

House Bill 3536

Sponsored by Representative RICHARDSON; Representatives BRUUN, BUTLER, DALLUM, FLORES, GILMAN, HANNA, KRIEGER, MINNIS, SCOTT, WHISNANT

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**.

Makes legislative findings that many individuals have significant personal, emotional and economic relationships with other individuals, but are prohibited from marrying.

Sets requirements for two adults who are legally prohibited from marrying to enter into reciprocal beneficiary agreement. Requires Director of Human Services to register reciprocal beneficiary agreement and issue certificate of reciprocal beneficiary agreement. Provides for termination of agreement.

Extends certain legal rights and obligations to reciprocal beneficiaries.

A BILL FOR AN ACT

1
2 Relating to human rights; creating new provisions; and amending ORS 18.395, 18.428, 18.845, 18.896,
3 18.908, 21.310, 30.020, 36.476, 40.255, 41.580, 59.350, 59.535, 60.801, 60.825, 62.430, 79.0102, 86.705,
4 86.735, 87.527, 87.539, 93.180, 93.915, 95.200, 97.082, 97.130, 97.570, 97.580, 97.600, 97.630, 97.954,
5 97.966, 105.965, 107.705, 107.718, 111.005, 112.025, 112.035, 112.045, 112.305, 112.315, 112.735,
6 112.745, 112.755, 112.775, 113.085, 114.005, 114.015, 114.025, 114.035, 114.055, 114.085, 114.105,
7 114.115, 114.125, 114.135, 114.145, 114.155, 114.215, 114.335, 114.355, 115.115, 115.125, 116.013,
8 116.113, 116.133, 124.020, 124.100, 125.060, 125.200, 125.221, 125.320, 125.450, 125.455, 127.515,
9 127.520, 127.531, 127.545, 127.550, 127.635, 127.727, 127.730, 127.736, 127.810, 127.897, 130.655,
10 135.050, 135.230, 136.655, 144.102, 144.270, 146.035, 146.125, 147.005, 161.270, 163.375, 163.405,
11 163.730, 163.735, 164.035, 164.164, 167.017, 167.027, 192.526, 197.352, 197.756, 215.213, 215.283,
12 215.705, 238.005, 238.055, 238.305, 238.325, 238.400, 238.405, 238.410, 238.415, 238.462, 238.465,
13 238.565, 238.575, 238.607, 238A.190, 238A.230, 238A.410, 243.105, 243.291, 243.954, 243.956, 243.969,
14 244.020, 244.135, 246.310, 253.530, 253.540, 253.565, 254.476, 260.007, 292.110, 293.490, 307.250,
15 307.260, 307.270, 307.380, 310.630, 310.652, 311.645, 311.670, 311.681, 311.688, 311.690, 311.695,
16 311.706, 311.721, 311.722, 311.723, 315.163, 321.349, 409.290, 409.292, 411.117, 411.610, 411.650,
17 411.708, 411.802, 411.803, 416.310, 418.050, 418.140, 418.712, 418.800, 419B.040, 426.180, 426.231,
18 426.232, 427.330, 432.121, 436.245, 436.255, 441.605, 461.250, 461.700, 471.396, 471.752, 474.035,
19 497.006, 646.435, 646.445, 646.857, 650.162, 650.225, 652.190, 652.330, 653.020, 653.022, 654.005,
20 654.200, 654.325, 656.005, 656.027, 656.154, 656.156, 656.204, 656.208, 656.313, 657.030, 657.044,
21 657.060, 657.255, 658.405, 659A.001, 659A.150, 659A.190, 663.005, 671.525, 696.030, 701.035, 702.005,
22 708A.430, 708A.655, 722.262, 722.660, 723.466, 723.532, 723.844, 726.990, 732.325, 735.615, 735.700,
23 735.720, 742.504, 743.027, 743.201, 743.210, 743.405, 743.435, 743.693, 743.730, 744.073, 746.065,
24 746.611, 756.026, 756.028, 805.110, 805.208, 807.020 and 823.007 and ORCP 44 A.

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

26 **SECTION 1. As used in sections 1 to 7 of this 2007 Act:**

27 **(1) "Reciprocal beneficiaries" means two adults who are parties to a valid reciprocal**
28 **beneficiary agreement, who meet the requirements for a valid reciprocal beneficiary agree-**

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 ment under section 4 of this 2007 Act and who have been issued a certified copy of their re-
 2 ciprocal beneficiary agreement by the Director of Human Services under section 5 of this
 3 2007 Act.

4 (2) “Reciprocal beneficiary agreement” means an agreement, in a form prescribed by the
 5 director, between two adults to be reciprocal beneficiaries.

6 **SECTION 2.** The purpose of sections 1 to 7 of this 2007 Act is to extend certain rights
 7 and obligations to two adults who have entered into a reciprocal beneficiary agreement and
 8 who are legally prohibited from marrying each other under ORS chapter 106.

9 **SECTION 3.** (1) The Legislative Assembly finds that the people of Oregon have chosen
 10 to preserve the tradition of marriage as a unique social institution between one man and one
 11 woman. As such, marriages are subject to restrictions, such as the prohibition under ORS
 12 106.020 of a marriage between parties who are first cousins or any nearer of kin to each
 13 other.

14 (2) The Legislative Assembly acknowledges that many individuals have significant per-
 15 sonal, emotional and economic relationships with other individuals, but are prohibited by law
 16 from marrying each other. Examples of such individuals include two individuals who are re-
 17 lated to each other, such as a widowed mother and her unmarried son, or two unrelated
 18 adults of the same gender.

19 (3) The Legislative Assembly finds that certain rights and obligations should be extended
 20 to two adults who have entered into a reciprocal beneficiary agreement and who are legally
 21 prohibited from marrying each other.

22 **SECTION 4.** To enter into a valid reciprocal beneficiary agreement:

23 (1) Each party must be at least 18 years of age;

24 (2) Neither party may be married or a party to another reciprocal beneficiary agreement;

25 (3) The parties may not be eligible to marry each other under ORS chapter 106;

26 (4) Each party must consent to the reciprocal beneficiary agreement, and the consent
 27 of a party may not be obtained by force, duress or fraud; and

28 (5) Each party must sign, have notarized and file a reciprocal beneficiary agreement form
 29 as provided in section 5 of this 2007 Act.

30 **SECTION 5.** (1) Two individuals who meet the requirements of section 4 (1) to (4) of this
 31 2007 Act may enter into a reciprocal beneficiary agreement and register their reciprocal
 32 beneficiary agreement by filing a signed, notarized reciprocal beneficiary agreement form
 33 with the Director of Human Services.

34 (2) The director shall prescribe a form for the agreement and shall set and collect a fee
 35 for filing the agreement. The director shall submit the fee to the State Treasurer for deposit
 36 in the General Fund.

37 (3) Upon receipt of a signed, notarized agreement and the filing fee, the director shall
 38 register the agreement and issue a certified copy of the agreement to each party named in
 39 the agreement. The director shall maintain a record of each reciprocal beneficiary agreement
 40 filed with the director.

41 **SECTION 6.** Upon issuance of a certified copy of the reciprocal beneficiary agreement as
 42 provided in section 5 of this 2007 Act, the rights and obligations extended by law to reciprocal
 43 beneficiaries are extended to the parties named in the agreement. Unless otherwise ex-
 44 pressly provided by law, reciprocal beneficiaries do not have the same rights and obligations
 45 under law that are extended through marriage under ORS chapter 106.

1 **SECTION 7. (1) A party to a reciprocal beneficiary agreement may terminate the agree-**
 2 **ment by filing a signed, notarized declaration of termination of the reciprocal beneficiary**
 3 **agreement with the Director of Human Services. Upon termination of the reciprocal benefi-**
 4 **ciary agreement, unless otherwise provided for by law, the rights and obligations extended**
 5 **to reciprocal beneficiaries are no longer extended to the parties to the agreement.**

6 **(2) The director shall prescribe a form for the declaration of termination and shall set**
 7 **and collect a fee for filing the declaration. The director shall submit the fee to the State**
 8 **Treasurer for deposit in the General Fund.**

9 **(3) Upon receipt of a signed, notarized declaration of termination and the filing fee, the**
 10 **director shall register the declaration of termination and provide a certified copy of the**
 11 **declaration of termination to each party named on the declaration. The director shall**
 12 **maintain a record of each declaration of termination filed with the director.**

13 **(4) When a marriage license is issued under ORS 106.077 to a party to a reciprocal ben-**
 14 **eficiary agreement, or when a party to a reciprocal beneficiary agreement enters into a legal**
 15 **marriage contract, the reciprocal beneficiary agreement is terminated.**

16 **SECTION 8. A reciprocal beneficiary, as defined in section 1 of this 2007 Act, has the**
 17 **same visitation privileges in a health care facility, as defined in ORS 442.015, as the visitation**
 18 **privileges enjoyed by a member of a patient's family.**

19 **SECTION 9.** ORS 18.395 is amended to read:

20 18.395. (1) A homestead shall be exempt from sale on execution, from the lien of every judgment
 21 and from liability in any form for the debts of the owner to the amount in value of \$30,000, except
 22 as otherwise provided by law. The exemption shall be effective without the necessity of a claim
 23 thereof by the judgment debtor. When two or more members of a household are debtors whose in-
 24 terests in the homestead are subject to sale on execution, the lien of a judgment or liability in any
 25 form, their combined exemptions under this section shall not exceed \$39,600. The homestead must
 26 be the actual abode of and occupied by the owner, or the owner's spouse, **reciprocal beneficiary**
 27 **as defined in section 1 of this 2007 Act**, parent or child, but the exemption shall not be impaired
 28 by:

29 (a) Temporary removal or temporary absence with the intention to reoccupy the same as a
 30 homestead;

31 (b) Removal or absence from the property; or

32 (c) The sale of the property.

33 (2) The exemption shall extend to the proceeds derived from such sale to an amount not ex-
 34 ceeding \$30,000 or \$39,600, whichever amount is applicable under subsection (1) of this section, if
 35 the proceeds are held for a period not exceeding one year and held with the intention to procure
 36 another homestead therewith.

37 (3) The exemption period under subsection (1)(b) and (c) of this section shall be one year from
 38 the removal, absence or sale, whichever occurs first.

39 (4) When the owner of a homestead has been granted a discharge in bankruptcy or has conveyed
 40 the homestead property, the value thereof, for the purpose of determining a leviable interest in ex-
 41 cess of the homestead exemption, shall be the value on the date of the petition in bankruptcy,
 42 whether the value is determined in the bankruptcy proceedings or not, or on the date the
 43 conveyance becomes effective, whichever shall first occur. However, with respect to judgments not
 44 discharged in the bankruptcy, or entered against the owner after discharge, the value on the effec-
 45 tive date of conveyance shall be controlling.

1 (5) Except as provided in subsection (7) of this section, [no] a homestead that is the actual abode
 2 of and occupied by the judgment debtor, or that is the actual abode of and occupied by a spouse,
 3 **reciprocal beneficiary**, dependent parent or dependent child of the judgment debtor, [shall] **may**
 4 **not** be sold on execution to satisfy a judgment that at the time of entry does not exceed \$3,000.
 5 However, such judgment shall remain a lien upon the real property, and the property may be sold
 6 on execution:

7 (a) At any time after the sale of the property by the judgment debtor; and

8 (b) At any time after the property is no longer the actual abode of and occupied by the judgment
 9 debtor or the spouse, **reciprocal beneficiary**, dependent parent or dependent child of the judgment
 10 debtor.

11 (6) The limitation on execution sales imposed by subsection (5) of this section is not impaired
 12 by temporary removal or temporary absence with the intention to reoccupy the property as a
 13 homestead.

14 (7) The limitation on execution sales imposed by subsection (5) of this section does not apply if
 15 two or more judgments are owing to a single judgment creditor and the total amount owing to the
 16 judgment creditor, determined by adding the amount of each individual judgment as of the date the
 17 judgment was entered, is greater than \$3,000.

18 (8) Upon the issuance of an order authorizing sale as required by ORS 18.904, and in conform-
 19 ance with subsection (5) of this section, the sheriff may proceed to sell the property. If the home-
 20 stead exemption applies, the sheriff shall pay the homestead owner out of the proceeds the sum of
 21 \$30,000 or \$39,600, whichever is applicable, and apply the balance of the proceeds on the execution.
 22 However, no sale shall be made where the homestead exemption applies unless the sum bid for the
 23 homestead is in excess of the sum of the costs of sale and \$30,000 or \$39,600, whichever is applica-
 24 ble. If no such bid is received, the expense of the sale shall be borne by the petitioner.

25 (9) The homestead exemption provided by this section applies to a purchaser's interest under a
 26 land sale contract, as defined by ORS 18.960.

27 **SECTION 10.** ORS 18.428 is amended to read:

28 18.428. (1) Except as otherwise provided by law, a manufactured dwelling or floating home and
 29 the property upon which the manufactured dwelling or floating home is situated are exempt from
 30 execution and from liability in any form for the debts of the owner to the value of \$23,000 if the
 31 manufactured dwelling or floating home is the actual abode of and occupied by the owner, or by the
 32 spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, parent or child of the
 33 owner, the manufactured dwelling or floating home is occupied as a sole residence and no other
 34 homestead exemption exists. When two or more members of a household are debtors whose interests
 35 in the homestead are subject to sale on execution, the lien of a judgment or liability in any form,
 36 their combined exemptions under this section may not exceed \$30,000. The exemption shall be ef-
 37 fective without the necessity of a claim thereof by the judgment debtor.

38 (2) The exemption provided for in subsection (1) of this section is not impaired by temporary
 39 removal or absence with the intention to reoccupy the manufactured dwelling or floating home as
 40 a home, nor by the sale thereof, but shall extend to the proceeds derived from such sale up to
 41 \$23,000 or \$30,000, whichever amount is applicable under subsection (1) of this section, while the
 42 proceeds are held for a period not exceeding one year and with the intention to procure another
 43 homestead with those proceeds.

44 (3) Upon the issuance of an order authorizing sale as required by ORS 18.904, the sheriff may
 45 proceed to sell the premises and, if the homestead exemption applies, out of the proceeds pay the

1 owner the sum of \$23,000 or \$30,000, whichever amount is applicable under subsection (1) of this
 2 section, and apply the balance of the proceeds on the execution. However, no sale shall be made
 3 where the homestead exemption applies unless the sum bid for the property is in excess of the sum
 4 of the costs of sale and \$23,000 or \$30,000, whichever amount is applicable. If no such bid is re-
 5 ceived, the expense of the sale shall be borne by the petitioner.

6 (4) The provisions of subsections (1), (2), (3) and (7) of this section do not apply to:

7 (a) Construction liens for work, labor or material done or furnished exclusively for the im-
 8 provement of the manufactured dwelling or floating home;

9 (b) Purchase money liens;

10 (c) Mortgages;

11 (d) Executions issued on a judgment recovered for the purchase price; or

12 (e) The enforcement of a seller's rights under a land sale contract, as defined in ORS 18.960.

13 (5) If a debtor owns a manufactured dwelling or floating home but not the property upon which
 14 the manufactured dwelling or floating home is situated, subsections (1), (2), (3) and (4) of this section
 15 apply, but the value of the debtor's interest exempt from execution and liability may not exceed
 16 \$20,000 for an individual debtor, or \$27,000 when two or more members of a household are debtors
 17 whose interests in the homestead are subject to execution or liability in any form.

18 (6) When the owner of a homestead under this section has been granted a discharge in bank-
 19 ruptcy or has conveyed the property, the value thereof, for the purpose of determining a leviable
 20 interest in excess of the homestead exemption, shall be the value on the date of the petition in
 21 bankruptcy, whether the value is determined in the bankruptcy proceedings or not, or on the date
 22 the conveyance becomes effective, whichever shall first occur.

23 (7) Except as provided in subsection (9) of this section, a manufactured dwelling or floating
 24 home, and the property upon which the manufactured dwelling or floating home is situated, that is
 25 the actual abode of and occupied by the judgment debtor, or that is the actual abode of and occupied
 26 by a spouse, **reciprocal beneficiary**, dependent parent or dependent child of the judgment debtor,
 27 may not be sold on execution to satisfy a judgment that at the time of entry does not exceed \$3,000.
 28 The judgment shall remain a lien upon the real property owned by the judgment debtor and upon
 29 which the manufactured dwelling or floating home is situated, and the manufactured dwelling or
 30 floating home and real property upon which the manufactured dwelling or floating home is situated
 31 may be sold on execution:

32 (a) At any time after the sale of the manufactured dwelling or floating home by the judgment
 33 debtor, or the sale of the real property on which the manufactured dwelling or floating home is
 34 situated by the judgment debtor; or

35 (b) At any time after the manufactured dwelling or floating home is no longer the actual abode
 36 of and occupied by the judgment debtor or the spouse, **reciprocal beneficiary**, dependent parent
 37 or dependent child of the judgment debtor.

38 (8) The limitation on execution sales imposed by subsection (7) of this section is not impaired
 39 by temporary removal or absence with the intention to reoccupy the manufactured dwelling, floating
 40 home and property as a home.

41 (9) The limitation on execution sales imposed by subsection (7) of this section does not apply if
 42 two or more judgments are owing to a single judgment creditor and the total amount owing to the
 43 judgment creditor, determined by adding the amount of each individual judgment as of the date the
 44 judgment was entered, is greater than \$3,000.

45 (10) As used in this section:

1 (a) "Floating home" has the meaning given that term in ORS 830.700.

2 (b) "Manufactured dwelling" has the meaning given that term in ORS 446.003.

3 **SECTION 11.** ORS 18.845 is amended to read:

4 18.845. A notice of exemptions form must be in substantially the form set forth in this section.
5 Nothing in the notice form described in this section is intended to expand or restrict the law re-
6 lating to exempt property. A determination as to whether property is exempt from execution, at-
7 tachment and garnishment must be made by reference to other law. The form provided in this
8 section may be modified to provide more information or to update the notice based on subsequent
9 changes in exemption laws.

11
12 **NOTICE OF EXEMPT PROPERTY**
13 **AND INSTRUCTIONS FOR**
14 **CHALLENGE TO GARNISHMENT**
15

16 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be
17 reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
18 are enclosed.

19 **YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-**
20 **FULLY.**

21 State and federal law specify that certain property may not be taken. Some of the property that
22 you may be able to get back is listed below.

23 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
24 amounts is greater:

25 (a) 75 percent of your take-home wages; or

26 (b) \$170 per workweek.

27 (2) Social Security benefits.

28 (3) Supplemental Security Income (SSI).

29 (4) Public assistance (welfare).

30 (5) Unemployment benefits.

31 (6) Disability benefits (other than SSI benefits).

32 (7) Workers' compensation benefits.

33 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and
34 disability benefits when placed in a checking or savings account (up to \$7,500).

35 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
36 for your support or the support of any of your dependents.

37 (10) A homestead (house, mobile home or houseboat) occupied by you, or occupied by your
38 spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, parent or child. The value
39 of the homestead is exempt up to the following amounts:

40 (a) For a mobile home or houseboat located on land that is not owned by you, \$20,000. If you
41 jointly own the mobile home or houseboat with another person who is also liable on the debt,
42 \$27,000.

43 (b) For a mobile home or houseboat located on land that is owned by you, \$23,000. If you jointly
44 own the mobile home or houseboat with another person who is also liable on the debt, \$30,000.

45 (c) For any other homestead, \$30,000. If you jointly own the homestead with another person who

1 is also liable on the debt, \$39,600.

2 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
3 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
4 another homestead.

5 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
6 to exceed \$3,000.

7 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.

8 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
9 occupation, with a combined value not to exceed \$3,000.

10 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.

11 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
12 \$1,800.

13 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
14 and their food for 60 days.

15 (18) Provisions and fuel for your family for 60 days.

16 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
17 may not exceed \$1,000.

18 (20) Public or private pensions.

19 (21) Veterans' benefits and loans.

20 (22) Medical assistance benefits.

21 (23) Health insurance proceeds and disability proceeds of life insurance policies.

22 (24) Cash surrender value of life insurance policies not payable to your estate.

23 (25) Federal annuities.

24 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
25 emption as wages).

26 (27) Professionally prescribed health aids for you or any of your dependents.

27 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.

28 (29) Your right to receive, or property traceable to:

29 (a) An award under any crime victim reparation law.

30 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
31 jury suffered by you or an individual of whom you are a dependent.

32 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
33 are or were a dependent, to the extent reasonably necessary for your support and the support of
34 any of your dependents.

35 (30) Amounts paid to you as an earned income tax credit under federal tax law.

36 *(31) Interest in personal property to the value of \$400, but this cannot be used to increase the
37 amount of any other exemption.

38 (32) Equitable interests in property.

39 (33) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

40 (34) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
41 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
42 Calculation form.

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44 Note: If two or more people in your household owe the claim or judgment, each of them may
45 claim the exemptions marked by an asterisk (*).

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2
3 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
4 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
5 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
6 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
7 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
8 obligation.

9
10 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
11 You may seek to reclaim your exempt property by doing the following:

12 (1) Fill out the Challenge to Garnishment form that you received with this notice.

13 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
14 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
15 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
16 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
17 other money or property is exempt, or claim that the property is not subject to garnishment, you
18 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
19 showing that your challenge is made on time, so you should keep records showing when the chal-
20 lenge was mailed or delivered.

21 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
22 before applying it to the Creditor's use. You may be able to keep the property from being used by
23 the Creditor by promptly following (1) and (2) above.

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25 You should be prepared to explain your exemption in court. If you have any questions about the
26 garnishment or the debt, you should see an attorney.

27 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
28 ING PURPOSES:

29 (1) To claim such exemptions from garnishment as are permitted by law.

30 (2) To assert that property is not garnishable property under ORS 18.618.

31 (3) To assert that the amount specified in the writ of garnishment as being subject to
32 garnishment is greater than the total amount owed.

33
34 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
35 VALIDITY OF THE DEBT.

36 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
37 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
38 that you could be subject to are listed in ORS 18.715.

39 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
40 payments under the garnishment to the court, and the Garnishor may be required to pay to the
41 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
42 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
43 their responsibilities, see ORS 18.705 and 18.708.

SECTION 12. ORS 18.896 is amended to read:

18.896. (1) The challenge to execution form described in this section does not expand or restrict the law relating to exempt property. A determination as to whether property is exempt from attachment or execution must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

(2) A challenge to execution form must be in substantially the following form:

_____ COURT

COUNTY OF _____

_____) CHALLENGE TO
Plaintiff,) EXECUTION
)
vs.) Case No. _____
)
_____)
Defendant.)

THIS FORM MAY BE USED BY THE DEBTOR ONLY TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

I/We claim that the following described property or money is exempt from execution:

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes most types of property that you can claim as exempt from execution):

I am a person other than the Debtor and I have the following interest in the property:

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Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____
_____	_____
Telephone _____	Telephone _____
Number _____	Number _____
(Required)	(Required)

YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Execution form that you received with this notice.
- (2) Mail or deliver the Challenge to Execution form to the court administrator at the address shown on the writ of execution.
- (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the address shown on the writ of execution.

You should be prepared to explain your exemption in court. If you have any questions about the execution or the debt, you should see an attorney.

YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY TO CLAIM SUCH EX-EMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE VALIDITY OF THE DEBT.

IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject to are listed in ORS 18.899.

NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

- (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:
 - (a) 75 percent of your take-home wages; or
 - (b) \$170 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).

- 1 (4) Public assistance (welfare).
- 2 (5) Unemployment benefits.
- 3 (6) Disability benefits (other than SSI benefits).
- 4 (7) Workers' compensation benefits.
- 5 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and
6 disability benefits when placed in a checking or savings account (up to \$7,500).
- 7 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
8 for your support or the support of any of your dependents.
- 9 (10) A homestead (house, mobile home or houseboat) occupied by you, or occupied by your
10 spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, parent or child. The value
11 of the homestead is exempt up to the following amounts:
 - 12 (a) For a mobile home or houseboat located on land that is not owned by you, \$20,000. If you
13 jointly own the mobile home or houseboat with another person who is also liable on the debt,
14 \$27,000.
 - 15 (b) For a mobile home or houseboat located on land that is owned by you, \$23,000. If you jointly
16 own the mobile home or houseboat with another person who is also liable on the debt, \$30,000.
 - 17 (c) For any other homestead, \$30,000. If you jointly own the homestead with another person who
18 is also liable on the debt, \$39,600.
- 19 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
20 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
21 another homestead.
- 22 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
23 to exceed \$3,000.
- 24 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.
- 25 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
26 occupation, with a combined value not to exceed \$3,000.
- 27 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 28 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
29 \$1,800.
- 30 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
31 and their food for 60 days.
- 32 (18) Provisions and fuel for your family for 60 days.
- 33 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
34 may not exceed \$1,000.
- 35 (20) Public or private pensions.
- 36 (21) Veterans' benefits and loans.
- 37 (22) Medical assistance benefits.
- 38 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 39 (24) Cash surrender value of life insurance policies not payable to your estate.
- 40 (25) Federal annuities.
- 41 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
42emption as wages).
- 43 (27) Professionally prescribed health aids for you or any of your dependents.
- 44 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.
- 45 *(29) Your right to receive, or property traceable to:

1 *(a) An award under any crime victim reparation law.

2 *(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
3 jury suffered by you or an individual of whom you are a dependent.

4 *(c) A payment in compensation of loss of future earnings of you or an individual of whom you
5 are or were a dependent, to the extent reasonably necessary for your support and the support of
6 any of your dependents.

7 (30) Amounts paid to you as an earned income tax credit under federal tax law.

8 (31) Interest in personal property to the value of \$400, but this cannot be used to increase the
9 amount of any other exemption.

10 (32) Equitable interests in property.

11 Note: If two or more people in your household owe the claim or judgment, each of them may
12 claim the exemptions marked by an asterisk (*).

13 _____
14
15 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
16 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
17 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
18 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
19 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
20 obligation.

21 _____
22
23 **SECTION 13.** ORS 18.908 is amended to read:

24 18.908. (1) At least 10 days before the hearing on a motion filed under ORS 18.906, the judgment
25 creditor must:

26 (a) Serve the judgment debtor in the manner provided by ORCP 7 with a copy of the motion and
27 the supporting affidavit, and with a notice of the time and place of the hearing; and

28 (b) Send a copy of the motion and the notice by first class mail to the property at the mailing
29 address for the property.

30 (2) The notice required by subsection (1) of this section must be in substantially the following
31 form:

32 _____
33
34 NOTICE OF HEARING ON SHERIFF'S
35 SALE OF YOUR PROPERTY
36

37 This is to notify you that _____ has asked the court to order the sheriff to sell property lo-
38 cated at _____ to satisfy a judgment against _____.

39 Before deciding whether to order the sale, the court will hold a hearing on _____, 2_____, at
40 _____ a.m./p.m., in Room _____, _____.

41 The law provides that property is your homestead if the property is actually used as a home by
42 you, your spouse, **your reciprocal beneficiary as defined in section 1 of this 2007 Act**, a de-
43 pendent parent or a dependent child. If you are temporarily absent from the property but intend to
44 move back in, the property is still your homestead.

45 The law provides that if the property is your homestead, then \$_____ of its value (\$_____

1 for a manufactured dwelling if you do not own the property where the dwelling is located) may not
2 be taken to satisfy a judgment against you. In addition, a homestead usually may not be sold to
3 satisfy a judgment for \$3,000 or less.

4 The law provides that property may be sold despite the fact that it is your homestead and all
5 of its value may be taken to satisfy a judgment against you if the judgment is for child support.

6 IF YOU WISH TO PROTECT THIS PROPERTY FROM A SHERIFF'S SALE, YOU SHOULD
7 COME TO THE COURT HEARING.

8 IF YOU HAVE ANY QUESTIONS, YOU SHOULD SEE A LAWYER AT ONCE.

9 If you do not own this property, please give this notice and the papers served with it to the
10 owner.

11 _____
12
13 **SECTION 14.** ORS 21.310, as amended by section 31, chapter 702, Oregon Laws 2005, is
14 amended to read:

15 21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk
16 of the court shall charge and collect the following fees for the filing of the initial papers in any
17 probate proceeding, including petitions for the appointment of personal representatives, probate of
18 wills and contest of wills, or in any conservatorship proceeding:

19 _____
20
21 Where the amount of the estate is:

- 22 1. Not more than \$10,000-a fee of \$23.
- 23 2. More than \$10,000 and not more than \$25,000-a fee of \$77.
- 24 3. More than \$25,000 and not more than \$50,000-a fee of \$154.
- 25 4. More than \$50,000 and not more than \$100,000-a fee of \$231.
- 26 5. More than \$100,000 and not more than \$500,000-a fee of \$308.
- 27 6. More than \$500,000 and not more than \$1,000,000-a fee of \$385.
- 28 7. More than \$1,000,000-a fee of \$462.

