

Proposed Rules
of the
Tennessee Department of Treasury
Division of Unclaimed Property

Chapter 1700-2-1
Regulations Governing the
Uniform Disposition of Unclaimed Property Act

Presented herein are proposed rules and amendments of the Tennessee Department of Treasury submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate these rules and amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Treasury Department, Division of Unclaimed Property located on the 9th Floor of the Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Publications Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed rules and amendments, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243; (615) 741-7063.

The text of the proposed rules and amendments is as follows:

New Rules

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1700-2-1-.38 Agreements Relative to Unreported Property.

- (1) Any agreement entered into on or after July 1, 2005 with an owner whereby the owner is to pay a fee or other remuneration for locating, delivering, recovering, or assisting in the recovery of property that has not yet been reported to the State Treasurer pursuant to the Act is enforceable only if:
 - (a) The agreement is in writing;
 - (b) Clearly sets forth the nature of the property and the services to be rendered;

- (c) Is signed by the apparent owner;
 - (d) States the value of the property before and after the fee;
 - (e) Discloses that, absent the agreement, the property would otherwise be delivered to a state administered unclaimed property program for safekeeping on the owner's behalf and that upon such delivery, the owner would have been able to recover the property from the state administered program without charge; and
 - (f) Informs the apparent owner that the owner may obtain additional information about unclaimed property programs by logging onto the state of Tennessee Internet web site www.treasury.state.tn.us/unclaim/
- (2) Nothing in this rule shall be construed to prevent an owner from asserting at any time that an agreement to locate, deliver, recover, or assist in the recovery of property is based upon an excessive or unjust consideration.

Authority: T.C.A. § § 66-29-130 and 66-29-122.

1700-2-1-.39 Proxies. Due to the short time period within which securities are held under the Act prior to their sale, the State Treasurer shall not vote proxies received in connection with securities delivered to the Unclaimed Property Division.

Authority: T.C.A. § § 66-29-130, 66-29-107 and 66-29-119.

Amendments

1700-2-1-.08 Voluntary Reporting is amended by deleting the same in its entirety and by substituting instead the following:

1700-2-1-.08 Voluntary Reporting. Since the Act is purely custodial, any holder of unclaimed property may voluntarily report funds before the statutory due date and be relieved of all accountability and responsibility upon delivery of the unclaimed property to the State Treasurer, to the extent of the value of the property reported and delivered. Provided, however, if the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate and the property has a value of fifty dollars (\$50.00) or more, the holder must exercise due diligence, as such term is defined in Rule 1700-2-1-.19 below, to ascertain the whereabouts of the owner prior to reporting such property. The due diligence required by this rule shall be performed not more than one hundred twenty (120) days or less than sixty (60) days before filing the report.

Authority: T.C.A. §§ 66-29-130, 66-29-113(f) and 66-29-116.

1700-2-1-.37 Reports of Safe Deposit Box Contents is amended by deleting paragraph (5) thereof in its entirety.

Authority: T.C.A. §§ 66-29-130, 45-2-907, 66-29-104(4)(A) and 66-29-115(c).

The proposed rules set out herein were properly filed in the Department of State on the 29th day of December, 2005 and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of April, 2006.