

D R A F T

SUMMARY

Digest: The Act makes changes to laws relating to credit unions and banks. (Flesch Readability Score: 67.7).

Modifies the time frame in which state agencies may submit information to financial institutions related to deceased members or depositors.

Authorizes directors of credit unions to delegate the duty to consider requests for reinstatement.

Modifies requirements for supervisory committees of credit unions.

A BILL FOR AN ACT

1
2 Relating to financial institutions; amending ORS 192.589, 708A.430, 723.202,
3 723.252 and 723.466.

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

4 **SECTION 1.** ORS 723.466 is amended to read:

5
6 723.466. (1) On the death of a member of a credit union, if the deposit to
7 the credit of the deceased member is \$25,000 or less, the credit union may,
8 upon receipt of an affidavit from a person claiming the deposit as provided
9 in subsection (3) of this section, or a declaration from the Department of
10 Human Services or the Oregon Health Authority as provided in subsection
11 (4) of this section, pay the moneys on deposit:

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

14 (b) If there is no surviving spouse, to the Oregon Health Authority or the
15 Department of Human Services, on demand of the authority or the depart-
16 ment no less than 46 days and no more than 75 days after the death of the
17 member when there is a preferred claim arising under ORS 411.708, 411.795
18 or 416.350;

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 (c) If there is no surviving spouse and no authority or department claim,
2 to the member's surviving children 18 years of age or older;

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

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

8 (f) If there is no surviving spouse, authority claim, department claim,
9 surviving child 18 years of age or older, surviving parent or surviving
10 brothers or sisters 18 years of age or older, to any other surviving heir of
11 the member.

12 (2)(a) A credit union may not pay moneys on deposit under subsection
13 (1)(c) to (f) of this section earlier than 46 days after the death of the member.

14 (b) A credit union may not pay moneys on deposit under subsection (1)(c)
15 to (f) of this section earlier than 76 days after the death of the member un-
16 less the financial institution obtains prior verbal or written authorization
17 from the Oregon Health Authority or its designated representative and the
18 Department of Human Services or its designated representative.

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

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

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

23 (c) Show the relationship of the affiant or declarant to the deceased
24 member; and

25 (d) Embody a promise to pay the expenses of last sickness, funeral ex-
26 penses and just debts of the deceased member out of the deposit, to the full
27 extent of the deposit if necessary, in the order of priority prescribed by ORS
28 115.125, and to distribute any remaining moneys to the persons who are en-
29 titled to those moneys by law.

30 (4) A credit union shall accept from the Department of Human Services
31 or the Oregon Health Authority, without additional requirements, a decla-

1 ration under penalty of perjury meeting the requirements of subsection (3)
2 of this section, provided that the declaration is submitted no earlier than 46
3 days after the death of the depositor and no later than [76] **75** days after the
4 death of the depositor. A declaration submitted under this section must be
5 signed by the declarant and must include the following sentence immediately
6 above the signature line of the declarant: “I hereby declare under penalty
7 of perjury that I am authorized by the Department of Human Services or the
8 Oregon Health Authority to make this declaration, that the above statement
9 is true to the best of my knowledge and belief, and that I understand that
10 it is subject to penalty for perjury.”

11 (5) In the event the member died intestate without known heirs, an estate
12 administrator of the State Treasurer appointed under ORS 113.235 shall be
13 the affiant and shall receive the moneys for deposit into the Unclaimed
14 Property and Estates Fund as escheated property and subject to claims under
15 ORS 116.253.

16 (6) The credit union shall determine the relationship of the affiant or
17 declarant to the deceased member. However, payment of the moneys in good
18 faith to the affiant or declarant discharges and releases the transferor from
19 any liability or responsibility for the transfer in the same manner and with
20 the same effect as if the property had been transferred, delivered or paid to
21 a personal representative of the estate of the deceased member.

22 (7) A probate proceeding is not necessary to establish the right of the
23 surviving spouse, Oregon Health Authority, Department of Human Services,
24 surviving children, surviving parents, surviving brothers and sisters or an
25 estate administrator of the State Treasurer to withdraw the deposits upon
26 the filing of the affidavit or declaration. If a personal representative is ap-
27 pointed in an estate where a withdrawal of deposits was made under this
28 section, the person withdrawing the deposits shall account for them to the
29 personal representative.

