

**Department
of Commerce**

Division of Unclaimed Funds
John R. Kasich, Governor
David Goodman, Director

**Ohio Department of Commerce
Division of Unclaimed Funds****NOTICE OF PUBLIC HEARING**

Pursuant to Section 119.03 of the Ohio Revised Code, notice is hereby given that the Ohio Department of Commerce, Division of Unclaimed Funds, will conduct a public hearing regarding the following Ohio Administrative Code rules related to unclaimed funds. The hearing will be held on **Thursday, October 20, 2011, at 9:30 a.m.**, at the Ohio Department of Commerce, 77 S. High Street, 23rd Floor, Columbus, Ohio 43215.

Rule 1301:10-1-01, Definitions. An amendment is proposed to correct the misspelling of "remuneration," in 1301:10-1-01(B) and add definitions for "state-initiated examination" and "finder." The definitions are added to provide clarification to the business community and general public about these terms as they relate to unclaimed funds examinations of holders and paid professional finders. The amendment adds 1301:10-1-01(N) to define "state-initiated examination" as an involuntary examination initiated by the state of Ohio pursuant to division (F) of section 169.03 of the Revised Code. It clarifies, however, that "state-initiated examination" does not include any examination initiated by another state in which the state of Ohio joins. The definition of "finder" will be moved from its current place in OAC 1301:10-4-02 to the newly created OAC 1301:10-1-01(O) without substantive change. The definition provides clarification that "finder" means any person who, on behalf of any other person, engages in any activity for the purpose of locating, delivering, recovering or assisting in the recovery of unclaimed funds in exchange for a fee, compensation, commission or other remuneration. An attorney whose performance of services to locate, deliver, recover or assist in the recovery of unclaimed funds is solely incidental to the attorney's representation of the attorney's client is not a "finder." These definitions are not substantive changes, but merely clarify and codify current law as specified in ORC 169.03, 169.13 and 169.16.

Rule 1301:10-3-04, Examination of accounts. An amendment is proposed to add language to clarify various aspects of the holder examination process. Section (A) is amended to clarify that Ohio shall not compensate a contract auditor on a contingency fee basis for a state-initiated involuntary examination within the borders of Ohio, except that Ohio may compensate a contract auditor on a contingency fee basis, regardless of whether the holder is incorporated in Ohio or has its principal place of business or records within Ohio, when Ohio has joined in an examination initiated by another state. Section (E)(8) is amended to clarify that random selection of holders to be examined does not apply to examinations initiated by other states in which Ohio joins. These amendments are not a change in the law, but clarify law and practice already in effect.

Section (G)(4) is added to clarify that, in order to protect attorney-client confidentiality during an audit, attorneys and law firm holders are permitted to, and should, redact the client name, address, tax identification and other information that would identify the attorney's client. In addition, Section (I)(7) is added to state that attorneys and law firms may rebut or eliminate an auditor's preliminary findings of unclaimed funds liability by submitting either redacted records or an original affidavit certifying that the attorney or law firm is in possession of specified records rebutting or eliminating the unclaimed funds preliminary findings.

Rule 1301:10-4-02, Authority to present claims. An amendment is proposed to clarify (A)(2) regarding powers of attorney by removing "a specific" and to delete the definition of "finder" from (A)(4). The "finder" definition is being moved to OAC 1301:10-1-01 with the other chapter definitions for consistency. In addition, it is proposed that (A)(5) be amended to clarify the need for an order of execution when the person attempting to claim the original owner's funds is a creditor. The amendments are not changes in the law. They clarify law and practice already in effect.

A copy of the proposed rules may be obtained by contacting the Division of Unclaimed Funds, 77 S. High Street, 20th Floor, Columbus, Ohio 43215, at 614-466-4433 or 1-877-644-6823.