29 _____
30
31 (2) In determining fees under subsection (1) of this section in a probate proceeding, the amount
32 of a settlement in a wrongful death action brought for the benefit of the decedent's surviving
33 spouse, **surviving reciprocal beneficiary as defined in section 1 of this 2007 Act** or dependents
34 is not part of the estate.

35 (3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$23 for the
36 filing of the initial papers in any guardianship proceeding.

37 (4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$8 at the
38 time of filing a will without a petition for probate.

39 (5) At the time of filing any answer, motion or objection in a probate proceeding or protective
40 proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee
41 of \$19 to the clerk.

42 (6) A paper or pleading shall be filed by the clerk only if the fee required under this section is
43 paid or if a request for a fee waiver or deferral is granted by the court.

44 (7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court having
45 probate jurisdiction, the clerk shall charge and collect in advance from the party having the affir-

1 native of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact
 2 or law involved therein, a trial or hearing fee of \$39.

3 **SECTION 15.** ORS 30.020 is amended to read:

4 30.020. (1) When the death of a person is caused by the wrongful act or omission of another, the
 5 personal representative of the decedent, for the benefit of the decedent's surviving spouse, **surviving**
 6 **reciprocal beneficiary as defined in section 1 of this 2007 Act**, surviving children, surviving
 7 parents and other individuals, if any, who under the law of intestate succession of the state of the
 8 decedent's domicile would be entitled to inherit the personal property of the decedent, and for the
 9 benefit of any stepchild or stepparent whether that stepchild or stepparent would be entitled to in-
 10 herit the personal property of the decedent or not, may maintain an action against the wrongdoer,
 11 if the decedent might have maintained an action, had the decedent lived, against the wrongdoer for
 12 an injury done by the same act or omission. The action shall be commenced within three years after
 13 the injury causing the death of the decedent is discovered or reasonably should have been discov-
 14 ered by the decedent, by the personal representative or by a person for whose benefit the action
 15 may be brought under this section if that person is not the wrongdoer. In no case may an action
 16 be commenced later than the earliest of:

17 (a) Three years after the death of the decedent; or

18 (b) The longest of any other period for commencing an action under a statute of ultimate repose
 19 that applies to the act or omission causing the injury, including but not limited to the statutes of
 20 ultimate repose provided for in ORS 12.110 (4), 12.115, 12.135, 12.137 and 30.905.

21 (2) In an action under this section damages may be awarded in an amount which:

22 (a) Includes reasonable charges necessarily incurred for doctors' services, hospital services,
 23 nursing services, other medical services, burial services and memorial services rendered for the
 24 decedent;

25 (b) Would justly, fairly and reasonably have compensated the decedent for disability, pain, suf-
 26 fering and loss of income during the period between injury to the decedent and the decedent's death;

27 (c) Justly, fairly and reasonably compensates for pecuniary loss to the decedent's estate;

28 (d) Justly, fairly and reasonably compensates the decedent's spouse, **reciprocal beneficiary**,
 29 children, stepchildren, stepparents and parents for pecuniary loss and for loss of the society,
 30 companionship and services of the decedent; and

31 (e) Separately stated in finding or verdict, the punitive damages, if any, which the decedent
 32 would have been entitled to recover from the wrongdoer if the decedent had lived.

33 (3) For the purposes of this section:

34 (a) Two persons shall be considered to have a stepchild-stepparent relationship if one of the bi-
 35 ological parents of the stepchild, while the stepchild is a minor and in the custody of this first bi-
 36 ological parent, marries the stepparent who is not the second biological parent or the adoptive
 37 parent of the stepchild;

38 (b) The stepchild-stepparent relationship shall remain in effect even though the stepchild is older
 39 than the age of majority or has been emancipated;

40 (c) The stepchild-stepparent relationship shall remain in effect even though one or both of the
 41 biological parents of the stepchild die; and

42 (d) The stepchild-stepparent relationship shall end upon the divorce of the biological parent and
 43 the stepparent.

44 **SECTION 16.** ORS 36.476 is amended to read:

45 36.476. (1) Except as otherwise provided in ORS 36.450 to 36.558, all persons whose names have

1 been submitted for consideration for appointment or designation as arbitrators or conciliators, or
 2 who have been appointed or designated as such, shall, within 15 days, make a disclosure to the
 3 parties of any information which might cause their impartiality to be questioned including, but not
 4 limited to, any of the following instances:

5 (a) The person has a personal bias or prejudice concerning a party or personal knowledge of the
 6 disputed evidentiary facts concerning the proceeding.

7 (b) The person served as a lawyer in the matter in controversy, or the person is or has been
 8 associated with another who has participated in the matter during such association, or the person
 9 has been a material witness concerning it.

10 (c) The person served as an arbitrator or conciliator in another proceeding involving one or
 11 more of the parties to the proceeding.

12 (d) The person, individually or as a fiduciary, or the person's spouse, **reciprocal beneficiary**
 13 **as defined in section 1 of this 2007 Act**, [or] minor child[,] or anyone residing in the person's
 14 household, has a financial interest in the subject matter in controversy or in a party to the pro-
 15 ceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

16 (e) The person, the person's spouse, **reciprocal beneficiary** or minor child, anyone residing in
 17 the person's household, any individual within the third degree of relationship to any of them, or the
 18 spouse **or reciprocal beneficiary** of any of them, meets any of the following conditions:

19 (A) The person is or has been a party to the proceeding, or an officer, director or trustee of a
 20 party.

21 (B) The person is acting or has acted as a lawyer in the proceeding.

22 (C) The person is known to have an interest that could be substantially affected by the outcome
 23 of the proceeding.

24 (D) The person is likely to be a material witness in the proceeding.

25 (f) The person has a close personal or professional relationship with a person who meets any
 26 of the following conditions:

27 (A) The person is or has been a party to the proceeding, or an officer, director or trustee of a
 28 party.

29 (B) The person is acting or has acted as a lawyer or representative in the proceeding.

30 (C) The person is or expects to be nominated as an arbitrator or conciliator in the proceedings.

31 (D) The person is known to have an interest that could be substantially affected by the outcome
 32 of the proceeding.

33 (E) The person is likely to be a material witness in the proceeding.

34 (2) The obligation to disclose information set forth in subsection (1) of this section is mandatory
 35 and cannot be waived by the parties with respect to persons serving either as the sole arbitrator
 36 or sole conciliator or as one of two arbitrators or conciliators or as the chief or prevailing
 37 arbitrator or conciliator. The parties may otherwise agree to waive such disclosure.

38 (3) From the time of appointment and throughout the arbitral proceedings, an arbitrator shall,
 39 without delay, disclose to the parties any circumstances referred to in subsection (1) of this section
 40 which were not previously disclosed.

41 (4) Unless otherwise agreed by the parties or allowed by the rules governing the arbitration,
 42 an arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as
 43 to the independence or impartiality of the arbitrator, or as to possession of the qualifications upon
 44 which the parties have agreed.

45 (5) A party may challenge an arbitrator appointed by it, or in whose appointment it has partic-

1 ipated, only for reasons of which it becomes aware after the appointment has been made.

2 **SECTION 17.** ORS 40.255 is amended to read:

3 40.255. (1) As used in this section, unless the context requires otherwise:

4 (a) “Confidential communication” means:

5 (A) A communication by a spouse to the other spouse and not intended to be disclosed to any
6 other person; **or**

7 (B) **A communication by a reciprocal beneficiary, as defined in section 1 of this 2007 Act,**
8 **to the other reciprocal beneficiary and not intended to be disclosed to any other person.**

9 (b) “Marriage” means a marital relationship between husband and wife, legally recognized under
10 the laws of this state.

11 (2) In any civil or criminal action[,]:

12 (a) A spouse has a privilege to refuse to disclose and to prevent the other spouse from disclos-
13 ing any confidential communication made by one spouse to the other during the marriage. The
14 privilege created by this [subsection] **paragraph** may be claimed by either spouse. The authority of
15 the spouse to claim the privilege and the claiming of the privilege is presumed in the absence of
16 evidence to the contrary.

17 (b) **A reciprocal beneficiary has a privilege to refuse to disclose and to prevent the other**
18 **reciprocal beneficiary from disclosing any confidential communication made by one recipro-**
19 **cal beneficiary to the other during the reciprocal beneficiary agreement. The privilege cre-**
20 **ated by this paragraph may be claimed by either reciprocal beneficiary. The authority of the**
21 **reciprocal beneficiary to claim the privilege and the claiming of the privilege is presumed in**
22 **the absence of evidence to the contrary.**

23 (3) In any criminal proceeding[,]:

24 (a) Neither spouse, during the marriage, [shall] **may** be examined adversely against the other
25 as to any other matter occurring during the marriage unless the spouse called as a witness consents
26 to testify.

27 (b) **Neither reciprocal beneficiary, during the reciprocal beneficiary agreement, may be**
28 **examined adversely against the other as to any other matter occurring during the reciprocal**
29 **beneficiary agreement unless the reciprocal beneficiary called as a witness consents to tes-**
30 **tify.**

31 (4) There is no privilege under this section:

32 (a) In all criminal actions in which one spouse is charged with bigamy or with an offense or
33 attempted offense against the person or property of the other spouse or of a child of either, or with
34 an offense against the person or property of a third person committed in the course of committing
35 or attempting to commit an offense against the other spouse;

36 (b) **In all criminal actions in which one reciprocal beneficiary is charged with an offense**
37 **or attempted offense against the person or property of the other reciprocal beneficiary or**
38 **of a child of either, or with an offense against the person or property of a third person**
39 **committed in the course of committing or attempting to commit an offense against the other**
40 **reciprocal beneficiary;**

41 [(b)] (c) As to matters occurring prior to the marriage **or reciprocal beneficiary agreement;**

42 or

43 [(c)] (d) In any civil action where the spouses **or reciprocal beneficiaries** are adverse parties.

44 **SECTION 18.** ORS 41.580 is amended to read:

45 41.580. (1) In the following cases the agreement is void unless it, or some note or memorandum

1 thereof, expressing the consideration, is in writing and subscribed by the party to be charged, or
 2 by the lawfully authorized agent of the party; evidence, therefore, of the agreement shall not be
 3 received other than the writing, or secondary evidence of its contents in the cases prescribed by
 4 law:

5 (a) An agreement that by its terms is not to be performed within a year from the making.

6 (b) An agreement to answer for the debt, default or miscarriage of another.

7 (c) An agreement by an executor or administrator to pay the debts of the testator or intestate
 8 out of the estate of the executor or administrator.

9 (d) An agreement made upon consideration of marriage, other than a mutual promise to marry.

10 (e) **An agreement made upon consideration of a reciprocal beneficiary agreement, as de-**
 11 **defined in section 1 of this 2007 Act, other than a mutual promise to enter into a reciprocal**
 12 **beneficiary agreement.**

13 [(e)] (f) An agreement for the leasing for a longer period than one year, or for the sale of real
 14 property, or of any interest therein.

15 [(f)] (g) An agreement concerning real property made by an agent of the party sought to be
 16 charged unless the authority of the agent is in writing.

17 [(g)] (h) An agreement authorizing or employing an agent or broker to sell or purchase real
 18 estate for a compensation or commission; but if the note or memorandum of the agreement is in
 19 writing and subscribed by the party to be charged, or by the lawfully authorized agent of the party,
 20 and contains a description of the property sufficient for identification, and authorizes or employs the
 21 agent or broker to sell the property, and expresses with reasonable certainty the amount of the
 22 commission or compensation to be paid, the agreement shall not be void for failure to state a con-
 23 sideration.

24 [(h)] (i) An agreement, promise or commitment to lend money, to otherwise extend credit, to
 25 forbear with respect to the repayment of any debt payable in money, to modify or amend the terms
 26 under which the person has lent money or otherwise extended credit, to release any guarantor or
 27 cosigner or to make any other financial accommodation pertaining to an existing debt or other ex-
 28 tension of credit. This paragraph does not apply:

29 (A) If no party to the agreement, promise or commitment is a financial institution as defined in
 30 ORS 706.008, a consumer finance company licensed under ORS chapter 725 or a mortgage banker
 31 as defined in ORS 59.840; or

32 (B) To a loan of money or extension of credit to a natural person which is primarily for per-
 33 sonal, family or household purposes and not for business or agricultural purposes or which is se-
 34 cured solely by residential property consisting of one to four dwelling units, one of which is the
 35 primary residence of the debtor.

36 (2)(a) Except as provided in this subsection, defenses and exceptions created by provisions of the
 37 Oregon Revised Statutes or recognized by the courts of this state do not apply to subsection
 38 [(1)(h)] (1)(i) of this section.

39 (b) An agreement, promise or commitment which does not satisfy the requirements of subsection
 40 [(1)(h)] (1)(i) of this section, but which is valid in other respects, is enforceable if the party against
 41 whom enforcement is sought admits in the party's pleading, testimony or otherwise in court that the
 42 agreement, promise or commitment was made. The agreement is not enforceable under this para-
 43 graph beyond the dollar amount admitted.

44 (c) Nothing in subsection [(1)(h)] (1)(i) of this section precludes a party from seeking to prove
 45 the modification of any term relating to the time of repayment.

1 (3)(a) If a financial institution as defined in ORS 706.008, a consumer finance company licensed
 2 under ORS chapter 725 or a mortgage banker as defined in ORS 59.840 lends money or extends
 3 credit, and subsection [(1)(h)] (1)(i) of this section applies to the loan or extension of credit, the fi-
 4 nancial institution, consumer finance company or mortgage banker shall, not later than the time the
 5 loan or extension of credit is initially made, include within the loan or credit document, or within
 6 a separate document which identifies the loan or extension of credit, a statement which is under-
 7 lined or in at least 10-point bold type and which is substantially to the following effect:

8
 9
 10 Under Oregon law, most agreements, promises and commitments made by us concerning loans
 11 and other credit extensions which are not for personal, family or household purposes or secured
 12 solely by the borrower’s residence must be in writing, express consideration and be signed by us to
 13 be enforceable.

14
 15
 16 (b) The financial institution, consumer finance company or mortgage banker shall obtain the
 17 borrower’s signature on the original document described in paragraph (a) of this subsection and
 18 shall give the borrower a copy.

19 **SECTION 19.** ORS 59.350 is amended to read:

20 59.350. For purposes of ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and 59.995:

21 (1) A transaction [*with a husband and wife*] is treated as a transaction with one person **if the**
 22 **transaction is with a husband and wife or with two persons in a reciprocal beneficiary**
 23 **agreement, as defined in section 1 of this 2007 Act.** The securities may be held jointly or indi-
 24 vidually.

25 (2) A transaction with an entity is treated as a transaction with one person. However, if an
 26 entity is formed substantially for the purpose of acquiring the securities that are offered, each se-
 27 curity holder shall be counted as a separate person.

28 **SECTION 20.** ORS 59.535 is amended to read:

29 59.535. For the purposes of ORS 59.535 to 59.585, unless the context otherwise requires:

30 (1) “Beneficiary form” means a registration of a security which indicates the present owner of
 31 the security and the intention of the owner regarding the person who will become the owner of the
 32 security upon the death of the owner.

33 (2) “Devisee” means any person designated in a will to receive a disposition of real or personal
 34 property.

35 (3) “Heirs” means those persons, including the surviving spouse **or surviving reciprocal bene-**
 36 **fiary, as defined in section 1 of this 2007 Act,** who are entitled under the statutes of intestate
 37 succession to the property of a decedent.

38 (4) “Person” means an individual, a corporation, an organization or other legal entity.

39 (5) “Personal representative” includes executor, administrator, successor personal represen-
 40 tative, special administrator and persons who perform substantially the same function under the law
 41 governing their status.

42 (6) “Property” includes both real and personal property or any interest therein and means any-
 43 thing that may be the subject of ownership.

44 (7) “Register,” including its derivatives, means to issue a certificate showing the ownership of
 45 a certificated security or, in the case of an uncertificated security, to initiate or transfer an account

1 showing ownership of securities.

2 (8) "Registering entity" means a person who originates or transfers a security title by registra-
3 tion, and includes a broker maintaining security accounts for customers and a transfer agent or
4 other person acting for or as an issuer of securities.

5 (9) "Security" means a share, participation or other interest in property, in a business, or in an
6 obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated
7 security and a security account.

8 (10) "Security account" means:

9 (a) A reinvestment account associated with a security, a securities account with a broker, a
10 cash balance in a brokerage account, cash, interest, earnings or dividends earned or declared on a
11 security in an account, a reinvestment account or a brokerage account, whether or not credited to
12 the account before the owner's death; or

13 (b) A cash balance or other property held for or due to the owner of a security as a replacement
14 for or product of an account security, whether or not credited to the account before the owner's
15 death.

16 (11) "State" includes any state of the United States, the District of Columbia, the Commonwealth
17 of Puerto Rico and any territory or possession subject to the legislative authority of the United
18 States.

19 **SECTION 21.** ORS 60.801 is amended to read:

20 60.801. As used in ORS 60.801 to 60.816:

21 (1) "Acquiring group" means two or more persons who agree to act together or enter into any
22 arrangement or understanding for the purpose of voting or acquiring voting shares of an issuing
23 public corporation, but does not include two or more persons whose sole agreement relates to the
24 granting of an immediately revocable proxy.

25 (2) "Acquiring person" means a person who acquires or proposes to acquire ownership of, or the
26 power to direct the voting of, voting shares of an issuing public corporation and includes all affil-
27 iates of such person.

28 (3)(a) "Affiliate" means a person who directly, or indirectly through one or more intermediaries,
29 controls, or is controlled by, or is under common control with, another person. As used in this
30 subsection, "control," including the terms "controlled by" and "under common control with," means
31 the possession, directly or indirectly, of the power to direct or cause the direction of the manage-
32 ment and policies of a person, whether through the ownership of voting shares, by contract or oth-
33 erwise. A person who is the owner of 10 percent or more of a corporation's outstanding voting
34 shares shall be presumed to have control of the corporation in the absence of proof by a prepon-
35 derance of the evidence to the contrary.

36 (b) Notwithstanding paragraph (a) of this subsection, a presumption of control shall not apply
37 where a person holds voting shares in good faith and not for the purpose of circumventing ORS
38 60.801 to 60.816 as an agent, bank, broker, nominee, custodian or trustee for one or more owners
39 who do not individually or as a group have control of the corporation.

40 (4)(a) "Control share acquisition" means the acquisition, directly or indirectly, by any acquiring
41 person, including a member of an acquiring group, of ownership of, or the power to direct the voting
42 of, voting shares of an issuing public corporation in a transaction that causes the total voting power
43 of the acquiring person or any acquiring group of which the acquiring person is a member in the
44 election of directors of the issuing public corporation to exceed one-fifth, one-third or one-half of the
45 total voting power of all the voting shares.

1 (b) For purposes of this subsection, voting shares of an issuing public corporation acquired
 2 within 90 days of a control share acquisition by the acquiring person or members of the acquiring
 3 group making the control share acquisition shall be considered to have been acquired in the same
 4 control share acquisition.

5 (c) For purposes of this subsection, a person who acquires voting shares in the ordinary course
 6 of business for the benefit of others in good faith and not for the purpose of circumventing ORS
 7 60.801 to 60.816 has ownership and voting power only of voting shares in respect of which that
 8 person would be able to exercise or direct the exercise of votes without further instruction from
 9 others.

10 (d) For purposes of this subsection, if two or more persons enter into a binding agreement that
 11 is not immediately revocable with respect to the voting of their voting shares, in addition to those
 12 persons thereby becoming an acquiring group:

13 (A) Any single person who thereby obtains the right to determine how any other parties to the
 14 agreement must vote their shares shall be deemed to have acquired the power to direct the voting
 15 of the voting shares held by such other parties to the agreement; and

16 (B) Any group of persons who thereby obtain the right to determine how any parties to the
 17 agreement must vote their shares shall collectively be deemed to be a separate acquiring person
 18 who has acquired the power to direct the voting of all voting shares held by such parties to the
 19 agreement. The group of persons shall include all parties to the agreement if all parties share in the
 20 decision or if the agreement specifies how the shares must be voted.

21 (e) The acquisition of any voting shares of an issuing public corporation does not constitute a
 22 control share acquisition if the acquisition is consummated in any of the following circumstances:

23 (A) At a time when the corporation was not subject to ORS 60.801 to 60.816.

24 (B) Pursuant to a contract entered into at a time when the corporation was not subject to ORS
 25 60.801 to 60.816.

26 (C) Pursuant to the laws of descent and distribution.

27 (D) Pursuant to the satisfaction of a pledge or other security interest created in good faith and
 28 not for the purpose of circumventing ORS 60.801 to 60.816.

29 (E) In a transaction in which voting shares are acquired from the issuing public corporation.

30 (F) Pursuant to a merger or plan of share exchange effected in compliance with ORS 60.470 to
 31 60.501, if the issuing public corporation is a party to the agreement of merger or plan of share ex-
 32 change.

33 (G) Pursuant to a transfer of voting shares between or among affiliates or immediate family
 34 members unless the voting shares are control shares that have not had their voting rights restored
 35 under ORS 60.807.

36 (H) In a transaction in which voting power is acquired solely by receipt of an immediately
 37 revocable proxy or by any other agreement or understanding that is not binding on the person
 38 transferring such voting power.

39 (5)(a) "Control shares" means voting shares of an issuing public corporation that are acquired
 40 in a control share acquisition. "Control shares" does not include voting shares acquired in a control
 41 share acquisition that are subsequently transferred, or whose voting power is subsequently trans-
 42 ferred, other than a transfer of voting power by termination of a binding voting agreement, to a
 43 person that is not an affiliate of the transferor or a member of an acquiring group of which the
 44 transferor is a member in a transaction that is not a control share acquisition. "Control shares" also
 45 does not include voting shares acquired in a control share acquisition whose voting power is sub-

1 sequentially transferred pursuant to the termination of a binding voting agreement if, assuming the
 2 parties to the agreement had never entered into the agreement but had been members of an ac-
 3 quiring group during the term of the agreement, the voting shares would not have been control
 4 shares.

5 (b) If an acquiring person or any member of an acquiring group transfers control shares in a
 6 transaction that causes the control shares to cease to be control shares without reducing the total
 7 voting power of the acquiring person or acquiring group to less than one-fifth of the total voting
 8 power of all the voting shares, and within 90 days before or after such transfer the transferor or
 9 any member of an acquiring group of which the transferor is a member acquires ownership of, or
 10 the power to direct the voting of, any voting shares, all such voting shares up to the number of
 11 voting shares having total voting power equal to the total voting power of the control shares
 12 transferred shall be considered control shares.

13 (6) “Immediate family member” means any grandparent, parent, brother, sister, child,
 14 grandchild, [or] spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of a
 15 person, or any other relative of the person, [or] the person’s spouse **or the person’s reciprocal**
 16 **beneficiary** who has the same home as the person.

17 (7)(a) “Interested shares” means voting shares of an issuing public corporation that any of the
 18 following persons have sole or shared power to vote, or direct the voting of, either directly or by
 19 proxy or voting agreement, at a meeting at which the voting rights of control shares are to be
 20 considered:

21 (A) The acquiring person or a member of the acquiring group whose voting rights are under
 22 consideration.

23 (B) Any officer of the issuing public corporation.

24 (C) Any employee of the issuing public corporation who is also a director of the corporation.

25 (b) For purposes of this subsection, a person shall not be deemed to have the power to vote, or
 26 direct the voting of, voting shares if the person’s power with respect to the shares arises solely from
 27 holding an immediately revocable proxy, unless the proxy is solicited in connection with an offer to
 28 purchase or solicitation of offers to sell voting shares which requires the granting of a proxy as a
 29 condition to the acceptance of a tender of voting shares from any shareholder.

30 (8)(a) “Issuing public corporation” means a corporation incorporated or existing pursuant to the
 31 provisions of this chapter that has:

32 (A) One hundred or more record or beneficial shareholders;

33 (B) Its principal place of business, its principal office or assets with a fair market value of not
 34 less than \$1 million within this state; and

35 (C) Either:

36 (i) More than 10 percent of its record shareholders resident in this state;

37 (ii) More than 10 percent of its shares owned beneficially or of record by residents of this state;

38 or

39 (iii) At least 10,000 of its record or beneficial shareholders resident in this state.

40 (b) The residence of a shareholder is presumed to be the address appearing in the records of the
 41 corporation.

42 (c) Shares held by banks, except as trustee or guardian, brokers or nominees shall be disre-
 43 garded for purposes of calculating the percentages or numbers described in paragraph (a)(C) of this
 44 subsection.

45 (9) “Person” means any individual, corporation, partnership, unincorporated association or other

1 entity.

2 (10) "Total voting power" of any person or any shares means the voting power such person or
 3 shares would have except for ORS 60.801 to 60.816.

4 (11) "Voting shares" means shares that have, or would have except for this Act, voting power
 5 in any vote for the election of directors and that belong to a class or series that, together with all
 6 other classes or series that vote with such class or series as a group with respect to the election
 7 of directors, elects at least a majority of the directors.

8 **SECTION 22.** ORS 60.825 is amended to read:

9 60.825. As used in ORS 60.825 to 60.845:

10 (1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries,
 11 controls, is controlled by, or is under common control with, another person.

12 (2) "Associate," when used to indicate a relationship with any person, means:

13 (a) Any corporation or organization of which the person is a director, officer or partner or is,
 14 directly or indirectly, the owner of 20 percent or more of any class of voting stock;

15 (b) Any trust or other estate in which the person has at least a 20 percent beneficial interest
 16 or as to which the person serves as trustee or in a similar fiduciary capacity; and

17 (c) Any relative, [or] spouse **or reciprocal beneficiary, as defined in section 1 of this 2007**
 18 **Act**, of the person, or any relative of a spouse **or reciprocal beneficiary**, who has the same resi-
 19 dence as the person.

20 (3) "Business combination," when used in reference to any corporation and any interested
 21 shareholder of the corporation, means:

22 (a) Any merger or plan of exchange of the corporation or any direct or indirect majority-owned
 23 subsidiary of the corporation with:

24 (A) The interested shareholder; or

25 (B) Any other corporation if the merger or plan of exchange is caused by the interested share-
 26 holder and as a result of the merger or plan of exchange, ORS 60.835 is not applicable to the sur-
 27 viving corporation;

28 (b) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction
 29 or a series of transactions, except proportionately as a shareholder of the corporation, to or with
 30 the interested shareholder, whether as part of a dissolution or otherwise, of assets of the corpo-
 31 ration or of any direct or indirect majority-owned subsidiary of the corporation where the assets
 32 have an aggregate market value equal to 10 percent or more of either the aggregate market value
 33 of all the assets of the corporation determined on a consolidated basis or the aggregate market
 34 value of all the outstanding stock of the corporation;

35 (c) Any transaction which results in the issuance or transfer by the corporation or by any direct
 36 or indirect majority-owned subsidiary of the corporation of any shares of the corporation or of any
 37 such subsidiary to the interested shareholder, except:

38 (A) Pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable
 39 for or convertible into shares of the corporation or any subsidiary where the securities were out-
 40 standing prior to the time that the interested shareholder became an interested shareholder or were
 41 distributed pro rata to all holders of a class or series of shares of the corporation or any subsidiary
 42 subsequent to the time the interested shareholder became an interested shareholder;

43 (B) Pursuant to a dividend or distribution paid or made pro rata to all holders of a class or se-
 44 ries of shares of the corporation or any subsidiary subsequent to the time the interested shareholder
 45 became an interested shareholder, provided that there is no increase in the interested shareholder's

1 proportionate share of any class or series of shares of the corporation or of the voting stock of the
 2 corporation; or

3 (C) Pursuant to an exchange offer by the corporation to purchase shares made on the same
 4 terms to all holders of the shares, provided that there is no increase in the interested shareholder's
 5 proportionate share of any class or series of shares of the corporation or of the voting stock of the
 6 corporation;

7 (d) Any transaction involving the corporation or any direct or indirect majority-owned subsid-
 8 iary of the corporation which has the effect, directly or indirectly, of increasing the proportionate
 9 share of any class or series of shares, or securities convertible into the shares of any class or series,
 10 of the corporation or of any such subsidiary which is owned by the interested shareholder, except
 11 as a result of immaterial changes due to fractional share adjustments or as a result of any purchase
 12 or redemption of any shares not caused, directly or indirectly, by the interested shareholder; or

13 (e) Any receipt by the interested shareholder of the benefit, directly or indirectly, except pro-
 14 portionately as a shareholder of such corporation, of any loans, advances, guarantees, pledges or
 15 other financial benefits, other than those expressly permitted in paragraphs (a) to (d) of this sub-
 16 section, provided by or through the corporation or any direct or indirect majority-owned subsidiary.

