

Enrolled
House Bill 2346

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CHAPTER

AN ACT

Relating to state agency claims on deposits; amending ORS 192.589, 708A.430, 711.577 and 723.466.

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

SECTION 1. ORS 708A.430 is amended to read:

708A.430. (1) On the death of a depositor of an insured institution, if the deposit is \$25,000 or less, the insured institution, after receiving an affidavit as provided in subsection [(2)] **(3)** of this section from a person that claims the deposit, **or a declaration from the Department of Human Services or the Oregon Health Authority as provided in subsection (4) of this section**, may pay the moneys on deposit to the credit of the deceased depositor, in the following order of priority, to:

(a) The surviving spouse at the surviving spouse's demand at any time after the depositor's death;

(b) The Oregon Health Authority or the Department of Human Services, if the authority or the department demands the payment not less than 46 days and no more than 75 days [from] **after** the death of the depositor if the depositor does not have a surviving spouse and if the authority or department has a preferred claim under ORS 411.708, 411.795 or 416.350;

(c) The depositor's surviving children 18 years of age or older, if the depositor does not have a surviving spouse and the authority and department do not have a claim;

(d) The depositor's surviving parent, if the depositor does not have a surviving spouse or surviving child 18 years of age or older and if the authority and department do not have a claim; or

(e) The depositor's surviving brothers and sisters 18 years of age or older, if the depositor does not have a surviving spouse, surviving child 18 years of age or older or surviving parent and the authority and department do not have a claim.

(2)(a) An insured institution may not pay moneys on deposit under subsection (1)(c), (d) or (e) of this section earlier than 46 days after the death of the depositor.

(b) An insured institution may not pay moneys on deposit under subsection (1)(c), (d) or (e) of this section earlier than 76 days after the death of the depositor unless the financial institution obtains prior verbal or written authorization from the Oregon Health Authority or its designated representative and the Department of Human Services or its designated representative.

[(2)] **(3) [The affidavit] An affidavit or declaration submitted under this section must:**

(a) State where and when the depositor died;

(b) State that the total deposits of the deceased depositor in all financial institutions in Oregon do not exceed \$25,000;

(c) Show the relationship of the affiant **or declarant** to the deceased depositor; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased depositor out of the deposit to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons that are entitled to the moneys by law.

(4) An insured institution shall accept from the Department of Human Services or the Oregon Health Authority, without additional requirements, a declaration under penalty of perjury meeting the requirements of subsection (3) of this section. A declaration submitted under this section must be signed by the declarant and must include the following sentence immediately above the signature line of the declarant: "I hereby declare under penalty of perjury that I am authorized by the Department of Human Services or the Oregon Health Authority to make this declaration, that the above statement is true to the best of my knowledge and belief, and that I understand that it is subject to penalty for perjury."

[3] (5) In the event the depositor died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 is the affiant and shall receive the moneys as escheat property.

[4] (6) The insured institution shall determine the relationship of the affiant **or declarant** to the deceased depositor, but paying the moneys in good faith to the affiant **or declarant** discharges and releases the insured institution from any liability or responsibility for the transfer in the same manner and with the same effect as if the insured institution transferred, delivered or paid the moneys to a personal representative of the estate of the deceased depositor.

[5] (7) A probate proceeding is not necessary to establish the right of the surviving spouse, **Oregon Health Authority, Department of Human Services**, surviving child, surviving parent, surviving brothers and sisters or an estate administrator of the Department of State Lands to withdraw the deposits after filing the affidavit **or declaration**. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person that withdraws the deposits shall account for the deposits to the personal representative.

[6] (8) If an insured institution transfers moneys under subsection (1) of this section, the insured institution may require the transferee to furnish the insured institution with a written indemnity agreement that indemnifies the insured institution against loss for moneys the insured institution transferred to the extent of the amount of the deposit.

(9)(a) Moneys disbursed to the Department of Human Services under subsection (1) of this section may be made payable only to the department.

(b) Moneys disbursed to the Oregon Health Authority under subsection (1) of this section may be made payable only to the authority.

[7] (10) This section is subject to the rights of other parties in the account under ORS 708A.455 to 708A.515.

SECTION 2. ORS 723.466 is amended to read:

723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the deceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from *[the]* a person claiming the deposit as provided in subsection [2] (3) of this section, **or a declaration from the Department of Human Services or the Oregon Health Authority as provided in subsection (4) of this section**, pay the moneys on deposit:

(a) To the surviving spouse on demand of the surviving spouse at any time after the death of the member;

(b) If there is no surviving spouse, to the Oregon Health Authority or the Department of Human Services, on demand of the authority or the department no less than 46 days and no more than 75 days *[from]* **after** the death of the member when there is a preferred claim arising under ORS 411.708, 411.795 or 416.350;

(c) If there is no surviving spouse and no authority or department claim, to the member's surviving children 18 years of age or older;

(d) If there is no surviving spouse, authority claim, department claim or surviving child 18 years of age or older, to the member's surviving parents; or

(e) If there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older or surviving parent, to the member's surviving brothers and sisters 18 years of age or older.

