shares of stock of a business association, which is still in the possession of the issuer, holder or transfer agent or broker.

"Underlying shares" means the intangible ownership interest or shares of stock of a business association, which are no longer in the possession of the issuer, holder, transfer agent, or broker and the dividends or distributions as a result of the interest have been presumed abandoned.

"Voucher" means a payment instrument issued by OST to the claimant.

[Source: Transferred from 710:80-1-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02; Amended at 21 Ok Reg 2879, eff 7-11-04]

735:80-1-3. Mineral interest in land escheatable

Any mineral interest in land in Oklahoma is subject to escheat if it generates an intangible property interest which is presumed abandoned under the unclaimed property statutes of any state.

[Source: Transferred from 710:80-1-3 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

735:80-1-4. Protest procedure; procedure for administrative protest to examination or audit findings or demands for reportable or deliverable property issued to holders

(a) When any holder is aggrieved by the examination findings of the Unclaimed Property Division, directly affecting such holder, the holder on or before sixty (60) days from the date of receipt of the letter of findings and demand notice, may file with the Treasurer, a written protest, under oath, signed by himself or his duly authorized agent, setting out therein:

- (1) A statement of findings as determined by the Unclaimed Property Division, the nature of the findings and the amount thereof protested or in controversy;
- (2) A clear and concise assignment of each error alleged to have been committed by the Unclaimed Property Division;
- (3) The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or restricted in such hearing to the arguments and legal authorities contained and cited in said written protest;
- (4) A statement of relief or adjustment of the findings or demand sought by the holder; and
- (5) A verification by the holder or his duly authorized agent that the statements and facts contained therein are true.

(b) In the written protest, the holder may request an oral hearing. The Treasurer or a designated hearing examiner may grant such hearing, and shall, by written notice,

advise the holder of a date, which shall not be less than ten (10) days from the date of mailing of such written notice, when such holder may appear before the Treasurer or the hearing examiner and present arguments and evidence, oral or written, in support of the protest.

(c) Hearings shall be held as soon as practicable. The procedure to be followed in the Hearings will be as prescribed in subchapter 13 of these rules. Within a reasonable time after the hearing, the Treasurer shall make and enter an order in writing in which it shall set forth the disposition made of the protest and a copy of such order shall forthwith be mailed to the holder. In the event an oral hearing is not requested, the Treasurer shall proceed without further notice to examine into the merits of the protest and enter an order in accordance with its findings.

(d) If the holder fails to file a written protest within the sixty (60) days period as extended by the Treasurer, then the examination findings without further action of the Treasurer, will be presumed valid and the holder shall immediately transmit to the Treasurer the demandable property as set out in the letter of findings and demand notice. The Administrator or his or her representative may, at his or her discretion, extend the time for filing a protest for any period of time not to exceed an additional thirty (30) days.

(e) Upon the failure of a holder to transmit to the Treasurer the demandable property, or to file a protest with the Treasurer, the legal counsel to the Treasurer, may cause to be filed an action in a District Court of the State of Oklahoma to compel delivery of the property to the Treasurer. [See: 60 O.S. §679(a)]

[Source: Transferred from 710:80-1-4 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-1-5. Confidentiality of reports, records and files in the administration of the Uniform Unclaimed Property Act

(a) OST shall consider confidential, reports filed by holders, the names of holders that have been audited, records and files of holders, and information secured therefrom, created by, received by, or coming into the custody of OST as a result of any audit, any protests filed by holders to examination findings, claimants' applications and information discovered by OST concerning claims and claimants. *Any information submitted by a claimant, which is required to be submitted to the State Treasurer to establish a claim, may be kept confidential by the State Treasurer if it contains personal financial information of the claimant, social security numbers, birth certificates or similar documents related to the parentage of an individual, or any other document which is confidential by statute if in the custody of another public agency or person.* [60:674]

(b) Confidential information relating to a particular item of property may be disclosed to a claimant who has demonstrated probable entitlement to the property, or to any person possessing an executed power of attorney from such claimant.

(c) Confidential information may be disclosed as required by the Uniform Unclaimed Property Act or as necessary for the proper administration of this Act. [See: 60 O.S. §§662, 668, 675]

(d) Additionally, confidential information may be disclosed to:

- (1) Any employee of the Treasurer whose official duties involve unclaimed property;
- (2) The State Auditor and Inspector, or his duly authorized agent, in connection with any audit of OST; or
- (3) The office of the Attorney General for its use in providing counsel relating to unclaimed property administration or in preparation for any

proceeding involving unclaimed property before any agency or board of this state or before any grand jury or any state or federal court.

(e) Nothing in this Section shall be construed to prevent the disclosure of confidential information in any state or federal judicial or administrative proceeding pertaining to unclaimed property administration.

(f) OST may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one claimant.

[Source: Transferred from 710:80-1-5 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02]

735:80-1-6. Payment of examination findings under protest

In any case where a holder files a written protest of examination findings with the Treasurer as provided by 735:80-1-4, the holder may pay the amount specified in the examination findings and designate the payment as being made under protest. Such payment shall stop the accrual of interest, if any, upon the amount paid. If the Treasurer sustains the protest in whole or in part, the amount determined by the Treasurer not to be due shall be refunded to the holder, without interest.

[Source: Transferred from 710:80-1-6 at 60 O.S., § 688, eff 7-1-99; (See Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-1-7. Relief from liability by payment or delivery

OST shall assume custody of the unclaimed property remitted or delivered and shall be responsible for its safekeeping. OST shall protect the interests of the holder or Unclaimed Property Division of any reporting state to the extent of the value of property remitted or delivered. If any holder or state has paid the amount of unclaimed property to a rightful owner, OST shall, upon receipt of proof of payment to the rightful owner, reimburse the holder or the state for the amount of payment. An affidavit, in lieu of proof of payment, submitted by any holder or state will be considered sufficient proof of the facts to receive reimbursement from OST.

[Source: Transferred from 710:80-1-7 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-1-8. Recordkeeping requirements

All holders of unclaimed intangible property shall maintain records concerning such property for a minimum of four (4) years after reporting, or ten (10) years after the date the report is due, to OST. [See: 60 O.S. §679.1]

[Source: Transferred from 710:80-1-8 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

SUBCHAPTER 3. REPORTING REQUIREMENTS

PART 1. GENERAL APPLICATION

735:80-3-1. General reporting requirements

(a) Annually a holder must file a verified report of unclaimed property. If a holder has no property that is reportable, a negative report (a report or a letter stating no property is reportable) is encouraged. Report forms may be obtained from OST.

(b) The report must be filed on the form(s) provided on the unclaimed property. Computer generated reports will be accepted only if provided in a format which has received prior approval from OST and if accompanied by an OST form provided

for verification. Any report submitted in any format other than the prescribed format required by OST will be returned to the holder for correction.

(c) A holder reporting 15 or more items of property pursuant to 60 O.S. § 661 - Report of Abandoned Property, is required to file the report electronically using the NAUPA standard electronic file format for holders. As used in these regulations, "NAUPA" means the National Association of Unclaimed Property Administrators.

(d) Any holder who refuses to file an Unclaimed Property report as required under the provisions of the Uniform Unclaimed Property Act or refuses to furnish records or information requested by OST to determine the amount of unclaimed property in the holder's possession, and subsequent examination of holder's records establishes that the holder willfully or without reasonable cause has failed to deliver unclaimed property, the holder shall be subject to the penalties imposed by the Uniform Unclaimed Property Act. [See: 60 O.S. §§679, 680]

(e) If holders report and remit property to Oklahoma that should be reported and remitted to another state, pursuant to the reciprocal agreements with the other states, OST shall transmit the monies to the respective states of owners last known addresses. [See: 60 O.S. §683.1]

[Source: Transferred from 710:80-3-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 21 Ok Reg 2879, eff 7-11-04; Amended at 22 Ok Reg 2661, eff 7-11-05; Amended at 28 Ok Reg 2121, eff 7-11-11]

735:80-3-2. Owner contact; reporting requirements; "owner generated activity" defined

(a) Property is not presumed abandoned if there has been communication with the owner during the statutory abandonment period. The holder must have evidence to show such communication. OST may, at its discretion, require a holder to produce evidence of mailing of such statements or other business communications during the statutory abandonment period.

(b) The crediting of interest by a holder or the deduction of a service charge by a holder to a savings or checking account does not constitute an increase or decrease in the amount of the deposit. In-house or computer generated dates which reflect the posting of increments to or deductions from an owner's account, shall not be construed as the last owner contact or date of last transaction. [See: 60 O.S. §652(a)]

(c) "Owner generated activity" means a deposit or withdrawal by an owner; presentation of the passbook for crediting of interest; or a letter from or any other documented contact with the owner concerning the property.

[Source: Transferred from 710:80-3-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-3-3. Early delivery of property

After obtaining written permission from OST, and upon terms and conditions prescribed by OST, a holder may report and deliver property prior to the expiration of the abandonment period. OST shall take into consideration the value of the property before accepting it. If it determines that the value of the property is relatively small, it may postpone taking possession of the property until sufficient amount of property is accumulated. The property so delivered will be held by OST and will not be presumed abandoned until the expiration of the applicable abandonment period. [See: 60 O.S. §677]

[Source: Transferred from 710:80-3-3 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-3-4. Aggregate reporting; reporting requirements

Items of less than fifty dollars (\$50.00) in value must be reported and remitted in the aggregate, except property which is one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions, and other sums presumed abandoned pursuant to subsection D of Section 655 of this title, all of which shall be reported in the same manner as property with a value of fifty dollars (\$50.00) or more. OST shall protect the interests of the holder to the extent of the value of property reported and delivered. Unclaimed property due unknown owners, held by the holders incorporated in the State of Oklahoma or held by unincorporated holders having their principal place of business in Oklahoma, shall also be reported and remitted in the aggregate.

