

Dear Senators MCKENZIE, Fulcher, Malepeai, and  
Representatives LOERTSCHER, Crane, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Office of the State Treasurer:

IDAPA 54.03.01 - Rules Pertaining To The Idaho Unclaimed Property Administrative Rules (Docket  
No. 54-0301-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/10/2012. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/07/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee  
**FROM:** Principal Legislative Research Analyst - Eric Milstead  
**DATE:** September 20, 2012  
**SUBJECT:** Office of the State Treasurer

IDAPA 54.03.01 - Rules Pertaining To The Idaho Unclaimed Property Administrative Rules (Docket No. 54-0301-1201)

The Office of the State Treasurer has submitted proposed rulemaking at IDAPA 54.03.01 - Rules Pertaining To The Idaho Unclaimed Property Administrative Rules. The proposed rule seeks to clarify existing language relating to unclaimed property. The specific changes revise language relating to unclaimed expenses and checks (Rule 006); reciprocity agreements relating to custody of unclaimed property (Rule 012); voluntary payments of unclaimed property (Rule 015); and filing a claim with the administrator (Rule 016.02).

The agency explains that negotiated rulemaking was not conducted because the revisions are limited in scope and simply provide clarification of existing rules and procedures.

It appears the proposed rule is authorized pursuant to Section 14-532 and 14-539, Idaho Code.

cc: Office of the State Treasurer  
Ms. Cozette Walters

## IDAPA 54 - OFFICE OF THE STATE TREASURER

### 54.03.01 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

DOCKET NO. 54-0301-1201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 14-532 and 14-539, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The revisions are necessary to clarify complicated language or to reflect existing procedures making it easier for Idaho citizens to understand Title 14, Chapter 5, Idaho Code. The revisions provide clarifications and a better understanding of existing rules and procedures.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the revisions are limited and provide clarifications of existing rules and procedures, including the elimination and simplification of several rules. All Idaho citizens are impacted by the program and there is no group or organization representing affected citizens.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cozette Walters, Administrator, Unclaimed Property, at (208) 332-2979.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 10<sup>th</sup> day of September, 2012.

Cozette Walters  
Administrator, Unclaimed Property  
Office of the State Treasurer  
700 W. Jefferson St., Ste. 126  
P. O. Box 83720  
Boise, ID 83702  
Phone: (208) 332-2979  
Fax: (208) 332-2970

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 54-0301-1201

**002. WRITTEN INTERPRETATIONS (RULE 002).**

This agency ~~has~~ may have written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection ~~and copying~~ at the ~~main~~ unclaimed property office of the State Treasurer. See Rule 005 of these rules for the ~~main~~ office address. (3-15-02)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. UNCLAIMED EXPENSES AND CHECKS (RULE 006).**

Intangible property required to be reported and delivered to the state includes outstanding or unclaimed expense and vendor checks, payroll checks, claim checks or drafts or other miscellaneous checks and drafts. The term "check" also includes items referred to as "warrants." The term "payroll" includes commissions and any other form of monetary payment to an employee in exchange for services. If the payee has disclaimed ownership, the holder must retain a confirmation letter signed by the payee stating that the amount the holder is showing for them is not due and owing and is to remain on the books of the holder for audit purposes. (7-1-98)( )

~~01. Confirmation. A confirmation letter by the payee which claims that the amount is due and owing to the payee should be accompanied by a facsimile instrument issued by the holder in payment of the amount due and owing before the account will be considered not abandoned.~~ (8-24-94)

~~02. Clearance. A confirmation letter signed by the payee which states that the amount is not due and owing to the payee will be deemed sufficient to relieve the holder of the liability even if the check with which the holder paid the liability has not yet cleared the holder's bank.~~ (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. GENERAL RULES FOR TAKING CUSTODY OF UNCLAIMED PROPERTY (RULE 012).**

**01. In General.** Under the rule established by the United States Supreme Court in Texas v. New Jersey, 379 U.S. 674 (1965), a holder of unclaimed property must report and remit that property to the state of the owner's last known address as shown in the holder's books and records. If the holder does not have a last known address for the owner, then the holder must report and remit the property to the state where the holder is incorporated. The unclaimed property laws of the state where the property is reportable govern the holding period and what is reportable. (7-1-98)