17 (4)(a) "Control," including the terms "controlling," "controlled by" and "under common control
 18 with," means the possession, directly or indirectly, of the power to direct or cause the direction of
 19 the management and policies of a person, whether through the ownership of voting stock, by con-
 20 tract or otherwise. A person who is the owner of 10 percent or more of a corporation's outstanding
 21 voting stock shall be presumed to have control of the corporation, in the absence of proof by a
 22 preponderance of the evidence to the contrary.

23 (b) Notwithstanding paragraph (a) of this subsection, a presumption of control shall not apply
 24 when a person holds voting stock, in good faith and not for the purpose of circumventing this sec-
 25 tion, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not
 26 individually or as a group have control of the corporation.

27 (5)(a) "Interested shareholder" means:

28 (A) Any person, other than the corporation and any direct or indirect majority-owned subsidiary
 29 of the corporation, that:

30 (i) Is the owner of shares representing 15 percent or more of the outstanding voting stock of the
 31 corporation; or

32 (ii) Is an affiliate or associate of the corporation and was the owner of shares representing 15
 33 percent or more of the outstanding voting stock of the corporation at any time within the three-year
 34 period immediately prior to the date on which it is sought to be determined whether the person is
 35 an interested shareholder; and

36 (B) The affiliates and associates of a person described in subparagraph (A) of this paragraph.

37 (b) Notwithstanding paragraph (a) of this subsection, the term "interested shareholder" shall not
 38 include:

39 (A) Any person who:

40 (i) Owned shares in excess of the 15 percent limitation described in paragraph (a) of this sub-
 41 section as of April 4, 1991, and who continued to own shares in excess of the 15 percent limitation
 42 or would have but for action by the corporation;

43 (ii) Acquired shares in excess of the 15 percent limitation described in paragraph (a) of this
 44 subsection pursuant to a tender offer commenced prior to April 4, 1991, and who continued to own
 45 shares in excess of the 15 percent limitation or would have but for action by the corporation;

1 (iii) Acquired shares in excess of the 15 percent limitation described in paragraph (a) of this
 2 subsection pursuant to an exchange offer announced prior to April 4, 1991, and commenced within
 3 90 days after April 4, 1991, and who continued to own shares in excess of the 15 percent limitation
 4 or would have but for action by the corporation; or

5 (iv) Acquired shares in excess of the 15 percent limitation described in paragraph (a) of this
 6 subsection from a person described in sub-subparagraphs (i) to (iii) of this subparagraph by gift,
 7 inheritance or in a transaction in which no consideration was exchanged; or

8 (B) Any person whose ownership of shares in excess of the 15 percent limitation described in
 9 paragraph (a) of this subsection is the result of action taken solely by the corporation provided that
 10 the person shall be an interested shareholder if the person later acquires additional voting stock
 11 of the corporation, except as a result of further corporate action not caused, directly or indirectly,
 12 by the person.

13 (c) For the purpose of determining whether a person is an interested shareholder, the voting
 14 shares of the corporation considered to be outstanding shall include shares considered to be owned
 15 by the person through application of ORS 60.830 (1).

16 (6) "Person" means any individual, corporation, partnership, unincorporated association or other
 17 entity.

18 (7) "Voting stock" means shares of any class or series that, together with all other classes or
 19 series that vote with the class or series as a group with respect to the election of directors, elects
 20 at least a majority of the directors.

21 **SECTION 23.** ORS 62.430 is amended to read:

22 62.430. (1) If authorized by the bylaws, a cooperative may pay the following persons up to
 23 \$10,000 in redemption or refund of capital credits or retains recorded on the books and records of
 24 the cooperative in the name of a deceased owner thereof:

25 (a) The surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this**
 26 **2007 Act**, of the deceased owner;

27 (b) If there is no surviving spouse **or surviving reciprocal beneficiary**, the deceased owner's
 28 surviving children 18 years of age or older;

29 (c) If the deceased owner left no surviving spouse, **surviving reciprocal beneficiary** or surviv-
 30 ing children 18 years of age or older, the deceased owner's surviving parents; or

31 (d) If there is no surviving spouse, **surviving reciprocal beneficiary**, surviving children 18
 32 years of age or older or surviving parent, the deceased owner's surviving brothers and sisters 18
 33 years of age or older.

34 (2) The affidavit of the person claiming payment shall:

35 (a) State where and when the deceased owner died;

36 (b) State that the total face value of the capital credits or retains of the deceased owner in the
 37 cooperative does not exceed \$10,000 and that they are free and clear of any security interest or
 38 other lien or encumbrance;

39 (c) Show the relationship of the affiant or affiants to the deceased owner;

40 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
 41 the deceased owner out of the capital credits or retains to be redeemed or refunded to the full ex-
 42 tent thereof if necessary, and to distribute any balance to those persons entitled thereto by law; and

43 (e) State any other information deemed appropriate by the cooperative.

44 (3) A cooperative is under no obligation to determine the relationship of the affiant to the de-
 45 ceased owner, or to determine other than from its books and records whether the deceased owner's

1 capital credits or retains are subject to a security interest or other lien or encumbrance. Payment
 2 made in good faith to the person making the affidavit is a full acquittance and release of the coop-
 3 erative for the amount so paid.

4 (4) A probate proceeding is not necessary to establish the right of the surviving spouse, **sur-**
 5 **living reciprocal beneficiary**, surviving children, surviving parent or surviving brothers and sisters
 6 to obtain payment of the capital credits or retains as provided by this section. However, if a per-
 7 sonal representative is appointed in an estate of a deceased member or patron whose capital credits
 8 or retains have been redeemed or refunded under this section, the person or persons signing the
 9 affidavit shall account for them to the personal representative.

10 (5) Nothing in this section shall abrogate the rights of a cooperative set forth in ORS 62.235,
 11 and a cooperative's right to set off from a deceased owner's capital credits or retains any debts
 12 owed to the cooperative by the deceased owner. This section shall not require that redemption or
 13 refund of capital credits or retains be made in accordance with this section, or otherwise limit or
 14 affect the manner in which a cooperative may pay, redeem, refund, administer or distribute its net
 15 savings, or any retains thereof, capital credits or other equity interests, nor shall it be deemed or
 16 construed to impose any further obligation or liability on a cooperative in its payment or redemption
 17 of retains in excess of \$10,000.

18 (6) Notwithstanding any provision of this section, if the cooperative's books and records reflect
 19 that the deceased owner's capital credits or retains are subject to a security interest or other
 20 encumbrance, the cooperative shall not be relieved of any liability arising from the security interest
 21 or the encumbrance if the redemption or refund of capital credits is made to the person making the
 22 affidavit under this section.

23 **SECTION 24.** ORS 79.0102 is amended to read:

24 79.0102. (1) As used in this chapter:

25 (a) "Accession" means goods that are physically united with other goods in such a manner that
 26 the identity of the original goods is not lost.

27 (b) "Account," except as used in "account for," means a right to payment of a monetary obli-
 28 gation, whether or not earned by performance, (i) for property that has been or is to be sold, leased,
 29 licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a
 30 policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred,
 31 (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other
 32 contract, (vii) arising out of the use of a credit or charge card or information contained on or for
 33 use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored
 34 by a state, governmental unit of a state, or person licensed or authorized to operate the game by a
 35 state or governmental unit of a state. The term includes health-care-insurance receivables. The term
 36 does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial
 37 tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of
 38 credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out
 39 of the use of a credit or charge card or information contained on or for use with the card.

40 (c) "Account debtor" means a person obligated on an account, chattel paper or general intan-
 41 gible. The term does not include persons obligated to pay a negotiable instrument, even if the in-
 42 strument constitutes part of chattel paper.

43 (d) "Accounting," except as used in "accounting for," means a record:

44 (A) Authenticated by a secured party;

45 (B) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days

1 earlier or 35 days later than the date of the record; and

2 (C) Identifying the components of the obligations in reasonable detail.

3 (e) "Agricultural lien" means an interest, other than a security interest or a lien created under
4 ORS 87.226, 87.228, 87.700 to 87.736 or 87.750 to 87.777, in farm products:

5 (A) Which secures payment or performance of an obligation for:

6 (i) Goods or services furnished in connection with a debtor's farming operation; or

7 (ii) Rent on real property leased by a debtor in connection with its farming operation;

8 (B) Which is created by statute in favor of a person that:

9 (i) In the ordinary course of its business furnished goods or services to a debtor in connection
10 with a debtor's farming operation; or

11 (ii) Leased real property to a debtor in connection with the debtor's farming operation; and

12 (C) Whose effectiveness does not depend on the person's possession of the personal property.

13 (f) "As-extracted collateral" means:

14 (A) Oil, gas or other minerals that are subject to a security interest that:

15 (i) Is created by a debtor having an interest in the minerals before extraction; and

16 (ii) Attaches to the minerals as extracted; or

17 (B) Accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals
18 in which the debtor had an interest before extraction.

19 (g) "Authenticate" means:

20 (A) To sign; or

21 (B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole
22 or in part, with the present intent of the authenticating person to identify the person and adopt or
23 accept a record.

24 (h) "Bank" means an organization that is engaged in the business of banking. The term includes
25 savings banks, savings and loan associations, credit unions and trust companies.

26 (i) "Cash proceeds" means proceeds that are money, checks, deposit accounts or the like.

27 (j) "Certificate of title" means a certificate of title with respect to which a statute provides for
28 the security interest in question to be indicated on the certificate as a condition or result of the
29 security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

30 (k) "Chattel paper" means a record or records that evidence both a monetary obligation and a
31 security interest in specific goods, a security interest in specific goods and software used in the
32 goods, a security interest in specific goods and license of software used in the goods, a lease of
33 specific goods, or a lease of specific goods and license of software used in the goods. In this para-
34 graph, "monetary obligation" means a monetary obligation secured by the goods or owed under a
35 lease of the goods and includes a monetary obligation with respect to software used in the goods.
36 The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii)
37 records that evidence a right to payment arising out of the use of a credit or charge card or infor-
38 mation contained on or for use with the card. If a transaction is evidenced by records that include
39 an instrument or series of instruments, the group of records taken together constitutes chattel pa-
40 per.

41 (L) "Collateral" means the property subject to a security interest or agricultural lien. The term
42 includes:

43 (A) Proceeds to which a security interest attaches;

44 (B) Accounts, chattel paper, payment intangibles and promissory notes that have been sold; and

45 (C) Goods that are the subject of a consignment.

- 1 (m) “Commercial tort claim” means a claim arising in tort with respect to which:
- 2 (A) The claimant is an organization; or
- 3 (B) The claimant is an individual and the claim:
- 4 (i) Arose in the course of the claimant’s business or profession; and
- 5 (ii) Does not include damages arising out of personal injury to or the death of an individual.
- 6 (n) “Commodity account” means an account maintained by a commodity intermediary in which
- 7 a commodity contract is carried for a commodity customer.
- 8 (o) “Commodity contract” means a commodity futures contract, an option on a commodity fu-
- 9 tures contract, a commodity option or another contract if the contract or option is:
- 10 (A) Traded on or subject to the rules of a board of trade that has been designated as a contract
- 11 market for such a contract pursuant to federal commodities laws; or
- 12 (B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the
- 13 books of a commodity intermediary for a commodity customer.
- 14 (p) “Commodity customer” means a person for which a commodity intermediary carries a com-
- 15 modity contract on its books.
- 16 (q) “Commodity intermediary” means a person that:
- 17 (A) Is registered as a futures commission merchant under federal commodities law; or
- 18 (B) In the ordinary course of its business provides clearance or settlement services for a board
- 19 of trade that has been designated as a contract market pursuant to federal commodities law.
- 20 (r) “Communicate” means:
- 21 (A) To send a written or other tangible record;
- 22 (B) To transmit a record by any means agreed upon by the persons sending and receiving the
- 23 record; or
- 24 (C) In the case of transmission of a record to or by a filing office, to transmit a record by any
- 25 means prescribed by filing-office rule.
- 26 (s) “Consignee” means a merchant to which goods are delivered in a consignment.
- 27 (t) “Consignment” means a transaction, regardless of its form, in which a person delivers goods
- 28 to a merchant for the purpose of sale and:
- 29 (A) The merchant:
- 30 (i) Deals in goods of that kind under a name other than the name of the person making delivery;
- 31 (ii) Is not an auctioneer; and
- 32 (iii) Is not generally known by its creditors to be substantially engaged in selling the goods of
- 33 others;
- 34 (B) With respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time
- 35 of delivery;
- 36 (C) The goods are not consumer goods immediately before delivery; and
- 37 (D) The transaction does not create a security interest that secures an obligation.
- 38 (u) “Consignor” means a person that delivers goods to a consignee in a consignment.
- 39 (v) “Consumer debtor” means a debtor in a consumer transaction.
- 40 (w) “Consumer goods” means goods that are used or bought for use primarily for personal,
- 41 family or household purposes.
- 42 (x) “Consumer-goods transaction” means a consumer transaction in which:
- 43 (A) An individual incurs an obligation primarily for personal, family or household purposes; and
- 44 (B) A security interest in consumer goods secures the obligation.
- 45 (y) “Consumer obligor” means an obligor who is an individual and who incurred the obligation

1 as part of a transaction entered into primarily for personal, family or household purposes.

2 (z) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation
 3 primarily for personal, family or household purposes, (ii) a security interest secures the obligation,
 4 and (iii) the collateral is held or acquired primarily for personal, family or household purposes. The
 5 term includes consumer-goods transactions.

6 (aa) "Continuation statement" means an amendment of a financing statement which:

7 (A) Identifies, by its file number, the initial financing statement to which it relates; and

8 (B) Indicates that it is a continuation statement for, or that it is filed to continue the effec-
 9 tiveness of, the identified financing statement.

10 (bb) "Debtor" means:

11 (A) A person having an interest, other than a security interest or other lien, in the collateral,
 12 whether or not the person is an obligor;

13 (B) A seller of accounts, chattel paper, payment intangibles or promissory notes; or

14 (C) A consignee.

15 (cc) "Deposit account" means a demand, time, savings, passbook or similar account maintained
 16 with a bank. The term does not include investment property or accounts evidenced by an instrument.

17 (dd) "Document" means a document of title or a receipt of the type described in ORS 77.2010
 18 (2).

19 (ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting
 20 of information stored in an electronic medium.

21 (ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term
 22 includes mortgages and other liens on real property.

23 (gg) "Equipment" means goods other than inventory, farm products or consumer goods.

24 (hh) "Farm products" means goods, other than standing timber, with respect to which the debtor
 25 is engaged in a farming operation and which are:

26 (A) Crops grown, growing, or to be grown, including:

27 (i) Crops produced on trees, vines and bushes; and

28 (ii) Aquatic goods produced in aquacultural operations;

29 (B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

30 (C) Supplies used or produced in a farming operation; or

31 (D) Products of crops or livestock in their unmanufactured states.

32 (ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing or any other
 33 farming, livestock or aquacultural operation.

34 (jj) "File number" means the number assigned to an initial financing statement pursuant to ORS
 35 79.0519 (1).

36 (kk) "Filing office" means an office designated in ORS 79.0501 as the place to file a financing
 37 statement.

38 (LL) "Filing-office rule" means a rule adopted pursuant to ORS 79.0526.

39 (mm) "Financing statement" means a record or records composed of an initial financing state-
 40 ment and any filed record relating to the initial financing statement.

41 (nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to
 42 become fixtures and satisfying ORS 79.0502 (1) and (2). The term includes the filing of a financing
 43 statement covering goods of a transmitting utility which are or are to become fixtures.

44 (oo) "Fixtures" means goods that have become so related to particular real property that an
 45 interest in them arises under real property law. The term does not include portable irrigation

1 equipment including movable pipe, pumps, electrical pump panels, pump columns, electrical wire,
 2 wheel lines, center pivots and handlines. The term includes domestic pumps, domestic pump wire,
 3 domestic pump panels, domestic pump columns, and buried irrigation equipment including buried
 4 pipe, buried electrical wire and all buried well casings.

5 (pp) "General intangible" means any personal property, including things in action, other than
 6 accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments,
 7 investment property, letter-of-credit rights, letters of credit, money and oil, gas or other minerals
 8 before extraction. The term includes payment intangibles and software.

9 (qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards
 10 of fair dealing.

11 (rr) "Goods" means all things that are movable when a security interest attaches. The term in-
 12 cludes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract
 13 for sale, (iii) the unborn young of animals, (iv) crops grown, growing or to be grown, even if the
 14 crops are produced on trees, vines or bushes, and (v) manufactured structures. The term also in-
 15 cludes a computer program embedded in goods and any supporting information provided in con-
 16 nection with a transaction relating to the program if (i) the program is associated with the goods
 17 in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner
 18 of the goods, a person acquires a right to use the program in connection with the goods. The term
 19 does not include a computer program embedded in goods that consist solely of the medium in which
 20 the program is embedded. The term also does not include accounts, chattel paper, commercial tort
 21 claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-
 22 of-credit rights, letters of credit, money or oil, gas or other minerals before extraction.

23 (ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality
 24 or other unit of the government of the United States, a state or a foreign country. The term includes
 25 an organization having a separate corporate existence if the organization is eligible to issue debt
 26 on which interest is exempt from income taxation under the laws of the United States.

27 (tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance
 28 which is a right to payment of a monetary obligation for health-care goods or services provided.

29 (uu) "Instrument" means a negotiable instrument or any other writing that evidences a right to
 30 the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type
 31 that in ordinary course of business is transferred by delivery with any necessary indorsement or
 32 assignment. The term does not include (i) investment property, (ii) letters of credit or (iii) writings
 33 that evidence a right to payment arising out of the use of a credit or charge card or information
 34 contained on or for use with the card.

35 (vv) "Inventory" means goods, other than farm products, which:

- 36 (A) Are leased by a person as lessor;
- 37 (B) Are held by a person for sale or lease or to be furnished under a contract of service;
- 38 (C) Are furnished by a person under a contract of service; or
- 39 (D) Consist of raw materials, work in process, or materials used or consumed in a business.

40 (ww) "Investment property" means a security, whether certificated or uncertificated, security
 41 entitlement, securities account, commodity contract or commodity account.

42 (xx) "Jurisdiction of organization," with respect to a registered organization, means the juris-
 43 diction under whose law the organization is organized.

44 (yy) "Letter-of-credit right" means a right to payment or performance under a letter of credit,
 45 whether or not the beneficiary has demanded or is at the time entitled to demand payment or per-

1 formance. The term does not include the right of a beneficiary to demand payment or performance
 2 under a letter of credit.

3 (zz) "Lien creditor" means:

- 4 (A) A creditor that has acquired a lien on the property involved by attachment, levy or the like;
- 5 (B) An assignee for benefit of creditors from the time of assignment;
- 6 (C) A trustee in bankruptcy from the date of the filing of the petition; or
- 7 (D) A receiver in equity from the time of appointment.

8 (aaa) "Manufactured structure" has the meaning given that term in ORS 446.561.

9 (bbb) "Manufactured-structure transaction" means a secured transaction:

10 (A) That creates a purchase-money security interest in a manufactured structure, other than a
 11 manufactured structure held as inventory; or

12 (B) In which a manufactured structure, other than a manufactured structure held as inventory,
 13 is the primary collateral.

14 (ccc) "Mortgage" means a consensual interest in real property, including fixtures, which secures
 15 payment or performance of an obligation.

16 (ddd) "New debtor" means a person that becomes bound as debtor under ORS 79.0203 (4) by a
 17 security agreement previously entered into by another person.

18 (eee) "New value" means (i) money, (ii) money's worth in property, services or new credit, or (iii)
 19 release by a transferee of an interest in property previously transferred to the transferee. The term
 20 does not include an obligation substituted for another obligation.

21 (fff) "Noncash proceeds" means proceeds other than cash proceeds.

22 (ggg) "Obligor" means a person that, with respect to an obligation secured by a security interest
 23 in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation,
 24 (ii) has provided property other than the collateral to secure payment or other performance of the
 25 obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance
 26 of the obligation. The term does not include issuers or nominated persons under a letter of credit.

27 (hhh) "Original debtor," except as used in ORS 79.0310 (3), means a person that, as debtor, en-
 28 tered into a security agreement to which a new debtor has become bound under ORS 79.0203 (4).

29 (iii) "Payment intangible" means a general intangible under which the account debtor's principal
 30 obligation is a monetary obligation.

31 (jjj) "Person related to," with respect to an individual, means:

32 (A) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the
 33 individual;

34 (B) A brother, brother-in-law, sister or sister-in-law of the individual;

35 (C) An ancestor or lineal descendant of the individual or the individual's spouse **or reciprocal**
 36 **beneficiary**; or

37 (D) Any other relative, by blood or marriage, of the individual or the individual's spouse **or**
 38 **reciprocal beneficiary** who shares the same home with the individual.

39 (kkk) "Person related to," with respect to an organization, means:

40 (A) A person directly or indirectly controlling, controlled by, or under common control with the
 41 organization;

42 (B) An officer or director of, or a person performing similar functions with respect to, the or-
 43 ganization;

44 (C) An officer or director of, or a person performing similar functions with respect to, a person
 45 described in subparagraph (A) of this paragraph;

1 (D) The spouse **or reciprocal beneficiary** of an individual described in subparagraph (A), (B)
2 or (C) of this paragraph; or

3 (E) An individual who is related by blood or marriage to an individual described in subpara-
4 graph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual.

5 (LLL) "Proceeds," except as used in ORS 79.0609 (2), means the following property:

6 (A) Whatever is acquired upon the sale, lease, license, exchange or other disposition of collat-
7 eral;

8 (B) Whatever is collected on, or distributed on account of, collateral;

9 (C) Rights arising out of collateral;

10 (D) To the extent of the value of collateral, claims arising out of the loss, nonconformity or in-
11 terference with the use of, defects or infringement of rights in, or damage to, the collateral; or

12 (E) To the extent of the value of collateral and to the extent payable to the debtor or the se-
13 cured party, insurance payable by reason of the loss or nonconformity of, defects or infringement
14 of rights in, or damage to, the collateral.

15 (mmm) "Promissory note" means an instrument that evidences a promise to pay a monetary ob-
16 ligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that
17 the bank has received for deposit a sum of money or funds.

18 (nnn) "Proposal" means a record authenticated by a secured party which includes the terms on
19 which the secured party is willing to accept collateral in full or partial satisfaction of the obligation
20 it secures pursuant to ORS 79.0620, 79.0621 and 79.0622.

21 (ooo) "Public-finance transaction" means a secured transaction in connection with which:

22 (A) Debt securities are issued;

23 (B) All or a portion of the securities issued have an initial stated maturity of at least 20 years;
24 and

25 (C) The debtor, obligor, secured party, account debtor or other person obligated on collateral,
26 assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state
27 or a governmental unit of a state.

28 (ppp) "Pursuant to commitment," with respect to an advance made or other value given by a
29 secured party, means pursuant to the secured party's obligation, whether or not a subsequent event
30 of default or other event not within the secured party's control has relieved or may relieve the se-
31 cured party from its obligation.

32 (qqq) "Record," except as used in "for record," "of record," "record or legal title" and "record
33 owner," means information that is inscribed on a tangible medium or which is stored in an elec-
34 tronic or other medium and is retrievable in perceivable form.

35 (rrr) "Registered organization" means an organization organized solely under the law of a single
36 state or the United States and as to which the state or the United States is required by statute or
37 regulation to maintain a public record showing the organization to have been organized.

38 (sss) "Secondary obligor" means an obligor to the extent that:

39 (A) The obligor's obligation is secondary; or

40 (B) The obligor has a right of recourse with respect to an obligation secured by collateral
41 against the debtor, another obligor, or property of either.

42 (ttt) "Secured party" means:

43 (A) A person in whose favor a security interest is created or provided for under a security
44 agreement, whether or not any obligation to be secured is outstanding;

45 (B) A person that holds an agricultural lien;

- 1 (C) A consignor;
- 2 (D) A person to which accounts, chattel paper, payment intangibles or promissory notes have
- 3 been sold;
- 4 (E) A trustee, indenture trustee, agent, collateral agent or other representative in whose favor
- 5 a security interest or agricultural lien is created or provided for; or
- 6 (F) A person that holds a security interest arising under ORS 72.4010, 72.5050, 72.7110 (3),
- 7 72A.5080 (5), 74.2100 or 75.1180.
- 8 (uuu) "Security agreement" means an agreement that creates or provides for a security interest.
- 9 (vvv) "Send," in connection with a record or notification, means:
- 10 (A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of
- 11 communication, with postage or cost of transmission provided for, addressed to any address reason-
- 12 able under the circumstances; or
- 13 (B) To cause the record or notification to be received within the time that it would have been
- 14 received if properly sent under subparagraph (A) of this paragraph.
- 15 (www) "Software" means a computer program and any supporting information provided in con-
- 16 nection with a transaction relating to the program. The term does not include a computer program
- 17 that is included in the definition of goods.
- 18 (xxx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
- 19 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
- 20 United States.
- 21 (yyy) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports
- 22 the payment or performance of an account, chattel paper, a document, a general intangible, an in-
- 23 strument or investment property.
- 24 (zzz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting
- 25 of information that is inscribed on a tangible medium.
- 26 (aaaa) "Termination statement" means an amendment of a financing statement which:
- 27 (A) Identifies, by its file number, the initial financing statement to which it relates; and
- 28 (B) Indicates either that it is a termination statement or that the identified financing statement
- 29 is no longer effective.
- 30 (bbbb) "Transmitting utility" means an organization primarily engaged in the business of:
- 31 (A) Operating a railroad, subway, street railway or trolley bus;
- 32 (B) Transmitting communications electrically, electromagnetically or by light;
- 33 (C) Transmitting goods by pipeline or sewer; or
- 34 (D) Transmitting or producing and transmitting electricity, steam, gas or water.
- 35 (2) The following definitions in other sections apply to this chapter:
- 36 "Applicant" ORS 75.1020
- 37 "Beneficiary" ORS 75.1020
- 38 "Broker" ORS 78.1020
- 39 "Certificated security" ORS 78.1020
- 40 "Check" ORS 73.0104
- 41 "Clearing corporation" ORS 78.1020
- 42 "Contract for sale" ORS 72.1060
- 43 "Customer" ORS 74.1040
- 44 "Entitlement holder" ORS 78.1020
- 45 "Financial asset" ORS 78.1020

1	“Holder in due course”	ORS 73.0302
2	“Issuer” (with respect	
3	to a letter of credit or	
4	letter-of-credit right)	ORS 75.1020
5	“Issuer” (with respect	
6	to a security)	ORS 78.2010
7	“Lease”	ORS 72A.1030
8	“Lease agreement”	ORS 72A.1030
9	“Lease contract”	ORS 72A.1030
10	“Leasehold interest”	ORS 72A.1030
11	“Lessee”	ORS 72A.1030
12	“Lessee in ordinary course	
13	of business”	ORS 72A.1030
14	“Lessor”	ORS 72A.1030
15	“Lessor’s residual	
16	interest”	ORS 72A.1030
17	“Letter of credit”	ORS 75.1020
18	“Merchant”	ORS 72.1040
19	“Negotiable instrument”	ORS 73.0104
20	“Nominated person”	ORS 75.1020
21	“Note”	ORS 73.0104
22	“Proceeds of a letter	
23	of credit”	ORS 75.1140
24	“Prove”	ORS 73.0103
25	“Sale”	ORS 72.1060
26	“Securities intermediary”	ORS 78.1020
27	“Security”	ORS 78.1020
28	“Security certificate”	ORS 78.1020
29	“Security entitlement”	ORS 78.1020
30	“Uncertificated security”	ORS 78.1020

31 (3) ORS chapter 71 contains general definitions and principles of construction and interpretation
 32 applicable throughout this chapter.

33 **SECTION 25.** ORS 86.705 is amended to read:

34 86.705. As used in ORS 86.705 to 86.795, unless the context requires otherwise:

35 (1) “Beneficiary” means the person named or otherwise designated in a trust deed as the person
 36 for whose benefit a trust deed is given, or the person’s successor in interest, and who shall not be
 37 the trustee unless the beneficiary is qualified to be a trustee under ORS 86.790 (1)(d).