[Source: Transferred from 710:80-3-4 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02; Amended at 21 Ok Reg 2879, eff 7-11-04]

735:80-3-5. Abandoned mineral interests; reporting requirements

Regardless of the amount of the mineral interest proceeds, if the proceeds are presumed unclaimed under the Uniform Unclaimed Property Act, or under the Unclaimed Property Laws of any other State, the mineral interest that generated such proceeds is also presumed abandoned and shall become reportable to OST. It is also required that the names of last-known owners of mineral interest, their percentages of ownership in the interest, and the legal description of the mineral interest be reported to OST. Annually, OST shall send the abandoned mineral interest listing to the Office of the Attorney General, and the District Attorney and County Clerk of the county in which the mineral interest is located. The abandoned mineral listings will be made available for public viewing by the County Clerks.

[Source: Transferred from 710:80-3-5 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-3-6. Items of Fifty Dollars (\$50.00) or more; reporting requirements

Reporting requirements placed upon holders of presumed abandoned property, for property of a value of fifty dollars (\$50.00) or more, are as follows:

- (1) The name and last known address of each owner as it appears from the holder records; [See: 60 O.S. §661(B)(1)]
- (2) The type of property, identifying number, and description of the property; and [See: 60 O.S. §661(B)(4)]
- (3) The holders are required to mail notices to the owners of property to their last-known addresses to prevent the property from being presumed abandoned. [See: 60 O.S. §661(E)]

[Source: Transferred from 710:80-3-6 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

735:80-3-7. Requirement to report and remit current balance

Holders of presumed abandoned intangible property shall annually report and remit all proceeds accrued to date; i.e., the current balance held by the holder. When and if any part of the proceeds has been held for the statutory abandonment period or longer, the holder must report and remit all interest, additions, and increments accrued to the owner's account. Any additional amounts accruing to an owner who has been reported previously will be reported and remitted on an annual basis; i.e., additional amounts from the "as of date" of the previous report year through the "as of date" of the current report year. In no event shall mineral interest

proceeds be reported or remitted sooner than six months after the date of the first sale from the applicable well.

[Source: Transferred from 710:80-3-7 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 21 Ok Reg 2879, eff 7-11-04; Amended at 22 Ok Reg 2661, eff 7-11-05]

735:80-3-8. Report on-line fifteen (15) or more properties; reporting requirement

Holders shall report unclaimed property as prescribed in OS 60 Section 661-Report of Abandoned Property. Holders reporting fifteen (15) or more items of property shall file the report electronically using the State Treasurer's on-line reporting system <https://ostdnet.ost.state.ok.us/Hldr Login.asp>. Additional reporting information may be located @www.treasurer.ok.gov .

[Source: Added at 31 Ok Reg 2463, eff 9-12-14]

735:80-3-9. File format; reporting requirements; noncompliance

The on-line reporting system allows a Holder to securely upload an encrypted unclaimed property report file via the State Treasurer's website after setting up a password - protected account. All reports must be filed using the National Association of Unclaimed Property Administrators (NAUPA) standard format. Holder reports with fifteen (15) or more items of property that are not filed electronically and/or any other report that is -improperly formatted or otherwise cannot be processed automatically will be returned to the Holder. Reports and remittances that are not properly filed and paid in compliance with statute and administrative rule will be subject to the provisions defined in OS 60 Section 680 - Penalties.

[Source: Added at 31 Ok Reg 2463, eff 9-12-14]

735:80-3-9.1. Supplemental report detail; Verification and Checklist and remittance; reporting requirements

Files created using the NAUPA standard format shall properly categorize unclaimed property types. All pertinent information related to each category of unclaimed property must be included in the electronically filed report as supplemental paper report detail will not be accepted. Holders must continue to complete and mail the required Verification and Checklist located under Holder Reporting Forms and Instructions @www.treasurer.ok.gov. along with remittance(s).

[Source: Added at 31 Ok Reg 2463, eff 9-12-14]

735:80-3-9.2. Encrypt file; reporting requirements

All files uploaded to the State Treasurer's on-line reporting system must be encrypted. Information related to the availability of free reporting software is located under Holder Information @www.treasurer.ok.gov.

[Source: Added at 31 Ok Reg 2463, eff 9-12-14]

735:80-3-9.3. Payment or delivery of property

Notwithstanding the filing of such electronic report, the Holder shall pay or deliver to the Treasurer all unclaimed property reported as required in OS 60 Section 663 -Payment or Delivery of Abandoned Property.

[Source: Added at 31 Ok Reg 2463, eff 9-12-14]

PART 3. FINANCIAL INSTITUTIONS

735:80-3-10. Banks, savings and loans or other financial institutions; reporting requirements

(a) Any deposit with a banking or financial organization, including deposits that are automatically renewable, or a mutual investment certificate, or any other interest in a banking or financial organization, is presumed abandoned unless the owner has, within the previous five (5) years (15 years in the case of automatically renewable time deposits):

- (1) In the case of a deposit, increased or decreased the amount of the deposit or presented the passbook for the crediting of interest;
- (2) Communicated in writing with the banking or financial organization indicating an interest in the property;
- (3) Owned other property to which paragraph (1) or (2) of this subsection is applicable and, if the banking or financial organization communicated in writing with the owner in regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property are regularly sent; or
- (4) Had another relationship with the banking or financial organization concerning which the owner has:

- (A) Communicated in writing with the banking or financial organization; or
- (B) Otherwise made contact with the banking or financial organization, and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship are regularly sent.

(b) For the purpose of this Section, property includes, but is not limited to, undelivered shares and the interest or dividends associated with them.

(c) Any property described in 60 O.S. §652 (d), that is automatically renewable, such as a certificate of deposit having rollover provisions, is matured for purposes of that Section upon the expiration of its initial time period. But in the case of any renewal to which the owner consents by communicating in writing with the banking or financial organization at or about the time of renewal, or otherwise indicates consent, as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration date of the last time period for which consent was given. However, loss of contact with the owner will be considered to have occurred if the statement or any communication mailed by the bank, savings and loan, or other financial institution has come back undelivered. If, at the time for delivery to OST provided by the Uniform Unclaimed Property Act, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery shall be extended until the time when no penalty or forfeiture would result. Automatically renewable time deposits may be retained, at the holder's option, or delivered to OST.

(d) The following categories of property normally held by a bank or financial institution shall be subject to reporting under the Uniform Unclaimed Property Act (the Act):

- (1) Checking or demand accounts, savings accounts or matured time deposits, including any interest or dividend thereon. Any charges withheld

must be withheld at the express or implied consent of the owner.

(2) Monies paid toward the purchase of shares or other interest or any deposit thereon. Any charges withheld must be withheld at the express or implied consent of the owner.

(3) Certified checks, travelers checks, cashier checks, drafts, certificates of deposit and expense and vendor checks. If cashier checks or certified checks are reported, the bank or financial institution shall include on the report if known, the names and last known addresses of the payee(s), payor(s) and the purchaser(s).

(4) Monies or personal property removed from a safe-deposit box or other safekeeping repository not otherwise declined by the State Treasurer pursuant to 60 O.S. §677, or surplus amounts arising from the sale of such contents.

(5) Any other intangible personal property not otherwise covered by the Act. [See: 60 O.S. 652]

[Source: Transferred from 710:80-3-10 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 21 Ok Reg 2879, eff 7-11-04; Amended at 22 Ok Reg 2661, eff 7-11-05]

735:80-3-11. Safe deposit boxes or other safekeeping repositories; reporting requirements

(a) The report of contents of a safe deposit box or other safekeeping repository must include a description of the property and the place where it is held, and any offsets, including rent, drilling costs, or replacement locks, owing to the holder. The safe deposit box contents may be inspected by the State Treasurer.

(b) Documents or writings of a private nature which have little or no commercial value, including but not limited to documents related to potential life insurance coverage, marriage records, birth records, military records, wills, death and probate records, photographs, letters, diaries, journals, personal or business records, biographical materials found in newspapers or magazines, deeds, abstracts, and other land records, shall be described in sufficient detail to enable the State Treasurer to make a determination regarding the existence of commercial value.

(c) All coins and cash must be sent intact. No bank check substitutions for cash or coins are permitted.

(d) A holder must report contents on forms prescribed by the State Treasurer. The prescribed forms can be located on the State Treasurer's website.

(e) A copy of the notarized listing of contents must be sent with the report due annually in November. Do not send contents with this report.

(f) The State Treasurer's Unclaimed Property Division will notify the holder in writing of its decision to accept or reject each of the reported safe deposit boxes or safekeeping repositories.

(g) All safe deposit or safekeeping repositories which are accepted shall be sent in their entirety. All contents shall be sent in sealed, tamper-resistant bags.

(h) A photocopy of the annual report shall be sent with the "accepted" contents at remittance time. A copy of the notarized listing of contents shall also be attached to each owner's bag of contents.

(i) The holder is responsible for the safe and complete delivery the contents from a safe deposit box or other safekeeping repository accepted by the State Treasurer.

