

# Senate Bill 687

Sponsored by COMMITTEE ON JUDICIARY (at the request of Representative Tina Kotek)

## 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**.

Requires that report of abandoned property made to Department of State Lands indicate if unclaimed property is lawyer trust account established by attorney or law firm. Provides that amounts in unclaimed trust account be transferred by department to Oregon State Bar for purpose of funding of Legal Services Program.

## A BILL FOR AN ACT

1  
2 Relating to lawyer trust accounts; amending ORS 98.352, 98.386 and 98.396; and appropriating  
3 money.

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

5 **SECTION 1.** ORS 98.352 is amended to read:

6 98.352. (1) Every person holding funds or other property, tangible or intangible, presumed  
7 abandoned under ORS 98.302 to 98.436 and 98.992 shall report and pay or deliver to the Department  
8 of State Lands all property presumed abandoned as provided in this section, except that:

9 (a) Funds transferred to the General Fund under ORS 293.455 (1)(a) shall only be reported to the  
10 department.

11 (b) Funds in the possession of the Child Support Program described in ORS 180.345 shall only  
12 be reported to the department.

13 (2) The report shall be verified as to the accuracy of the information contained and shall in-  
14 clude:

15 (a) Except with respect to traveler's checks and money orders, the name, if known, and address,  
16 if known, of each person appearing from the records of the holder to be the owner of any property  
17 of value of \$50 or more presumed abandoned under ORS 98.302 to 98.436 and 98.992;

18 (b) In case of unclaimed funds of life insurance corporations, the full name of the insured or  
19 annuitant and last-known address according to the life insurance corporation's records;

20 (c) The nature and identifying number, if any, or description of the property and the amount  
21 appearing from the records to be due, except that items of value under \$50 each may be reported  
22 in aggregate;

23 (d) The date when the property became payable, demandable, or returnable, and the date of the  
24 last transaction with the owner with respect to the property; and

25 (e) Other information that the department prescribes by rule as necessary for the administration  
26 of ORS 98.302 to 98.436 and 98.992.

27 (3) If the person holding property presumed abandoned is a successor to other persons who  
28 previously held the property for the owner, or if the holder has had a name change while holding  
29 the property, the holder shall file with the report all prior known names and addresses and effective  
30 dates of changes if known of each holder of the property.

**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 (4) The report shall be filed after October 1, but no later than November 1 of each year for  
 2 accounts dormant as of June 30. The department may postpone the reporting date upon written  
 3 request by any person required to file a report. All records are exempt from public review for 12  
 4 months from the time the property is reportable and for 24 months after the property has been  
 5 remitted to the department. All lists of records or property held by a government or public authority  
 6 under ORS 98.336 shall be exempt from public review until 24 months after the property is remitted  
 7 to the department.

8 (5) If the holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 knows  
 9 the whereabouts of the owner and if the owner's claim has not been barred by the statute of limi-  
 10 tations, the holder shall, before filing the annual report, communicate with the owner and take  
 11 necessary steps to prevent abandonment from being presumed. The holder shall exercise due dili-  
 12 gence to ascertain the whereabouts of the owner.

13 **(6) If the property presumed abandoned is a lawyer trust account established by an at-**  
 14 **torney or law firm, the report required by this section must indicate that the account is a**  
 15 **lawyer trust account in addition to providing the information required by subsection (2) of**  
 16 **this section.**

17 [(6)] (7) Verification, if made by a partnership, shall be executed by a partner; if made by an  
 18 unincorporated association or private corporation, by an officer; and if made by a public corpo-  
 19 ration, by its chief fiscal officer.

20 **SECTION 2.** ORS 98.386 is amended to read:

21 98.386. (1) **Except as provided in subsection (2) of this section,** all funds received under ORS  
 22 98.302 to 98.436 and 98.992, including the proceeds from the sale of unclaimed property under ORS  
 23 98.382, shall be deposited by the Department of State Lands in the Common School Fund Account  
 24 with the State Treasurer. Before making the deposit the department shall record the name and  
 25 last-known address of each person appearing from the holders' reports to be entitled to the un-  
 26 claimed property and the name and last-known address of each insured person or annuitant, and  
 27 with respect to each policy or contract listed in the report of a life insurance corporation, its  
 28 number, the name of the corporation, and the amount due.

29 **(2) Any amounts identified as lawyer trust account funds in the report required by ORS**  
 30 **98.352 shall be transferred by the Department of State Lands to the Oregon State Bar. All**  
 31 **amounts transferred to the Oregon State Bar under this section are continuously appropri-**  
 32 **ated to the Oregon State Bar, and may be used only for the funding of legal services provided**  
 33 **through the Legal Services Program established under ORS 9.572 and for expenses incurred**  
 34 **by the Oregon State Bar in the administration of the Legal Services Program.**

35 [(2)] (3) Before making a deposit to the credit of the Common School Fund Account, the de-  
 36 partment may deduct:

37 (a) Any costs in connection with sale of unclaimed property;

38 (b) Any costs of mailing and publication in connection with efforts to locate owners of unclaimed  
 39 property as prescribed by rule; and

40 (c) Reasonable service charges.

41 **SECTION 3.** ORS 98.396 is amended to read:

42 98.396. (1) The Department of State Lands shall consider any claim filed under ORS 98.392 and  
 43 may hold a hearing and receive evidence concerning the claim. If a hearing is held, the department  
 44 shall prepare findings and a decision in writing on each claim filed, stating the substance of any  
 45 evidence heard by the department and the reasons for the decision. The decision shall be a public

1 record.

2 (2) If the claim allowed is for property deposited in the Common School Fund Account, the de-  
3 partment shall return the property or make payment of the proceeds of the sale of the property to  
4 the claimant.

5 (3) If the claim allowed is for funds deposited in the General Fund, the department shall pay the  
6 claim and file a request for reimbursement with the State Treasurer. The State Treasurer shall re-  
7 imburse the department within five working days from the fund against which the check or order  
8 represented in the claim was issued.

9 **(4) If the claim allowed is for funds transferred to the Oregon State Bar, the department**  
10 **shall pay the claim and file a request for reimbursement with the Oregon State Bar. The**  
11 **Oregon State Bar shall reimburse the department within 30 working days.**

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