30 (8) When a credit union transfers moneys under subsection (1) of this
31 section, the transferor may require the transferee to furnish the transferor

1 with a written indemnity agreement, indemnifying the transferor against loss
2 for moneys paid to the extent of the amount of the deposit.

3 (9)(a) Moneys disbursed to the Department of Human Services under
4 subsection (1) of this section may be made payable only to the department.

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

7 (10) This section is subject to the rights of other parties to the account
8 under ORS 723.474 to 723.498.

9 **SECTION 2.** ORS 708A.430 is amended to read:

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

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

19 (b) The Oregon Health Authority or the Department of Human Services,
20 if the authority or the department demands the payment not less than 46
21 days and no more than 75 days after the death of the depositor if the
22 depositor does not have a surviving spouse and if the authority or depart-
23 ment has a preferred claim under ORS 411.708, 411.795 or 416.350;

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

27 (d) The depositor's surviving parent, if the depositor does not have a
28 surviving spouse or surviving child 18 years of age or older and if the au-
29 thority and department do not have a claim;

30 (e) The depositor's surviving brothers and sisters 18 years of age or older,
31 if the depositor does not have a surviving spouse, surviving child 18 years

1 of age or older or surviving parent and the authority and department do not
2 have a claim; or

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

7 (2)(a) An insured institution may not pay moneys on deposit under sub-
8 section (1)(c) to (f) of this section earlier than 46 days after the death of the
9 depositor.

10 (b) An insured institution may not pay moneys on deposit under sub-
11 section (1)(c) to (f) of this section earlier than 76 days after the death of the
12 depositor unless the financial institution obtains prior verbal or written au-
13 thorization from the Oregon Health Authority or its designated represen-
14 tative and the Department of Human Services or its designated
15 representative.

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

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

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

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

22 (d) Embody a promise to pay the expenses of last sickness, funeral ex-
23 penses and just debts of the deceased depositor out of the deposit to the full
24 extent of the deposit if necessary, in the order of priority prescribed by ORS
25 115.125, and to distribute any remaining moneys to the persons that are en-
26 titled to the moneys by law.

27 (4) An insured institution shall accept from the Department of Human
28 Services or the Oregon Health Authority, without additional requirements,
29 a declaration under penalty of perjury meeting the requirements of sub-
30 section (3) of this section, provided that the declaration is submitted no
31 earlier than 46 days after the death of the depositor and no later than [76]

1 **75** days after the death of the depositor. A declaration submitted under this
2 section must be signed by the declarant and must include the following sen-
3 tence immediately above the signature line of the declarant: “I hereby de-
4 clare under penalty of perjury that I am authorized by the Department of
5 Human Services or the Oregon Health Authority to make this declaration,
6 that the above statement is true to the best of my knowledge and belief, and
7 that I understand that it is subject to penalty for perjury.”

8 (5) In the event the depositor died intestate without known heirs, an es-
9 tate administrator of the State Treasurer appointed under ORS 113.235 is the
10 affiant and shall receive the moneys for deposit into the Unclaimed Property
11 and Estates Fund as escheated property and subject to claims under ORS
12 116.253.

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

20 (7) A probate proceeding is not necessary to establish the right of the
21 surviving spouse, Oregon Health Authority, Department of Human Services,
22 surviving child, surviving parent, surviving brothers and sisters or an estate
23 administrator of the State Treasurer to withdraw the deposits after filing the
24 affidavit or declaration. If a personal representative is appointed in an estate
25 where a withdrawal of deposits was made under this section, the person that
26 withdraws the deposits shall account for the deposits to the personal repre-
27 sentative.

28 (8) If an insured institution transfers moneys under subsection (1) of this
29 section, the insured institution may require the transferee to furnish the in-
30 sured institution with a written indemnity agreement that indemnifies the
31 insured institution against loss for moneys the insured institution trans-

1 ferred to the extent of the amount of the deposit.

2 (9)(a) Moneys disbursed to the Department of Human Services under
3 subsection (1) of this section may be made payable only to the department.

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

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

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

9 192.589. (1) At any time after an individual dies, the Department of Hu-
10 man Services or the Oregon Health Authority may deliver to a financial in-
11 stitution the written notice and request described in subsection (2) of this
12 section.

