

House Bill 2104

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Reduces dormancy period from five years to three years for unclaimed property held by financial institutions, insurance companies and intangible equity ownership interests. Changes requirement that holder of unclaimed property provide notice by certified mail to notice by first class mail prior to imposing service charges, ceasing payment of interest or levying fees.

A BILL FOR AN ACT

1
2 Relating to reporting requirements for certain unclaimed property; creating new provisions; and
3 amending ORS 98.308, 98.311, 98.314 and 98.322.

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

5 **SECTION 1.** ORS 98.308 is amended to read:

6 98.308. (1) Any demand, savings or matured time deposit with a financial institution, including
7 a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mu-
8 tual investment certificate or any other interest in a financial institution is presumed abandoned
9 unless the owner, within [*five*] **three** years, has done one or more of the following:

10 (a) In the case of a deposit, increased or decreased its amount or presented the passbook or
11 other similar evidence of the deposit for the crediting of interest.

12 (b) Communicated in writing with the financial institution concerning the property.

13 (c) Otherwise indicated an interest in the property as evidenced by a memorandum or other re-
14 cord on file prepared by an employee of the financial institution.

15 (d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the
16 financial institution has communicated in writing with the owner with regard to the property that
17 would otherwise be presumed abandoned under this subsection at the address to which communi-
18 cations regarding the other property regularly are sent.

19 (e) Had another relationship with the financial institution concerning which the owner has:

20 (A) Communicated in writing with the financial institution; or

21 (B) Otherwise indicated an interest as evidenced by a memorandum or other record on file pre-
22 pared by an employee of the financial institution, and the financial institution has communicated in
23 writing with the owner with regard to the property that would otherwise be abandoned under this
24 subsection at the address to which communications regarding the other relationship regularly are
25 sent.

26 [*(2) For purposes of subsection (1) of this section "property" includes interest and dividends.*]

27 [(3)] (2) With respect to property described in subsection (1) of this section, a holder may not
28 impose any charge or cease payment of interest due to dormancy or inactivity unless:

29 (a) There is a written contractual agreement between the holder and the owner of the account
30 clearly and prominently setting forth the conditions under which a service charge may be imposed

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or the payment of interest terminated;

2 (b) The establishment of a service charge, the change of an existing service charge or the
 3 change of a policy pertaining to the payment of interest is uniformly applied to all dormant or in-
 4 active accounts;

5 (c) The holder [*shall give*] **gives** written notice to the owner at the owner’s last-known address
 6 whenever an account becomes dormant or inactive; and

7 (d) Three months’ written notice is given by [*certified*] **first class** mail to the last-known address
 8 of the owner of a dormant or inactive account before the holder [*may apply*] **applies** a service
 9 charge to that account or [*stop*] **stops** paying interest on that account.

10 [(4)] (3) A signature card is not a written contractual agreement for the purposes of subsection
 11 [(3)(a)] (2)(a) of this section[.]. However, [*the*] **a** signature card and [*the*] **a** written contractual
 12 agreement may be contained in one instrument.

13 [(5)] (4) Property described in subsection (1) of this section that is automatically renewable is
 14 matured for purposes of subsection (1) of this section upon the expiration of its initial time period.
 15 However, if the owner consents to a renewal at or about the time of renewal by communicating in
 16 writing with the financial institution or otherwise indicating consent as evidenced by a memorandum
 17 or other record on file prepared by an employee of the institution, the property is matured upon the
 18 expiration of the last time period for which consent was given. If the delivery of funds or property
 19 required by ORS 98.352 would result in a penalty or forfeiture in the payment of interest from the
 20 delivery of the funds or property, the delivery may be delayed until the time when no penalty or
 21 forfeiture would result.

22 [(6)] (5) Except for those instruments subject to ORS 98.309, any sum payable on a check, draft
 23 or similar instrument, on which a financial institution is directly liable, including a cashier’s check
 24 and a certified check, which has been outstanding for more than [*five*] **three** years after it was
 25 payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within
 26 [*five*] **three** years, has communicated in writing with the financial institution concerning it or oth-
 27 erwise indicated an interest as evidenced by a memorandum or other record on file prepared by an
 28 employee thereof.