[Source: Added at 23 Ok Reg 3043, eff 7-13-06]

PART 5. BUSINESS ASSOCIATIONS

735:80-3-15. Business associations; reporting requirements

(a) Unless owner contact can be established and documented to the satisfaction of OST, all unclaimed stock (undeliverable and underlying shares) certificates, including the shares distributable as a result of a stock dividend or stock split, shall be reissued in the name of the Oklahoma State Treasurer and delivered to the securities custodian designated by OST.

(b) The responsibility for filing an unclaimed property report is placed on a business association if it is incorporated in this state, or if it is doing business in this state but incorporated in another state, or if it is an unincorporated business association doing business in Oklahoma, and its records show that the last known address of the owner is in this state. If the owner is unknown or owner's last known address is unknown, report requirement is placed on a business association if it is incorporated in Oklahoma or, in the case of an unincorporated business association, if its principal place of business is in Oklahoma.

(c) For purposes of this Section, the association is the holder of undelivered shares of stock or other intangible ownership interest.

[Source: Transferred from 710:80-3-15 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02; Amended at 24 Ok Reg 2420, eff 6-26-07]

PART 7. CITY/COUNTY TREASURERS

735:80-3-20. County treasurers; reporting requirements

County treasurers shall report unclaimed intangible property to include, but not be limited to:

- (1) Outstanding treasury checks, vouchers, or warrants that have remained outstanding and unclaimed for a period of one (1) year or more;
- (2) Amounts due bond holders wherein the bonds or warrants have matured or have been paid and the bonds or warrants have not been surrendered to the holder by the owner for a period of one (1) year or more following the date such bonds or warrants became payable to the owner; and
- (3) Trust Deposit receipts.

[Source: Transferred from 710:80-3-20 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 21 Ok Reg 2879, eff 7-11-04]

PART 9. COOPERATIVE POOLS

735:80-3-25. Cooperative pools; reporting requirements

Agricultural cooperative marketing or supply associations organized under 2 O.S. §361; cooperative electric power or telephone associations organized under 18 O.S. §437 and §438.1; rural water, sewer, gas and solid waste management districts organized under 82 O.S. §1324.1; and domiciled in Oklahoma shall report all unclaimed intangible property which is not exempt under 60 O.S. §655(f), including but not limited to:

- (1) Outstanding payroll and vendor checks and all other unclaimed property not exempt by statute.
- (2) Any items that should have been reported and remitted prior to the enactment of the exemption. [See: 60 O.S. §655]

[Source: Transferred from 710:80-3-25 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice Published at 17 Ok Reg 217)]

PART 11. COURT CLERKS

735:80-3-30. Court clerks; reporting requirements

The following types of funds held by Court Clerks are reportable as unclaimed property to OST:

- (1) **Probate:** Monies in probate cases, in which there has been no activity for one (1) year. In the instance where the court clerk holds monies in trust for a minor, following the final account or distribution in a probate, the monies are reportable one (1) year from the date when the minor reaches the age of majority. Monies held by the court clerk for heirs, legatees, creditors, or claimants who are unknown, unlocatable, deceased, or who will not accept receipt of the monies in a probate are reportable one (1) year from the final account or order of distribution.
- (2) **Money judgments:** Where money judgments have been rendered and the monies are unclaimed for one (1) year. These judgments include, among other types of funds, condemnation funds and child support monies.
- (3) **Appeal bonds:** A bond held one (1) year from the date the mandate is issued in the appellate case.

[Source: Transferred from 710:80-3-30 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

PART 13. MINERAL INTERESTS

735:80-3-35. Mineral interest proceeds; reporting requirements

(a) Monies derived from mineral interests shall be reportable as unclaimed property to OST.

(b) For each owner reported, the following minimum information shall be included in the holder's annual report:

- (1) Name and last known address of the owner. Lack of current mailing address does not relieve the holder from the responsibility of reporting the owner's address prior to the date contact with the owner was lost;
- (2) Legal description of the property interest;
- (3) Decimal percentage of ownership interest;
- (4) Owner's Social Security Number or Federal Employer Identification Number;
- (5) Amount of lease bonus, delay rental, working interest, overriding royalty interest and royalty income due the owner as of the annual report date; and
- (6) First payable date.

(c) Any tax or withholding report required to be filed with the federal government, any state government or political subdivision thereof, concerning monies held in suspense, shall be made by either the producer, operator, purchaser or holder as required by said governmental entity.

(d) None of the Rules implemented for the administration of the Uniform Unclaimed Property Act shall be interpreted as relieving the holder of such monies from the responsibility for the maintenance of those records on mineral interests, such as records of lease bonuses, delay rentals and royalty interests, after such time that the funds have been transmitted to OST. [See: 60 O.S. §658]

[Source: Transferred from 710:80-3-35 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 21 Ok Reg 2879, eff 7-11-04]

PART 15. UTILITIES

735:80-3-40. Utilities; reporting requirements

(a) The following categories of property normally held by a utility company shall be subject to reporting under the Uniform Unclaimed Property Act:

- (1) Outstanding or unclaimed expense and vendor checks, payroll checks, and refund checks;
- (2) Deposits made to insure payment of utility services;
- (3) Unclaimed stock and dividends;
- (4) Unidentified remittances;
- (5) Any other intangible personal property not otherwise specifically cited in the Act.

(b) Any sum which a utility has been ordered to refund by a court or by a regulatory agency (excepting those exempt by statute or order issued by competent authority) that has remained unclaimed by the rightful owner for a period of one (1) year.

[See: 60 O.S. §654.1]

[Source: Transferred from 710:80-3-40 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 5. ALLOWABLE CHARGES AND DEDUCTIONS

735:80-5-1. Charges and deductions that may be withheld

(a) Charges shall not be deducted from unclaimed intangible property unless:

- (1) A reasonable notice of service charges or deductions is given to the owner at the time the account is opened; or
- (2) A schedule of service charges or deductions has been mailed to the owner; or
- (3) A statement concerning such charges has been incorporated in the rules, regulations, or bylaws of the holder.

(b) Such charges or fees may not be excluded, withheld, or deducted from property subject to the Uniform Unclaimed Property Act if, under its policy or procedure, the holder would not have excluded, withheld or deducted such charges or fees in the event the property had been claimed by the owner prior to being reported or remitted to OST.

(c) If charges are deducted from property, a holder shall include or attach as a part of the report filed pursuant to the Uniform Unclaimed Property Act:

- (1) The value or amount of each item or property before any charges are deducted therefrom;
- (2) The amount of the charges deducted from each item and the date or dates on which such charges were deducted.
- (3) Policy that the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.
- (4) Such other information or documentation that substantiates the deduction of the charges.

[Source: Transferred from 710:80-5-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-5-2. Discontinuance of interest or dividends; general

(a) If payment of interest or dividends on intangible unclaimed property is discontinued at any time during the period of the presumption of abandonment, the holder shall include or attach as a part of the report filed pursuant to the Uniform Unclaimed Property Act:

- (1) A copy of the policy decision adopted by the board of directors which authorizes such discontinuance of payment of interest or dividends; or
- (2) Such other information or documentation that substantiates the discontinuance of interest or dividends.

(b) A contract shall not be considered as authorizing discontinuance of payment of interest or dividends if such payment would not have been discontinued, or would have otherwise accrued to the benefit of the owner, in the event the property had been claimed by the owner prior to being remitted to OST.

[Source: Transferred from 710:80-5-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

SUBCHAPTER 7. CLAIMS PROCESS

735:80-7-1. Claims process; general

A Claim for unclaimed property or the proceeds from the sale of unclaimed property may be filed with the Unclaimed Property Division. Upon receipt of the initial claims inquiry and supporting documents from a claimant having an interest in the property held by OST, the Unclaimed Property Division will verify the claimant's information and recommend approval of the claim. If claimant has provided insufficient proof of ownership of the property, the claim will be subject to audit. Supporting information and/or documents and a notarized signature on the claim form will be requested from the claimant to validate property ownership, and satisfy statutory requirements when necessary. Upon receipt of the completed claim forms, the Unclaimed Property Division may respond to the claimant's telephone inquiry concerning the value of the property.

[Source: Transferred from 710:80-7-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-7-2. Proof of ownership

(a) Information required to prove ownership of unclaimed property may consist of a copy of the claimant's driver's license or other identification, a document proving Social Security or Federal Employer Number and, one or more of the documents itemized below. A document proving Social Security or Federal Employer Identification Number (or both) may be required to administer the State's tax laws. The OST Unclaimed Property Division will consider all documents submitted in making a reasonable assessment of whether a valid claim of ownership has been presented.

- (1) Copy of birth certificate(s);
- (2) Copy of will(s);
- (3) Copy of probate distribution(s);
- (4) Copy of marriage certificate(s);
- (5) Copy of divorce decree(s);
- (6) Copy of documentation providing a connection with the reported address or business for the year cited as the "Date of last Transaction" in the holder's report;
- (7) Copy of Letters Testamentary;
- (8) Notarized copy of contract if a representative is claimant;
- (9) Copy of guardianship or trust agreement;
- (10) A letter from the holder authorizing release of funds reported and remitted by the holder;
- (11) Proof of payment by holder to owner in the form of:

- (A) A copy of front and back of a canceled check; or
- (B) List of documentation furnished in support of payment of claim;
- or
- (C) Both of the above items A and B.