38 (2) “Grantor” means the person conveying an interest in real property by a trust deed as secu-
 39 rity for the performance of an obligation.

40 (3) “Residential trust deed” means a trust deed on property upon which are situated four or
 41 fewer residential units and one of the residential units is occupied as the principal residence of the
 42 grantor, the grantor’s spouse, **the grantor’s reciprocal beneficiary as defined in section 1 of this**
 43 **2007 Act**, or the grantor’s minor or dependent child at the time a trust deed foreclosure is com-
 44 menced.

45 (4) “Residential unit” means an improvement designed for residential use.

1 (5) "Trust deed" means a deed executed in conformity with ORS 86.705 to 86.795, and conveying
 2 an interest in real property to a trustee in trust to secure the performance of an obligation owed
 3 by the grantor or other person named in the deed to a beneficiary.

4 (6) "Trustee" means a person, other than the beneficiary, to whom an interest in real property
 5 is conveyed by a trust deed, or such person's successor in interest. The term includes a person who
 6 is an employee of the beneficiary, if the person is qualified to be a trustee under ORS 86.790.

7 **SECTION 26.** ORS 86.735 is amended to read:

8 86.735. The trustee may foreclose a trust deed by advertisement and sale in the manner provided
 9 in ORS 86.740 to 86.755 if:

10 (1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any
 11 appointment of a successor trustee are recorded in the mortgage records in the counties in which
 12 the property described in the deed is situated; and

13 (2) There is a default by the grantor or other person owing an obligation, the performance of
 14 which is secured by the trust deed, or by their successors in interest with respect to any provision
 15 in the deed which authorizes sale in the event of default of such provision; and

16 (3) The trustee or beneficiary has filed for record in the county clerk's office in each county
 17 where the trust property, or some part of it, is situated, a notice of default containing the informa-
 18 tion required by ORS 86.745 and containing the trustee's or beneficiary's election to sell the prop-
 19 erty to satisfy the obligation; and

20 (4) No action has been instituted to recover the debt or any part of it then remaining secured
 21 by the trust deed, or, if such action has been instituted, the action has been dismissed, except that:

22 (a) Subject to ORS 86.010 and the procedural requirements of ORCP 79 and 80, an action may
 23 be instituted to appoint a receiver or to obtain a temporary restraining order during foreclosure of
 24 a trust deed by advertisement and sale, except that a receiver shall not be appointed with respect
 25 to a single-family residence which is occupied as the principal residence of the grantor, the grantor's
 26 spouse, **the grantor's reciprocal beneficiary as defined in section 1 of this 2007 Act** or the
 27 grantor's minor or dependent child.

28 (b) An action may be commenced for the judicial or nonjudicial foreclosure of the same trust
 29 deed as to any other property covered thereby, or any other trust deeds, mortgages, security
 30 agreements or other consensual or nonconsensual security interests or liens securing repayment of
 31 the debt.

32 **SECTION 27.** ORS 87.527 is amended to read:

33 87.527. Notwithstanding ORS 87.503 (1):

34 (1) A lien created by ORS 87.503 on the home of a living individual who received care may not
 35 be foreclosed for as long as any of the following individuals reside in the home:

36 (a) The individual who received care.

37 (b) The spouse of the individual.

38 (c) **The reciprocal beneficiary, as defined in section 1 of this 2007 Act, of the individual.**

39 [(c)] (d) A minor or disabled child of the individual.

40 [(d)] (e) A sibling of the individual who has an equity interest in the home, but only when the
 41 sibling continuously resided in the home during the calendar year immediately preceding the date
 42 on which the individual first received care.

43 [(e)] (f) Any other child of the individual, but only when the child continuously resided in the
 44 home during the two-year period immediately preceding the date on which the individual first re-
 45 ceived care and provided assistance during that period that delayed the need for care.

1 (2) A lien created by ORS 87.503 on the home of a deceased individual who received care may
 2 not be foreclosed for as long as any of the following individuals reside in the home:

3 (a) The surviving spouse of the individual.

4 **(b) The surviving reciprocal beneficiary of the individual.**

5 [(b)] (c) A minor or disabled child of the individual.

6 [(c)] (d) A sibling of the individual, but only when the sibling continuously resided in the home
 7 during the calendar year immediately preceding the date on which the individual first received care.

8 [(d)] (e) Any other child of the individual, but only when the child continuously resided in the
 9 home during the two-year period immediately preceding the date on which the individual first re-
 10 ceived care and provided assistance during that period that delayed the need for care.

11 (3) A lien created by ORS 87.503 on other real property of a deceased individual may not be
 12 foreclosed while there is a surviving spouse, **reciprocal beneficiary** or minor or disabled
 13 [children] **child** of the individual.

14 **SECTION 28.** ORS 87.539 is amended to read:

15 87.539. (1) When a long term care facility receives payment from an individual, an individual's
 16 estate, the State of Oregon or any other source for the care claimed in a notice of lien filed under
 17 ORS 87.507, the long term care facility shall file with the recording officer of the county in which
 18 the notice of lien was filed a certificate declaring that payment has been received and that the lien
 19 is discharged.

20 (2) Within 20 days after being notified that the individual is eligible for Medicaid, the long term
 21 care facility shall file with the recording officer of the county in which the notice of lien was filed
 22 a certificate releasing the claim of lien upon any property protected under ORS 87.533.

23 (3) The recording officer of the county shall record the certificate of discharge or release in the
 24 appropriate lien docket.

25 (4) If, after receiving payment for the care claimed in a notice of lien filed under ORS 87.507,
 26 a long term care facility fails to discharge the lien or release the claim of lien within 10 days, the
 27 long term care facility is liable to the individual or to the spouse, **the reciprocal beneficiary as**
 28 **defined in section 1 of this 2007 Act** or the estate of the individual for \$100 or the amount of ac-
 29 tual damages, whichever amount is greater.

30 (5) In all actions brought under this section, the court may allow reasonable attorney fees at
 31 trial and on appeal to the prevailing party.

32 **SECTION 29.** ORS 93.180 is amended to read:

33 93.180. Every conveyance or devise of lands, or interest therein, made to two or more persons,
 34 other than to a husband and wife, as such, **to reciprocal beneficiaries as defined in section 1 of**
 35 **this 2007 Act, as such**, or to executors or trustees, as such, creates a tenancy in common unless
 36 it is in some manner clearly and expressly declared in the conveyance or devise that the grantees
 37 or devisees take the lands with right of survivorship. Such a declaration of a right to survivorship
 38 shall create a tenancy in common in the life estate with cross-contingent remainders in the fee
 39 simple. Joint tenancy is abolished and the use in a conveyance or devise of the words "joint
 40 tenants" or similar words without any other indication of an intent to create a right of survivorship
 41 shall create a tenancy in common.

42 **SECTION 30.** ORS 93.915 is amended to read:

43 93.915. (1) In the event of a default under a contract for conveyance of real property, a seller
 44 who wishes to enforce a forfeiture remedy must give written notice of default by service pursuant
 45 to ORCP 7 D(2) and 7 D(3), or by both first class and certified mail with return receipt requested,

1 to the last-known address of the following persons or their legal representatives, if any:

2 (a) The purchaser.

3 (b) An occupant of the property.

4 (c) Any person who has caused to be filed for record in the county clerk's office of a county in
 5 which any part or parcel of the real property is situated, a duly acknowledged request for a copy
 6 of any notice of default served upon or mailed to the purchaser. The request shall contain the name
 7 and address of the person requesting copies of the notice and shall identify the contract by stating
 8 the names of the parties to the contract, the date of recordation of the contract and the book and
 9 page where the contract is recorded. The county clerk shall immediately make a cross-reference of
 10 the request to the contract, either on the margin of the page where the contract is recorded or in
 11 some other suitable place. No request, statement or notation placed on the record pursuant to this
 12 section shall affect title to the property or be deemed notice to any person that any person so re-
 13 cording the request has any right, title, interest in, lien or charge upon the property referred to in
 14 the contract.

15 (2) Notices served by mail are effective when mailed.

16 (3) The notice shall specify the nature of the default, the amount of the default if the default is
 17 in the payment terms, the date after which the contract will be forfeited if the purchaser does not
 18 cure the default and the name and address of the seller or the attorney for the seller. The period
 19 specified in the notice after which the contract will be forfeited may not be less than:

20 (a) Sixty days, when the purchaser has reduced the unpaid balance to an amount greater than
 21 75 percent of the purchase price;

22 (b) Ninety days, when the purchaser has reduced the unpaid balance to an amount which is more
 23 than 50 percent but less than 75 percent of the purchase price; or

24 (c) One hundred twenty days, when the purchaser has reduced the unpaid balance to an amount
 25 which is 50 percent or less of the purchase price.

26 (4) The seller shall cause to be recorded in the real property records of each county in which
 27 any part of the property is located a copy of the notice, together with an affidavit of service or
 28 mailing of the notice of default, reciting the date the notice was served or mailed and the name and
 29 address of each person to whom it was given. From the date of recording, the notice and affidavit
 30 shall constitute constructive notice to third persons of the pending forfeiture. If, not later than one
 31 year after the time for cure stated in a recorded notice and affidavit or any recorded extension
 32 thereof, no declaration of forfeiture based upon the recorded notice and affidavit has been recorded
 33 and no extension of time for cure executed by the seller has been recorded, the notice and affidavit
 34 shall not be effective for any purpose nor shall it impart any constructive or other notice to third
 35 persons acquiring an interest in the purchaser's interest in the contract or the property or any
 36 portion of either. Any extension of time for cure executed by the seller shall be recorded in the same
 37 manner as the original notice and affidavit.

38 (5) The statement contained in the notice as to the time after which the contract will be for-
 39 feited if the default is not cured shall conclusively be presumed to be correct, and the notice ade-
 40 quate, unless one or more recipients of such notice notifies the seller or the attorney for the seller,
 41 by registered or certified mail, that such recipient claims the right to a longer period of time in
 42 which to cure the default.

43 (6) Subject to the procedural requirements of the Oregon Rules of Civil Procedure, an action
 44 may be instituted to appoint a receiver or to obtain a temporary restraining order during forfeiture
 45 under a land sale contract, except that a receiver shall not be appointed with respect to a single-

1 family residence which is occupied at the time the notice of default is given, as the principal resi-
 2 dence of the purchaser, the purchaser's spouse, **the purchaser's reciprocal beneficiary as defined**
 3 **in section 1 of this 2007 Act** or the purchaser's minor dependent children.

4 **SECTION 31.** ORS 95.200 is amended to read:

5 95.200. As used in ORS 95.200 to 95.310:

6 (1) "Affiliate" means any of the following:

7 (a) A person who directly or indirectly owns, controls or holds with power to vote 20 or more
 8 percent of the outstanding voting securities of the debtor, other than a person who holds the secu-
 9 rities:

10 (A) As a fiduciary or agent without sole discretionary power to vote the securities; or

11 (B) Solely to secure a debt, if the person has not in fact exercised the power to vote.

12 (b) A corporation, 20 or more percent of whose outstanding voting securities are directly or in-
 13 directly owned, controlled or held with power to vote by the debtor or by a person who directly or
 14 indirectly owns, controls or holds with power to vote 20 or more percent of the outstanding voting
 15 securities of the debtor, other than a person who holds the securities:

16 (A) As a fiduciary or agent without sole discretionary power to vote the securities; or

17 (B) Solely to secure a debt, if the person has not in fact exercised the power to vote.

18 (c) A person whose business is operated by the debtor under a lease or other agreement, or a
 19 person substantially all of whose assets are controlled by the debtor.

20 (d) A person who operates the debtor's business under a lease or other agreement or controls
 21 substantially all of the debtor's assets.

22 (2) "Asset" means property of a debtor but does not include:

23 (a) Property to the extent that it is encumbered by a valid lien;

24 (b) Property to the extent that it is generally exempt under nonbankruptcy law; or

25 (c) An interest in property held in tenancy by the entirety to the extent that it is not subject
 26 to process by a creditor holding a claim against only one tenant.

27 (3) "Claim" means a right to payment, whether or not the right is reduced to judgment, liqui-
 28 dated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable,
 29 secured or unsecured.

30 (4) "Creditor" means a person who has a claim against a debtor.

31 (5) "Debt" means liability on a claim.

32 (6) "Debtor" means a person against whom a creditor has a claim.

33 (7) An "insider" includes:

34 (a) If the debtor is an individual:

35 (A) A relative of the debtor or of a general partner of the debtor;

36 (B) A partnership in which the debtor is a general partner;

37 (C) A general partner in a partnership described in subparagraph (B) of this paragraph; or

38 (D) A corporation of which the debtor is a director, officer or person in control.

39 (b) If the debtor is a corporation:

40 (A) A director of the debtor;

41 (B) An officer of the debtor;

42 (C) A person in control of the debtor;

43 (D) A partnership in which the debtor is a general partner;

44 (E) A general partner in a partnership described in subparagraph (D) of this paragraph; or

45 (F) A relative of a general partner, director, officer or person in control of the debtor.

- 1 (c) If the debtor is a partnership:
- 2 (A) A general partner in the debtor;
- 3 (B) A relative of a general partner in a debtor, of a general partner of a debtor, or of a person
- 4 in control of the debtor;
- 5 (C) Another partnership in which the debtor is a general partner;
- 6 (D) A general partner in a partnership described in subparagraph (C) of this paragraph; or
- 7 (E) A person in control of the debtor.
- 8 (d) An affiliate or an insider of an affiliate as if the affiliate were the debtor; and
- 9 (e) A managing agent of the debtor.

10 (8) "Lien" means a charge against or an interest in property to secure payment of a debt or
 11 performance of an obligation, including a security interest created by agreement, a judicial lien ob-
 12 tained by legal or equitable process or proceedings, a common-law lien or a statutory lien.

13 (9) "Person" means an individual, partnership, corporation, association, organization, govern-
 14 ment or governmental subdivision or agency, business trust, estate, trust or any other legal or
 15 commercial entity.

16 (10) "Property" means anything that may be the subject of ownership.

17 (11) "Relative" means an individual related within the third degree as determined by the com-
 18 mon law, a spouse **or reciprocal beneficiary as defined in section 1 of this 2007 Act**, or an in-
 19 dividual related to a spouse **or reciprocal beneficiary** within the third degree as so determined, and
 20 includes an individual in an adoptive relationship within the third degree.

21 (12) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or in-
 22 voluntary, of disposing of or parting with an asset or an interest in an asset, and includes a payment
 23 of money, a release, a lease and the creation of a lien or encumbrance.

24 (13) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently
 25 obtained by legal or equitable process or proceedings.

26 **SECTION 32.** ORS 97.082 is amended to read:

27 97.082. (1) Except as provided in subsection (2) of this section, whenever a person dies and no
 28 autopsy is ordered by a medical examiner or district attorney pursuant to ORS 146.117, an autopsy
 29 may not be conducted without the prior written consent of a person within the first applicable class
 30 of the following listed classes:

- 31 (a) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the
- 32 decedent;
- 33 (b) A son or daughter of the decedent 18 years of age or older;
- 34 (c) Either parent of the decedent;
- 35 (d) A brother or sister of the decedent 18 years of age or older;
- 36 (e) A guardian of the decedent at the time of death;
- 37 (f) A person in the next degree of kindred to the decedent;
- 38 (g) The personal representative of the estate of the decedent; or
- 39 (h) The person nominated as the personal representative of the decedent in the decedent's last
- 40 will.

41 (2)(a) Consent required under subsection (1) of this section must be granted on a written autopsy
 42 consent form developed pursuant to subsection (3) of this section.

43 (b) If the person authorized by subsection (1) of this section to grant written consent to conduct
 44 an autopsy is not available to grant written consent in person, the authorized person may grant
 45 consent by completing the required consent form and returning the signed form, by facsimile or

1 other electronic transmission, to the party requesting permission.

2 (3) The Public Health Officer, in consultation with the State Medical Examiner, shall develop
3 and make available a standardized written autopsy consent form that:

4 (a) Grants the person specified in subsection (1) of this section the authority to:

5 (A) Grant permission to conduct an unlimited autopsy;

6 (B) Grant permission to conduct a limited autopsy and to specify what limitations are imposed
7 upon the autopsy; or

8 (C) Refuse permission to conduct an autopsy.

9 (b) Provides a section for the person specified in subsection (1) of this section to submit specific
10 instructions with respect to tests to be performed during the autopsy and to the disposition of or-
11 gans and tissue removed for purposes of a limited autopsy.

12 (c) Provides that the consent signature be accompanied by the signature of a witness.

13 **SECTION 33.** ORS 97.130 is amended to read:

14 97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a
15 written signed instrument or by preparing or prearranging with any funeral service practitioner li-
16 censed under ORS chapter 692, may direct any lawful manner of disposition of the individual's re-
17 mains. Except as provided under subsection (6) of this section, disposition directions or disposition
18 prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under
19 ORS chapter 692 shall not be subject to cancellation or substantial revision.

20 (2) A person within the first applicable listed class among the following listed classes that is
21 available at the time of death or, in the absence of actual notice of a contrary direction by the
22 decedent as described under subsection (1) of this section or actual notice of opposition by com-
23 pletion of a written instrument by a member of the same class or a member of a prior class, may
24 direct any lawful manner of disposition of a decedent's remains by completion of a written instru-
25 ment:

26 (a) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the
27 decedent.

28 (b) A son or daughter of the decedent 18 years of age or older.

29 (c) Either parent of the decedent.

30 (d) A brother or sister of the decedent 18 years of age or older.

31 (e) A guardian of the decedent at the time of death.

32 (f) A person in the next degree of kindred to the decedent.

33 (g) The personal representative of the estate of the decedent.

34 (h) The person nominated as the personal representative of the decedent in the decedent's last
35 will.

36 (i) A public health officer.

37 (3) The decedent or any person authorized in subsection (2) of this section to direct the manner
38 of disposition of the decedent's remains may delegate such authority to any person 18 years of age
39 or older. Such delegation shall be made by completion of the written instrument described in sub-
40 section (7) of this section. The person to whom the authority is delegated shall have the same au-
41 thority under subsection (2) of this section as the person delegating the authority.

42 (4) If a decedent or the decedent's designee issues more than one authorization or direction for
43 the disposal of the decedent's remains, only the most recent authorization or direction shall be
44 binding.

45 (5) A donation of anatomical gifts under ORS 97.952 or 97.954 shall take priority over directions

1 for the disposition of a decedent's remains under this section only if the person making the donation
2 is of a priority under subsection (1) or (2) of this section the same as or higher than the priority
3 of the person directing the disposition of the remains.

4 (6) If the decedent directs a disposition under subsection (1) of this section and those financially
5 responsible for the disposition are without sufficient funds to pay for such disposition or the estate
6 of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful, the
7 direction shall be void and disposition shall be in accordance with the direction provided by those
8 persons given priority in subsection (2) of this section and who agree to be financially responsible.

9 (7) The signature of the individual shall be required for the completion of the written instrument
10 required in subsection (3) of this section. The following form or a form substantially similar shall
11 be used by all individuals:

12 _____

13
14 APPOINTMENT OF PERSON
15 TO MAKE DECISIONS
16 CONCERNING DISPOSITION
17 OF REMAINS

18 I, _____, appoint _____, whose address is
19 _____ and whose telephone number is (____) _____, as the person
20 to make all decisions regarding the disposition of my remains upon my death for my burial or
21 cremation. In the event _____ is unable to act, I appoint _____,
22 whose address is _____ and whose telephone number is (____)
23 _____, as my alternate person to make all decisions regarding the disposition of my re-
24 mains upon my death for my burial or cremation.

25 It is my intent that this Appointment of Person to Make Decisions Concerning Disposition of
26 Remains act as and be accepted as the written authorization presently required by ORS 97.130 (or
27 its corresponding future provisions) or any other provision of Oregon Law, authorizing me to name
28 a person to have authority to dispose of my remains.

29 DATED this ____ day of _____, _____.

30 _____
31 (Signature)

32
33 DECLARATION OF WITNESSES

34 We declare that _____ is personally known to us, that he/she signed this Ap-
35 pointment of Person to Make Decisions Concerning Disposition of Remains in our presence, that
36 he/she appeared to be of sound mind and not acting under duress, fraud or undue influence, and that
37 neither of us is the person so appointed by this document.

38
39 Witnessed By: _____ Date: _____

40
41 Witnessed By: _____ Date: _____

42
43 _____

44
45 (8) Subject to the provisions of ORS 97.950 to 97.964, if disposition of the remains of a decedent

1 has not been directed and authorized under this section within 10 days after the date of the death
 2 of the decedent, a public health officer may direct and authorize disposition of the remains.

3 **SECTION 34.** ORS 97.570 is amended to read:

4 97.570. (1) The spouse of an owner of any plot containing more than one interment space has a
 5 vested right of interment of the remains of the spouse in the plot, and any person thereafter be-
 6 coming the spouse of the owner has a vested right of interment of the remains of the person in the
 7 plot if more than one interment space is unoccupied at the time the person becomes the spouse of
 8 the owner.

9 **(2) The reciprocal beneficiary, as defined in section 1 of this 2007 Act, of an owner of any**
 10 **plot containing more than one interment space has a vested right of interment of the re-**
 11 **main of the reciprocal beneficiary in the plot, and any person thereafter becoming the re-**
 12 **ciproc beneficiary of the owner has a vested right of interment of the remains of the**
 13 **person in the plot if more than one interment space is unoccupied at the time the person**
 14 **becomes the reciprocal beneficiary of the owner.**

15 [(2)] (3) The purchase by a married person **or a person in a reciprocal beneficiary relation-**
 16 **ship** of more than one interment space shall create in the spouse **or reciprocal beneficiary of the**
 17 **person** a right of interment therein.

18 **SECTION 35.** ORS 97.580 is amended to read:

19 97.580. (1) [No] A conveyance or other action of the owner without the written consent or
 20 joinder of the spouse of the owner [*divests*] **does not divest** the spouse of the vested right of
 21 interment, except that a judgment of divorce between them terminates the right unless otherwise
 22 provided in the judgment.

23 **(2) A conveyance or other action of the owner without the written consent or joinder of**
 24 **the reciprocal beneficiary, as defined in section 1 of this 2007 Act, of the owner does not**
 25 **divest the reciprocal beneficiary of the vested right of interment, except that a termination**
 26 **of the reciprocal beneficiary agreement terminates the right.**

27 **SECTION 36.** ORS 97.600 is amended to read:

28 97.600. Upon the death of the owner, unless the owner has disposed of the plot either by specific
 29 direction in the will of the owner or by a written declaration filed and recorded in the office of the
 30 cemetery authority, if no interment has been made in an interment plot which has been transferred
 31 by deed or certificate of ownership to an individual owner or if all remains previously interred are
 32 lawfully removed, the plot descends to the heirs at law of the owner, subject to the rights of
 33 interment of the decedent and the surviving spouse **or surviving reciprocal beneficiary, as defined**
 34 **in section 1 of this 2007 Act,** of the decedent.

35 **SECTION 37.** ORS 97.630 is amended to read:

36 97.630. (1) Whenever an interment of the remains of a member or of a relative of a member of
 37 the family of the record owner, or of the remains of the record owner, is made in a plot transferred
 38 by deed or certificate of ownership to an individual owner, and the owner dies without making dis-
 39 position of the plot, either by direction in the owner's will, or by a written declaration filed and
 40 recorded in the office of the cemetery authority, the plot thereby becomes inalienable and shall be
 41 held as the family plot of the owner, and occupied in the following order:

42 (a) One grave, niche or crypt may be used for the owner's interment; one for the owner's sur-
 43 viving spouse, [*if there is one,*] **if any, or surviving reciprocal beneficiary as defined in section**
 44 **1 of this 2007 Act, if any,** who by ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810
 45 to 97.920 and 97.990 has a vested right of interment in it; and in those remaining, if any, the children

1 of the deceased owner in order of death may be interred without the consent of any person claiming
 2 any interest in the plot.

3 (b) If no child survives, the right of interment goes in order of death to the spouse **or reciprocal**
 4 **beneficiary** of any child of the record owner.

5 (2) Any surviving spouse, **reciprocal beneficiary**, child or child's spouse **or reciprocal benefi-**
 6 **ciary** who has a right of interment in a family plot may waive such right in favor of any other rel-
 7 ative or spouse **or reciprocal beneficiary** of a relative of either the deceased owner or of the
 8 deceased owner's spouse **or reciprocal beneficiary**, and upon such waiver the remains of the person
 9 in whose favor the waiver is made may be interred in the plot.

10 (3) Notwithstanding subsection (1) of this section, the personal representative of the deceased
 11 owner of a family plot may sell unoccupied interment spaces in the plot as property of the estate
 12 of the deceased owner when there are no existing rights of interment in those spaces or all existing
 13 rights of interment in those spaces have been waived and thereby terminated.

14 (4) Whenever a plot is transferred by deed or certificate of ownership to an individual owner
 15 and the transfer is recorded on the books of the cemetery authority, the cemetery authority shall
 16 provide to the individual owner a written statement, in a form approved by the State Mortuary and
 17 Cemetery Board, containing a clear explanation of the provisions of subsections (1) and (2) of this
 18 section and of the rights of interment established thereby.

19 **SECTION 38.** ORS 97.954 is amended to read:

20 97.954. (1) A person within the first applicable listed class among the following listed classes
 21 that is available at the time of death or, in the absence of actual notice of a contrary direction by
 22 the decedent or actual notice of opposition by a member of the same class or a member of a prior
 23 class, may make an anatomical gift of all or a part of the body of a decedent for any authorized
 24 purpose:

25 (a) A person to whom the decedent has granted power of attorney;

26 (b) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the
 27 decedent;

28 (c) A son or daughter of the decedent 18 years of age or older;

29 (d) Either parent of the decedent;

30 (e) A brother or sister of the decedent 18 years of age or older;

31 (f) A guardian of the decedent at the time of death;

32 (g) A person in the next degree of kindred to the decedent;

33 (h) The personal representative of the estate of the decedent;

34 (i) The person nominated as the personal representative of the decedent in the decedent's last
 35 will; or

36 (j) A public health officer.

37 (2) No person, hospital or procurement organization shall accept a gift made by an individual
 38 under subsection (1) of this section if:

39 (a) An individual in a prior class is available at the time of death to make an anatomical gift;

40 (b) The individual proposing to make an anatomical gift knows of a refusal or contrary indi-
 41 cations by the decedent; or

42 (c) The individual proposing to make an anatomical gift knows of an objection to making an
 43 anatomical gift by another member of the individual's class or a member of a prior class.

44 (3) An anatomical gift by an individual authorized under subsection (1) of this section must be
 45 made by a document of anatomical gift signed by the individual or the individual's telegraphic, re-

1 corded telephonic or other recorded message, or other form of communication from the individual
 2 that is contemporaneously put in written form and signed by the recipient of the communication.

3 (4) An anatomical gift by an individual authorized under subsection (1) of this section may be
 4 revoked by any member of the same or a prior class if, before procedures have begun for the re-
 5 moval of a part from the body of the decedent, the physician, technician or enucleator removing the
 6 part knows of the revocation.

7 **SECTION 39.** ORS 97.966 is amended to read:

8 97.966. A person named executor who carries out the gift of the testator made under the pro-
 9 visions of ORS 97.950 to 97.964 before issuance of letters testamentary or under a will which is not
 10 admitted to probate shall not be liable to the surviving spouse, **surviving reciprocal beneficiary**
 11 **as defined in section 1 of this 2007 Act** or next of kin for performing acts necessary to carry out
 12 the gift of the testator.

