

Senate Bill 209

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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**.

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

1
2 Relating to unclaimed property; amending ORS 98.308 and 98.309.

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

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

5 98.308. (1) Any demand, savings or matured time deposit with a financial institution, including
6 a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mu-
7 tual investment certificate or any other interest in a financial institution is presumed abandoned
8 unless the owner, within three years, has done one or more of the following:

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

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

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

15 (d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the
16 financial institution has communicated **electronically or** in writing with the owner with regard to
17 the property that would otherwise be presumed abandoned under this subsection at the address to
18 which communications regarding the other property regularly are sent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) The holder regularly imposes such charges; and

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

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

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

42 98.309. (1) Subject to subsection (4) of this section, any sum payable on a traveler's check that
43 has been outstanding for more than 15 years after its issuance is presumed abandoned unless the
44 owner, within 15 years, has communicated **electronically or** in writing with the issuer concerning
45 it or otherwise indicated an interest as evidenced by a memorandum or other record on file [*pre-*

1 *pared by an employee of]* **with** the issuer.

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

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

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

16 (a) The records of the issuer show that the traveler's check, money order or similar written in-
17 strument was purchased in this state;

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

21 (c) The issuer has its principal place of business in this state, the records of the issuer show the
22 state in which the traveler's check, money order or similar written instrument was purchased and
23 the laws of the state of purchase do not provide for the escheat or custodial taking of the property
24 or its escheat or unclaimed property law is not applicable to the property.

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

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