(12) Affidavit executed by an individual other than the claimant having knowledge of, and in support of, a claim when requested information or documentation is not available;

(13) Other documentation that may be used in support of the claim. This documentation may be an income tax return, adoption records, court records, CD's, stale dated checks, an affidavit of proof of death and heirship from a disinterested party, etc.

(b) In addition to items set out in (a) of this Section, the documents described in this subsection needed to establish ownership may be requested:

(1) Checking accounts: A check (blank or canceled) showing the account number for that bank, or a statement on that account which contains the account number;

(2) Savings account: A copy of the passbook, deposit slip, monthly statement, quarterly statement, or "1099 Int" Form issued by the bank, showing the account number or correspondence referencing the account number;

(3) Safe-Deposit box: A copy of the safe-deposit box rental receipt or correspondence referencing that rental;

(4) Wages: Copies of W-2 forms, 1099's, state income tax returns, federal income tax returns, or other tax records or correspondence relating to that employment;

(5) Stock and/or dividends: Copies of a stock certificate of the business entity reported, correspondence relating to that stock certificate or a statement from the broker showing purchase or sale of that stock;

(6) Bearer bonds and certificates of deposit: A copy of the record of purchase;

(7) Insurance: A copy of the policy, or correspondence relating to that policy by policy number;

(8) Mineral proceeds: One or more of the following as specified in the letter requesting documents:

- (A) Mineral deed;
- (B) Surface deed which includes mineral retained, sold, or purchased;
- (C) Probate inventory;
- (D) Oil and gas lease;
- (E) Purchase documents for an overriding royalty interest;
- (F) Current Division Order;
- (G) Certification of current pay status; or
- (H) A letter from the holder authorizing release of funds reported and remitted by the holder.

(9) Court Clerk funds: A copy of the court decree or court order for the case that was the source of the funds. (i.e., probate, condemnation, quiet title, divorce, child support, appearance bond, etc.)

(10) Vendor checks: Copies of accounts receivable billing, invoices, bills of lading or correspondence with the holder reporting and remitting the funds that show a business relationship for each payment, or a statement that the funds are still considered to be due and owing on the account;

(11) Property held for deceased owners: If the listed owner is deceased, the following is required:

(A) For property valued at more than Ten Thousand Dollars (\$10,000.00), a certified copy of Letters of Administration or Letters Testamentary naming claimant as the personal representative of the listed owner, or a certified copy of the Decree of Distribution of the estate of the listed owner, determining claimant's entitlement to receive unclaimed property.

(B) For property valued at Ten Thousand Dollars (\$10,000.00) or less, a copy of the death certificate and a signed affidavit executed by the claimant, stating that:

- (i) The claimant is entitled to receive unclaimed property;
- (ii) The reason for entitlement to such property; i.e., exact relationship with the listed owner and the basis of the entitlement;
- (iii) That there has been no probate of the estate of the deceased owner;
- (iv) That no such probate is contemplated; and
- (v) That claimant will indemnify the State for any loss, including attorney fees, should another claimant assert a prior right to the property.

(C) A copy of the death certificate and an affidavit signed by the claimant or a person authorized to act in the claimant's legal capacity by a limited power of attorney which specifically grants authority to make the claim under 60 O.S. §674.2 will be accepted. [See: 60 O.S. §674.2]

(12) Cashier's checks: Cashier's Checks shall be claimed by the payee as the owner unless the purchaser submits sufficient documentation to prove a superior claim.

(13) Claims by heirfinders or agents of listed owner:

(A) If the claim is based on a contract with the owner or heir of the owner, the heirfinder shall provide:

- (i) A copy of the contract showing the percentage of the value of the funds or property charged for services (not to exceed 25%), names, current addresses, and social security numbers or Federal Employer Identification numbers of all parties to the contract; and
- (ii) An executed special power of attorney from the owner or heir of the owner, which specifically authorizes the person to make an unclaimed property claim under the Oklahoma Unclaimed Property Act, Title 60 O.S. §651 et seq. to file a claim on his or her behalf.

(B) The Unclaimed Property Division may contact the owner(s) or claimant(s) to make sure that the owner or the claimant is aware of the full amount of unclaimed property involved. The claim form(s) shall be signed by the owner(s) or claimant(s) or by a person duly authorized to make the claim on his or her behalf by special power of attorney which specifically authorizes the person to make the claim under the Oklahoma Unclaimed Property Act, Title 60 O.S. §651 et seq.

(C) A claim made by an heirfinder or an agent of a listed owner will require the same items of proof as would a claim made by the owner.

(14) Claims based on transfer of mineral interest:

(A) Where a mineral interest has been sold by the owner(s) or the heir(s), all monies accrued prior to the date of delivery of deed, conveyance, or assignment which have been reported as unclaimed property or forced pooled monies will be paid to the grantor(s) and monies reported after the date of delivery of deed, conveyance, or assignment will be paid to the grantee(s) except:

(i) Monies accrued prior to the date of delivery of deed, conveyance, or assignment which have been reported will be paid to the grantee if the deed, conveyance, or assignment clearly states grantee is entitled to such monies;

(ii) The grantee provides an affidavit setting forth:

(I) The reasons grantee is entitled to monies accrued prior to the date of delivery of deed, conveyance, or assignment;

(II) Reasonable notice has been given to grantor at his or her last known address of the existence of monies reported which accrued prior to the date of delivery of deed, conveyance, or assignment;

(III) The name and last known of address of grantor; and

(iii) Grantee provides evidence that reasonable notice has been given to grantor at his or her last known address, advising grantor that monies attributable to the conveyed mineral interest have been reported, which accrued prior to the date of delivery of the deed, conveyance, or assignment, and the grantor may contact OST to obtain further information concerning said monies.

(B) If the owner(s) is deceased and the heir(s) is entitled to monies accrued prior to date of delivery of deed, conveyance, or assignment, the unclaimed monies will be distributed to the heir(s) in accordance with subsection (b)(11) of this Section.

(C) The purchaser of the mineral interest will provide current mailing address(es) of the owner(s) or the heir(s) so that OST can pay all monies reported prior to the date of delivery of the deed.

[Source: Transferred from 710:80-7-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 18 Ok Reg 2899, eff 6-25-01; Amended at 19 Ok Reg 2476, eff 6-27-02; Amended at 20 Ok Reg 2212, eff 6-26-03; Amended at 21 Ok Reg 2879, eff 7-11-04]

735:80-7-3. Release of non-cash items

(a) Stock certificates received through safe-deposit boxes may be released to the rightful owner upon approval of the owner's claim.

(b) Stock certificates received directly from a holder may be transferred to the rightful owner upon approval of the owner's claim.

[Source: Transferred from 710:80-7-3 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 24 Ok Reg 2420, eff 6-26-07]

735:80-7-4. Payment of claims

(a) Vouchers for payment for unclaimed property will be authorized and payment made:

- (1) In the name of, and mailed to, the established owner; or
- (2) To the court appointed estate administrator, administratrix, executor, executrix, or personal representative; or
- (3) To the court appointed guardian; or
- (4) In accordance with a court decree of distribution; or
- (5) To an heir for distribution to other heirs, if any.

(b) It shall be the responsibility of the payee to disburse any funds or property in accordance with any existing contract or agreement.

(c) When one claimant who has proven that he has an interest in the unclaimed property, has been paid the full amount of unclaimed property held by OST, there is no requirement that OST pay other subsequent claimants. OST is not required to locate all heirs of owners of unclaimed property.

(d) If there are two or more owners of unclaimed property, or the reported account is in the name of the tenants in common, or the holder report does not specify the percentage or share of co-owners, OST may pay each owner an equal share of the account.

[Source: Transferred from 710:80-7-4 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02]

735:80-7-5. Holder reimbursement

(a) A holder electing to release property pursuant to the provisions of the Uniform Unclaimed Property Act may request reimbursement. OST shall reimburse the holder, if the property is still in its custody, upon presentation of proof of payment, which may include but not be limited to:

- (1) Copies of correspondence with the owner;
 - (2) Copies of the negotiated check to the owner (front and back copy); or
 - (3) An affidavit executed by an officer of the holder attesting to the facts.
- [See: 60 O.S. §664]

(b) If OST has already distributed the property to the owner or to an heir of the owner, OST will not reimburse the holder for any payment made by the holder to the owner or to an heir of the owner.

[Source: Transferred from 710:80-7-5 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-7-6. Protest of claims

Any claimant with a property interest in an item presumed abandoned or unclaimed may file a protest in regard to the payment or nonpayment of such item. If an administrative hearing is held, it will be before a hearing examiner designated by the State Treasurer to resolve the formal protest filed by a claimant. The hearing examiner shall, by written notice, advise the claimant of a date, which shall not be less than ten (10) days from the date of mailing of such written notice, when the claimant may appear before the hearing examiner and present arguments and evidence, oral or written, in support of the protest. [See: 60 O.S. §§675-676]

[Source: Transferred from 710:80-7-6 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-7-7. Claims paid in error

If OST pays a claimant in error OST may:

(1) In the case of ownership: When a person with the same name can present evidence that payment was made in error, OST will suspend payment to the second claimant until the conflicting claims are resolved. OST will notify the first payee that:

- (A) Another claimant has filed for the property and is the valid owner;
- (B) He is requested to refund the monies paid;
- (C) He has the right to present evidence to OST if he has a prior claim and a more fully documented proof of ownership;
- (D) OST may require a hearing before a hearing examiner designated by the State Treasurer to determine or verify ownership;
- (E) OST may pursue collection through appropriate court action.
- (F) If it is determined that the second claimant has a prior claim, OST will distribute the monies to the second claimant.

