

House Bill 2273

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

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**.

Permits business to communicate with owner by electronic mail regarding abandoned securities. Removes exception to abandonment presumption for securities whose dividends automatically reinvest.

A BILL FOR AN ACT

1 Relating to abandoned securities; amending ORS 98.322, 98.362 and 98.382.

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

3 **SECTION 1.** 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 three years.]*

9 *[(c) The owner has not otherwise communicated with the business association for three years from*
10 *the date the sum was payable.]*

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

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

15 **(1) As used in this section:**

16 **(a) The “business association” is the holder of the security or disbursement.**

17 **(b) “Distribution” means any dividend, profit distribution, interest, payment on principal**
18 **or other sum or thing of value owed under a security from a business association to the**
19 **owner.**

20 **(c) “Notice” means written notice of the existence of a distribution and security mailed**
21 **by first class mail to the last-known address of the owner as shown in the records of the**
22 **business association.**

23 **(d) “Security” means stock, security, certificate of ownership or other intangible equity**
24 **ownership interest in a business association evidenced in the records of the business asso-**
25 **ciation.**

26 **(2) A security is presumed abandoned when for three years a distribution has remained**
27 **unclaimed and the owner has not communicated with the business association and either of**
28 **the following has occurred:**

29 **(a)(A) If the business association customarily communicates with the owner only by**
30

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 **electronic mail, at least 30 days have passed following the business association's notification**
 2 **of the distribution and security to the owner by electronic mail.**

3 **(B) Notwithstanding subparagraph (A) of this paragraph, the business association shall**
 4 **also send notice to the owner and may not consider the security abandoned until 30 days**
 5 **following the sending of the notice if:**

6 **(i) The business association believes that the owner's electronic mail address in the**
 7 **association's records is not valid;**

8 **(ii) The business association receives notification that the electronic mail communication**
 9 **described in subparagraph (A) of this paragraph was not received; or**

10 **(iii) The owner does not respond to the electronic mail communication within 30 days**
 11 **after the communication was sent.**

12 **(b) If the business association does not customarily communicate with the owner only**
 13 **by electronic mail:**

14 **(A) The business association has sent notice to the owner;**

15 **(B) The business association has sent a second notice to the owner that has returned to**
 16 **the business association undelivered or received no response for 30 days; and**

17 **(C) If the business association has the owner's electronic mail address and believes it to**
 18 **be valid, the business association has attempted to confirm the owner's interest by electronic**
 19 **mail and has received no response for 30 days.**

20 (3) *[At the time an interest]* **When a security** is presumed abandoned under subsection [(1)] (2)
 21 of this section, any *[payment then held for or owing to the owner as a result of the interest]* **unclaimed**
 22 **distribution arising under the security** is also presumed abandoned.

23 [(4) *Subsection (1) of this section shall not apply to any stock, certificate of ownership or other in-*
 24 *intangible equity ownership interests in a business association that provides for the automatic reinvest-*
 25 *ment of dividends, distributions or other sums payable as a result of the interests, unless:]*

26 [(a) *The records of the business association show that the person also owns any stock, certificate*
 27 *of ownership or other intangible equity ownership interest in the business association that is not en-*
 28 *rolled in the reinvestment plan; and]*

29 [(b) *The interest referred to in paragraph (a) of this subsection has been presumed abandoned un-*
 30 *der subsection (1) of this section.*]

31 [(5)] (4) *[Any dividend, profit distribution, interest, payment on principal or other sum held or*
 32 *owing by a business association]* **A distribution** is presumed abandoned if, *[within]:*

33 **(a) Three years have passed** after the date *[prescribed for payment, all of the following have*
 34 *occurred:]* **the distribution was issued;**

35 [(a)] **(b) The owner has not claimed the** *[payment]* **distribution** or *[corresponded in writing]*
 36 **communicated** with the business association concerning the *[payment.]* **distribution; and**

37 [(b) *The business association has sent written notice of the payment to the owner at the last-known*
 38 *address of the owner as shown in the records of the business association.*]

39 **(c) The business association has attempted to confirm the owner's interest in the dis-**
 40 **tribution in writing, including by electronic mail if the business association customarily**
 41 **communicates with the owner only by electronic mail.**

42 **SECTION 2.** ORS 98.362 is amended to read:

43 98.362. (1) The holder of *[an intangible equity ownership interest]* **a security or other intangible**
 44 **property** presumed abandoned under ORS 98.322 shall deliver a certificate of ownership or other
 45 evidence of ownership to the Department of State Lands as follows:

1 (a) The original certificate shall be delivered to the department when it is held by the business
2 association, transfer agent, registrar or other person acting on behalf of the business association.

3 (b) A duplicate certificate shall be issued to the department when the business association,
4 transfer agent, registrar or other person acting on behalf of the holder does not hold the original.

5 (2) After issuance of a duplicate certificate under subsection (1) of this section, the rights of a
6 protected purchaser of the original certificate shall be governed by ORS 78.4050. In such event, re-
7 covery by the protected purchaser shall be against the department to the extent allowed under the
8 Oregon Constitution.

9 **SECTION 3.** ORS 98.382 is amended to read:

10 98.382. (1)(a) All unclaimed property other than money and securities delivered to the Depart-
11 ment of State Lands under ORS 98.362 shall be sold by the department to the highest bidder at
12 public sale by the method and at the location that the department determines are the most favorable
13 for receiving the highest price for the property involved. The department may decline the highest
14 bid and reoffer the property for sale if the department considers the price bid insufficient. The de-
15 partment need not offer any property for sale if, in the department's opinion, the probable cost of
16 sale exceeds the value of the property.

17 (b) In choosing the most favorable method for the sale of property under this subsection, the
18 department may consider:

19 (A) A public oral auction;

20 (B) An electronic commerce forum; and

21 (C) Any other method for sale that ensures the highest returns and provides for open, public
22 participation.

23 (c) In choosing the most favorable location for the sale of property under this subsection, the
24 department may consider:

25 (A) The population of the location;

26 (B) The cost of conducting the sale in the location;

27 (C) The type of property being sold;

28 (D) The public access to the proposed sale location, including parking; and

29 (E) Any other indicator of market potential of the location.

30 (2) For a sale by public oral auction held under subsection (1) of this section, the department
31 shall publish at least a single notice of the sale at least 10 days in advance of the sale in a news-
32 paper of general circulation in the county where the property is to be sold. For a sale by a method
33 other than public oral auction, the department shall publish at least a single notice in a newspaper
34 of general circulation in Marion County.

35 (3) Securities listed on an established stock exchange shall be sold on the exchange at prices
36 prevailing on the exchange at the time of sale. Other securities may be sold over the counter at
37 prices prevailing at the time of sale or by any other method the administrator considers advisable.

38 (4) All securities and other intangible properties presumed abandoned [*under ORS 98.362*] and
39 delivered to the department **under ORS 98.362** shall be sold by the department at such time and
40 place and in such manner as in the department's judgment will bring the highest return.

41 (5) The department shall indemnify the holder of securities presumed abandoned under ORS
42 98.322 to the extent allowed by the Oregon Constitution. The department shall establish procedures
43 by administrative rule to pay the rightful owner proceeds received from securities that were sold
44 before the owner filed a claim to recover such securities.

45 (6) The purchaser at a sale conducted by the department pursuant to this section shall receive

1 title to the property purchased, free from all claims of the owner or prior holder of the property and
2 of all persons claiming through or under them. The department shall execute all documents neces-
3 sary to complete the transfer of title.

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