13 **SECTION 40.** ORS 105.965 is amended to read:

14 105.965. ORS 105.950, statutory rule against perpetuities, does not apply to:

15 (1) A nonvested property interest or a power of appointment arising out of a nondonative
 16 transfer, except a nonvested property interest or a power of appointment arising out of:

17 (a) A premarital or postmarital agreement;

18 (b) A separation or divorce settlement;

19 (c) [A *spouse's election*] **The election of a spouse or reciprocal beneficiary, as defined in**
 20 **section 1 of this 2007 Act;**

21 (d) A similar arrangement arising out of a prospective existing or previous marital relationship
 22 between the parties;

23 (e) A contract to make or not to revoke a will or trust;

24 (f) A contract to exercise or not to exercise a power of appointment;

25 (g) A transfer in satisfaction of a duty of support; or

26 (h) A reciprocal transfer;

27 (2) A fiduciary's power relating to the administration or management of assets, including the
 28 power of a fiduciary to sell, lease or mortgage property, and the power of a fiduciary to determine
 29 principal and income;

30 (3) A power to appoint a fiduciary;

31 (4) A discretionary power of a trustee to distribute principal before termination of a trust to a
 32 beneficiary having an indefeasibly vested interest in the income and principal;

33 (5) A nonvested property interest held by a charity, government or governmental agency or
 34 subdivision, if the nonvested property interest is preceded by an interest held by another charity,
 35 government or governmental agency or subdivision;

36 (6) A nonvested property interest in or a power of appointment with respect to a trust or other
 37 property arrangement forming part of a pension, profit sharing, stock bonus, health, disability, death
 38 benefit, income deferral or other current or deferred benefit plan for one or more employees, inde-
 39 pendent contractors or their beneficiaries, [or] spouses **or reciprocal beneficiaries**, to which con-
 40 tributions are made for the purpose of distributing to or for the benefit of the participants or their
 41 beneficiaries, [or] spouses **or reciprocal beneficiaries** the property, income or principal in the trust
 42 or other property arrangement, except a nonvested property interest or a power of appointment that
 43 is created by an election of a participant or a beneficiary, [or] spouse **or reciprocal beneficiary**;
 44 or

45 (7) A property interest, power of appointment or arrangement that was not subject to the

1 common-law rule against perpetuities or is excluded by another statute of this state.

2 **SECTION 41.** ORS 107.705 is amended to read:

3 107.705. As used in ORS 107.700 to 107.735:

4 (1) "Abuse" means the occurrence of one or more of the following acts between family or
5 household members:

6 (a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.

7 (b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.

8 (c) Causing another to engage in involuntary sexual relations by force or threat of force.

9 (2) "Child" means an unmarried person who is under 18 years of age.

10 (3) "Family or household members" means any of the following:

11 (a) Spouses.

12 (b) Former spouses.

13 **(c) Reciprocal beneficiaries, as defined in section 1 of this 2007 Act.**

14 **(d) Former reciprocal beneficiaries.**

15 [(c)] **(e)** Adult persons related by blood, marriage or adoption.

16 [(d)] **(f)** Persons who are cohabiting or who have cohabited with each other.

17 [(e)] **(g)** Persons who have been involved in a sexually intimate relationship with each other
18 within two years immediately preceding the filing by one of them of a petition under ORS 107.710.

19 [(f)] **(h)** Unmarried parents of a child.

20 (4) "Interfere" means to interpose in a manner that would reasonably be expected to hinder or
21 impede a person in the petitioner's situation.

22 (5) "Intimidate" means to act in a manner that would reasonably be expected to threaten a
23 person in the petitioner's situation, thereby compelling or deterring conduct on the part of the per-
24 son.

25 (6) "Menace" means to act in a manner that would reasonably be expected to threaten a person
26 in the petitioner's situation.

27 (7) "Molest" means to act, with hostile intent or injurious effect, in a manner that would rea-
28 sonably be expected to annoy, disturb or persecute a person in the petitioner's position.

29 **SECTION 42.** ORS 107.718 is amended to read:

30 107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an
31 ex parte hearing in person or by telephone on the day the petition is filed or on the following judi-
32 cial day. Upon a showing that the petitioner has been the victim of abuse committed by the re-
33 spondent within 180 days preceding the filing of the petition, that there is an imminent danger of
34 further abuse to the petitioner and that the respondent represents a credible threat to the physical
35 safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

36 (a) Except as provided in subsection (2) of this section, that temporary custody of the children
37 of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent,
38 subject to reasonable parenting time rights of the noncustodial parent, which the court shall order,
39 unless such parenting time is not in the best interest of the child;

40 (b) That the respondent be required to move from the petitioner's residence, if in the sole name
41 of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the
42 parties are married to each other **or in a reciprocal beneficiary agreement**;

43 (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area
44 surrounding the petitioner's current or subsequent residence if the respondent is required to move
45 from petitioner's residence;

1 (d) That a peace officer accompany the party who is leaving or has left the parties' residence
 2 to remove essential personal effects of the party or the party's children, or both, including but not
 3 limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identifi-
 4 cation and tools of the trade;

5 (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing
 6 the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;

7 (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing
 8 any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or
 9 menace any children in the custody of the petitioner;

10 (g) That the respondent be restrained from entering, or attempting to enter, on any premises and
 11 a reasonable area surrounding the premises when it appears to the court that such restraint is
 12 necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the
 13 petitioner or children whose custody is awarded to the petitioner;

14 (h) Other relief that the court considers necessary to provide for the safety and welfare of the
 15 petitioner and the children in the custody of the petitioner including, but not limited to, emergency
 16 monetary assistance from the respondent; or

17 (i) That the respondent have no contact with the petitioner in person, by telephone or by mail
 18 except as described in parenting time ordered under this section.

19 (2) If the court determines that exceptional circumstances exist that affect the custody of a
 20 child, the court shall order the parties to appear and provide additional evidence at a hearing to
 21 determine temporary custody and resolve other contested issues. Pending the hearing, the court
 22 may make any orders regarding the child's residence and the parties' contact with the child that the
 23 court finds appropriate to provide for the child's welfare and the safety of the parties. The court
 24 shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing
 25 at the same time the court issues the restraining order.

26 (3) The court's order under subsection (1) of this section is effective for a period of one year or
 27 until the order is withdrawn or amended, or until the order is superseded as provided in ORS
 28 107.722, whichever is sooner.

29 (4) If respondent is restrained from entering, or attempting to enter, an area surrounding
 30 petitioner's residence or any other premises, the order restraining respondent shall specifically de-
 31 scribe the area.

32 (5) Imminent danger under this section includes but is not limited to situations in which the
 33 respondent has recently threatened petitioner with additional bodily harm.

34 (6) If the court awards parenting time to a parent who committed abuse, the court shall make
 35 adequate provision for the safety of the child and of the petitioner. The order of the court may in-
 36 clude, but is not limited to, the following:

37 (a) That exchange of a child between parents shall occur at a protected location.

38 (b) That parenting time be supervised by another person or agency.

39 (c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of
 40 the court, a program of intervention for perpetrators or any other counseling program designated
 41 by the court as a condition of the parenting time.

42 (d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances
 43 during the parenting time and for 24 hours preceding the parenting time.

44 (e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting
 45 time, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

(7) An instruction brochure shall be available from the clerk of the circuit court explaining the rights set forth under ORS 107.700 to 107.735. The petition, order and related forms shall be available from the clerk of the court and shall be in substantially the following form:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

_____,)
Petitioner) PETITION FOR
(your name)) RESTRAINING ORDER
) TO PREVENT ABUSE
vs.)
) No. _____
)
_____,)
Respondent)
(person to be)
restrained))

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the Court and the Sheriff can reach you if necessary.

ATTACH ADDITIONAL PAGES
IF NECESSARY.

I am the Petitioner and I state that the following information is true:

I am a resident of _____ County, Oregon.

Respondent is a resident of _____ County, Oregon.

I am _____ years of age and Respondent is _____ years of age.

1. CHECK AND FILL OUT THE SECTION(S) that apply to you and respondent:

A. Respondent is my _____ spouse _____ former spouse. We were married on _____, 2____. We were divorced on _____, 2____.

B. Respondent is my _____ reciprocal beneficiary _____ former reciprocal beneficiary. We entered into a reciprocal beneficiary agreement on _____, 2____. We terminated the reciprocal beneficiary agreement on _____, 2____.

1 — [B.] C. Respondent and I are adults related by blood, marriage or adoption. Respondent is
2 my _____ (type of relationship).

3 — [C.] D. Respondent and I have been living together since _____, 2_____.

4 — [D.] E. Respondent and I lived together from _____, 2_____, to
5 _____, 2_____.

6 — [E.] F. Respondent and I have been involved in a sexually intimate relationship within the
7 last two years.

8 — [F.] G. Respondent and I are the unmarried parents of a child.

9 — [G.] H. I am a minor and have been involved in a sexually intimate relationship with re-
10 spondent who is 18 years of age or older.

11 2. To qualify for a restraining order, respondent must have done one or more of the following:
12 Within the last 180 days, respondent has:

13 — A. Caused me bodily injury.

14 — B. Attempted to cause me bodily injury.

15 — C. Placed me in fear of imminent bodily injury.

16 — D. Caused me to engage in involuntary sexual relations by force or threat of force.

17 3. Any period of time after the abuse occurred during which respondent was incarcerated (in
18 jail or prison) or lived more than 100 miles from your home is not counted as part of the
19 180-day period, and you may still be eligible for a restraining order.

20 Respondent was incarcerated from _____, 2_____, to _____,
21 2_____.

22 Respondent lived more than 100 miles from my home from _____, 2_____, to
23 _____, 2_____.

24 4. Did the abuse happen within the last 180 days not including the times respondent was
25 incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No

26
27 Date and location of abuse:
28 _____
29 _____

30
31 How did respondent hurt or threaten you?
32 _____
33 _____
34 _____

35
36 5. Are there incidents other than those described in question 4 above, in which respondent has
37 hurt or threatened to hurt you? If Yes, Explain:
38 _____
39 _____
40 _____

41
42 6. I am in imminent danger of further abuse by respondent because:
43 _____
44 _____
45 _____

1 7. In any of the above incidents:

2

3 Were drugs, alcohol or weapons involved? Yes No

4 Did you need medical help? Yes No

5 Were the police or the courts involved? Yes No

6

7 If you have circled yes to any of the above questions, explain:

8

9

10

11 8. A. There (is) (is not) another restraining order pending between respondent and me. It is
12 filed in _____ (County), _____ (State), and I am (Petitioner) or (Respondent) in that
13 case.

14 The case number of the case is: _____

15 B. There (is) (is not) another lawsuit pending between respondent and me for divorce,
16 annulment, legal separation, filiation (paternity), custody, parenting time or visitation.
17 If yes, type of lawsuit: _____

18 It is filed in _____ (County), _____ (State).

19 C. If you and respondent are unmarried, has legal paternity of your children been estab-
20 lished? Yes No

- 21 In what way? Birth certificate
- 22 Child support
- 23 proceeding
- 24 Paternity lawsuit
- 25 Other

26 Explain: _____

27 9. A. The children of respondent and me who are under 18 years of age are:

28 Name _____ Age _____

29 Name _____ Age _____

30 Name _____ Age _____

31 Name _____ Age _____

32 B. The children are now living with _____, at
33 _____ (address).

34 For how long? _____

35 C. I believe that I will need the assistance of a peace officer to regain custody of
36 my children from respondent. Yes No

37 D. Is there a custody or any other order now in effect concerning any of these
38 children? Yes No

39 Type of order: _____

40 The case number is: _____ and it is filed in _____ (County), _____ (State).

41 E. Where have the children listed in A. above lived for the last five years and with
42 whom?

43 County/ Lived Present

44 Dates State With Address

45 From ___ to ___ _____ _____ _____

1 From ___ to ___ _____
2 From ___ to ___ _____
3 From ___ to ___ _____

4
5 F. I have not been involved as a party, witness or in any other capacity in any
6 other custody, parenting time or visitation lawsuits concerning the children in
7 this or any other state except:
8 _____
9 _____

10
11 G. I know of no other custody, parenting time or visitation lawsuits concerning the
12 children in this or any other state except:
13 _____

14
15 H. I know of no one, other than respondent, who has physical custody of the chil-
16 dren or who claims custody, parenting time or visitation rights with the chil-
17 dren, except:
18 _____

19
20 I. My children have not lived in Oregon for the last six months but my children
21 and I are now present in Oregon and I want the court to award me custody be-
22 cause (describe the emergency that makes this necessary or information that is
23 in Oregon that relates to the children):
24 _____

25
26 10. Respondent may be required to move from your residence if it is in your sole name,
27 or if it is jointly owned or rented by you and respondent, or if you and respondent are
28 married **or in a reciprocal beneficiary agreement**.
29 I (do) (do not) want respondent to move from my residence.
30 My residence is:
31 Owned Leased Rented
32 By: _____

33
34 PETITIONER ASKS THE COURT TO GRANT THE RELIEF INDICATED IN THE "PETITIONER'S
35 REQUEST" COLUMN OF THE PROPOSED RESTRAINING ORDER, WHICH IS ATTACHED.
36 _____

37
38 PETITIONER MUST NOTIFY THE COURT
39 OF ANY CHANGE OF ADDRESS.

40
41 ALL NOTICES OF HEARING WILL
42 BE SENT TO THIS ADDRESS
43 AND DISMISSALS MAY BE
44 ENTERED IF YOU DO NOT APPEAR
45 AT A SCHEDULED HEARING.

1 If you wish to have your residential address or telephone number withheld from
2 respondent, use a contact address and telephone number so the Court and the
3 Sheriff can reach you if necessary.

4 _____
5 PETITIONER

6 STATE OF OREGON)
7) ss.
8 County of _____)

9
10 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

11 _____
12 NOTARY PUBLIC FOR OREGON
13 My Commission Expires: _____

14
15 RELEVANT DATA

16
17 RESPONDENT _____
18 Sex _____ Telephone # _____
19 Residence Address _____
20 City/State/Zip _____
21 County _____
22 Birthdate _____ Age _____
23 Race _____
24 Height _____ Weight _____
25 Eye Color _____

26
27 PETITIONER (you) _____
28 Sex _____ *Telephone # _____
29 *Residence Address _____
30 City/State/Zip _____
31 County _____
32 Birthdate _____ Age _____
33 Race _____
34 Height _____ Weight _____
35 Eye Color _____

36 *If you wish to have your residential address or telephone number withheld from re-
37 spondent, use a contact address and telephone number so the Court and the Sheriff can
38 reach you if necessary.

39
40 PLEASE FILL OUT THIS INFORMATION
41 TO AID IN SERVICE OF
42 THE RESTRAINING ORDER

43
44 Where is respondent most likely to be located?
45 Residence Hours _____

1 Employment Hours _____
2 Address: _____
3 _____

4 Employment Hours _____
5 Address: _____
6 _____

7
8 Description of vehicle _____
9

10 Does respondent have any weapons or access to weapons? Explain:
11 _____
12 _____
13 _____

14
15
16 Has respondent ever been arrested for or convicted of a violent crime? Explain:
17 _____
18 _____
19 _____

20
21
22 Is there anything about respondent's character, past behavior or the present situation that indicates
23 that respondent may be a danger to self or other? Explain:
24 _____
25 _____
26 _____
27 _____
28 _____

29
30
31 IN THE CIRCUIT COURT OF
32 THE STATE OF OREGON
33 FOR THE COUNTY OF _____

34
35 _____,)
36 Petitioner) RESTRAINING ORDER
37 (your name)) TO PREVENT ABUSE
38)
39 vs.)
40) No. _____
41)
42 _____,)
43 Respondent)
44 (person to be)
45 restrained))

1 TO THE RESPONDENT: VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN
2 YOUR ARREST AND IN CIVIL AND/OR CRIMINAL PENALTIES. THIS ORDER IS ENFORCEA-
3 BLE IN EVERY STATE. REVIEW THIS ORDER CAREFULLY. EACH PROVISION MUST BE
4 OBEYED. SEE YOUR RIGHTS TO A HEARING.

5 The Court, having reviewed the petition, makes the following findings:
6

7 Judge's Initials

8 1. Petitioner and respondent are related as follows (check all that apply):

9 A. Petitioner and respondent are spouses. _____

10 B. Petitioner and respondent are former spouses. _____

11 **C. Petitioner and respondent are reciprocal beneficiaries.** _____

12 **D. Petitioner and respondent are former reciprocal beneficiaries.** _____

13 [C.] **E.** Petitioner and respondent are adult persons related by blood,
14 marriage or adoption. _____

15 [D.] **F.** Petitioner and respondent are cohabiting or have cohabited
16 with each other. _____

17 [E.] **G.** Petitioner and respondent have been involved in a sexually
18 intimate relationship with each other within the last two years. _____

19 [F.] **H.** Petitioner and respondent are unmarried parents of a child. _____

20 [G.] **I.** Petitioner is a minor and has been involved in a sexually
21 intimate relationship with respondent who is 18 years of age or older. _____

22 2. Additional findings:

23 A. Petitioner has been abused by respondent as defined by ORS 107.705. _____

24 B. The abuse of petitioner by respondent occurred within the last
25 180 days as provided in ORS 107.710. _____

26 C. Respondent represents a credible threat to the physical safety
27 of petitioner or petitioner's child and there is an imminent danger of
28 further abuse to petitioner. _____

29 D. If there are children, Oregon has jurisdiction over the issue of the
30 custody of the children under ORS 109.701 to 109.834 on the
31 following grounds: _____

32 a. Oregon is the home state of the child on the date this proceeding
33 was commenced; or _____

34 Oregon was the home state within six months before this proceeding
35 was commenced and the child is absent from the state, but a parent
36 or person acting as a parent continues to live in Oregon under
37 ORS 109.741 (1)(a). _____

38 b. No other state has home state jurisdiction under ORS 109.741
39 (1)(a); or _____

40 The home state of the child _____ (name) _____
41 has declined jurisdiction and the child's parents have, or one of
42 the child's parents or a person acting as a parent has, a significant
43 connection with Oregon and substantial evidence is available here
44 concerning the child's care, protection, training and personal
45 relationships under ORS 109.741 (1)(b).

- 1 c. All courts having jurisdiction under home state grounds under _____
 2 ORS 109.741 (1)(a), or significant connections grounds under ORS 109.741
 3 (1)(b), have declined to exercise jurisdiction under ORS 109.741 (1)(c).
- 4 d. No court of any other state has jurisdiction under ORS 109.741 _____
 5 (1)(a), (b) or (c).
- 6 e. Emergency grounds exist for the exercise of temporary emergency _____
 7 jurisdiction because the child is present in this state and has
 8 been abandoned; or _____
 9 Emergency grounds exist for the exercise of temporary emergency _____
 10 jurisdiction because it is necessary to protect the child because the
 11 child, or a sibling or parent of the child, is subjected to or threatened
 12 with mistreatment or abuse under ORS 109.751.
- 13 f. A previous child custody, parenting time, guardianship _____
 14 or juvenile dependency determination has been made in
 15 _____ (State/Tribe/Country);
 16 A child custody, parenting time, guardianship or juvenile _____
 17 dependency proceeding has been commenced in _____
 18 (State/Tribe/Country); or _____
 19 No child custody, parenting time, guardianship or juvenile dependency _____
 20 determination has been issued or proceeding commenced in another
 21 state, tribe or country having jurisdiction under ORS 109.701 to
 22 109.834. The custody and parenting time provisions in this order
 23 shall become a final determination for purposes of ORS 109.701 to
 24 109.834 if Oregon becomes the home state of the child.

25
26 IT IS HEREBY ORDERED that:

<u>Petitioner's Request</u>	<u>Judge's Initials</u>
-----------------------------	-------------------------

28

29 1. Respondent is restrained (prohibited) from intimidating, _____
 30 molesting, interfering with or menacing petitioner, or
 31 attempting to intimidate, molest, interfere with
 32 or menace petitioner.

33 2. Respondent is restrained (prohibited) from intimidating, _____
 34 molesting, interfering with or menacing any minor children in
 35 petitioner's custody, or attempting to intimidate, molest,
 36 interfere with or menace any minor children
 37 in petitioner's custody:

38 _____
 39 _____

40

41 3. Respondent is restrained (prohibited) from entering, or _____
 42 attempting to enter:

43 (Include names and address unless withheld for safety reasons.)

44 Petitioner's current or subsequent residence. _____

45 Petitioner's business or place of employment. _____

1 Name: _____

2 Age: _____

3

4 Name: _____

5 Age: _____

6 [] 10. A peace officer of the county or city in which the child- _____
7 ren are located shall assist in recovering the custody of
8 the children of the above parties whose custody has been
9 awarded to petitioner. The peace officer is authorized to
10 use any reasonable force necessary to that end.

11 [] 11. Other relief: _____
12 _____
13 _____

14 [] 12. Petitioner and respondent shall appear at a hearing _____
15 to be held at a time and place shown in the attached
16 Notice of Hearing. The purpose of the hearing is to
17 consider the temporary custody of the parties'
18 children and other relief that may be contested.

19 [] 13. Pending the hearing to be held pursuant to paragraph _____
20 12 above, if temporary custody of the children is not
21 awarded to the petitioner under ORS 107.718 (1)(a), the
22 residence of the children and parental access to the
23 children is as follows with respect to the following
24 children (include the children's names and dates of birth):
25 _____
26 _____

27 The order contained in this paragraph expires at the
28 hearing.

29 [] 14. The child custody provisions of this order conflict _____
30 with the child custody provisions of a preexisting order
31 or judgment issued pursuant to ORS 107.095 (1)(b),
32 107.105, 107.135, 109.103 or 109.155. The child custody
33 provisions of this order remain in effect until _____,
34 or until another order is issued in the preexisting
35 case, whichever occurs first.

36 [] 15. The child custody provisions of this order conflict _____
37 with the child custody provisions of a preexisting order
38 or judgment issued by another jurisdiction. The child
39 custody provisions of this order remain in effect for
40 one year or until another order is issued in the
41 preexisting case, whichever occurs first.

42

43 IT IS FURTHER ORDERED that the party not awarded custody shall be allowed parenting time as
44 set forth below:

45 Petitioner's Request

Judge's Initials

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Other Amount (\$)

THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR SUPERSEDED, WHICHEVER OCCURS FIRST.

DATED this _____ day of _____, 2_____.

CIRCUIT COURT JUDGE (signature)

CIRCUIT COURT JUDGE (printed)

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____) No. _____
Petitioner,)
vs.) AFFIDAVIT OF PROOF
_____) OF SERVICE
Respondent.)
)
)
STATE OF)
OREGON)
) ss.
County of _____)

I am a resident of the State of Oregon. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director or employee of any party to this case.

On the _____ day of _____, 2_____, I served the Restraining Order to Prevent Abuse, the Petition for Restraining Order to Prevent Abuse and, if applicable, the Notice of Hearing in this case personally upon the above-named respondent in _____ County by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of _____

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

NOTARY PUBLIC FOR OREGON
My Commission Expires:_____

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IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____)
_____) No. _____
Petitioner,)
vs.) MOTION AND ORDER
_____) OF DISMISSAL
Respondent.)
_____)

Comes now petitioner, _____, and moves this Court for an order allowing the voluntary withdrawal and dismissal of the Restraining Order on file herein.

Petitioner

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

IT IS SO ORDERED this _____ day of _____, 2_____.

JUDGE

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____)
(D.O.B. _____)) NOTICE TO RESPONDENT
_____) (Family Abuse
Petitioner,) Prevention Act)
_____)
and) No. _____
_____) _____,
_____)
(D.O.B. _____))
_____)
Respondent.)

THIS FORM MUST BE
ATTACHED TO SERVICE COPY
OF RESTRAINING ORDER

1 TO RESPONDENT: A RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH AF-
2 FECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFECTIVE IMME-
3 DIATELY.

4
5 IF A NOTICE OF HEARING IS ATTACHED TO THE RESTRAINING ORDER, YOU ARE RE-
6 QUIRED TO APPEAR AT A HEARING AT THE TIME AND PLACE SPECIFIED IN THE NOTICE.
7 THE PURPOSE OF THE HEARING IS TO CONSIDER TEMPORARY CUSTODY OF YOUR CHILD
8 OR CHILDREN AND OTHER MATTERS. IF YOU WANT AN EARLIER HEARING DATE THAN
9 THE DATE SPECIFIED IN THE NOTICE, YOU MUST COMPLETE THE REQUEST FOR HEAR-
10 ING FORM BELOW AND MAIL OR DELIVER IT TO:

11 _____
12
13 _____

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15
16 IF NO NOTICE OF HEARING IS ATTACHED TO THE RESTRAINING ORDER AND YOU WISH
17 TO CONTEST THE CONTINUATION OF THIS ORDER, YOU MUST COMPLETE THE REQUEST
18 FOR HEARING FORM BELOW AND MAIL OR DELIVER IT TO:

19 _____
20
21 _____

22
23
24 REQUESTS FOR HEARING MUST BE MADE WITHIN 30 DAYS AFTER YOU RECEIVE THE
25 ORDER. YOU MUST INCLUDE YOUR ADDRESS AND TELEPHONE NUMBER WITH YOUR
26 REQUEST FOR A HEARING. THE HEARING WILL BE HELD WITHIN 21 DAYS, OR WITHIN
27 FIVE DAYS IF CHILD CUSTODY (NOT PARENTING TIME) IS AT ISSUE.

28
29 AT THE HEARING, A JUDGE WILL DECIDE WHETHER THE ORDER SHOULD BE CANCELED,
30 CHANGED OR EXTENDED. IF YOU DO NOT APPEAR AT THE HEARING, THE RESTRAINING
31 ORDER MAY BE UPHeld AND ALL MATTERS COULD BE DECIDED AGAINST YOU.

32
33 IF YOU DO NOT REQUEST A HEARING WITHIN THE TIME ALLOWED BY LAW, THIS RE-
34 STRAINING ORDER WILL BE CONFIRMED BY OPERATION OF LAW. THAT MEANS THAT
35 THIS RESTRAINING ORDER WILL CONTINUE IN EFFECT AS ISSUED BECAUSE YOU HAVE
36 BEEN GIVEN BUT HAVE NOT EXERCISED YOUR RIGHTS TO REQUEST AND PARTICIPATE
37 IN A HEARING. OREGON LAW CONSIDERS THIS CONFIRMATION SUFFICIENT TO MEET
38 THE REQUIREMENTS OF FEDERAL LAW THAT MAY PROHIBIT YOU FROM POSSESSING A
39 FIREARM OR FIREARM AMMUNITION WHILE THIS RESTRAINING ORDER IS IN EFFECT.

40
41 KEEP IN MIND THAT THE RESTRAINING ORDER YOU HAVE RECEIVED IS IN EFFECT AND
42 REMAINS IN EFFECT UNTIL THE COURT THAT ISSUED THE ORDER MODIFIES IT OR DIS-
43 MISSES IT OR UNTIL IT EXPIRES. THE ORDER MAY ALSO BE RENEWED UPON A FINDING
44 THAT A PERSON IN THE PETITIONER'S SITUATION WOULD REASONABLY FEAR FURTHER
45 ACTS OF ABUSE BY YOU IF THE ORDER IS NOT RENEWED. IF YOU ARE ARRESTED FOR

1 VIOLATING THIS ORDER, THE SECURITY AMOUNT (BAIL) IS \$5,000, UNLESS A DIFFERENT
2 AMOUNT IS ORDERED BY THE COURT.

3
4 This restraining order, or any order continuing or changing this order, is enforceable in every
5 county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands and
6 territories of the United States.

7 Violation of this restraining order, or any order continuing or changing this order, constitutes
8 contempt of court, punishable by a fine of up to \$500 or one percent of your annual gross income,
9 whichever is greater, or a jail term of up to six months, or both. Other sanctions may also be im-
10 posed for contempt.

11 While this order, or any order continuing or changing this order, is in effect, federal law may
12 prohibit you from:

13 Traveling across state lines or tribal land lines with the intent to violate this order and then
14 violating this order.

15 Causing the petitioner to cross state lines or tribal land lines for your purpose of violating the
16 order.

17 Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

18 Whether or not a restraining order is in effect, federal law may prohibit you from:

19 Traveling across state lines or tribal land lines with the intent to injure the petitioner and then
20 intentionally committing a crime of violence causing bodily injury to the petitioner.

21 Causing the petitioner to travel across state lines or tribal land lines if your intent is to cause
22 bodily injury to the petitioner or if the travel results in your causing bodily injury to the petitioner.

24
25 REQUEST FOR HEARING

26
27 1. I am the Respondent in the above-referenced action and I request a hearing to contest all or part
28 of the order as follows (mark one or more):

- 29 ___ The order restraining me from contacting or attempting to contact the petitioner.
30 ___ The order granting child custody to the petitioner.
31 ___ The terms of the parenting time order.
32 ___ Other _____
33

34 2. [] If I have checked this box, a Notice of Hearing is attached to the Restraining Order, setting
35 a hearing for (specify date and time) _____. However, I believe exceptional circumstances
36 affect my child or children and require an earlier hearing. I request an earlier date for a hearing,
37 to be held within five days after the date I file this request with the court. I understand that this
38 earlier hearing date must be before the date specified in the Notice of Hearing.

39
40 I (will) (will not) be represented by an attorney at the hearing.

41
42 Notice of the time and place of the hearing can be mailed to me at the address below my signature.

