

House Bill 3370

Sponsored by COMMITTEE ON COMMERCE AND CONSUMER PROTECTION (at the request of GoWest Credit Union Association)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

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, 723.252 and 723.466.

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

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

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

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

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

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

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

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

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

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

28 (b) A credit union may not pay moneys on deposit under subsection (1)(c) to (f) of this section

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 earlier than 76 days after the death of the member unless the financial institution obtains prior
2 verbal or written authorization from the Oregon Health Authority or its designated representative
3 and the Department of Human Services or its designated representative.

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

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

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

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

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

13 (4) A credit union shall accept from the Department of Human Services or the Oregon Health
14 Authority, without additional requirements, a declaration under penalty of perjury meeting the re-
15 quirements of subsection (3) of this section, provided that the declaration is submitted no earlier
16 than 46 days after the death of the depositor and no later than [76] **75** days after the death of the
17 depositor. A declaration submitted under this section must be signed by the declarant and must in-
18 clude the following sentence immediately above the signature line of the declarant: "I hereby de-
19 clare under penalty of perjury that I am authorized by the Department of Human Services or the
20 Oregon Health Authority to make this declaration, that the above statement is true to the best of
21 my knowledge and belief, and that I understand that it is subject to penalty for perjury."

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

26 (6) The credit union shall determine the relationship of the affiant or declarant to the deceased
27 member. However, payment of the moneys in good faith to the affiant or declarant discharges and
28 releases the transferor from any liability or responsibility for the transfer in the same manner and
29 with the same effect as if the property had been transferred, delivered or paid to a personal repre-
30 sentative of the estate of the deceased member.

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

37 (8) When a credit union transfers moneys under subsection (1) of this section, the transferor may
38 require the transferee to furnish the transferor with a written indemnity agreement, indemnifying
39 the transferor against loss for moneys paid to the extent of the amount of the deposit.

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

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

44 (10) This section is subject to the rights of other parties to the account under ORS 723.474 to
45 723.498.

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

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

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

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

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

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

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

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

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

(b) An insured institution may not pay moneys on deposit under subsection (1)(c) to (f) of this section earlier than 76 days after the death of the depositor unless the financial institution obtains prior verbal or written authorization from the Oregon Health Authority or its designated representative and the Department of Human Services or its designated representative.

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

(a) State where and when the depositor died;

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

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

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

(4) An insured institution shall accept from the Department of Human Services or the Oregon Health Authority, without additional requirements, a declaration under penalty of perjury meeting the requirements of subsection (3) of this section, provided that the declaration is submitted no earlier than 46 days after the death of the depositor and no later than [76] 75 days after the death of the depositor. A declaration submitted under this section must be signed by the declarant and must include the following sentence immediately above the signature line of the declarant: "I hereby declare under penalty of perjury that I am authorized by the Department of Human Services or the Oregon Health Authority to make this declaration, that the above statement is true to the best of

1 my knowledge and belief, and that I understand that it is subject to penalty for perjury.”

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

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

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

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

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

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

25 (10) This section is subject to the rights of other parties in the account under ORS 708A.455 to
 26 708A.515.

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

28 192.589. (1) At any time after an individual dies, the Department of Human Services or the
 29 Oregon Health Authority may deliver to a financial institution the written notice and request de-
 30 scribed in subsection (2) of this section.

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

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

33 (b) State the date of the deceased individual’s death;

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

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

38 (A) Whether the financial institution held on the date of the deceased individual’s death any
 39 deposit account in the deceased individual’s name or in more than one name, one of which is the
 40 deceased individual’s name;

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

43 (C) The name of each person to whom the financial institution disbursed funds from a deposit
 44 account described in subparagraph (A) of this paragraph on or after the date of the deceased
 45 individual’s death, if the financial institution closed the deposit account on or after the date of the

1 deceased individual's death;

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

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

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

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

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

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

19 723.202. (1) Subject to subsection (2) of this section, a credit union may expel any member of the
 20 credit union who:

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

22 (b) Creates an undue risk of loss to the credit union, as determined in accordance with the by-
 23 laws of the credit union;

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

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

27 (e) Threatens, harasses or abuses any member, employee, board or committee member or agent
 28 of the credit union; or

29 (f) Habitually neglects to pay the member's debts or becomes insolvent or bankrupt.

30 (2) A credit union that expels a member shall inform the member in writing of the reasons for
 31 the expulsion and give the expelled member reasonable opportunity to request the credit union's
 32 board of directors to reinstate the member. Members of a credit union who withdraw or are expelled
 33 shall not be relieved of any liability to the credit union. The amounts paid in on shares or deposited
 34 by such members, together with any dividends credited to their shares and any interest which has
 35 accrued on their deposits, shall be repaid to them in the order of their withdrawal or expulsion, as
 36 funds become available therefor, but the credit union may deduct from such payments any sums due
 37 to the credit union from such members.

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

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

41 723.252. (1) A credit union must be directed by a board that consists of an odd number of di-
 42 rectors, at least five in number, who are elected by and from the credit union's members in the
 43 manner provided in the credit union's bylaws. Members of the board hold office for such terms as
 44 the bylaws provide.

45 (2)(a) The board of directors shall appoint a supervisory committee of not less than three

1 members at the organizational meeting and within 60 days following each annual meeting of the
2 members for such terms as the bylaws provide.

3 **(b) The supervisory committee may not include the chair of the board of directors of the**
4 **credit union. Other directors may serve on the supervisory committee except as otherwise**
5 **provided by the bylaws of the credit union.**

6 (3) The board of directors shall appoint a credit committee that consists of an odd number not
7 less than three for such terms as the bylaws provide. The members of the credit union may instead
8 elect the members of the credit committee from among the membership of the credit union at the
9 annual members' meeting. In lieu of the credit committee, the board of directors may appoint a
10 credit manager.

11 (4) The board of directors may appoint temporary or successor directors or temporary or suc-
12 cessor credit committee or supervisory committee members to serve in place of absent directors or
13 committee members.

14
