

House Bill 2346

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Human Services)

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**.

Directs insured institution or credit union to accept declaration rather than affidavit from Department of Human Services or Oregon Health Authority to pay claim on death of depositor.

A BILL FOR AN ACT

1
2 Relating to state agency claims on deposits; amending ORS 192.589, 708A.430, 711.577 and 723.466.

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

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

5 708A.430. (1) On the death of a depositor of an insured institution, if the deposit is \$25,000 or
6 less, the insured institution, after receiving an affidavit as provided in subsection (2) of this section
7 from a person that claims the deposit, **or a declaration from the Department of Human Services**
8 **or the Oregon Health Authority as provided in subsection (3) of this section**, may pay the
9 moneys on deposit to the credit of the deceased depositor, in the following order of priority, to:

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

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

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

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

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

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

24 (a) State where and when the depositor died;

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

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

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

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 **(3) An insured institution shall accept from the Department of Human Services or the**
 2 **Oregon Health Authority, without additional requirements, a declaration under penalty of**
 3 **perjury meeting the requirements of subsection (2) of this section. A declaration submitted**
 4 **under this section must be signed by the declarant and must include the following sentence**
 5 **immediately above the signature line of the declarant: “I hereby declare under penalty of**
 6 **perjury that I am authorized by the Department of Human Services or the Oregon Health**
 7 **Authority to make this declaration, that the above statement is true to the best of my**
 8 **knowledge and belief, and that I understand that it is subject to penalty for perjury.”**

9 [(3)] (4) In the event the depositor died intestate without known heirs, an estate administrator
 10 of the Department of State Lands appointed under ORS 113.235 is the affiant and shall receive the
 11 moneys as escheat property.

12 [(4)] (5) The insured institution shall determine the relationship of the affiant **or declarant** to
 13 the deceased depositor, but paying the moneys in good faith to the affiant **or declarant** discharges
 14 and releases the insured institution from any liability or responsibility for the transfer in the same
 15 manner and with the same effect as if the insured institution transferred, delivered or paid the
 16 moneys to a personal representative of the estate of the deceased depositor.

17 [(5)] (6) A probate proceeding is not necessary to establish the right of the surviving spouse,
 18 **Oregon Health Authority, Department of Human Services,** surviving child, surviving parent, sur-
 19 viving brothers and sisters or an estate administrator of the Department of State Lands to withdraw
 20 the deposits after filing the affidavit **or declaration**. If a personal representative is appointed in an
 21 estate where a withdrawal of deposits was made under this section, the person that withdraws the
 22 deposits shall account for the deposits to the personal representative.

23 [(6)] (7) If an insured institution transfers moneys under subsection (1) of this section, the in-
 24 sured institution may require the transferee to furnish the insured institution with a written
 25 indemnity agreement that indemnifies the insured institution against loss for moneys the insured
 26 institution transferred to the extent of the amount of the deposit.

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

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

31 [(7)] (9) This section is subject to the rights of other parties in the account under ORS 708A.455
 32 to 708A.515.

33 **SECTION 2.** ORS 723.466 is amended to read:

34 723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the de-
 35 ceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from *[the]* **a**
 36 **person claiming the deposit as provided in subsection (2) of this section, or a declaration from the**
 37 **Department of Human Services or the Oregon Health Authority as provided in subsection (3)**
 38 **of this section, pay the moneys on deposit:**

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

41 (b) If there is no surviving spouse, to the Oregon Health Authority or the Department of Human
 42 Services, on demand of the authority or the department no less than 46 days and no more than 75
 43 days from the death of the member when there is a preferred claim arising under ORS 411.708,
 44 411.795 or 416.350;

45 (c) If there is no surviving spouse and no authority or department claim, to the member’s sur-

1 living children 18 years of age or older;

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

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

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

8 (a) State where and when the member died;

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

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

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

16 **(3) A credit union shall accept from the Department of Human Services or the Oregon**
17 **Health Authority, without additional requirements, a declaration under penalty of perjury**
18 **meeting the requirements of subsection (2) of this section. A declaration submitted under**
19 **this section must be signed by the declarant and must include the following sentence imme-**
20 **diately above the signature line of the declarant: "I hereby declare under penalty of perjury**
21 **that I am authorized by the Department of Human Services or the Oregon Health Authority**
22 **to make this declaration, that the above statement is true to the best of my knowledge and**
23 **belief, and that I understand that it is subject to penalty for perjury."**

24 [(3)] (4) In the event the member died intestate without known heirs, an estate administrator
25 of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive
26 the moneys as escheat property.

27 [(4)] (5) The credit union shall determine the relationship of the affiant **or declarant** to the
28 deceased member. However, payment of the moneys in good faith to the affiant **or declarant** dis-
29 charges and releases the transferor from any liability or responsibility for the transfer in the same
30 manner and with the same effect as if the property had been transferred, delivered or paid to a
31 personal representative of the estate of the deceased member.

32 [(5)] (6) A probate proceeding is not necessary to establish the right of the surviving spouse,
33 **Oregon Health** Authority, Department of Human Services, surviving children, surviving parents,
34 surviving brothers and sisters or an estate administrator of the Department of State Lands to
35 withdraw the deposits upon the filing of the affidavit **or declaration**. If a personal representative
36 is appointed in an estate where a withdrawal of deposits was made under this section, the person
37 withdrawing the deposits shall account for them to the personal representative.

38 [(6)] (7) When a credit union transfers moneys under subsection (1) of this section, the transferor
39 may require the transferee to furnish the transferor with a written indemnity agreement, indem-
40 nifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

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

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

45 [(7)] (9) This section is subject to the rights of other parties to the account under ORS 723.474

1 to 723.498.

2 **SECTION 3.** ORS 192.589 is amended to read:

3 192.589. (1) At any time after an individual dies, the Department of Human Services or the
4 Oregon Health Authority may deliver to a financial institution the written notice and request de-
5 scribed in subsection (2) of this section.

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

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

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

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

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

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

16 (B) The balance on deposit in each deposit account described in subparagraph (A) of this para-
17 graph on the date of the deceased individual's death;

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

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

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

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

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

33 (4) The department and the authority shall reimburse a financial institution as provided in ORS
34 192.602 for all reasonable costs and expenses the financial institution incurs to provide information
35 in response to a notice and request under subsection (2) of this section.

36 **SECTION 4.** ORS 711.577 is amended to read:

37 711.577. (1) Any person who would be entitled to withdraw a deposit under ORS 708A.430 may
38 claim the deposit and receive dividends thereon, or if claim has been made it may be amended after
39 the death of the claimant so that future dividends are paid to the person entitled thereto under ORS
40 708A.430.

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

44 (3) The director is under no obligation to determine the relationship of the affiants **or**
45 **declarants** to the deceased depositor and the payment of dividends made in good faith to parties

1 making the affidavit **or declaration** shall be a release of the director for the amount of the divi-
2 dends so paid.

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