

# D R A F T

## SUMMARY

Allows owner of interest held in financial institution or holder of traveler's check or money order to demonstrate lack of abandonment by electronic communication or other records by institution or issuer.

## A BILL FOR AN ACT

Relating to unclaimed property; amending ORS 98.308 and 98.309.

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

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

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

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

(b) Communicated **electronically or** in writing with the financial institution concerning the property.

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file [*prepared by an employee of*] **with** the financial institution.

(d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the financial institution has communicated **electronically or** in writing with the owner with regard to the property that would

otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent.

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

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

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file [*prepared by an employee of*] **with** the financial institution, and the financial institution has communicated **electronically or** in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

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

(a) There is a written contractual agreement between the holder and the owner of the account clearly and prominently setting forth the conditions under which a service charge may be imposed or the payment of interest terminated;

(b) The establishment of a service charge, the change of an existing service charge or the change of a policy pertaining to the payment of interest is uniformly applied to all dormant or inactive accounts;

(c) The holder gives written notice to the owner at the owner's last-known address whenever an account becomes dormant or inactive; and

(d) Three months' written notice is given by first class mail to the last-known address of the owner of a dormant or inactive account before the holder applies a service charge to that account or stops paying interest on that account.

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

(4) Property described in subsection (1) of this section that is automatically renewable is matured for purposes of subsection (1) of this section upon the expiration of its initial time period. However, if the owner consents to a renewal at or about the time of renewal, the property is matured upon the expiration of the last time period for which consent was given. The owner shall be deemed to have consented to a renewal if:

(a) The owner communicates **electronically or** in writing with the financial institution or otherwise indicates consent as evidenced by a memorandum or other record on file [*prepared by an employee of*] **with** the institution; or

(b) The financial institution has sent an account statement or other written or electronic statement pertaining to the account by first class mail or by electronic mail and the statement has not been returned to the financial institution and the financial institution has not been notified that the statement was undeliverable as addressed.

(5) If the delivery of funds or property required by ORS 98.352 would result in a penalty or forfeiture in the payment of interest from the delivery of the funds or property, the delivery may be delayed until the time when no penalty or forfeiture would result.

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

(7) A holder may not deduct from the amount of any instrument subject to subsection (6) of this section any charge imposed by reason of the failure to present the instrument for payment unless:

(a) There is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge;

(b) The holder regularly imposes such charges; and

(c) The holder does not regularly reverse or otherwise cancel the charges.

(8) For purposes of subsection (1) of this section, “property” includes interest and dividends.

**SECTION 2.** ORS 98.309 is amended to read:

98.309. (1) Subject to subsection (4) of this section, any sum payable on a traveler’s check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated **electronically or** in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file [*prepared by an employee of*] **with** the issuer.

(2) Subject to subsection (4) of this section, any sum payable on a money order or similar written instrument, other than a third party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within that seven years, has communicated **electronically or** in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file [*prepared by an employee of*] **with** the issuer.

(3) A holder may not deduct from the amount of a traveler’s check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(4) Other than a third party bank check, no sum payable on a traveler’s check, money order or similar written instrument described in subsections (1) and (2) of this section may be subjected to the custody of this state as unclaimed property unless:

1 (a) The records of the issuer show that the traveler's check, money order  
2 or similar written instrument was purchased in this state;

3 (b) The issuer has its principal place of business in this state and the  
4 records of the issuer do not show the state in which the traveler's check,  
5 money order or similar written instrument was purchased; or

6 (c) The issuer has its principal place of business in this state, the records  
7 of the issuer show the state in which the traveler's check, money order or  
8 similar written instrument was purchased and the laws of the state of pur-  
9 chase do not provide for the escheat or custodial taking of the property or  
10 its escheat or unclaimed property law is not applicable to the property.

11 (5) Notwithstanding any other provision of ORS 98.302 to 98.436 and  
12 98.992, subsection (4) of this section applies to sums payable on traveler's  
13 checks, money orders and similar written instruments presumed abandoned  
14 on or after February 1, 1965, except to the extent that those sums have been  
15 paid over to a state prior to January 1, 1974.