(2)(a) A credit union may not pay moneys on deposit under subsection (1)(c), (d) or (e) of this section earlier than 46 days after the death of the depositor.

(b) A credit union may not pay moneys on deposit under subsection (1)(c), (d) or (e) of this section earlier than 76 days after the death of the depositor unless the financial institution obtains prior verbal or written authorization from the Oregon Health Authority or its designated representative and the Department of Human Services or its designated representative.

[(2)] (3) [The affidavit shall] An affidavit or declaration submitted under this section must:

(a) State where and when the member died;

(b) State that the total deposits of the deceased member in all financial institutions in this state do not exceed \$25,000;

(c) Show the relationship of the affiant **or declarant** to the deceased member; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased member out of the deposit, to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who are entitled to those moneys by law.

(4) A credit union shall accept from the Department of Human Services or the Oregon Health Authority, without additional requirements, a declaration under penalty of perjury meeting the requirements of subsection (3) of this section. A declaration submitted under this section must be signed by the declarant and must include the following sentence immediately above the signature line of the declarant: "I hereby declare under penalty of perjury that I am authorized by the Department of Human Services or the Oregon Health Authority to make this declaration, that the above statement is true to the best of my knowledge and belief, and that I understand that it is subject to penalty for perjury."

[(3)] (5) In the event the member died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the moneys as escheat property.

[(4)] (6) The credit union shall determine the relationship of the affiant **or declarant to the deceased member. However, payment of the moneys in good faith to the affiant **or declarant** discharges and releases the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the deceased member.**

[(5)] (7) A probate proceeding is not necessary to establish the right of the surviving spouse, Oregon Health Authority, Department of Human Services, surviving children, surviving parents, surviving brothers and sisters or an estate administrator of the Department of State Lands to withdraw the deposits upon the filing of the affidavit **or declaration. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.**

[(6)] (8) When a credit union transfers moneys under subsection (1) of this section, the transferor may require the transferee to furnish the transferor with a written indemnity agreement, indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

(9)(a) Moneys disbursed to the Department of Human Services under subsection (1) of this section may be made payable only to the department.

(b) Moneys disbursed to the Oregon Health Authority under subsection (1) of this section may be made payable only to the authority.

[(7)] (10) This section is subject to the rights of other parties to the account under ORS 723.474 to 723.498.

SECTION 3. ORS 192.589 is amended to read:

192.589. (1) At any time after an individual dies, the Department of Human Services or the Oregon Health Authority may deliver to a financial institution the written notice and request described in subsection (2) of this section.

(2) A written notice and request under this section must:

(a) Include the name, last known address and Social Security number of the deceased individual;

(b) State the date of the deceased individual's death;

(c) State that the deceased individual received public assistance or medical assistance that was subject to a claim for reimbursement under ORS 411.640, 411.708, 411.795 or 416.350; and

(d) Request that the financial institution provide all or any part of the following information to the department or the authority:

(A) Whether the financial institution held on the date of the deceased individual's death any deposit account in the deceased individual's name or in more than one name, one of which is the deceased individual's name;

(B) The balance on deposit in each deposit account described in subparagraph (A) of this paragraph on the date of the deceased individual's death;

(C) The name of each person to whom the financial institution disbursed funds from a deposit account described in subparagraph (A) of this paragraph on or after the date of the deceased individual's death, if the financial institution closed the deposit account on or after the date of the deceased individual's death;

(D) A record of the activity in each of the deposit accounts described in subparagraph (A) of this paragraph in the period that begins 30 days before the date of the deceased individual's death and ends on the date of the deceased individual's death;

(E) A copy of any affidavit **or declaration** the financial institution received under ORS 708A.430 or 723.466; and

(F) The name and address of any person named as an owner of a deposit account described in subparagraph (A) of this paragraph, if the financial institution has the information in the financial institution's records.

(3) The department or the authority may submit an affidavit **or declaration** under ORS 708A.430 or 723.466 at the same time the department or authority submits a notice and request under subsection (2) of this section.

(4) The department and the authority shall reimburse a financial institution as provided in ORS 192.602 for all reasonable costs and expenses the financial institution incurs to provide information in response to a notice and request under subsection (2) of this section.

SECTION 4. ORS 711.577 is amended to read:

711.577. (1) Any person who would be entitled to withdraw a deposit under ORS 708A.430 may claim the deposit and receive dividends thereon, or if claim has been made it may be amended after the death of the claimant so that future dividends are paid to the person entitled thereto under ORS 708A.430.

(2) If any claim is more than \$500, dividends may be paid to the person entitled thereto, as provided in ORS 708A.430, if the Director of the Department of Consumer and Business Services is satisfied that the total dividends to be paid after the death of the claimant are less than \$100.

(3) The director is under no obligation to determine the relationship of the affiants **or declarants** to the deceased depositor and the payment of dividends made in good faith to parties making the affidavit **or declaration** shall be a release of the director for the amount of the dividends so paid.

Passed by House April 5, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 4, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State