

House Bill 2447

Sponsored by Representative REYNOLDS (Presession filed.)

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**.

Provides that declarations of Department of Human Services or Oregon Health Authority relating to deceased depositors of certain financial institutions must be made within specified time period.

A BILL FOR AN ACT

1
2 Relating to agency declarations relating to deceased depositors; amending ORS 192.589 and
3 708A.430.

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

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

6 708A.430. (1) On the death of a depositor of an insured institution, if the deposit is \$25,000 or
7 less, the insured institution, after receiving an affidavit as provided in subsection (3) of this section
8 from a person that claims the deposit, or a declaration from the Department of Human Services or
9 the Oregon Health Authority as provided in subsection (4) of this section, may pay the moneys on
10 deposit to the credit of the deceased depositor, in the following order of priority, to:

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

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

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

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

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

24 (f) Any other surviving heir of the depositor, if there is no surviving spouse, authority claim,
25 department claim, surviving child 18 years of age or older, surviving parent or surviving brothers
26 or sisters 18 years of age or older.

27 (2)(a) An insured institution may not pay moneys on deposit under subsection (1)(c) to (f) of this
28 section earlier than 46 days after the death of the depositor.

29 (b) An insured institution may not pay moneys on deposit under subsection (1)(c) to (f) of this
30 section earlier than 76 days after the death of the depositor unless the financial institution obtains
31 prior verbal or written authorization from the Oregon Health Authority or its designated represen-

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 tative and the Department of Human Services or its designated representative.

2 (3) An affidavit or declaration submitted under this section must:

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

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

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

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

11 (4) An insured institution shall accept from the Department of Human Services or the Oregon
12 Health Authority, without additional requirements, a declaration under penalty of perjury meeting
13 the requirements of subsection (3) of this section, **provided that the declaration is submitted no**
14 **earlier than 46 days after the death of the depositor and no later than 76 days after the death**
15 **of the depositor.** A declaration submitted under this section must be signed by the declarant and
16 must include the following sentence immediately above the signature line of the declarant: "I hereby
17 declare under penalty of perjury that I am authorized by the Department of Human Services or the
18 Oregon Health Authority to make this declaration, that the above statement is true to the best of
19 my knowledge and belief, and that I understand that it is subject to penalty for perjury."

20 (5) In the event the depositor died intestate without known heirs, an estate administrator of the
21 State Treasurer appointed under ORS 113.235 is the affiant and shall receive the moneys for deposit
22 into the Unclaimed Property and Estates Fund as escheated property and subject to claims under
23 ORS 116.253.

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

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

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

39 (9)(a) Moneys disbursed to the Department of Human Services under subsection (1) of this sec-
40 tion may be made payable only to the department.

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

43 (10) This section is subject to the rights of other parties in the account under ORS 708A.455 to
44 708A.515.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (3) The department or the authority may submit an affidavit or declaration under ORS 708A.430
 29 or 723.466 at the same time the department or authority submits a notice and request under sub-
 30 section (2) of this section, **except that a declaration under ORS 708A.430 must be submitted**
 31 **no earlier than 46 days after the death of the depositor and no later than 76 days after the**
 32 **death of the depositor.**

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.

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