43
44 Date: _____
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SIGNATURE OF RESPONDENT

ADDRESS

TELEPHONE NUMBER

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 107.720. When the order does not contain the respondent's date of birth and service is effected by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth with the respondent and shall record that date on the order or proof of service entered into the Law Enforcement Data System under ORS 107.720.

(c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 107.700 to 107.735.

(9) If the county sheriff:

(a) Determines that the order and petition are incomplete, the order and petition shall be returned to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.

(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the county sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(10)(a) Within 30 days after a restraining order is served under this section, the respondent therein may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court and shall be in substantially the form provided in subsection (7) of this section.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of such hearing, and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.

1 (c) The hearing shall not be limited to the issues raised in the respondent’s request for hearing
 2 form. If the respondent seeks to raise an issue at the hearing not previously raised in the request
 3 for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order,
 4 the other party shall be entitled to a reasonable continuance for the purpose of preparing a response
 5 to the issue.

6 (11) If the respondent fails to request a hearing within 30 days after a restraining order is
 7 served, the restraining order is confirmed by operation of law. The provisions of this section are
 8 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received
 9 actual notice of the right to request a hearing and the opportunity to participate at the hearing but
 10 the respondent failed to exercise those rights.

11 **SECTION 43.** ORS 111.005 is amended to read:

12 111.005. As used in ORS chapters 111, 112, 113, 114, 115, 116 and 117, unless the context requires
 13 otherwise:

14 (1) “Abate” means to reduce a devise on account of the insufficiency of the estate to pay all
 15 claims, expenses and devises in full.

16 (2) “Action” includes suits and legal proceedings.

17 (3) “Administration” means any proceeding relating to the estate of a decedent, whether the
 18 decedent died testate, intestate or partially intestate.

19 (4) “Advancement” means a gift by a decedent to an heir to enable the donee to anticipate the
 20 inheritance to the extent of the gift.

21 (5) “All purposes of intestate succession” means succession by, through or from a person, both
 22 lineal and collateral.

23 (6) “Assets” includes real, personal and intangible property.

24 (7) “Claim” includes liabilities of a decedent, whether arising in contract, in tort or otherwise.

25 (8) “Court” or “probate court” means the court in which jurisdiction of probate matters, causes
 26 and proceedings is vested as provided in ORS 111.075.

27 (9) “Decedent” means a person who has died leaving property that is subject to administration.

28 (10) “Devise,” when used as a noun, means property disposed of by a will, and includes
 29 “legacy” and “bequest.”

30 (11) “Devise,” when used as a verb, means to dispose of property by a will, and includes
 31 “bequeath.”

32 (12) “Devisee” includes “legatee” and “beneficiary.”

33 (13) “Distributee” means a person entitled to any property of a decedent under the will of the
 34 decedent or under intestate succession.

35 (14) “Domicile” means the place of abode of a person, where the person intends to remain and
 36 to which, if absent, the person intends to return.

37 (15) “Estate” means the real and personal property of a decedent, as from time to time changed
 38 in form by sale, reinvestment or otherwise, and augmented by any accretions or additions thereto
 39 and substitutions therefor or diminished by any decreases and distributions therefrom.

40 (16) “Funeral” includes burial or other disposition of the remains of a decedent, including the
 41 plot or tomb and other necessary incidents to the disposition of the remains.

42 (17) “General devise” means a devise chargeable generally on the estate of a testator and not
 43 distinguishable from other parts thereof or not so given as to amount to a specific devise.

44 (18) “Heir” means any person, including the surviving spouse **or surviving reciprocal benefi-**
 45 **ciary as defined in section 1 of this 2007 Act**, who is entitled under intestate succession to the

1 property of a decedent who died wholly or partially intestate.

2 (19) "Interested person" includes heirs, devisees, children, spouses, **reciprocal beneficiaries**,
 3 creditors and any others having a property right or claim against the estate of a decedent that may
 4 be affected by the proceeding. It also includes fiduciaries representing interested persons.

5 (20) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying
 6 without leaving a valid will, effectively disposing of all the estate.

7 (21) "Intestate succession" means succession to property of a decedent who dies intestate or
 8 partially intestate.

9 (22) "Issue" includes adopted children and their issue and, when used to refer to persons who
 10 take by intestate succession, includes all lineal descendants, except those who are the lineal de-
 11 scendants of living lineal descendants.

12 (23) "Net estate" means the real and personal property of a decedent, except property used for
 13 the support of the surviving spouse **or surviving reciprocal beneficiary** and children and for the
 14 payment of expenses of administration, funeral expenses, claims and taxes.

15 (24) "Net intestate estate" means any part of the net estate of a decedent not effectively dis-
 16 posed of by the will.

17 (25) "Personal property" includes all property other than real property.

18 (26) "Personal representative" includes executor, administrator, administrator with will annexed
 19 and administrator de bonis non, but does not include special administrator.

20 (27) "Property" includes both real and personal property.

21 (28) "Real property" includes all legal and equitable interests in land, in fee and for life.

22 (29) "Settlement" includes, as to the estate of a decedent, the full process of administration,
 23 distribution and closing.

24 (30) "Specific devise" means a devise of a specific thing or specified part of the estate of a
 25 testator that is so described as to be capable of identification. It is a gift of a part of the estate
 26 identified and differentiated from all other parts.

27 (31) "Will" includes codicil; it also includes a testamentary instrument that merely appoints an
 28 executor or that merely revokes or revives another will.

29 **SECTION 44.** ORS 112.025 is amended to read:

30 112.025. (1) If the decedent leaves a surviving spouse and **surviving** issue, the intestate share
 31 of the surviving spouse is:

32 [(1)] (a) If there are surviving issue of the decedent, all of whom are issue of the surviving
 33 spouse also, the entire net intestate estate.

34 [(2)] (b) If there are surviving issue of the decedent, one or more of whom are not issue of the
 35 surviving spouse, one-half of the net intestate estate.

36 **(2) If the decedent leaves a surviving reciprocal beneficiary, as defined in section 1 of this**
 37 **2007 Act, and surviving issue, the intestate share of the surviving reciprocal beneficiary is:**

38 **(a) If there are surviving issue of the decedent, all of whom are issue of the surviving**
 39 **reciprocal beneficiary also, the entire net intestate estate.**

40 **(b) If there are surviving issue of the decedent, one or more of whom are not issue of**
 41 **the surviving reciprocal beneficiary, one-half of the net intestate estate.**

42 **SECTION 45.** ORS 112.035 is amended to read:

43 112.035. (1) If the decedent leaves a surviving spouse and no issue, the surviving spouse shall
 44 have all of the net intestate estate.

45 **(2) If the decedent leaves a surviving reciprocal beneficiary, as defined in section 1 of this**

1 **2007 Act, and no issue, the surviving reciprocal beneficiary shall have all of the net intestate**
 2 **estate.**

3 **SECTION 46.** ORS 112.045 is amended to read:

4 112.045. The part of the net intestate estate not passing to the surviving spouse **or surviving**
 5 **reciprocal beneficiary, as defined in section 1 of this 2007 Act,** shall pass:

6 (1) To the issue of the decedent. If the issue are all of the same degree of kinship to the
 7 decedent, they shall take equally, but if of unequal degree, then those of more remote degrees take
 8 by representation.

9 (2) If there is no surviving issue, to the surviving parents of the decedent.

10 (3) If there is no surviving issue or parent, to the brothers and sisters of the decedent and the
 11 issue of any deceased brother or sister of the decedent by representation. If there is no surviving
 12 brother or sister, the issue of brothers and sisters take equally if they are all of the same degree
 13 of kinship to the decedent, but if of unequal degree, then those of more remote degrees take by
 14 representation.

15 (4) If there is no surviving issue, parent or issue of a parent, to the grandparents of the decedent
 16 and the issue of any deceased grandparent of the decedent by representation. If there is no surviving
 17 grandparent, the issue of grandparents take equally if they are all of the same degree of kinship to
 18 the decedent, but if of unequal degree, then those of more remote degrees take by representation.

19 (5) If, at the time of taking, surviving parents or grandparents of the decedent are married to
 20 each other, they shall take real property as tenants by the entirety and personal property as joint
 21 owners with the right of survivorship.

22 **SECTION 47.** ORS 112.305 is amended to read:

23 112.305. A will is revoked by the subsequent marriage of the testator **or the subsequent entry**
 24 **into a reciprocal beneficiary agreement, as defined in section 1 of this 2007 Act, by the**
 25 **testator** if the testator is survived by a spouse **or reciprocal beneficiary,** unless:

26 (1) The will evidences an intent that it not be revoked by the subsequent marriage **or reciprocal**
 27 **beneficiary agreement** or was drafted under circumstances establishing that it was in contem-
 28 plation of the marriage **or reciprocal beneficiary agreement;** [*or*]

29 (2) The testator and spouse entered into a written contract before the marriage that either
 30 makes provision for the spouse or provides that the spouse is to have no rights in the estate of the
 31 testator[.]; **or**

32 **(3) The testator and reciprocal beneficiary entered into a written contract before the**
 33 **reciprocal beneficiary agreement that either makes provision for the reciprocal beneficiary**
 34 **or provides that the reciprocal beneficiary is to have no rights in the estate of the testator.**

35 **SECTION 48.** ORS 112.315 is amended to read:

36 112.315. Unless a will evidences a different intent of the testator[.]:

37 (1) The divorce or annulment of the marriage of the testator after the execution of the will re-
 38 vokes all provisions in the will in favor of the former spouse of the testator and any provision
 39 therein naming the former spouse as executor, and the effect of the will is the same as though the
 40 former spouse did not survive the testator.

41 **(2) The termination of a reciprocal beneficiary agreement, as defined in section 1 of this**
 42 **2007 Act, of the testator after the execution of the will revokes all provisions in the will in**
 43 **favor of the former reciprocal beneficiary of the testator and any provision therein naming**
 44 **the former reciprocal beneficiary as executor, and the effect of the will is the same as**
 45 **though the former reciprocal beneficiary did not survive the testator.**

1 **SECTION 49.** ORS 112.735 is amended to read:

2 112.735. (1)(a) Upon **the** death of a married person, one-half of the property to which ORS
 3 112.705 to 112.775 apply is the property of the surviving spouse and is not subject to testamentary
 4 disposition by the decedent or distribution under the laws of succession of this state.

5 **(b) Upon the death of a person in a reciprocal beneficiary agreement, as defined in sec-**
 6 **tion 1 of this 2007 Act, one-half of the property to which ORS 112.705 to 112.775 apply is the**
 7 **property of the surviving reciprocal beneficiary and is not subject to testamentary disposi-**
 8 **tion by the decedent or distribution under the laws of succession of this state.**

9 (2) One-half of [*that*] **the** property **described in subsection (1) of this section** is the property
 10 of the decedent and is subject to testamentary disposition or distribution under the laws of suc-
 11 cession of this state. With respect to property to which ORS 112.705 to 112.775 apply, the one-half
 12 of the property [*which*] **that** is the property of the decedent is not subject to the surviving spouse's
 13 **or reciprocal beneficiary's** right to elect against the will.

14 **SECTION 50.** ORS 112.745 is amended to read:

15 112.745. If the title to any property to which ORS 112.705 to 112.775 apply was held by the
 16 decedent at the time of death, title of the surviving spouse **or surviving reciprocal beneficiary,**
 17 **as defined in section 1 of this 2007 Act,** may be perfected by an order of the probate court or by
 18 execution of an instrument by the personal representative or the heirs or devisees of the decedent
 19 with the approval of the court. Neither the personal representative nor the court in which the
 20 decedent's estate is being administered has a duty to discover or attempt to discover whether
 21 property held by the decedent is property to which ORS 112.705 to 112.775 apply, unless a written
 22 demand is made by the surviving spouse or the spouse's successor in interest **or by the surviving**
 23 **reciprocal beneficiary or the reciprocal beneficiary's successor in interest.**

24 **SECTION 51.** ORS 112.755 is amended to read:

25 112.755. If the title to any property to which ORS 112.705 to 112.775 apply is held by the sur-
 26 viving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act,** at
 27 the time of the decedent's death, the personal representative or an heir or devisee of the decedent
 28 may institute an action to perfect title to the property. The personal representative has no fiduciary
 29 duty to discover or attempt to discover whether any property held by the surviving spouse **or sur-**
 30 **living reciprocal beneficiary** is property to which ORS 112.705 to 112.775 apply, unless a written
 31 demand is made by an heir, devisee, or creditor of the decedent.

32 **SECTION 52.** ORS 112.775 is amended to read:

33 112.775. (1) ORS 112.705 to 112.775 do not affect rights of creditors with respect to property to
 34 which ORS 112.705 to 112.775 apply.

35 (2) ORS 112.705 to 112.775 do not prevent married persons **or reciprocal beneficiaries, as de-**
 36 **defined in section 1 of this 2007 Act,** from severing or altering their interests in property to which
 37 ORS 112.705 to 112.775 apply.

38 (3) ORS 112.705 to 112.775 do not authorize a person to dispose of property by will if it is held
 39 under limitations imposed by law preventing testamentary disposition by that person.

40 (4) ORS 112.705 to 112.775 shall be so applied and construed as to effectuate their general pur-
 41 pose to make uniform the law with respect to the subject of ORS 112.705 to 112.775 among those
 42 states which enact it.

43 **SECTION 53.** ORS 113.085 is amended to read:

44 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
 45 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person

1 it finds suitable as personal representative, giving preference in the following order:

2 (a) To the executor named in the will.

3 (b) To the surviving spouse of the decedent or the nominee of the surviving spouse of the
4 decedent.

5 **(c) To the surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act, of the**
6 **decedent or the nominee of the surviving reciprocal beneficiary of the decedent.**

7 [(c)] (d) To the nearest of kin of the decedent or the nominee of the nearest of kin of the
8 decedent.

9 [(d)] (e) To the Director of Human Services or a designee, if it appears the decedent received
10 public assistance pursuant to ORS chapter 411 or 414 and that such assistance is a claim against
11 the estate.

12 [(e)] (f) To the Department of Veterans' Affairs, if the decedent was a protected person under
13 ORS 406.050 (7), and the department has joined in the petition for such appointment.

14 [(f)] (g) To any other person.

15 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
16 of State Lands as personal representative if it appears that the decedent died wholly intestate and
17 without known heirs. The Attorney General shall represent the Department of State Lands in the
18 administration of the estate. Any funds received by the Department of State Lands in the capacity
19 of personal representative may be deposited in accounts, separate and distinct from the General
20 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
21 account.

22 (3) The court may appoint a person other than the Department of State Lands to administer the
23 estate of a decedent who died wholly intestate and without known heirs if the person filing a peti-
24 tion under ORS 113.035 attaches written authorization from an estate administrator of the Depart-
25 ment of State Lands appointed under ORS 113.235 approving the filing of the petition by the person.
26 Except as provided by rule adopted by the Director of the Department of State Lands, an estate
27 administrator may consent to the appointment of another person to act as personal representative
28 only if it appears after investigation that the estate is insolvent.

29 **SECTION 54.** ORS 114.005 is amended to read:

30 114.005. The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and
31 **the** dependent children of a decedent, or any of them, may continue to occupy the principal place
32 of abode of the decedent until one year after the death of the decedent or, if the estate therein is
33 an estate of leasehold or an estate for the lifetime of another, until one year after the death of the
34 decedent or the earlier termination of the estate. During that occupancy:

35 (1) The occupants shall not commit or permit waste to the abode, or cause or permit mechanic's
36 or materialman's or other liens to attach thereto.

37 (2) The occupants shall keep the abode insured, to the extent of the fair market value of the
38 improvements, against fire and other hazards within the extended coverage provided by fire insur-
39 ance policies. In the event of loss or damage from those hazards, to the extent of the proceeds of
40 the insurance, they shall restore the abode to its former condition.

41 (3) The occupants shall pay taxes and improvement liens on the abode as payment thereof be-
42 comes due.

43 (4) The abode is exempt from execution to the extent that it was exempt when the decedent was
44 living.

45 **SECTION 55.** ORS 114.015 is amended to read:

1 114.015. The court by order shall make necessary and reasonable provision from the estate of
 2 a decedent for the support of the spouse **or reciprocal beneficiary, as defined in section 1 of this**
 3 **2007 Act**, and dependent children of the decedent, or any of them, upon:

4 (1) Petition therefor by or on behalf of the spouse **or reciprocal beneficiary** or any dependent
 5 child;

6 (2) Service of the petition and notice of hearing thereon to the personal representative, unless
 7 the petitioner is the personal representative;

8 (3) Notice to persons whose distributive shares of the estate may be diminished by the granting
 9 of the petition, unless the court by order directs otherwise; and

10 (4) Hearing.

11 **SECTION 56.** ORS 114.025 is amended to read:

12 114.025. (1) The petition for support under ORS 114.015 shall include a description of property,
 13 other than property of the estate, available for the support of the spouse **or reciprocal beneficiary,**
 14 **as defined in section 1 of this 2007 Act**, and the children, and an estimate of the expenses antic-
 15 ipated for their support. If the petitioner is the personal representative, the petition shall also in-
 16 clude, so far as known, a statement of the nature and estimated value of the property of the estate
 17 and of the nature and estimated amount of claims, taxes and expenses of administration.

18 (2) If the personal representative is not the petitioner, the personal representative shall answer
 19 the petition for support. The answer shall include, so far as known, a statement of the nature and
 20 estimated value of the property of the estate and of the nature and estimated amount of claims,
 21 taxes and expenses of administration.

22 **SECTION 57.** ORS 114.035 is amended to read:

23 114.035. Pending hearing upon the petition under ORS 114.015, temporary support may be al-
 24 lowed by order of the court in an amount and of a nature the court considers reasonably necessary
 25 for the welfare of the surviving spouse **or surviving reciprocal beneficiary, as defined in section**
 26 **1 of this 2007 Act**, and dependent children of the decedent or any of them.

27 **SECTION 58.** ORS 114.055 is amended to read:

28 114.055. (1) Provision for support under ORS 114.015 ordered by the court may consist of any
 29 one or more of the following:

30 (a) Transfer of title to personal property.

31 (b) Transfer of title to real property.

32 (c) Periodic payment of moneys during administration of the estate, but the payments may not
 33 continue for more than two years after the date of death of the decedent.

34 (2) The court, in determining provision for support, shall take into consideration the solvency
 35 of the estate, property available for support other than property of the estate, and property of the
 36 estate inherited by or devised to the spouse **or reciprocal beneficiary, as defined in section 1 of**
 37 **this 2007 Act**, and children.

38 **SECTION 59.** ORS 114.085 is amended to read:

39 114.085. If it appears, after the expiration of four months after the date of the first publication
 40 of notice to interested persons, that reasonable provision for support of the spouse **or reciprocal**
 41 **beneficiary, as defined in section 1 of this 2007 Act**, and dependent children of the decedent, or
 42 any of them, warrants that the whole of the estate, after payment of claims, taxes and expenses of
 43 administration, be set apart for such support, the court may so order. There shall be no further
 44 proceeding in the administration of the estate, and the estate shall summarily be closed.

45 **SECTION 60.** ORS 114.105 is amended to read:

1 114.105. (1) If a decedent is domiciled in this state at the time of death and dies testate, the
 2 surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act**,
 3 of the decedent has a right to elect to take the share provided by this section. The elective share
 4 consists of one-fourth of the value of the net estate of the decedent, but the elective share shall be
 5 reduced by the value of the following property given to the surviving spouse **or surviving recip-**
 6 **rocal beneficiary** under the will of the decedent:

7 (a) Property given outright;

8 (b) The present value of legal life estates; and

9 (c) The present value of the right of the surviving spouse **or surviving reciprocal beneficiary**
 10 to income or an annuity, or a right of withdrawal, from any property transferred in trust by the will
 11 that is capable of valuation with reasonable certainty without regard to the powers forfeited under
 12 subsection (2) of this section.

13 (2) Except as to property applied under subsection (1) of this section to reduce the elective
 14 share, an election to take under this section forfeits any other right to take under the will and under
 15 the law of intestate succession. If the will would otherwise create a power of appointment in the
 16 surviving spouse **or surviving reciprocal beneficiary**, the spouse **or reciprocal beneficiary** by
 17 electing to take under this section retains the power only if it is not a general power of appointment
 18 as defined in subsection (4) of this section and the testator has not provided otherwise, but the
 19 spouse **or reciprocal beneficiary** forfeits any general power of appointment. A power to pay more
 20 than the income or annuity or withdrawals, the value of which reduced the elective share under
 21 subsection (1)(c) of this section, or to apply additional principal or income in behalf of the electing
 22 spouse **or reciprocal beneficiary**, may not be exercised in favor of the electing spouse **or recip-**
 23 **rocal beneficiary**.

24 (3) The right to elect may be barred under ORS 114.115, the share limited by ORS 114.125 or the
 25 right denied or the share reduced under ORS 114.135.

26 (4) A general power of appointment is one that the donee may exercise in favor of the donee,
 27 the estate of the donee, the creditors of the donee or the creditors of the estate of the donee, during
 28 lifetime or at death, and includes one under which the donee may convey or transfer ownership of
 29 the property to whomever the donee may choose. A power to consume, invade or appropriate prop-
 30 erty for the benefit of the donee that is limited by an ascertainable standard relating to the health,
 31 education, support or maintenance of the donee shall not be deemed a general power of appointment.

32 **SECTION 61.** ORS 114.115 is amended to read:

33 114.115. The right of the surviving spouse **or surviving reciprocal beneficiary, as defined in**
 34 **section 1 of this 2007 Act**, to elect under ORS 114.105 may be barred by the terms of a written
 35 agreement signed by both spouses **or both reciprocal beneficiaries**. The agreement may be entered
 36 into before or after marriage **or the reciprocal beneficiary agreement**.

37 **SECTION 62.** ORS 114.125 is amended to read:

38 114.125. (1) The surviving spouse **or surviving reciprocal beneficiary, as defined in section**
 39 **1 of this 2007 Act**, may not receive by election under ORS 114.105 any amount which, together with
 40 any of the following property received by the surviving spouse **or surviving reciprocal**
 41 **beneficiary**, exceeds one-half of the total of the following property, such property to be reduced by
 42 the amount of the federal estate tax payable by reason of the property:

43 (a) The property passing under the will;

44 (b) Joint annuities furnished by the decedent;

45 (c) Proceeds of insurance on the life of the decedent, whether or not the decedent had any of

1 the incidents of ownership at the death of the decedent;

2 (d) Transfers by the decedent within three years before the date of death, to the extent the
3 decedent did not receive full consideration in money or money's worth;

4 (e) Transfers by the decedent during the lifetime of the decedent as to which the decedent re-
5 tained power, alone or in conjunction with any other person, to alter, amend, revoke or terminate
6 or to designate a beneficiary;

7 (f) Payments from the employer of the decedent or from a plan created by the employer or under
8 a contract between the decedent and the employer of the decedent, excluding workers' compensation
9 and Social Security payments;

10 (g) Property appointed by the decedent by will or by deed executed within three years before
11 the date of death, whether the power is general or special, but only if the property is effectively
12 appointed in favor of the surviving spouse **or surviving reciprocal beneficiary**; and

13 (h) Property in the joint names of the decedent and one or more other persons, except such
14 proportion as is attributable to consideration furnished by persons other than the decedent.

15 (2) For the purpose of subsection (1) of this section, the surviving spouse **or surviving recip-**
16 **rocal beneficiary** is considered to receive:

17 (a) Any property as to which the spouse **or reciprocal beneficiary** is given all the income and
18 a general power to appoint the principal.

19 (b) Life insurance proceeds settled by the decedent on option, if the spouse **or reciprocal ben-**
20 **eficiary** is entitled to the interest and has a general power to appoint the proceeds or to withdraw
21 proceeds, or if the spouse **or reciprocal beneficiary** is entitled to an annuity for life or installments
22 of the entire principal and interest for any period equal to or less than the normal life expectancy
23 of the spouse **or reciprocal beneficiary**.

24 (3) As used in subsection (1) of this section, "property in the joint names" means all property
25 held or owned under any form of ownership with right of survivorship, including cotenancy with
26 remainder to the survivor; stocks, bonds or bank accounts in the name of two or more persons
27 payable to the survivor; United States Government bonds in coownership form or payable on death
28 to a designated person; and shares in credit unions or savings and loan associations payable on
29 death to a designated person or in joint form.

30 **SECTION 63.** ORS 114.135 is amended to read:

31 114.135. If the decedent and the surviving spouse were living apart at the time of the death of
32 the decedent, whether or not there was a judgment for legal separation, **or if the decedent and the**
33 **surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act, were living apart at**
34 **the time of the death of the decedent**, the court in its discretion may deny any right to elect
35 against the will, may reduce the elective share of the spouse **or reciprocal beneficiary** to such
36 amount as the court determines reasonable and proper or may grant the full elective share in ac-
37 cordance with the circumstances of the particular case. The court, in deciding what elective share,
38 if any, should be granted, shall consider:

39 (1) The length of the marriage[,] **and** whether the marriage was a first or subsequent marriage
40 for either or both of the spouses[.];

41 (2) **The length of the reciprocal beneficiary agreement and whether the agreement was**
42 **a first or subsequent reciprocal beneficiary agreement for either or both of the reciprocal**
43 **beneficiaries;**

44 (3) The contribution of the surviving spouse **or reciprocal beneficiary** to the property of the
45 decedent in the form of services or transfers of property[.];

1 (4) The length and cause of the separation; and

2 (5) Any other relevant circumstances.

3 **SECTION 64.** ORS 114.145 is amended to read:

4 114.145. The surviving spouse **or surviving reciprocal beneficiary, as defined in section 1**
 5 **of this 2007 Act**, is considered to have elected to take under the will unless, within 90 days after
 6 the date of the admission of the will to probate or 30 days after the date of the filing of the inven-
 7 tory, whichever is later, the surviving spouse **or surviving reciprocal beneficiary** serves on the
 8 personal representative or the attorney of the personal representative and files in the estate pro-
 9 ceeding a statement that the surviving spouse **or reciprocal beneficiary** elects to take under ORS
 10 114.105 instead of under the will. The surviving spouse **or reciprocal beneficiary** may bar any right
 11 to take under ORS 114.105 by filing in the estate proceeding a writing, signed by the spouse **or**
 12 **reciprocal beneficiary**, electing to take under the will.

13 **SECTION 65.** ORS 114.155 is amended to read:

14 114.155. An election under ORS 114.105 may be filed on behalf of a financially incapable sur-
 15 viving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act**, by
 16 a court acting under ORS 125.650 or by the conservator of the estate of the spouse **or reciprocal**
 17 **beneficiary**. The court or conservator may elect against the will only if additional assets are needed
 18 for the reasonable support of the surviving spouse **or surviving reciprocal beneficiary**, taking into
 19 account the probable needs of the spouse **or reciprocal beneficiary**, the provisions of the will, any
 20 nonprobate property arrangements made by the decedent for the support of the spouse **or reciprocal**
 21 **beneficiary** and any other assets, whether or not owned by the spouse **or reciprocal beneficiary**,
 22 available for such support. The election is subject to the approval of the court, with or without
 23 notice to other interested persons.

24 **SECTION 66.** ORS 114.215 is amended to read:

25 114.215. (1) Upon the death of a decedent, title to the property of the decedent vests:

26 (a) In the absence of testamentary disposition, in the heirs of the decedent, subject to support
 27 of spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and children, rights
 28 of creditors, administration and sale by the personal representative; or

29 (b) In the persons to whom it is devised by the will of the decedent, subject to support of
 30 spouse, **or reciprocal beneficiary**, and children, rights of creditors, right of the surviving spouse
 31 **or surviving reciprocal beneficiary** to elect against the will, administration and sale by the per-
 32 sonal representative.

33 (2) The power of a person to leave property by will, and the rights of creditors, devisees and
 34 heirs to the property of the person, are subject to the restrictions and limitations expressed or im-
 35 plicit in ORS chapters 111, 112, 113, 114, 115, 116 and 117 to facilitate the prompt settlement of es-
 36 tates.

37 (3) Any animal of a value of less than \$2,500 that belonged to the decedent and that was kept
 38 by the decedent as a pet need not be listed on the inventory of the estate. Any family member of
 39 the decedent, friend of the decedent or animal shelter may take custody of the animal immediately
 40 upon the death of the decedent. A family member, friend or animal shelter that takes custody of
 41 an animal under this subsection is entitled to payment from the estate for the cost of caring for the
 42 animal. A family member, friend or animal shelter that takes custody of an animal under this sub-
 43 section shall deliver the animal to the personal representative for the decedent, or to any heir or
 44 devisee entitled to possession of the animal, upon request of the personal representative, heir or
 45 devisee.