**02. Reciprocity Agreements.** A holder located in Idaho may report and remit property reportable to another state to the administrator of the Idaho Unclaimed Property Act if ~~the administrator has entered into a reciprocity agreement with~~ there are ten (10) or fewer properties to report with a value of one thousand dollars (\$1,000) or less, and the other state. ~~A list of those states that the administrator has entered into~~ allows for reciprocity agreements with ~~can be obtained from the office of the State Treasurer.~~ If property reportable to another state is reported and remitted to the administrator, that property will be transferred to the other state in accordance with the reciprocity agreement. (7-1-98)( )

(BREAK IN CONTINUITY OF SECTIONS)

**015. REPORT OF ABANDONED PROPERTY (RULE 015).**

**01. Incomplete Report.** A report filed with the office of the State Treasurer must meet the requirements of a valid tax return as set out in Section 14-517, Idaho Code. A report that does not meet the statutory requirements may be returned to the holder as incomplete. Any report returned to the holder as incomplete will not be treated as filed in compliance with Section 14-517, Idaho Code. (5-8-09)

**02. Voluntary Payments of Unclaimed Property.** A holder who voluntarily reports and remits any intangible property, as defined in Section 14-501, Idaho Code, with a total value of fifty dollars (\$50) or less to the administrator is relieved of all liability in accordance with Section 14-520, Idaho Code. as long as the owner name or other identifying information about the rightful owner is included in the report. Aggregate amounts of unclaimed property will not be accepted. The administrator will remit the funds to the appropriate state. (~~3-20-04~~)( )

**03. Underlying Shares and Cumulative Dividends.** The holder must report and remit total cumulative dividends to date, together with the stock certificate or the electronic equivalent of the stock certificate, when the certificate or equivalent is in the holder's possession, if the value of total cumulative dividends plus the value of the underlying shares belonging to the apparent owner is more than fifty dollars (\$50). (4-11-06)

**016. FILING A CLAIM WITH ADMINISTRATOR (RULE 016).**

**01. Interest.** Interest on interest bearing items will accrue from March 31, 1980, or date received, whichever is later, for a maximum of ten (10) years. No interest will be paid on items that are reported as interest bearing, unless the holder reports the rate of interest. (7-1-98)

**02. Payment of Claims - Claims Process.** (8-24-94)

**a.** Warrants will be authorized and payment made: (8-24-94)

**i.** In the name of, and mailed to, the established owner; or (8-24-94)

**ii.** To the court appointed estate administrator, administratrix, executor, executrix, or personal representative; or (8-24-94)

**iii.** To the court appointed guardian; or (8-24-94)

**iv.** In accordance with a court decree of distribution; or (8-24-94)

**v.** To an heir for distribution to other heirs; if any. (8-24-94)

**b.** Owner, Cashier's Checks: (8-24-94)

**i.** The owner of a cashier's check is presumed to be the payee unless the remitter has in his possession the cashier's check. (8-24-94)

**ii.** A payee is presumed to have received payment for a cashier's check or other instrument, and the payee must establish that the check was not cashed and that the owner is not, in fact, a holder in due course. (8-24-94)

**c.** It shall be the responsibility of the payee to disburse any funds or property in accordance with any existing contract or agreement. (8-24-94)

**d.** When one (1) claimant, who has proven that he has an interest in the unclaimed property, has been paid the full amount of unclaimed property held by the office of the State Treasurer, there is no requirement that the office of the State Treasurer pay other subsequent claimants. The office of the State Treasurer is not required to locate

all heirs of owners of unclaimed property. (7-1-98)

**e.** If there are two (2) 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, the office of the State Treasurer shall pay each owner an equal share of the account. (7-1-98)

~~**f.** Before payment of a claim for lost stock or bond certificates, a surety bond may be required of the owner/claimant which bond shall indemnify the office of the State Treasurer against claims by third parties. (7-1-98)~~

**g.** Approved utility deposit claim forms and proof of payment to the claimant shall be retained by the utility company for a period of seven (7) years from the date the claim is paid. (7-1-98)

**h.** The burden is on the claimant to provide sufficient proof to establish the elements of the claim, and it is the claimant's responsibility to contact persons and to search out documents relating to the claim. (4-11-06)