(2) In the case of error in reporting by a holder:

- (A) If a holder's report or ownership verification is found to be in error after OST has paid the listed owner, the holder shall be required to reimburse OST for any funds paid.
- (B) If the request for reimbursement is denied OST may pursue collection through court action.

[Source: Transferred from 710:80-7-7 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-7-8. Disposition of unclaimed property other than cash

(a) If OST determines after investigation and after an attempt to dispose of the unclaimed property in accordance with the Act, that the property does not have commercial value, OST may destroy or otherwise dispose of the property at any time. If pursuant to the provisions of the Act the property has been sold at public sale, the original owner of the property, or their heirs, devisees, and assigns, if located subsequent to the sale of property, shall be entitled to the proceeds realized from the sale. The proceeds from the sale of the property are subject to the right of the holder to be reimbursed for the cost of the opening of the safe deposit box and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The amount reimbursed to the Holder shall not exceed the proceeds from the sale of the property.

(b) Unclaimed property of intrinsic or historical value, if it is determined that it has no commercial value, may be loaned or donated to other agencies or institutions (such as the Historical Society) if deemed by the Treasurer that the retention of such property would be of public interest. [See: 60 O.S. §667]

(c) If OST determines it to be in the best interest of the state, the stock or other equity interest in a business association deemed to have a value less than the expense of giving notice and the sale, may be sold immediately upon receipt without notice. If pursuant to the provisions of the Act, the stock or other equity interest in a business association have been sold, the original owner of the securities, or their heirs, devisees, and assigns, if located subsequent to the sale of property, shall be entitled to the net proceeds realized from the sale.

[Source: Transferred from 710:80-7-8 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 26 Ok Reg 3054, eff 9-11-09]

SUBCHAPTER 9. OFFICE AUDIT

735:80-9-1. Audit of holder reports

The Unclaimed Property Division will conduct an office audit of reports filed by holders.

[Source: Transferred from 710:80-9-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-9-2. Interest/penalty; amended reports

(a) Interest/penalties may be assessed against unclaimed property reported to OST, under the following conditions: [See: 60 O.S. §680]

- (1) When the holder fails to remit items reported as unclaimed property;
- (2) When the holder fails to remit in full or submits a partial remittance for items reported as unclaimed property;
- (3) When the date of last transaction given for the owner on the report indicates that the item should have been reported and remitted in prior years.

(b) For items reported and not remitted, interest/penalty may be assessed beginning with January 1, 1983, or the date that the property should have been remitted, whichever is later, through the date the remittance is received by OST from the holder.

(c) For items that should have been remitted in prior years, interest/penalty may be assessed beginning with January 1, 1983, or the date on which the property should have been remitted, whichever is later, through the date the remittance is received by OST from the holder.

(d) For items remitted to OST under protest, interest/penalties will cease on the date the remittance and accompanying written protest is received by OST.

(e) If the holder protests the assessment, a copy of the assessment and the written protest submitted by the holder shall be forwarded to the hearing examiner designated by the Treasurer, who shall set up a date and time for an administrative hearing on the matter. Interest/penalties will continue to accrue on unpaid items as set forth in the assessment until such time as the Treasurer renders a decision and/or all other legal action regarding the assessment is completed, and the remittance is received by OST from the holder.

(f) Application for waiver of interest or penalty shall be in a form as prescribed by the Treasurer. The Treasurer may, at the Treasurer's discretion, waive the interest or penalty for reasonable cause if the imposition of interest or penalty would be deemed to be inequitable. Reasonable cause includes, but is not limited to, the following reasons:

- (1) Natural disasters;
- (2) Acts of war or terrorism;
- (3) Initial report filed by the holder which was not induced by an examination from the State Treasurer or one of its auditors;
- (4) Report filed by the holder using an electronic medium for the first time;
- (5) Significant changes in holder personnel;
- (6) Report and remittance was made within 30 days of the due date;
- (7) Penalty amount in excess of the reported amount; or,
- (8) Penalty assessed in error.

(g) The holder of unclaimed property has the burden of proving reasonable cause.

[Source: Transferred from 710:80-9-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 22 Ok Reg 2661, eff 7-11-05]

735:80-9-3. Mailing of assessment letters to holders; office audits

(a) After the review of holder reports in 735:80-9-1 has been completed, the holders will be advised of any amendments made as a result of an office audit. If the holder has been assessed for unpaid amounts and/or interest/penalty, an assessment letter showing the unpaid amounts and interest/penalty will be mailed to the holder. Such letter shall contain sufficient information to make the holders aware of their reporting obligations and legal options.

(b) The holder shall have sixty (60) days in which to review the examination findings and propose adjustments to the findings. No later than sixty (60) days after the date of the assessment letter, the holder shall cause to be generated an amended report. If the holder disagrees with the facts or law, the holder must file a formal protest within the sixty (60) day period, or the amount as set out by the assessment letter shall become final and become immediately due and payable.

(c) A holder may elect to file and pay under protest. Interest/penalties will cease to accrue on the date of such payment.

[Source: Transferred from 710:80-9-3 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-9-4. Return of reports for correction

Reports of unclaimed property submitted to OST will be returned to the holder for correction if the holder:

- (1) Fails to report on forms provided by OST;
- (2) Submits a report using a format which has not received prior approval from the Treasurer;
- (3) Fails to identify the category(ies) of unclaimed property contained in the report;
- (4) Fails to provide the date of the last transaction or first payable date for property reported;
- (5) Fails to provide legal descriptions and/or decimal percentage of ownership for owners whose property is derived from mineral interests in land in Oklahoma; or
- (6) Fails to include any other information on the report as required under the Act.

[Source: Transferred from 710:80-9-4 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-9-5. Amended reports

An amended report of unclaimed property will be required to be filed by the holder if any change occurs in the report after the remittance to OST, along with documentation of the reason thereof, including but not limited to the following:

- (1) Change of owner name;
- (2) Change of owner last known address;
- (3) Change of date of last transaction;
- (4) Change of legal description of mineral interest in land in Oklahoma;
- (5) Change of decimal percentage of ownership of mineral interest in land in Oklahoma, or
- (6) Change in original amount reported.

[Source: Transferred from 710:80-9-5 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

SUBCHAPTER 11. FIELD AUDIT

PART 1. GENERAL PROVISIONS

735:80-11-1. Field audits; general

OST has the authority to conduct field audits of holders to determine compliance with the Uniform Unclaimed Property Act. [See: 60 O.S. §678]

[Source: Transferred from 710:80-11-1 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

735:80-11-2. Field audits conducted when

(a) A Field Audit will be conducted when there is a reason to believe that a holder has not properly reported unclaimed property as defined by the Act. A fifteen (15) day notification of audit letter will be mailed to the holder.

(1) Reasons to believe may include, but not be limited to:

- (A) Failure to report; or
- (B) Failure to file positive reports; or
- (C) Failure to report types of property normally reported by like businesses or associations; or
- (D) Failure to substantiate deduction, in whole or in part, for items reported, but not remitted; or
- (E) Failure to report and/or remit balances due an individual on the "as of" date of the report year; or
- (F) Failure to remit contents of safe-deposit boxes; or
- (G) Failure to report legal description of unclaimed mineral interests; or
- (H) When amounts reported and/or remitted are not comparable to reports received from like holders.

(2) Any holder who, after proper notification, refuses access to records requested by the examiners shall be referred by the Unclaimed Property Division to legal counsel of the Treasurer for appropriate action.

(3) Any holder using an outside agency for the issuance of stock and/or the paying of dividends on such stock shall, prior to the beginning of the audit, prepare a written request to such agency authorizing the agent to provide access to the holder's stock and dividend records for the purpose of identifying any stock or dividends subject to the Unclaimed Property Act.

(4) At the completion of a field audit a "Statement of Examination Findings and Demand Letter" shall be delivered to the holder so examined. This letter shall be delivered at the closing conference or may be delivered by certified mail, if considered more feasible. Such letter shall contain sufficient information to make the holder aware of his reporting obligations and legal options.

(b) The holder shall have sixty (60) days in which to review the examination findings and propose adjustments to such findings. No later than sixty (60) days after the date of the examination findings letter the holder shall cause to be generated an amended annual report. If the holder disagrees with the facts or law, he must file an official protest within the sixty (60) day period or the amount as set out by the examination findings letter will become absolute and final and become immediately due and payable.

(c) A holder may elect to file and pay under protest. Interest penalties will cease to accrue on the date of such payment. Application for waiver of interest or penalty shall be in a form as prescribed by the Treasurer. The Treasurer may, at the Treasurer's discretion, waive the interest or penalty if a holder has failed to remit unclaimed property due to misinterpretation of the law or the facts, or if a holder is unable to pay interest or penalty due to insolvency.

(d) Audit costs shall be assessed against the holder when:

- (1) The holder fails to report within sixty (60) days after he has received a written demand from OST; or
- (2) The holder has not filed a report and the examination reveals that he has willfully or without reasonable cause failed to report property which was discovered during the examination; or
- (3) The holder has filed a report and additional property is discovered during the audit and OST establishes that the holder willfully or without reasonable cause failed to report; or
- (4) If the audit is performed out-of-state at the request of the holder.

(e) Except as otherwise provided or required by law, audit costs shall not exceed audit findings.

[Source: Transferred from 710:80-11-2 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

PART 3. BANKING OR FINANCIAL INSTITUTIONS

735:80-11-10. Banking or financial institutions; field audits

(a) Banking or financial institutions shall be examined under any or all circumstances defined in 735:80-11-2.