SECTION 67. ORS 114.335 is amended to read:

114.335. Upon proof satisfactory to the court by an interested person that a sale, mortgage or lease of property of the estate is required for paying support of spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and children, elective share of surviving spouse **or surviving reciprocal beneficiary**, claims or expenses of administration, or for distribution, and that the personal representative has failed or declined to act, the court may order the personal representative to make the sale, mortgage or lease.

SECTION 68. ORS 114.355 is amended to read:

114.355. (1) Any sale or encumbrance to the personal representative, the spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, agent or attorney of the personal representative, or any corporation or trust in which the personal representative has more than a one-third beneficial interest, is voidable unless:

- (a) The transaction was consented to by all interested persons affected thereby; or
- (b) The will expressly authorizes the transaction by the personal representative; or
- (c) The transaction was made in compliance with another statute or with a contract or other instrument executed by the decedent.

(2) The title of a purchaser for value without notice of the circumstances of the transaction with the personal representative is not affected unless the purchaser should have known of the defect in the title of the seller.

SECTION 69. ORS 115.115 is amended to read:

115.115. After the day on which all known claims are barred under ORS 115.005 (2), the personal representative, after making provision for support of spouse **or reciprocal beneficiary as defined in section 1 of this 2007 Act**, and children ordered by the court, for expenses of administration and for claims already presented which have not been allowed or allowance of which has been appealed, shall proceed to pay the claims allowed against the estate in the order of priority prescribed by ORS 115.125. After payment of those claims, claims presented and allowed under ORS 115.005 (3) shall be paid in the order in which they are received and to the extent of the remaining assets of the estate.

SECTION 70. ORS 115.125 is amended to read:

115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims in full, the personal representative shall make payment in the following order:

- (a) Support of spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and children, subject to the limitations imposed by ORS 114.065.
- (b) Expenses of administration.
- (c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.
- (d) Debts and taxes with preference under federal law.
- (e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.
- (f) Taxes with preference under the laws of this state that are due and payable while possession of the estate of the decedent is retained by the personal representative.
- (g) Debts owed employees of the decedent for labor performed within 90 days immediately preceding the date of death of the decedent.
- (h) Child support arrearages.
- (i) The claim of the Department of Human Services for the net amount of assistance paid to or for the decedent, in the following order:

1 (A) The amount of the state’s monthly contribution to the federal government to defray the costs
 2 of outpatient prescription drug coverage provided to a person who is eligible for Medicare Part D
 3 prescription drug coverage and who receives benefits under the state medical assistance program
 4 or Title XIX of the Social Security Act;

5 (B) Public assistance, as defined in ORS 411.010, funded entirely by moneys from the General
 6 Fund; and

7 (C) Public assistance, as defined in ORS 411.010, funded by a combination of state and federal
 8 funds.

9 (j) The claim of the Department of Corrections for care and maintenance of any decedent who
 10 was at a state institution to the extent provided in ORS 179.610 to 179.770.

11 (k) All other claims against the estate.

12 (2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of
 13 any one class specified in subsection (1) of this section, each expense or claim of that class shall
 14 be paid only in proportion to the amount thereof.

15 **SECTION 71.** ORS 116.013 is amended to read:

16 116.013. Upon petition by the personal representative or other interested person, and after such
 17 notice and hearing as the court may prescribe, the court may order the personal representative to
 18 distribute, prior to final settlement and distribution, property of the estate to the person or persons
 19 who would be entitled to the property under the will or under intestate succession on final distrib-
 20 ution, if the court finds that:

21 (1) After the distribution sufficient assets will remain to pay support of spouse **or reciprocal**
 22 **beneficiary, as defined in section 1 of this 2007 Act**, and children, expenses of administration,
 23 unpaid claims and all known unpaid creditors of the decedent or of the estate; and

24 (2) The distribution may be made without loss to creditors or injury to the estate or to any in-
 25 terested person.

26 **SECTION 72.** ORS 116.113 is amended to read:

27 116.113. (1) If no objections to the final account and petition for distribution are filed, or if ob-
 28 jections are filed, upon the hearing, the court shall enter a general judgment of final distribution.
 29 In the judgment the court shall designate the persons in whom title to the estate available for dis-
 30 tribution is vested and the portion of the estate or property to which each is entitled under the will,
 31 by agreement approved by the court or pursuant to intestate succession. The judgment shall also
 32 contain any findings of the court in respect to:

33 (a) Advancements.

34 (b) Election against will by the surviving spouse **or surviving reciprocal beneficiary, as de-**
 35 **defined in section 1 of this 2007 Act.**

36 (c) Renunciation.

37 (d) Lapse.

38 (e) Adjudicated controversies.

39 (f) Partial distribution, which shall be confirmed or modified.

40 (g) Retainer.

41 (h) Claims for which a special fund is set aside, and the amount set aside.

42 (i) Contingent claims that have been allowed and are still unpaid.

43 (j) Approval of the final account in whole or in part.

44 (2) The personal representative is not entitled to approval of the final account until Oregon in-
 45 come and personal property taxes, if any, have been paid and appropriate receipts and clearances

1 therefor have been filed, or until payment of those taxes has been secured by bond, deposit or oth-
 2 erwise, provided, however, that no such receipts or clearances shall be required with regard to
 3 damages accepted upon settlement of a claim or recovered on a judgment in an action for wrongful
 4 death as provided in ORS 30.010 to 30.100.

5 (3) If, by agreement approved by the court, property is distributed to persons in whom title is
 6 vested by the judgment of final distribution otherwise than as provided by the will or pursuant to
 7 intestate succession, the judgment operates as a transfer of the property between those persons.

8 (4) The judgment of final distribution is a conclusive determination of the persons who are the
 9 successors in interest to the estate and of the extent and character of their interest therein, subject
 10 only to the right of appeal and the power of the court to vacate the judgment.

11 **SECTION 73.** ORS 116.133 is amended to read:

12 116.133. (1) If the will expresses an order of abatement, or the testamentary plan or the express
 13 or implied purpose of the devise would be defeated by the order of abatement stated in subsection
 14 (2) of this section, the shares of the distributees abate as may be found necessary to give effect to
 15 the intention of the testator.

16 (2) Except as provided in ORS 112.405 as to the shares of pretermitted children, and in ORS
 17 114.105 as to the share of the surviving spouse **or surviving reciprocal beneficiary, as defined in**
 18 **section 1 of this 2007 Act**, who elects to take against the will, shares of distributees abate without
 19 any preference or priority as between real and personal property in the following order:

20 (a) Property not disposed of by the will.

21 (b) Residuary devises.

22 (c) General devises.

23 (d) Specific devises.

24 (3) A general devise charged on any specific property or fund is considered, for purposes of
 25 abatement, property specifically devised to the extent of the value of the thing on which it is
 26 charged. Upon the failure or insufficiency of the thing on which it is charged, it is considered a
 27 general devise to the extent of the failure or insufficiency.

28 (4) Abatement within each classification is in proportion to the amounts of property each of the
 29 distributees would have received had full distribution of the property been made in accordance with
 30 the terms of the will.

31 (5) Persons to whom the will gives tangible personal property not used in trade, agriculture or
 32 other business are not required to contribute from that property unless the particular devise forms
 33 a substantial amount of the total estate and the court specifically orders contribution because of the
 34 devise.

35 (6) When the subject matter of a preferred devise is sold or used incident to administration,
 36 abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in
 37 the remaining assets.

38 **SECTION 74.** ORS 124.020 is amended to read:

39 124.020. (1) When a petitioner or guardian petitioner files a petition under ORS 124.010, the
 40 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed
 41 or on the following judicial day. Upon a showing that the elderly person or person with disabilities
 42 named in the petition has been the victim of abuse committed by the respondent within 180 days
 43 preceding the filing of the petition and that there is an immediate and present danger of further
 44 abuse to the elderly person or person with disabilities, the court shall, if requested by the petitioner
 45 or guardian petitioner, order, for a period of one year or until the order is withdrawn or amended,

1 whichever is sooner:

2 (a) That the respondent be required to move from the residence of the elderly person or person
3 with disabilities, if in the sole name of the elderly person or person with disabilities or if jointly
4 owned or rented by the elderly person or person with disabilities and the respondent, or if the parties
5 are married to each other **or in a reciprocal beneficiary agreement, as defined in section**
6 **1 of this 2007 Act;**

7 (b) That a peace officer accompany the party who is leaving or has left the parties' residence
8 to remove essential personal effects of the party;

9 (c) That the respondent be restrained from abusing, intimidating, molesting, interfering with or
10 menacing the elderly person or person with disabilities, or attempting to abuse, intimidate, molest,
11 interfere with or menace the elderly person or person with disabilities;

12 (d) That the respondent be restrained from entering, or attempting to enter, on any premises
13 when it appears to the court that such restraint is necessary to prevent the respondent from abus-
14 ing, intimidating, molesting, interfering with or menacing the elderly person or person with disabili-
15 ties;

16 (e) That the respondent be:

17 (A) Restrained, effective on a date not less than 150 days from the date of the order, from
18 mailing the elderly person or person with disabilities any sweepstakes promotion;

19 (B) Required to remove the elderly person or person with disabilities from the respondent's
20 sweepstakes promotion mailing list or place the elderly person or person with disabilities on a list
21 of persons to whom sweepstakes promotions may not be mailed; and

22 (C) Required to promptly refund any payment received in any form from the elderly person or
23 person with disabilities after the date the order is entered by the court; or

24 (f) Except as provided in subsection (2) of this section, other relief that the court considers
25 necessary to provide for the safety and welfare of the elderly person or person with disabilities.

26 (2)(a) If the court finds that the elderly person or person with disabilities has been the victim
27 of abuse as defined in ORS 124.005 (1)(g), the court may order only relief that the court considers
28 necessary to prevent or remedy the wrongful taking or appropriation of the money or property of
29 the elderly person or person with disabilities, including but not limited to:

30 (A) Directing the respondent to refrain from exercising control over the money or property of
31 the elderly person or person with disabilities;

32 (B) Requiring the respondent to return custody or control of the money or property of the el-
33 derly person or person with disabilities to the elderly person or person with disabilities;

34 (C) Requiring the respondent to follow the instructions of the guardian or conservator of the
35 elderly person or person with disabilities; or

36 (D) Prohibiting the respondent from transferring the money or property of the elderly person
37 or person with disabilities to any person other than the elderly person or person with disabilities.

38 (b) The court may not use a restraining order issued under ORS 124.005 to 124.040:

39 (A) To allow any person other than the elderly person or person with disabilities to assume re-
40 sponsibility for managing any of the money or property of the elderly person or person with disa-
41 bilities; or

42 (B) For relief that is more appropriately obtained in a protective proceeding filed under ORS
43 chapter 125 including, but not limited to, giving control and management of the financial accounts
44 or property of the elderly person or person with disabilities for any purpose other than the relief
45 granted under paragraph (a) of this subsection.

(3) The showing required under subsection (1) of this section may be made by testimony of:

- (a) The elderly person or person with disabilities;
- (b) The guardian or guardian ad litem of the elderly person or person with disabilities;
- (c) Witnesses to the abuse; or
- (d) Adult protective services workers who have conducted an investigation.

(4) Immediate and present danger under this section includes but is not limited to situations in which the respondent has recently threatened the elderly person or person with disabilities with additional abuse.

(5) When a guardian petitioner files a petition on behalf of an elderly person or a person with disabilities, the guardian petitioner shall provide information about the elderly person or person with disabilities and not about the guardian petitioner where the petition, order or related forms described in subsection (6) of this section require information about the petitioner.

(6) An instruction brochure shall be available from the clerk of the court explaining the rights set forth under ORS 124.005 to 124.040. The petition, order and related forms shall be available from the clerk of the court and shall be in substantially the following form:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

_____,) PETITION FOR
 Petitioner) RESTRAINING ORDER
 (your name)) TO PREVENT ABUSE
) OF ELDERLY
) PERSONS OR
) PERSONS WITH
 vs.) DISABILITIES
)
) NO. _____
 _____,)
 Respondent)
 (person to be)
 restrained))

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the Court and the Sheriff can reach you if necessary.

ATTACH ADDITIONAL PAGES
IF NECESSARY.

I am the Petitioner and I state that the following information is true:

1 I am a resident of _____ County, Oregon.

2

3 Respondent is a resident of _____ County, Oregon.

4

5 I am either 65 years of age or older (I am _____ years of age) or I am a person with disabilities
6 (CIRCLE THE ONE THAT DESCRIBES YOU).

7 1. CHECK AND FILL OUT ANY SECTION(S) that apply to you and respondent:

8 ___ A. Respondent and I have been living together since _____, ____ (year).

9 ___ B. Respondent and I lived together from _____, ____ (year), to _____,
10 ____ (year).

11 ___ C. I have been under the care of respondent since _____, ____ (year).

12 ___ D. I was under the care of respondent from _____, ____ (year), to _____,
13 ____ (year).

14 ___ E. Respondent has sent me sweepstakes promotions.

15 ___ F. None of the above.

16 2. To qualify for a restraining order, respondent must have done one or more of the following:

17 Within the last 180 days, respondent has:

18 ___ A. Caused me physical injury by other than accidental means.

19 ___ B. Attempted to cause me physical injury by other than accidental means.

20 ___ C. Placed me in fear of immediate serious physical injury.

21 ___ D. Caused me physical harm by withholding services necessary to maintain my health and
22 well-being.

23 ___ E. Abandoned or deserted me by withdrawing or neglecting to perform duties and obli-
24 gations.

25 ___ F. Used derogatory or inappropriate names, phrases or profanity, ridicule, harassment,
26 coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct
27 of such a nature as to place me in fear of significant physical or emotional harm.

28 ___ G. Sent me sweepstakes promotions, and I feel the need for the court's assistance to
29 protect me from further expense. I am an elderly person or a person with disabilities.
30 In the past year, I spent more than \$500 on sweepstakes promotions that I received in
31 the United States mail.

32 ___ H. Wrongfully taken or appropriated my money or property, or alarmed me by conveying
33 a threat to me that my money or property would be wrongfully taken or appropriated,
34 which I reasonably believed would be carried out.

35 ___ I. Had nonconsensual sexual contact with me or sexual contact to which I was incapable
36 of consenting.

37 NOTICE TO PETITIONER: Sweepstakes companies are allowed up to 150 days to stop sending
38 you sweepstakes entry materials. For a time after the court issues a restraining order, you may re-
39 ceive additional solicitations from respondent. However, beginning on the date the restraining order
40 is issued, the respondent must immediately reject any further orders from you and must return any
41 money you send to the company after the date the restraining order is issued.

42

43 3. Any period of time after the abuse occurred during which respondent was incarcerated (in
44 jail or prison) or lived more than 100 miles from your home is not counted as part of the
45 180-day period, and you may still be eligible for a restraining order.

1 Respondent was incarcerated from _____, ____ (year), to
2 _____, ____ (year).

3 Respondent lived more than 100 miles from my home from _____, ____ (year), to
4 _____, ____ (year).

5

6 4. Did the abuse happen within the last 180 days not including the times respondent was
7 incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No

8

9 Date and location of abuse:
10 _____
11 _____

12 How did respondent injure or threaten to injure you?
13 _____
14 _____
15 _____

16

17 5. Are there incidents other than those described in question 4 above, in which respondent in-
18 jured or threatened to injure you? If yes, explain:

19 _____
20 _____
21 _____

22

23 6. The abuse I am complaining about was witnessed by _____ (affidavit attached).
24 Other persons with knowledge of the abuse are _____ (affidavit attached).

25

26 7. I am in immediate and present danger of further abuse by respondent because:

27 _____
28 _____
29 _____

30

31 8. In any of the above incidents:

32

33 Were drugs, alcohol or weapons involved? Yes No

34 Did you need medical help? Yes No

35 Were the police or the courts involved? Yes No

36

37 If you have circled yes to any of the above questions, explain:

38 _____
39 _____

40

41 9. A. There (is) (is not) another Elderly Persons and Persons With Disabilities Abuse Pre-
42 ventation Act or Abuse Prevention Act proceeding pending between respondent and me.
43 It is filed in _____ (County), _____ (State), and I am (Petitioner) or (Re-
44 spondent) in that case.

45 The case number of the case is: _____

1 B. There (is) (is not) another lawsuit pending between respondent and me for divorce,
2 annulment or legal separation.

3 If yes, type of lawsuit: _____

4 It is filed in _____ (County), _____ (State).

5 C. There (is) (is not) a protective proceeding filed in _____ (County), _____
6 (State).

7 10. Respondent may be required to move from your residence if it is in your sole name, or if it
8 is jointly owned or rented by you and respondent, or if you and respondent are married **or**
9 **in a reciprocal beneficiary agreement.**

10 I (do) (do not) want respondent to move from my residence.

11 My residence is:

12 Owned Leased Rented

13 By: _____

14

15 PETITIONER ASKS THE COURT TO GRANT THE RELIEF INDICATED IN THE "PETITIONER'S
16 REQUEST" COLUMN OF THE PROPOSED RESTRAINING ORDER, WHICH IS ATTACHED.

17

18

19

20

PETITIONER MUST NOTIFY THE COURT
OF ANY CHANGE OF ADDRESS.

21

22

23

ALL NOTICES OF HEARING WILL
BE SENT TO THIS ADDRESS
AND DISMISSALS MAY BE
ENTERED IF YOU DO NOT APPEAR
AT A SCHEDULED HEARING.

24

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PETITIONER

35

36

STATE OF OREGON)

37

) ss.

38

County of _____)

39

40

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

41

42

NOTARY PUBLIC FOR OREGON

43

My commission expires: _____

44

45

RELEVANT DATA

1 RESPONDENT _____
 2 Sex _____ Telephone # _____
 3 Residence Address _____
 4 City/State/Zip _____
 5 County _____
 6 Birthdate _____ Age _____
 7 Race _____
 8 Height _____ Weight _____
 9 Eye Color _____
 10 Hair Color _____

11
 12 PETITIONER (you) _____ GUARDIAN PETITIONER
 13 Sex _____ *Telephone # _____ Name _____
 14 *Residence Address _____ Address _____
 15 City/State/Zip _____ _____
 16 County _____ Telephone # _____
 17 Birthdate _____ Age _____
 18 Race _____
 19 Height _____ Weight _____
 20 Eye Color _____
 21 Hair Color _____

22 *If you wish to have your residential address or telephone number withheld from re-
 23 spondent, use a contact address and telephone number so the Court and the Sheriff can
 24 reach you if necessary.

25
 26 PLEASE FILL OUT THIS INFORMATION
 27 TO AID IN SERVICE OF
 28 THE RESTRAINING ORDER
 29

30 Where is respondent most likely to be located?

31 Residence Hours _____
 32 Employment Hours _____
 33 Address: _____
 34 _____
 35 Employment Hours _____
 36 Address: _____
 37 _____

38
 39 Description of vehicle _____
 40 _____

41
 42 Does respondent have any weapons or access to weapons? Explain:
 43 _____
 44 _____
 45 _____

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Has respondent ever been arrested for or convicted of a violent crime? Explain:

Is there anything about respondent's character, past behavior or the present situation that indicates that respondent may be a danger to self or other? Explain:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)
Petitioner)
(your name)) RESTRAINING ORDER
) TO PREVENT ABUSE
) OF ELDERLY PERSONS
vs.) OR PERSONS WITH
) DISABILITIES
)
) NO. _____
_____,)
Respondent)
(person to be restrained))
)

TO THE RESPONDENT:
VIOLATION OF THIS RESTRAINING ORDER
MAY RESULT IN YOUR ARREST AND IN
CIVIL AND/OR CRIMINAL PENALTIES.
REVIEW THIS ORDER CAREFULLY.
EACH PROVISION MUST BE OBEYED.
SEE YOUR RIGHTS TO A HEARING.

The Court, having reviewed the petition, makes the following findings:

Judge's Initials

- ___ Petitioner been abused by respondent as defined by ORS 124.005;
- ___ The abuse of petitioner by respondent occurred within the last 180 days as provided in ORS

1 124.010;

2 — There is an immediate and present danger of further abuse to petitioner.

3

4 IT IS HEREBY ORDERED that:

	<u>Petitioner's Request</u>	<u>Judge's Initials</u>
--	-----------------------------	-------------------------

6	<input type="checkbox"/>	1.	Respondent is restrained (prohibited) from intimidating,	_____
7			molesting, interfering with or menacing petitioner, or	
8			attempting to intimidate, molest, interfere with or menace	
9			petitioner.	

10	<input type="checkbox"/>	2.	Respondent is restrained (prohibited) from entering, or	_____
11			attempting to enter:	

12 (Include names and address unless withheld for safety reasons.)

13	<input type="checkbox"/>	Petitioner's residence.		_____
----	--------------------------	-------------------------	--	-------

14	<input type="checkbox"/>	Petitioner's business or place of employment.		_____
----	--------------------------	---	--	-------

15	<input type="checkbox"/>	Petitioner's school.		_____
----	--------------------------	----------------------	--	-------

16	<input type="checkbox"/>	Other locations.		_____
----	--------------------------	------------------	--	-------

17	<input type="checkbox"/>	3.	Respondent is restrained (prohibited) from:	
18	<input type="checkbox"/>		Contacting, or attempting to contact, petitioner by telephone.	_____
19	<input type="checkbox"/>		Contacting, or attempting to contact, petitioner by mail.	_____

20	<input type="checkbox"/>	4.	Respondent shall move from and not return to the re-	_____
21			sidence located at _____ except with a	
22			peace officer in order to remove essential personal effects	
23			of the respondent, including, but not limited to:	
24			clothing, toiletries, medications, Social Security cards,	
25			birth certificates, identification and tools of the trade.	

26	<input type="checkbox"/>	5.	A peace officer shall accompany the petitioner to the	_____
27			parties' residence in order to remove essential personal	
28			effects of petitioner, including, but not limited to:	
29			clothing, toiletries, medications, Social Security cards,	
30			birth certificates, identification and tools of the trade.	

31	<input type="checkbox"/>	6.	Beginning on a date not less than 150	_____
32			days from the date of this order, the respondent shall	
33			not mail the petitioner any further sweepstakes promotions.	

34	<input type="checkbox"/>	7.	Respondent shall remove the petitioner from	_____
35			the respondent's sweepstakes promotion mailing list or	
36			shall place the petitioner on the respondent's list of	
37			persons to whom sweepstakes promotions may not be mailed.	

38	<input type="checkbox"/>	8.	Respondent shall refund any payment received	_____
39			in any form from the petitioner after the date	
40			this order is entered by the court.	

41	<input type="checkbox"/>	9.	Other relief: _____	_____
42			_____	
43			_____	

44	<input type="checkbox"/>	10.	No further service is necessary because respondent	_____
45			appeared in person before the Court.	

1 IT IS FURTHER ORDERED that:

2 SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000
3 unless otherwise specified.

4 Other Amount (\$)

5
6 THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR
7 A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR
8 SUPERSEDED, WHICHEVER OCCURS FIRST.

9
10 DATED this _____ day of _____, 2_____.

11
12 _____
13 CIRCUIT COURT JUDGE (signature)

14
15 _____
16 CIRCUIT COURT JUDGE (printed)

17
18
19 IN THE CIRCUIT COURT OF
20 THE STATE OF OREGON
21 FOR THE COUNTY OF _____

22
23)
24 _____,) NO. _____
25 Petitioner,)
26 vs.) AFFIDAVIT OF PROOF
27 _____,) OF SERVICE
28 Respondent.)
29)
30)
31 STATE OF)
32 OREGON)
33) ss.
34 County of _____)

35 I am a resident of the State of Oregon. I am a competent person 18 years of age or older. I am
36 not an attorney for or a party to this case, or an officer, director or employee of any party to this
37 case.

38 On the _____ day of _____, 2_____, I served the Restraining Order to Prevent Abuse of
39 Elderly Persons or Persons With Disabilities and the Petition for Restraining Order to Prevent
40 Abuse of Elderly Persons or Persons With Disabilities in this case personally upon the above-named
41 respondent in _____ County by delivering to the respondent a copy of those papers, each
42 of which was certified to be a true copy of each original.

43 _____
44 Signature of _____
45

1 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

2
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4
5
6
7

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

8 IN THE CIRCUIT COURT OF
9 THE STATE OF OREGON
10 FOR THE COUNTY OF _____

11
12 _____)
13 _____) NO. _____
14 Petitioner,)
15 vs.) MOTION AND ORDER
16 _____) OF DISMISSAL
17 Respondent.)
18 _____)

19 Comes now petitioner, _____, and moves this Court for an order allowing the voluntary
20 withdrawal and dismissal of the Restraining Order on file herein.

21 _____
22 _____ Petitioner

23 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

24
25
26
27
28
29

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

27 IT IS SO ORDERED this _____ day of _____, 2_____.

28 _____
29 JUDGE

30
31
32 IN THE CIRCUIT COURT OF
33 THE STATE OF OREGON
34 FOR THE COUNTY OF _____

35
36 _____)
37 (D.O.B. _____)) NOTICE TO RESPONDENT
38 Petitioner,) (Elderly Persons and
39 _____) Persons With Disabilities
40 _____) Abuse Prevention Act)
41 _____)
42 and _____) NO. _____
43 _____)
44 _____)
45 (D.O.B. _____))

1 Respondent.)

2 THIS FORM MUST BE
3 ATTACHED TO SERVICE COPY
4 OF RESTRAINING ORDER
5

6 TO RESPONDENT: A TEMPORARY RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT
7 WHICH AFFECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFEC-
8 TIVE IMMEDIATELY. IF YOU WISH TO CONTEST THE CONTINUATION OF THIS ORDER,
9 YOU MUST COMPLETE THIS FORM AND MAIL OR DELIVER IT TO:

10
11 REQUESTS FOR HEARING MUST BE MADE WITHIN 30 DAYS AFTER YOU RECEIVE THE
12 ORDER. YOU MUST INCLUDE YOUR ADDRESS AND TELEPHONE NUMBER WITH YOUR
13 REQUEST FOR A HEARING. THE HEARING WILL BE HELD WITHIN 21 DAYS. AT THE
14 HEARING, A JUDGE WILL DECIDE WHETHER THE ORDER SHOULD BE CANCELED OR
15 CHANGED. THE ONLY PURPOSE OF THIS HEARING WILL BE TO DETERMINE IF THE
16 TERMS OF THE COURT'S TEMPORARY ORDER SHOULD BE CANCELED, CHANGED OR EX-
17 TENDED.

18
19 Keep in mind that this order remains in effect until the court that issued the order modifies or
20 dismisses it. If you are arrested for violating this order, the security amount (bail) is \$5,000, unless
21 a different amount is ordered by the court. Violation of this order constitutes contempt of court
22 and is punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is
23 greater, a jail term of up to six months, or both. Other sanctions may be imposed.

24 _____
25
26 REQUEST FOR HEARING
27

28 I am the Respondent in the above-referenced action and I request a hearing to contest all or part
29 of the order as follows (mark one or more):

- 30 The order restraining me from contacting, or attempting to contact, the petitioner.
31 Other _____
32

33 I (will) (will not) be represented by an attorney at the hearing.
34

35 Notice of the time and place of the hearing can be mailed to me at the address below my signature.
36

37 Date: _____
38

39 _____
40 SIGNATURE OF RESPONDENT
41

42 _____
43 _____
44 _____
45 ADDRESS

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TELEPHONE NUMBER

(7) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court.

(b) The county sheriff shall serve the respondent personally unless the petitioner or guardian petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 124.030.

(c) A respondent accused of committing abuse by means of a sweepstakes promotion may be served:

(A) Personally;

(B) By mailing certified true copies of the petition and order by certified mail to the address to which the elderly person or person with disabilities would have sent the payment for goods or services promoted in the sweepstakes promotion had the elderly person or person with disabilities been ordering the goods or services; or

(C) In the manner directed by the court.

(d) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 124.005 to 124.040.

(8) If the county sheriff:

(a) Determines that the order and petition are incomplete, the order and petition shall be returned to the clerk of the court. The clerk of the court shall notify the petitioner or guardian petitioner, at the address provided by the petitioner or guardian petitioner, of the error or omission.

(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner or guardian petitioner, at the address provided by the petitioner or guardian petitioner, that the documents have not been served. If the petitioner or guardian petitioner does not respond within 10 days, the county sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(9)(a) Within 30 days after a restraining order is served on the respondent under this section or within 30 days after notice is served on the elderly person or person with disabilities under ORS 124.024, the respondent, elderly person or person with disabilities may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court and shall be in substantially the form provided in subsection (6) of this section.