29 [(7)] (6) A holder may not deduct from the amount of any instrument subject to [*subsections (6)*]
 30 *and (7)* **subsection (5)** of this section any charge imposed by reason of the failure to present the
 31 instrument for payment unless:

32 (a) There is a valid and enforceable written contract between the holder and the owner of the
 33 instrument pursuant to which the holder may impose a charge[, *and*];

34 (b) The holder regularly imposes such charges; and

35 (c) **The holder** does not regularly reverse or otherwise cancel [*them*] **the charges**.

36 (7) **For purposes of subsection (1) of this section, “property” includes interest and divi-**
 37 **dends.**

38 **SECTION 2.** ORS 98.311 is amended to read:

39 98.311. Notwithstanding the provisions in ORS 98.308, a holder may not deduct a service charge
 40 or fee or otherwise reduce an owner’s unclaimed account unless:

41 (1) There is a valid written contract between the holder and the owner that allows the holder
 42 to impose a charge;

43 (2) The service charge or fee is imposed uniformly on all accounts; and

44 (3) Three months’ written notice is given by [*certified*] **first class** mail to the last-known address
 45 of all owners before the charge or fee is levied.

SECTION 3. ORS 98.314 is amended to read:

98.314. (1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than *[five]* **three** years after the funds become due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (3)(b)(A) of this section is presumed abandoned if unclaimed for more than two years.

(2) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(3) For purposes of ORS 98.302 to 98.436 and 98.992, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

(a) The company knows that the insured or annuitant has died; or

(b) All of the following are true:

(A) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

(B) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph.

(C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(4) For purposes of ORS 98.302 to 98.436 and 98.992, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (1) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing two years after August 3, 1983, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

(a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

- 1 (b) The address of each beneficiary; and
- 2 (c) The relationship of each beneficiary to the insured.

3 **SECTION 4.** ORS 98.322 is amended to read:

4 98.322. (1) Stock, certificates of ownership or other intangible equity ownership interests in a
5 business association are presumed abandoned when all of the following occur:

- 6 (a) The interest is evidenced by records of the business association.
- 7 (b) A dividend, distribution or other sum payable as a result of the interest has remained un-
8 claimed for [*five*] **three** years.
- 9 (c) The owner has not otherwise communicated with the business association for [*five*] **three**
10 years from the date the sum was payable.

11 (d) The business association has sent written notice of the payment and underlying interest to
12 the owner at the last-known address of the owner as shown in the records of the business associ-
13 ation.

14 (2) With respect to any interest presumed abandoned under subsection (1) of this section, the
15 business association is the holder.

16 (3) At the time an interest is presumed abandoned under subsection (1) of this section, any
17 payment then held for or owing to the owner as a result of the interest is also presumed abandoned.

18 (4) Subsection (1) of this section shall not apply to any stock, certificate of ownership or other
19 intangible equity ownership interests in a business association that provides for the automatic re-
20 investment of dividends, distributions or other sums payable as a result of the interests, unless:

- 21 (a) The records of the business association show that the person also owns any stock, certificate
22 of ownership or other intangible equity ownership interest in the business association that is not
23 enrolled in the reinvestment plan; and
- 24 (b) The interest referred to in paragraph (a) of this subsection has been presumed abandoned
25 under subsection (1) of this section.

26 (5) Any dividend, profit distribution, interest, payment on principal or other sum held or owing
27 by a business association is presumed abandoned if, within [*five*] **three** years after the date pre-
28 scribed for payment, all of the following have occurred:

- 29 (a) The owner has not claimed the payment or corresponded in writing with the business asso-
30 ciation concerning the payment.
- 31 (b) The business association has sent written notice of the payment to the owner at the last-
32 known address of the owner as shown in the records of the business association.

33 **SECTION 5.** ORS 98.311 is added to and made a part of ORS 98.308 to 98.314.

34 **SECTION 6.** The amendments to ORS 98.308, 98.311, 98.314 and 98.322 by sections 1 to 4
35 of this 2007 Act apply to unclaimed property held by financial institutions or other holders
36 before, on or after the effective date of this 2007 Act.