(b) The following categories of the property normally held by a bank or financial institution shall be subject to reporting under the Unclaimed Property Act (the Act):

- (1) Demand, savings, or matured time deposits, together with any interest, or dividend thereon. Any charges withheld must be withheld at the express or implied consent of the owner. If such charges are normally refunded when requested by the owner, such charges cannot be deducted when reporting such property as unclaimed property.
- (2) Funds paid toward the purchase of shares or other interest or any deposit thereon. Any charges withheld must be withheld at the express or implied consent of the owner. If such charges are normally refunded when requested by the owner, such charges can not be deducted when reporting such property as unclaimed property.
- (3) Certified checks, travelers checks, certificates of deposits and drafts. The above property(ies) shall not be presumed abandoned if the holder has mailed statements or other communications to the owner within five (5) years (15 years in the case of travelers checks) from the date of last customer generated activity or transaction, and no such statement or communication has been returned as non-deliverable. OST may, at its discretion, require a holder to produce evidence of mailing of such statements or other business communications during the aforementioned period.

(c) In addition to the categories of property described in (b) of this Section, the following categories of property normally held by a bank or financial institution shall be subject to reporting under the Unclaimed Property Act:

- (1) Cashier checks, expense and vendor checks, payroll checks, and miscellaneous checks.
- (2) Funds or personal property removed from a safe deposit box or other safe-keeping repository, or surplus amounts arising from the sale of such contents.
- (3) Unidentified remittances.
- (4) Any other intangible personal property not otherwise covered by the Act.

[Source: Transferred from 710:80-11-10 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

PART 5. COURTS

735:80-11-15. Courts; field audits

- (a) Courts shall be examined under any or all of the circumstances defined in 735:80-11-2.
- (b) The following categories of property normally held by the courts shall be subject to reporting under the Unclaimed Property Act:
 - (1) Probate funds in which the final account or distribution has been reached;
 - (2) Funds held for a minor who has reached the age of majority;
 - (3) Money judgments;
 - (4) Bonds in which a mandate has been issued.
- (c) Property subject to the Unclaimed Property Act shall not be presumed abandoned unless it has remained unclaimed for the statutory period of time.

[Source: Transferred from 710:80-11-15 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

PART 7. ENERGY RELATED COMPANIES

735:80-11-20. Energy related companies; field audits; "current litigation" defined

- (a) Energy related companies shall be examined under any or all of the circumstances defined in 735:80-11-2.
- (b) The following categories of property normally held by energy related companies shall be subject to reporting under the Unclaimed Property Act:
 - (1) Outstanding or unclaimed expense and vendor checks, payroll checks, royalty checks, rental checks, delay rental checks, and bonus checks;
 - (2) Unclaimed royalties;
 - (3) Unclaimed stock (undeliverable and underlying shares) and dividends;
 - (4) Unclaimed employee benefits;
 - (5) Any other intangible personal property not otherwise covered by the Act.
- (c) When reporting unclaimed dividends or royalties as unclaimed property, such property will be reported at its balance on the "as of" date of the year in which the report is filed. Subsequent reports shall contain the additional revenue or dividends from the "as of" date of the year originally reported, through the "as of" date of the current report year.
- (d) Mineral interest proceeds held in suspense due to current litigation are not reportable. "Current" litigation means, for purposes of this Section, an action pending in any court or before an administrative body, in which no final determination has been made, nor any final order entered and in which hearings

have been held, pleadings or other papers filed, or orders entered, as reflected by the docket sheet or other official record of the court, agency, or tribunal, within the previous five (5) years. If no such activities have occurred for a five year period, the litigation is deemed not to be current.

(e) Mineral interest proceeds held in suspense pending title requirements will be considered abandoned five (5) years after the last correspondence concerning such title or five (5) years from the first payable date, whichever is later.

[Source: Transferred from 710:80-11-20 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00]

PART 9. INSURANCE CORPORATIONS

735:80-11-25. Insurance corporations; life and property and casualty; field audits

(a) Insurance corporations shall be examined under any or all of the circumstances defined in 735:80-11-2.

(b) The following categories of property normally held by an insurance corporation shall be subject to reporting under the Unclaimed Property Act:

- (1) Proceeds due on life or endowment insurance policies;
- (2) Proceeds due on annuity contracts which have matured or terminated;
- (3) Proceeds due on policies in which the insured has reached the limiting age under the mortality table on which the reserve is based.

(c) The property(ies) in (b) of this Section shall not be presumed abandoned if the holder has mailed statements or other communications to the owner within five (5) years (two (2) years if the insured has reached the limiting age) from the date of last customer generated activity or transaction, and no such statement or communication has been returned as non-deliverable. OST may, at its discretion, require a holder to produce evidence of mailing of such statements or other business communications during the aforementioned abandonment period.

(d) In addition to the categories of property described in (b) of this Section, the following categories of property normally held by an insurance corporation shall be subject to reporting under the Unclaimed Property Act:

- (1) Outstanding or unclaimed expense and vendor checks, payroll checks, claim checks or drafts or other miscellaneous checks or drafts;
- (2) Unclaimed stock (undeliverable and underlying shares) and unclaimed dividends;
- (3) Agents credit balances and commissions;
- (4) Policy dividends;
- (5) Unidentified remittances;
- (6) Property distributable in the course of a demutualization or reorganization of an insurance company, pursuant to 60 O.S. §653.1;
- (7) Any other intangible personal property not otherwise covered by the Unclaimed Property Act.

[Source: Transferred from 710:80-11-25 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217); Amended at 17 Ok Reg 2167, eff 6-12-00; Amended at 22 Ok Reg 2661, eff 7-11-05]

PART 11. PUBLIC OFFICERS AND AGENCIES

735:80-11-30. Public officers and agencies; field audits

(a) Public officers and agencies shall be examined under any or all of the circumstances defined in 735:80-11-2.

- (b) The following categories of property normally held by public officers and agencies shall be subject to reporting under the Unclaimed Property Act:
- (1) Outstanding or unclaimed expense and vendor checks, payroll checks and refund checks;
 - (2) Unclaimed employee benefits;
 - (3) Unclaimed bond proceeds, together with interest or dividends thereon.
- (c) Property subject to the Unclaimed Property Act shall not be presumed abandoned unless it has remained unclaimed for the statutory period of time.

[Source: Transferred from 710:80-11-30 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

PART 13. UTILITIES

735:80-11-35. Utilities; field audits

- (a) Utility companies shall be examined under any or all of the circumstances defined in 735:80-11-2.
- (b) The following categories of property normally held by a utility company shall be subject to reporting under the Unclaimed Property Act:
- (1) Outstanding or unclaimed expense and vendor checks, payroll checks, and refund checks;
 - (2) Deposits made to insure payment of utility services, together with any interest thereon;
 - (3) Unclaimed stock and dividends;
 - (4) Unidentified remittances;
 - (5) Any other intangible personal property not otherwise covered by the Act.
- (c) Property subject to the Unclaimed Property Act shall not be presumed abandoned unless it has remained unclaimed for the statutory period of time.

[Source: Transferred from 710:80-11-35 at 60 O.S., § 688, eff 7-1-99 (see Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 13. ADMINISTRATIVE PROCEEDINGS RELATED TO PROTESTS

735:80-13-1. Purpose and general overview of protest procedure

- (a) The purpose of this Subchapter is to give the protestant, or the protestant's representative, a reasonable way to have the case considered fairly, and to give the protestant an opportunity to resolve disagreements with OST in the administration of the unclaimed property laws without having to go through a formal hearing. The provisions of this Subchapter are provided to protestants who wish to challenge a decision of the Unclaimed Property Division.
- (b) If a case cannot be resolved informally, the provisions of this Subchapter provide for a formal hearing before a hearing examiner, who is independent of the Unclaimed Property Division. The hearing examiner makes proposed Findings, Conclusions and Recommendations which are reviewed and acted on by the Treasurer.
- (c) The protestant retains the right to seek relief by way of appeal to state district court.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-2. Intent, scope and construction of rules

The Rules of Practice and Procedure before OST set out in this Subchapter shall govern all contested proceedings before the State Treasurer or a designated hearing examiner concerning the administration of unclaimed property laws. These Rules shall be given the most reasonable meaning, taken in their total context, and will be construed to secure due process in the proper resolution of every controversy. They shall not be construed to limit legal rights or obligations of any party.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-3. Commencement and numbering of a protest

(a) Protests must be commenced by filing a timely written protest with the OST. In order for a protest to be considered timely, it must be filed within thirty (30) days after the date of the mailing of the decision being protested, unless extension is granted by the Treasurer within the thirty (30) day period.

(b) OST assigns a case number for a protest, and creates a file. The Treasurer may assign a hearing examiner. After a hearing examiner is designated by the Treasurer, the hearing examiner sets a day for a pre-hearing conference for the protestant and OST.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-4. Protests in writing and timely filed; applications for hearings

All protests must be in writing and must be timely filed as provided in 735:80-13-3. If an oral hearing is desired, an application or request therefor must be made in writing. No protest hearing will be set without a written application or request therefor.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-5. Content of protests and applications for hearing

Protests and applications for hearing shall be filed and signed by the protestant, or an authorized representative, and shall set out therein:

- (1) The name, address and social security number or employer's identification number;
- (2) A statement of the decision being protested and the amount of funds in controversy;
- (3) A clear and concise assignment of each error alleged to have been committed;
- (4) The argument and legal authority upon which each assignment of error is made;
- (5) A statement of the relief sought by the protestant; and
- (6) A verification by the protestant or his duly authorized agent that the statements and facts contained therein are true.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-6. Pleadings to be on 8½" x 11" paper

All pleadings filed with OST shall be duplicated on letter size, 8½" x 11" paper.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-7. Representation and participation in administrative proceedings

(a) **Representation.** In an administrative proceeding the protestant may represent himself or herself at any stage of the proceeding or may be represented by:

- (1) an attorney;
- (2) an accountant; or,
- (3) a representative who has been approved by the Treasurer to represent the protestant.