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

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

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

17 (c) State that the deceased individual received public assistance or med-
18 ical assistance that was subject to a claim for reimbursement under ORS
19 411.640, 411.708, 411.795 or 416.350; and

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

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

25 (B) The balance on deposit in each deposit account described in subpara-
26 graph (A) of this paragraph on the date of the deceased individual's death;

27 (C) The name of each person to whom the financial institution disbursed
28 funds from a deposit account described in subparagraph (A) of this paragraph
29 on or after the date of the deceased individual's death, if the financial in-
30 stitution closed the deposit account on or after the date of the deceased
31 individual's death;

1 (D) A record of the activity in each of the deposit accounts described in
2 subparagraph (A) of this paragraph in the period that begins 30 days before
3 the date of the deceased individual's death and ends on the date of the de-
4 ceased individual's death;

5 (E) A copy of any affidavit or declaration the financial institution re-
6 ceived under ORS 708A.430 or 723.466; and

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

10 (3) The department or the authority may submit an affidavit or declara-
11 tion under ORS 708A.430 or 723.466 at the same time the department or au-
12 thority submits a notice and request under subsection (2) of this section,
13 except that [*a declaration under ORS 708A.430*] **such affidavit or declara-**
14 **tion** must be submitted no earlier than 46 days after the death of the
15 depositor and no later than [76] **75** days after the death of the depositor.

16 (4) The department and the authority shall reimburse a financial institu-
17 tion as provided in ORS 192.602 for all reasonable costs and expenses the
18 financial institution incurs to provide information in response to a notice
19 and request under subsection (2) of this section.

20 **SECTION 4.** ORS 723.202 is amended to read:

21 723.202. (1) Subject to subsection (2) of this section, a credit union may
22 expel any member of the credit union who:

23 (a) Has not carried out the member's engagements with the credit union;

24 (b) Creates an undue risk of loss to the credit union, as determined in
25 accordance with the bylaws of the credit union;

26 (c) Has been convicted of a criminal offense;

27 (d) Fails to comply with the provisions of this chapter or of the credit
28 union's articles, bylaws or policies;

29 (e) Threatens, harasses or abuses any member, employee, board or com-
30 mittee member or agent of the credit union; or

31 (f) Habitually neglects to pay the member's debts or becomes insolvent

1 or bankrupt.

2 (2) A credit union that expels a member shall inform the member in
3 writing of the reasons for the expulsion and give the expelled member rea-
4 sonable opportunity to request the credit union's board of directors to rein-
5 state the member. Members of a credit union who withdraw or are expelled
6 shall not be relieved of any liability to the credit union. The amounts paid
7 in on shares or deposited by such members, together with any dividends
8 credited to their shares and any interest which has accrued on their deposits,
9 shall be repaid to them in the order of their withdrawal or expulsion, as
10 funds become available therefor, but the credit union may deduct from such
11 payments any sums due to the credit union from such members.

12 **(3) A credit union's board of directors may delegate the duty to**
13 **consider an expelled member's request for reinstatement to officers**
14 **or employees of the credit union.**

15 **SECTION 5.** ORS 723.252 is amended to read:

16 723.252. (1) A credit union must be directed by a board that consists of
17 an odd number of directors, at least five in number, who are elected by and
18 from the credit union's members in the manner provided in the credit union's
19 bylaws. Members of the board hold office for such terms as the bylaws pro-
20 vide.

21 (2)(a) The board of directors shall appoint a supervisory committee of not
22 less than three members at the organizational meeting and within 60 days
23 following each annual meeting of the members for such terms as the bylaws
24 provide.

25 **(b) The supervisory committee may not include the chair of the**
26 **board of directors of the credit union. Other directors may serve on**
27 **the supervisory committee except as otherwise provided by the bylaws**
28 **of the credit union.**

29 (3) The board of directors shall appoint a credit committee that consists
30 of an odd number not less than three for such terms as the bylaws provide.
31 The members of the credit union may instead elect the members of the credit

1 committee from among the membership of the credit union at the annual
2 members' meeting. In lieu of the credit committee, the board of directors may
3 appoint a credit manager.

4 (4) The board of directors may appoint temporary or successor directors
5 or temporary or successor credit committee or supervisory committee mem-
6 bers to serve in place of absent directors or committee members.

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