(b) **Proper showing may be required.** If a protestant wants to be represented by someone other than himself or herself, an attorney, or an accountant, the hearing examiner may require that such person, before being recognized as a representative of the protestant, make a proper showing that he or she is of good character and in good repute and possessed with necessary qualifications to enable the representative to render such services to the protestant. Upon such showing by the representative, the hearing examiner will certify the representative.

(c) **Proof of authority.** Any person representing a protestant in any matter may be required at any time to show written proof, in a form satisfactory to the Treasurer, of his or her authority to represent such protestant in that matter.

(d) **Confidentiality of proceedings; participation of others.** Proceedings are not open to the public unless confidentiality has been waived by the protestant or his representative. Any person who is not a party, not employed by a party, or not called as a witness, must obtain the permission of the hearing examiner before observing or participating during any stage of the proceeding.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-8. Pre-hearing conference

(a) **General provisions.** A pre-hearing conference notice is sent to the parties, usually within thirty (30) days of the filing of the protest. The purpose of the pre-hearing conference is to get the parties together before the hearing examiner to attempt to resolve the case or parts of it, early in the progression of the case, to discuss the facts, identify the legal issues, present discovery requests, make all appropriate stipulations, and to propose a procedural schedule. However, the pre-hearing conference should not serve as the parties introduction to the case. Rather, the parties are to make contact and discuss the merits of the case prior to the scheduled pre-hearing conference.

(b) **Rulings; pre-hearing conference order.** During the pre-hearing conference, the hearing examiner makes all necessary rulings. After the pre-hearing conference, the hearing examiner issues a pre-hearing conference order which reduces to writing the agreements reached at the pre-hearing conference.

(c) **Failure to appear.** If a party fails to appear at the scheduled pre-hearing conference or to timely respond to the notice of pre-hearing conference, but has previously submitted a written request for a hearing on the protest, then a hearing will be set. If a hearing has not been requested, then OST will be directed by the hearing examiner to file a response to the protest, which response shall be signed by the attorney representing OST. If a party files a reply to OST's Response, and requests a hearing therein, then the hearing examiner may set the matter for hearing on the merits of the protest, and thereafter, enter recommendations to the Treasurer in accordance with the findings. If a party files a reply to the Response and does not request a hearing, then the hearing examiner will consider the reply in making a recommendation to the Treasurer. If a party fails to file a reply to the Response, then the hearing examiner will issue Findings, Conclusions and Recommendations. Any party aggrieved by the recommendation may proceed pursuant to 735:80-13-20.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-9. Notice of hearing

If a case is not fully resolved at the pre-hearing conference, the case is set for formal hearing before the hearing examiner. Notice of the time, date and location of the hearing is sent to the parties. The parties are directed to file briefs or position letters (or both) in support of their positions.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-10. Continuances or extensions

A party seeking an extension or continuance shall direct the request to the hearing examiner, with notice to the opposing party, and for good cause shown, a continuance or extension will be granted.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00; Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-11. Hearing examiner to hear case

Hearings will be conducted by a hearing examiner, who must be a licensed attorney at law, who has been designated by the Treasurer. The Treasurer may conduct a hearing without designating a hearing examiner. The hearing examiner shall have authority to conduct hearings, to examine witnesses, to rule upon motions, to rule upon the admissibility of evidence, to continue or recess any hearing, to control the record, and to make recommendations to the Treasurer. If for any reason a hearing examiner cannot continue on a case, the Treasurer shall designate another hearing examiner with the above qualifications, who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-12. Conduct of hearing

Administrative proceedings are conducted by OST pursuant to the following procedures:

- (1) **Appearances; motions; preliminary matters; oaths.** The burden of proof is generally on the protestant. The hearing will be convened by the hearing examiner, appearances noted, and any motions or preliminary matters will be considered. The hearing examiner shall administer oaths or affirmations to the witnesses.
- (2) **Argument; witnesses; evidence.** Each party shall have the opportunity to present its case, to make opening statements, to call and examine witnesses, to offer documentary evidence into the record and to make closing arguments. Each party shall also have the opportunity to cross-examine opposing witnesses on matters covered in direct examination and, in the discretion of the hearing examiner, upon matters relevant to the issues even though not covered in direct examination. Any objection to testimony or evidentiary offers should be made, and the basis of the objection stated on the record.
- (3) **Discretion of hearing examiner in certain matters.** The hearing examiner may question any party or any witness. The hearing examiner shall establish the order of proceeding, but regardless of the order, the protestant is entitled to open and conclude in arguments. The hearing examiner is responsible for closing the record, and may hold it open for

stated purposes. Parties may submit proposed Findings, Conclusions and Recommendations at any time after notice of the hearing, but prior to closing of the record. Parties may request that the record be held open for this or other purposes.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-13. Discovery

Discovery in administrative proceedings before OST shall comply with the following:

- (1) **Authority of hearing examiner.** The hearing examiner may, upon his or her own motion or on the motion of either party:
 - (A) Subpoena any person to appear and testify and to produce certain documents or other tangible items at an oral hearing;
 - (B) Require either party to complete interrogatories;
 - (C) Commission the taking of an oral deposition and require production of certain documents or other tangible items at the time of the deposition; and
 - (D) Order any party to allow entry of an OST employee upon property under his or her control for the purpose of doing any act or making any inspection which is reasonably calculated to lead to the discovery of evidence material to the contested case.
- (2) **Subpoenas; costs; fees; service.** When a witness is required to appear or to produce documentary evidence, a subpoena shall be issued under the seal of the Treasurer. The party requesting the subpoena shall fill it in before issuance. The subpoena may be served by certified mail with return receipt requested or it may be hand delivered. The party requesting the subpoena shall bear the cost of serving it. Fees of a non-party witness who is subpoenaed to appear before OST shall be the same as those allowed to witnesses appearing before the district courts of this State. Party witnesses are not entitled to witness fees.
- (3) **Confidentiality.** Any and all information obtained through the discovery proceedings shall be deemed confidential, shall be used only for matters pending in the case in which they were discovered, and shall be accorded the same degree of confidentiality as any other document or paper required by law to be filed with OST.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-14. Rules of evidence

- (a) **Rules governing; admissibility; objections.** The rules of evidence as applied in non-jury, civil cases in the district courts of this State shall be followed in administrative proceedings related to protests except when it is necessary to ascertain facts not reasonably susceptible of proof under those rules. In that event, evidence not admissible under the Rules of Evidence may be admitted, if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The hearing examiner shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, part or all of the evidence may be received in written form if the hearing will be expedited and the interest of the parties will not be substantially prejudiced.
- (b) **Certification of issues.** A party to the proceedings who objects to a ruling of the hearing examiner may request and obtain certification of the issue to the

Treasurer for a decision prior to the issuance of Findings, Conclusions and Recommendations by the hearing examiner. The signatures of the protestant's representative, the attorney for OST and the hearing examiner must be upon the certification.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-15. Oral evidence, witnesses and penalty for false statements

A hearing examiner may require the parties to an administrative proceeding to identify the persons they expect to call as witnesses. The testimony of witnesses shall be made under oath or affirmation, and the making of false statements may subject a person to the penalties of perjury.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-16. Evidence by official notice

The hearing examiner in an administrative proceeding may, regardless of whether requested by the parties, take official notice of matters which the judges of district courts of Oklahoma can judicially notice and of facts within the scope of personal knowledge or within the specialized knowledge of OST. Such official notice must be stated on the record, and the parties must have an opportunity to contest the material noticed. A party requesting the official notice must state upon the record sufficient information to enable the hearing examiner to comply with the request.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-17. Transcript of oral hearings; request for certified court reporter

Testimony offered under oath, comments of counsel and the hearing examiner, offers of documentary evidence and rulings made during the course of an oral hearing shall be recorded on tape. A copy of the tape of the hearing will be furnished to any party to the proceeding upon written request to the hearing examiner and payment of a reasonable fee established by OST. Upon request to the hearing examiner by either party, the hearing will be recorded and transcribed by a certified shorthand reporter. If a certified shorthand reporter is requested, necessary arrangements for the presence of a reporter at a hearing, the cost thereof, and cost of transcribing will be borne by the requesting party who must furnish the hearing examiner with an original and the attorney for OST with a copy, of such transcript.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02]

735:80-13-18. Submission of case on briefs

When a protestant in an administrative proceeding does not request an oral hearing, or the parties agree that an oral hearing is not needed, the hearing examiner will base the Findings, Conclusions and Recommendations on the position letters and briefs submitted by the parties. The hearing examiner will mail notice of a date certain for each party to submit a position letter or brief setting out therein the statement of facts, issues to be determined, contentions and statutory and case law relied upon to support his contentions. The hearing examiner may schedule a conference between the parties if it is deemed necessary to clarify the positions of the parties.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-19. Findings, conclusions and recommendations

(a) **Issuance.** When the record in an administrative proceeding is closed and submitted, the hearing examiner will issue Findings, Conclusions and Recommendations to the Treasurer for its consideration. The Findings, Conclusions and Recommendations will include a statement of facts, the issues and contentions, conclusions based on the findings of fact and applicable law, and recommendation to the Treasurer. The parties to the proceeding will be mailed copies of the hearing examiner's Findings, Conclusions and Recommendations.

(b) **No appeal.** No appeal may be based upon the Findings, Conclusions and Recommendations issued by the hearing examiner, since only the Treasurer may issue the final order from which an appeal may be brought.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-20. Options available to parties after action by hearing examiner

The following options are available to parties to an administrative proceeding related to a protest after issuance of an unfavorable recommendation:

(1) **Motion for rehearing; content; replies; time limitations.** Within fifteen (15) days following mailing of the Findings of Fact, Conclusions of Law and Recommendations of the hearing examiner, any party to the proceedings may file a Motion for Rehearing or Reconsideration with the hearing examiner. Such Motion must specify each ground upon which the party alleges the Findings to be erroneous. The opposing party may reply to a Motion for Rehearing or Reconsideration within fifteen (15) days after mailing of the Motion for Rehearing or Reconsideration.

(2) **Rehearing procedure.** If a party elects to file a Motion for Rehearing or Reconsideration, that party will be precluded upon rehearing, should the Motion be granted, from raising as error any issue not set forth in the Motion, and the proposed decision is vacated pending a subsequent decision or rehearing. If the Motion is overruled in whole or in part, the original proposed decision stands on the date the Motion is overruled. If a rehearing is granted, notice will be issued to the parties setting out the date, time and place of the hearing.

(3) **Hearing procedure before Treasurer.** If a Motion for Rehearing is denied by the hearing examiner, the case stands submitted to the Treasurer for consideration and the issuance of a Final Order. The Treasurer will consider the administrative record including the hearing examiner's recommended findings of fact and conclusions of law in rendering a decision. Any party may apply for oral argument before the Treasurer whether or not he or she moved for rehearing or reconsideration before the hearing examiner. If a Motion for Rehearing or Reconsideration before the hearing examiner is not filed, any party requesting an oral argument before the Treasurer, must file said motion for a hearing within fifteen (15) days of the mailing of the hearing examiner's Findings. The application must specify each ground upon which the party alleges the Findings, Conclusions and Recommendations to be erroneous. Should the Application be granted, the moving party will be precluded from raising as error any issue not set forth in the Application for oral argument.

(4) **Granting of hearing; filing of briefs; time limitations.** If such application for oral argument is granted, the Treasurer will set a date, time and place for the hearing and notice will be given to each side by mail at least twenty (20) days in advance of the hearing. Typewritten briefs must be submitted to the Treasurer at least fourteen (14) days prior to such hearing,

or as otherwise directed by the Treasurer. Time limits for oral arguments will be set by the Treasurer at the time of the hearing.

(5) **Exhaustion of administrative remedies.** Although protestants must exhaust all administrative remedies before appealing to District Court, it is not necessary to move for reconsideration or rehearing or to apply for oral argument before the Treasurer to exhaust administrative remedies. All that is necessary for exhaustion is to pursue a protest until the Treasurer issues a final decision in the form of an Order.

(6) **Treasurer decision commences appeal time.** Neither a Motion for Reconsideration or Rehearing nor an application for oral argument before the Treasurer will be granted after a final decision has been made and an order issued. Therefore, a Motion for Reconsideration or Rehearing or an application for oral argument before the Treasurer will not serve to stay the time to appeal to District Court.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00; Amended at 19 Ok Reg 2476, eff 6-27-02]

735:80-13-21. Decision and order of the State Treasurer

The Treasurer will issue a written order in each case whether or not application for oral argument is made. The Treasurer may, in the Treasurer's discretion, vacate, modify, or affirm, in part or whole, the recommendations of the hearing examiner.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-22. Appeals to District Court from orders of the Treasurer

If a protestant is aggrieved by the order of the Treasurer, any appeal is governed by Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 309 et seq.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-23. Computation of time

When filing documents in an administrative proceeding related to a protest, the following provisions apply:

(1) **General provisions.** In computing any period of time, begin on the day after the act, event, or default and conclude on the last day of the computed period, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(2) **Filing; evidence of filing.** Documents required to be filed are considered filed on the date of personal service of such documents or upon the date of the postmark showing date mailed on the envelope containing such documents and must show a date on or before the last day of filing as defined hereinabove.

(3) **Use of certified or registered mail.** If the document is sent by United States registered mail, the date of registration of the document shall be treated as the postmarked date. If the document is sent by United States certified mail and the sender's receipt is postmarked by the postal employee, the date of the United States postmark on such receipt shall be treated as the postmark date of the document. Thus, the risk that the document will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered mail or certified mail.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-24. Service of documents

Service of any document in an administrative proceeding may be accomplished by personal delivery or by mailing such document addressed to the party or his authorized representative at the last known address, postage prepaid. The document shall indicate on its face by Certificate of Service or of Mailing that copies have been served on parties of record.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-25. Dismissal of case

(a) **Who may file.** A Motion to Dismiss may be filed by either party in an administrative proceeding related to a protest, and the hearing examiner, upon his or her own motion, may give notice of intent to dismiss, stating grounds for dismissal.

(b) **Procedure in dismissal.** Notice of a Motion to Dismiss filed by any party, or an intent to dismiss issued by the hearing examiner shall be sent to all parties or their authorized representatives by mail. A notice to appear at a certain time, date and place and show cause why such case should not be dismissed should be sent with the dismissal. Notice shall be given at least fifteen (15) days prior to the show cause hearing. If protestant fails to appear at the hearing or to respond to the notice, the hearing examiner may recommend to the Treasurer that an order of dismissal be entered disposing of the case consistent with the position last taken by the protestant.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-26. Burden of proof

In all administrative proceedings, unless otherwise provided by law, the burden of proof shall be upon the protestant to show in what respect the action or proposed action of OST is incorrect. If, upon hearing, the protestant fails to prove a prima facie case, the hearing examiner may recommend that the Treasurer deny the protest solely upon the grounds of failure to prove sufficient facts which would entitle the protestant to the requested relief.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

735:80-13-27. Effective date of the Part

The provisions of this Part govern all proceedings and cases commenced after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the Treasurer or the hearing examiner, their application in a pending case would not be feasible or would work an injustice.

[Source: Added at 17 Ok Reg 2167, eff 6-12-00]

SUBCHAPTER 15. AMNESTY

735:80-15-1. Purpose and scope

The purpose of this Subchapter is to establish the procedures for holders to follow when taking advantage of announced amnesty programs of OST.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01]

735:80-15-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Amnesty**" means a program authorized by the State Treasurer in which potential holders of unclaimed property are promised waivers of interest and civil penalties on reported amounts if they voluntarily begin to comply with the reporting requirements of the State's unclaimed property laws.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01]

735:80-15-3. Establishment of the Amnesty Period

The State Treasurer may *authorize amnesty programs to promote voluntary compliance with the Uniform Unclaimed Property Act, and may participate and cooperate with other state administrators of abandoned or unclaimed property programs in nationwide amnesty programs* [60: 680]. The State Treasurer shall establish a "look back period" of a specified amount of time which shall be the period to which amnesty applies. When authorizing an amnesty program, the Treasurer shall establish the period of time in which holders or their authorized representatives, may file their reports or otherwise notify OST, in the manner specified in this Subchapter. This period of time shall be known as the "Amnesty Period." The Treasurer shall publicly announce an amnesty program through press releases or other methods, which are calculated to inform holders which have not previously reported, of the availability of the program. The method chosen is solely at the discretion of the State Treasurer.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01]

735:80-15-4. Notice by holder that it will participate in Amnesty

To take advantage of an Amnesty Program, a holder needs to file a completed Holder Report with the Unclaimed Property Division, on forms provided by the Division, and place on the first page of the report in a conspicuous place, the word "Amnesty," and simultaneously remit the property. The content and information of the report shall be the same as a normal holder report, and shall include, where available, the names and addresses of owners of the reported property.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01]

735:80-15-5. Conditions and restrictions of Amnesty Program

A Holder, who is qualified to take advantage of an Amnesty Program and who properly reports under this Subchapter, will not be liable for the interest and penalties imposed on Holders under the Unclaimed Property Act on reported and remitted amounts. The interest which is waived, will not include interest on property owed to an Owner which may have accrued on the property prior to the time the property should have been reported, such as an interest-bearing bond. OST reserves the right to cooperate with other States and share information through reciprocal agreements and the States National Audit Program. OST or a third party under contract with OST may, however, seek interest and penalties from holders who fail to report unclaimed property in their Amnesty Holder Reports or in the accompanying remittances to OST, any unclaimed property which should have been reported and remitted for the look back period.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01; Amended at 21 Ok Reg 2879, eff 7-11-04]

735:80-15-6. Release from liability

Upon the report and remittance of the amount of unclaimed property determined to be owing pursuant to this Subchapter, the Unclaimed Property Division shall relieve the holder of the liability, to the extent of the value of the property paid or delivered, in accordance with the provisions of Title 60 Oklahoma Statutes, §664.

[Source: Added at 18 Ok Reg 837, eff 2-6-01 (emergency); Added at 18 Ok Reg 2899, eff 6-25-01]