(b) If the respondent, elderly person or person with disabilities requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner or guardian petitioner of the date and time of such hearing, and shall supply the petitioner or guardian petitioner with a copy of the request for a hearing. The petitioner or guardian petitioner shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing is not limited to the issues raised in the request for hearing form and may include testimony from witnesses to the abuse and adult protective services workers. The hearing may

1 be held in person or by telephone. If the respondent, elderly person or person with disabilities seeks
 2 to raise an issue at the hearing not previously raised in the request for hearing form, the petitioner
 3 or guardian petitioner is entitled to a reasonable continuance for the purpose of preparing a re-
 4 sponse to the issue.

5 (d) The court shall exercise its discretion in a manner that protects the elderly person or person
 6 with disabilities from traumatic confrontation with the respondent.

7 **SECTION 75.** ORS 124.100 is amended to read:

8 124.100. (1) As used in ORS 124.100 to 124.140:

9 (a) "Elderly person" means a person 65 years of age or older.

10 (b) "Financially incapable" has the meaning given that term in ORS 125.005.

11 (c) "Incapacitated" has the meaning given that term in ORS 125.005.

12 (d) "Person with disabilities" means a person with a physical or mental impairment that:

13 (A) Is likely to continue without substantial improvement for no fewer than 12 months or to
 14 result in death; and

15 (B) Prevents performance of substantially all the ordinary duties of occupations in which an
 16 individual not having the physical or mental impairment is capable of engaging, having due regard
 17 to the training, experience and circumstances of the person with the physical or mental impairment.

18 (e) "Vulnerable person" means:

19 (A) An elderly person;

20 (B) A financially incapable person;

21 (C) An incapacitated person; or

22 (D) A person with disabilities who is susceptible to force, threat, duress, coercion, persuasion
 23 or physical or emotional injury because of the person's physical or mental impairment.

24 (2) A vulnerable person who suffers injury, damage or death by reason of physical abuse or fi-
 25 nancial abuse may bring an action against any person who has caused the physical or financial
 26 abuse or who has permitted another person to engage in physical or financial abuse. The court shall
 27 award the following to a plaintiff who prevails in an action under this section:

28 (a) An amount equal to three times all economic damages, as defined in ORS 31.710, resulting
 29 from the physical or financial abuse, or \$500, whichever amount is greater.

30 (b) An amount equal to three times all noneconomic damages, as defined by ORS 31.710, result-
 31 ing from the physical or financial abuse.

32 (c) Reasonable attorney fees incurred by the plaintiff.

33 (d) Reasonable fees for the services of a conservator or guardian ad litem incurred by reason
 34 of the litigation of a claim brought under this section.

35 (3) An action may be brought under this section only by:

36 (a) A vulnerable person;

37 (b) A guardian, conservator or attorney-in-fact for a vulnerable person;

38 (c) A personal representative for the estate of a decedent who was a vulnerable person at the
 39 time the cause of action arose; or

40 (d) A trustee for a trust on behalf of the trustor or the spouse **or reciprocal beneficiary, as**
 41 **defined in section 1 of this 2007 Act**, of the trustor who is a vulnerable person.

42 (4) An action may be brought under this section only for physical abuse described in ORS
 43 124.105 or for financial abuse described in ORS 124.110.

44 (5) An action may be brought under this section against a person for permitting another person
 45 to engage in physical or financial abuse if the person knowingly acts or fails to act under circum-

stances in which a reasonable person should have known of the physical or financial abuse.

(6) A person commencing an action under this section must serve a copy of the complaint on the Attorney General within 30 days after the action is commenced.

SECTION 76. ORS 125.060 is amended to read:

125.060. (1) The notices required by this section must be given to all persons whose identities and addresses can be ascertained in the exercise of reasonable diligence by the person required to give the notice.

(2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other protective order must be given by the petitioner to the following persons:

(a) The respondent, if the respondent has attained 14 years of age.

(b) The spouse[,] **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, parents and adult children of the respondent.

(c) If the respondent does not have a spouse, **reciprocal beneficiary**, parent or adult child, the person or persons most closely related to the respondent.

(d) Any person who is cohabiting with the respondent and who is interested in the affairs or welfare of the respondent.

(e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the respondent by a court of any state, any trustee for a trust established by or for the respondent, any person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and any person acting as attorney-in-fact for the respondent under a power of attorney.

(f) If the respondent is a minor, the person who has exercised principal responsibility for the care and custody of the respondent during the 60-day period before the filing of the petition.

(g) If the respondent is a minor and has no living parents, any person nominated to act as fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

(h) If the respondent is receiving moneys paid or payable by the United States through the Department of Veterans Affairs, a representative of the United States Department of Veterans Affairs regional office that has responsibility for the payments to the protected person.

(i) If the respondent is receiving moneys paid or payable for public assistance provided under ORS chapter 411 or 414 by the State of Oregon through the Department of Human Services, a representative of the department.

(j) If the respondent is committed to the legal and physical custody of the Department of Corrections, the Attorney General and the superintendent or other officer in charge of the facility in which the respondent is confined.

(k) If the respondent is a foreign national, the consulate for the respondent's country.

(L) Any other person that the court requires.

(3) Notice of a motion for the termination of the protective proceedings, for removal of a fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's actions or for protective orders in addition to those sought in the petition must be given by the person making the motion to the following persons:

(a) The protected person, if the protected person has attained 14 years of age.

(b) Any person who has filed a request for notice in the proceedings.

(c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the protected person.

(d) If the protected person is receiving moneys paid or payable by the United States through the Department of Veterans Affairs, a representative of the United States Department of Veterans Af-

1 fairs regional office that has responsibility for the payments to the protected person.

2 (e) If the protected person is committed to the legal and physical custody of the Department of
3 Corrections, the Attorney General and the superintendent or other officer in charge of the facility
4 in which the protected person is confined.

5 (f) Any other person that the court requires.

6 (4) A request for notice under subsection (3)(b) of this section must be in writing and include
7 the name, address and phone number of the person requesting notice. A copy of the request must
8 be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has
9 been appointed. The original request must be filed with the court. The person filing the request must
10 pay the fee specified by ORS 21.310 (5).

11 (5) A person who files a request for notice in the proceedings in the manner provided by sub-
12 section (4) of this section is entitled to receive notice from the fiduciary of any motion specified in
13 subsection (3) of this section and of any other matter to which a person listed in subsection (2) of
14 this section is entitled to receive notice under a specific provision of this chapter.

15 (6) If the Department of Human Services is nominated as guardian for the purpose of consenting
16 to the adoption of a minor, the notice provided for in this section must also be given to the minor's
17 brothers, sisters, aunts, uncles and grandparents.

18 (7) In addition to the requirements of subsection (2) of this section, notice of the filing of a pe-
19 tition for the appointment of a guardian for a person who is alleged to be incapacitated must be
20 given by the petitioner to the following persons:

21 (a) Any attorney who is representing the respondent in any capacity.

22 (b) If the respondent is a resident of a nursing home or residential facility, or if the person
23 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-
24 cility, the office of the Long Term Care Ombudsman.

25 (c) If the respondent is a resident of a mental health treatment facility or a residential facility
26 for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends
27 to place the respondent in such a facility, the system described in ORS 192.517 (1).

28 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding
29 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this
30 section must be given by the person making the motion to the following persons:

31 (a) Any attorney who represented the protected person at any time during the protective pro-
32 ceeding.

33 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion
34 seeks authority to place the protected person in a nursing home or residential facility, the office of
35 the Long Term Care Ombudsman.

36 (c) If the protected person is a resident of a mental health treatment facility or a residential
37 facility for individuals with developmental disabilities, or if the motion seeks authority to place the
38 protected person in such a facility, the system described in ORS 192.517 (1).

39 (9) A respondent or protected person may not waive the notice required under this section.

40 (10) The requirement that notice be served on an attorney for a respondent or protected person
41 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney
42 receiving the notice to represent the respondent or protected person in the protective proceeding.

43 **SECTION 77.** ORS 125.200 is amended to read:

44 125.200. The court shall appoint the most suitable person who is willing to serve as fiduciary
45 after giving consideration to the specific circumstances of the respondent, any stated desire of the

1 respondent, the relationship by blood, [or] marriage **or reciprocal beneficiary agreement, as de-**
 2 **defined in section 1 of this 2007 Act**, of the person nominated to be fiduciary to the respondent, any
 3 preference expressed by a parent of the respondent, the estate of the respondent and any impact on
 4 ease of administration that may result from the appointment.

5 **SECTION 78.** ORS 125.221 is amended to read:

6 125.221. (1) A fiduciary may employ a person in which the fiduciary has a pecuniary or financial
 7 interest only after disclosing the nature of the interest to the court if the person is employed for the
 8 purpose of providing direct services to the protected person or for the purpose of providing services
 9 to the fiduciary that directly affect the protected person. Before the person is employed, the
 10 fiduciary must provide the court with the following:

11 (a) A full and accurate disclosure of the pecuniary or financial interest of the fiduciary in the
 12 person.

13 (b) A full and accurate disclosure of the services to be performed by the person.

14 (c) A full and accurate disclosure of the anticipated costs to the estate in using the person to
 15 provide the services.

16 (2) In addition to the disclosures required by subsection (1) of this section, after making such
 17 inquiry as the court deems appropriate, the court may require additional disclosures for the purpose
 18 of assessing whether the pecuniary or financial interest of the fiduciary could compromise or oth-
 19 erwise affect decisions made by the fiduciary in carrying out the duties of the fiduciary.

20 (3) The continuing authority of a court over protective proceedings under ORS 125.025 includes
 21 the authority to supervise and inquire into:

22 (a) Whether the fiduciary by employing a person in which the fiduciary has a pecuniary or fi-
 23 nancial interest is acting reasonably to accomplish the purposes for which the fiduciary was ap-
 24 pointed.

25 (b) Whether the employment of the person by the fiduciary is necessary to provide the services
 26 efficiently and effectively.

27 (c) The extent that the pecuniary or financial interest of the person employed by the fiduciary
 28 could compromise or otherwise affect the decisions made by the fiduciary in carrying out the duties
 29 of the fiduciary.

30 (4) In addition to the disclosures required by subsections (1) and (2) of this section, prior court
 31 approval is required for payment of compensation to a person who is the spouse, **reciprocal bene-**
 32 **beneficiary as defined in section 1 of this 2007 Act**, parent or child of the fiduciary or to a business
 33 entity in which the spouse, **reciprocal beneficiary**, parent or child of the fiduciary has an owner-
 34 ship interest and that is employed by the fiduciary to provide direct services to a protected person
 35 or to provide services to the fiduciary that directly affect the protected person. The fiduciary must
 36 provide the court with the following information:

37 (a) The specific services to be provided;

38 (b) The qualifications of the person providing the services;

39 (c) The rate of compensation charged by the person; and

40 (d) Any other information relevant to either the person providing the services or the services
 41 being provided to the protected person, including, but not limited to, loss of a professional license
 42 or a criminal conviction.

43 (5) The court may not approve any fees or expenses requested by the fiduciary to the extent that
 44 the combined fees of the fiduciary and the person employed by the fiduciary under this section ex-
 45 ceed the amount the court finds would have been appropriate for payment to the fiduciary if the

1 fiduciary had provided the services alone.

2 (6) A fiduciary has a pecuniary or financial interest in another person for the purposes of this
 3 section if the fiduciary, or any person related to, employed by or affiliated with the fiduciary has:

- 4 (a) Any direct or indirect ownership interest in the person;
- 5 (b) A business association with the person; or
- 6 (c) Any financial involvement with the person.

7 (7) A fiduciary has a pecuniary or financial interest in another person for the purposes of this
 8 section if the fiduciary, or any person related to, employed by or affiliated with the fiduciary, re-
 9 ceives remuneration or any other financial benefit from the person, without regard to whether that
 10 remuneration or benefit is directly tied to the services provided to the fiduciary or protected person.

11 (8) In addition to the grounds specified in subsections (6) and (7) of this section, a fiduciary has
 12 a pecuniary or financial interest in another person for the purposes of this section if the relationship
 13 between the fiduciary and other person is such that the relationship could compromise or otherwise
 14 affect decisions made by the fiduciary in carrying out the duties of the fiduciary.

15 (9) A fiduciary employs a person for the purposes of this section whether the person is engaged
 16 as an employee or as an independent contractor.

17 **SECTION 79.** ORS 125.320 is amended to read:

18 125.320. (1) A guardian may not authorize the sterilization of the protected person.

19 (2) A guardian may not use funds from the protected person's estate for room and board that
 20 the guardian or guardian's spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**,
 21 parent or child have furnished the protected person unless the charge for the service is approved
 22 by order of the court before the payment is made.

23 (3)(a) Before a guardian may place an adult protected person in a mental health treatment fa-
 24 cility, a nursing home or other residential facility, the guardian must file a statement with the court
 25 informing the court that the guardian intends to make the placement.

26 (b) Notice of the statement of intent must be given in the manner provided by ORS 125.065 to
 27 the persons specified in ORS 125.060 (3).

28 (c) In addition to the requirements of paragraph (b) of this subsection, notice of the statement
 29 of intent must be given in the manner provided by ORS 125.065 by the guardian to the following
 30 persons:

31 (A) Any attorney who represented the protected person at any time during the protective pro-
 32 ceeding.

33 (B) If the protected person is a resident of a nursing home or residential facility, or if the notice
 34 states the intention to place the protected person in a nursing home or residential facility, the office
 35 of the Long Term Care Ombudsman.

36 (C) If the protected person is a resident of a mental health treatment facility or a residential
 37 facility for individuals with developmental disabilities, or if the notice states the intention to place
 38 the protected person in such a facility, the system described in ORS 192.517 (1).

39 (d) In addition to the requirements of ORS 125.070 (1), the notice given to the protected person
 40 must clearly indicate the manner in which the protected person may object to the proposed place-
 41 ment.

42 (e) The guardian may thereafter place the adult protected person in a mental health treatment
 43 facility, a nursing home or other residential facility without further court order. If an objection is
 44 made in the manner provided by ORS 125.075, the court shall schedule a hearing on the objection
 45 as soon as practicable.

1 (f) The requirement that notice be served on an attorney for a protected person under paragraph
 2 (c)(A) of this subsection does not impose any responsibility on the attorney receiving the notice to
 3 represent the protected person in the protective proceeding.

4 **SECTION 80.** ORS 125.450 is amended to read:

5 125.450. Any sale or encumbrance to a conservator, the spouse, **reciprocal beneficiary as de-**
 6 **defined in section 1 of this 2007 Act**, agent or attorney of the conservator, or any corporation or
 7 trust in which the conservator has a substantial beneficial interest, or any transaction that is oth-
 8 erwise affected by a substantial conflict of interest is voidable unless the transaction is approved
 9 by the court after the filing of a motion with the court seeking approval of the transaction.

10 **SECTION 81.** ORS 125.455 is amended to read:

11 125.455. (1) A protected person, if mentally competent, may make wills, change beneficiaries of
 12 life insurance and annuity policies and exercise any power of appointment or any elective right to
 13 share in the estate of a deceased spouse **or deceased reciprocal beneficiary, as defined in section**
 14 **1 of this 2007 Act.**

15 (2) Except as provided in this section and ORS 125.420, a protected person for whom a
 16 conservator has been appointed cannot convey or encumber the estate of the protected person or
 17 make any contract or election affecting the estate of the protected person.

18 **SECTION 82.** ORS 127.515 is amended to read:

19 127.515. (1) An advance directive may be executed by a resident or nonresident adult of this
 20 state in the manner provided by ORS 127.505 to 127.660 and 127.995.

21 (2) A power of attorney for health care must be in the form provided by Part B of the advance
 22 directive form set forth in ORS 127.531, or must be in the form provided by ORS 127.530 (1991 Edi-
 23 tion).

24 (3) A health care instruction must be in the form provided by Part C of the advance directive
 25 form set forth in ORS 127.531, or must be in the form provided by ORS 127.610 (1991 Edition).

26 (4) An advance directive must reflect the date of the principal's signature. To be valid, an ad-
 27 vance directive must be witnessed by at least two adults as follows:

28 (a) Each witness shall witness either the signing of the instrument by the principal or the
 29 principal's acknowledgment of the signature of the principal.

30 (b) Each witness shall make the written declaration as set forth in the form provided in ORS
 31 127.531.

32 (c) One of the witnesses shall be a person who is not:

33 (A) A relative of the principal by blood, marriage, **reciprocal beneficiary agreement as de-**
 34 **defined in section 1 of this 2007 Act** or adoption;

35 (B) A person who at the time the advance directive is signed would be entitled to any portion
 36 of the estate of the principal upon death under any will or by operation of law; or

37 (C) An owner, operator or employee of a health care facility where the principal is a patient
 38 or resident.

39 (d) The attorney-in-fact for health care or alternative attorney-in-fact may not be a witness. The
 40 principal's attending physician at the time the advance directive is signed may not be a witness.

41 (e) If the principal is a patient in a long term care facility at the time the advance directive is
 42 executed, one of the witnesses must be an individual designated by the facility and having any
 43 qualifications that may be specified by the Department of Human Services by rule.

44 (5) Notwithstanding subsections (2) to (4) of this section, an advance directive executed by an
 45 adult who at the time of execution resided in another state, in compliance with the formalities of

1 execution required by the laws of that state, the laws of the state where the principal was located
2 at the time of execution or the laws of this state, is validly executed for the purposes of ORS 127.505
3 to 127.660 and 127.995 and may be given effect in accordance with its provisions, subject to the laws
4 of this state.

5 **SECTION 83.** ORS 127.520 is amended to read:

6 127.520. (1) Except as provided in ORS 127.635 or as may be allowed by court order, the fol-
7 lowing persons may not serve as health care representatives if unrelated to the principal by blood,
8 marriage, **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption:

9 (a) The attending physician or an employee of the attending physician.

10 (b) An owner, operator or employee of a health care facility in which the principal is a patient
11 or resident, unless the health care representative was appointed before the principal’s admission to
12 the facility.

13 (2) A capable adult may disqualify any other person from making health care decisions for the
14 capable adult. The disqualification must be in writing and signed by the capable adult. The dis-
15 qualification must specifically designate those persons who are disqualified.

16 (3) A health care representative whose authority has been revoked by a court is disqualified.

17 (4) A health care provider who has actual knowledge of a disqualification may not accept a
18 health care decision from a disqualified individual.

19 (5) A person who has been disqualified from making health care decisions for a principal, and
20 who is aware of that disqualification, may not make health care decisions for the principal.

21 **SECTION 84.** ORS 127.531 is amended to read:

22 127.531. (1) The form of an advance directive executed by an Oregon resident must be the same
23 as the form set forth in this section to be valid. In any place in the form that requires the initials
24 of the principal, any mark by the principal is effective to indicate the principal’s intent.

25 (2) An advance directive shall be in the following form:

26 _____
27
28 ADVANCE DIRECTIVE

29 YOU DO NOT HAVE TO FILL OUT AND SIGN THIS FORM

30 PART A: IMPORTANT INFORMATION ABOUT THIS ADVANCE DIRECTIVE

31 This is an important legal document. It can control critical decisions about your health care.
32 Before signing, consider these important facts:

33 Facts About Part B

34 (Appointing a Health Care Representative)

35 You have the right to name a person to direct your health care when you cannot do so. This
36 person is called your “health care representative.” You can do this by using Part B of this form.
37 Your representative must accept on Part E of this form.

38 You can write in this document any restrictions you want on how your representative will make
39 decisions for you. Your representative must follow your desires as stated in this document or oth-
40 erwise made known. If your desires are unknown, your representative must try to act in your best
41 interest. Your representative can resign at any time.

42 Facts About Part C

43 (Giving Health Care Instructions)

44 You also have the right to give instructions for health care providers to follow if you become
45 unable to direct your care. You can do this by using Part C of this form.

Facts About Completing This Form

This form is valid only if you sign it voluntarily and when you are of sound mind. If you do not want an advance directive, you do not have to sign this form.

Unless you have limited the duration of this advance directive, it will not expire. If you have set an expiration date, and you become unable to direct your health care before that date, this advance directive will not expire until you are able to make those decisions again.

You may revoke this document at any time. To do so, notify your representative and your health care provider of the revocation.

Despite this document, you have the right to decide your own health care as long as you are able to do so.

If there is anything in this document that you do not understand, ask a lawyer to explain it to you.

You may sign PART B, PART C, or both parts. You may cross out words that don't express your wishes or add words that better express your wishes. Witnesses must sign PART D.

Print your NAME, BIRTHDATE AND ADDRESS here:

(Name)

(Birthdate)

(Address)

Unless revoked or suspended, this advance directive will continue for:

INITIAL ONE:

___ My entire life

___ Other period (___ Years)

PART B: APPOINTMENT OF HEALTH CARE REPRESENTATIVE

I appoint _____ as my health care representative. My representative's address is _____ and telephone number is _____.

I appoint _____ as my alternate health care representative. My alternate's address is _____ and telephone number is _____.

I authorize my representative (or alternate) to direct my health care when I can't do so.

NOTE: You may not appoint your doctor, an employee of your doctor, or an owner, operator or employee of your health care facility, unless that person is related to you by blood, marriage, **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption or that person was appointed before your admission into the health care facility.

1. Limits. Special Conditions or Instructions:

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INITIAL IF THIS APPLIES:

— I have executed a Health Care Instruction or Directive to Physicians. My representative is to honor it.

2. Life Support. “Life support” refers to any medical means for maintaining life, including procedures, devices and medications. If you refuse life support, you will still get routine measures to keep you clean and comfortable.

INITIAL IF THIS APPLIES:

— My representative MAY decide about life support for me. (If you don’t initial this space, then your representative MAY NOT decide about life support.)

3. Tube Feeding. One sort of life support is food and water supplied artificially by medical device, known as tube feeding.

INITIAL IF THIS APPLIES:

— My representative MAY decide about tube feeding for me. (If you don’t initial this space, then your representative MAY NOT decide about tube feeding.)

(Date)

SIGN HERE TO APPOINT A HEALTH CARE REPRESENTATIVE

(Signature of person making appointment)

PART C: HEALTH CARE INSTRUCTIONS

NOTE: In filling out these instructions, keep the following in mind:

- The term “as my physician recommends” means that you want your physician to try life support if your physician believes it could be helpful and then discontinue it if it is not helping your health condition or symptoms.
- “Life support” and “tube feeding” are defined in Part B above.
- If you refuse tube feeding, you should understand that malnutrition, dehydration and death will probably result.
- You will get care for your comfort and cleanliness, no matter what choices you make.

- You may either give specific instructions by filling out Items 1 to 4 below, or you may use the general instruction provided by Item 5.

Here are my desires about my health care if my doctor and another knowledgeable doctor confirm that I am in a medical condition described below:

1. Close to Death. If I am close to death and life support would only postpone the moment of my death:

A. INITIAL ONE:

- I want to receive tube feeding.
- I want tube feeding only as my physician recommends.
- I DO NOT WANT tube feeding.

B. INITIAL ONE:

- I want any other life support that may apply.
- I want life support only as my physician recommends.
- I want NO life support.

2. Permanently Unconscious. If I am unconscious and it is very unlikely that I will ever become conscious again:

A. INITIAL ONE:

- I want to receive tube feeding.
- I want tube feeding only as my physician recommends.
- I DO NOT WANT tube feeding.

B. INITIAL ONE:

- I want any other life support that may apply.
- I want life support only as my physician recommends.
- I want NO life support.

3. Advanced Progressive Illness. If I have a progressive illness that will be fatal and is in an advanced stage, and I am consistently and permanently unable to communicate by any means, swallow food and water safely, care for myself and recognize my family and other people, and it is very unlikely that my condition will substantially improve:

A. INITIAL ONE:

- I want to receive tube feeding.
- I want tube feeding only as my physician recommends.
- I DO NOT WANT tube feeding.

B. INITIAL ONE:

- I want any other life support that may apply.
- I want life support only as my physician recommends.
- I want NO life support.

1 4. Extraordinary Suffering. If life support would not help my medical condition and would
2 make me suffer permanent and severe pain:

3
4 A. INITIAL ONE:

- 5 — I want to receive tube feeding.
- 6 — I want tube feeding only as my physician recommends.
- 7 — I DO NOT WANT tube feeding.

8
9 B. INITIAL ONE:

- 10 — I want any other life support that may apply.
- 11 — I want life support only as my physician recommends.
- 12 — I want NO life support.

13
14 5. General Instruction.

15 INITIAL IF THIS APPLIES:

- 16 — I do not want my life to be prolonged by life support. I also do not want tube feeding as life
- 17 support. I want my doctors to allow me to die naturally if my doctor and another know-
- 18 ledgeable doctor confirm I am in any of the medical conditions listed in Items 1 to 4 above.

19
20 6. Additional Conditions or Instructions.

21 _____

22

23 _____

24

25 _____

26
27 (Insert description of what you want done.)

28
29 7. Other Documents. A “health care power of attorney” is any document you may have
30 signed to appoint a representative to make health care decisions for you.

31
32 INITIAL ONE:

- 33 — I have previously signed a health care power of attorney. I want it to remain in effect unless
- 34 I appointed a health care representative after signing the health care power of attorney.
- 35 — I have a health care power of attorney, and I REVOKE IT.
- 36 — I DO NOT have a health care power of attorney.

37
38 _____

39 (Date)

40 SIGN HERE TO GIVE INSTRUCTIONS

41
42 _____

43 (Signature)

44
45 _____

PART D: DECLARATION OF WITNESSES

We declare that the person signing this advance directive:

- (a) Is personally known to us or has provided proof of identity;
- (b) Signed or acknowledged that person’s signature on this advance directive in our presence;
- (c) Appears to be of sound mind and not under duress, fraud or undue influence;
- (d) Has not appointed either of us as health care representative or alternative representative;

and

- (e) Is not a patient for whom either of us is attending physician.

Witnessed By:

_____	_____
(Signature of Witness/Date)	(Printed Name of Witness)

_____	_____
(Signature of Witness/Date)	(Printed Name of Witness)

NOTE: One witness must not be a relative (by blood, marriage, **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption) of the person signing this advance directive. That witness must also not be entitled to any portion of the person’s estate upon death. That witness must also not own, operate or be employed at a health care facility where the person is a patient or resident.

PART E: ACCEPTANCE BY HEALTH CARE REPRESENTATIVE

I accept this appointment and agree to serve as health care representative. I understand I must act consistently with the desires of the person I represent, as expressed in this advance directive or otherwise made known to me. If I do not know the desires of the person I represent, I have a duty to act in what I believe in good faith to be that person’s best interest. I understand that this document allows me to decide about that person’s health care only while that person cannot do so. I understand that the person who appointed me may revoke this appointment. If I learn that this document has been suspended or revoked, I will inform the person’s current health care provider if known to me.

 (Signature of Health Care Representative/Date)

 (Printed name)

 (Signature of Alternate Health Care Representative/Date)

1 (Printed name)
 2 _____
 3

4 **SECTION 85.** ORS 127.545 is amended to read:

5 127.545. (1) An advance directive or a health care decision by a health care representative may:

6 (a) If it involves the decision to withhold or withdraw life-sustaining procedures or artificially
 7 administered nutrition and hydration, be revoked at any time and in any manner by which the
 8 principal is able to communicate the intent to revoke; or

9 (b) Be revoked at any time and in any manner by a capable principal.

10 (2) Revocation is effective upon communication by the principal to the attending physician or
 11 health care provider, or to the health care representative. If the communication is to the health care
 12 representative, and the principal is incapable and is under the care of a health care provider known
 13 to the representative, the health care representative must promptly inform the attending physician
 14 or health care provider of the revocation.

15 (3) Upon learning of the revocation, the health care provider or attending physician shall cause
 16 the revocation to be made a part of the principal's medical records.

17 (4) Execution of a valid power of attorney for health care revokes any prior power of attorney
 18 for health care. Unless the health care instruction provides otherwise, execution of a valid health
 19 care instruction revokes any prior health care instruction.

20 (5) Unless the advance directive provides otherwise, the directions as to health care decisions
 21 in a valid advance directive supersede:

22 (a) Any directions contained in a previous court appointment or advance directive; and

23 (b) Any prior inconsistent expression of desires with respect to health care decisions.

24 (6) Unless the power of attorney for health care provides otherwise, valid appointment of an
 25 attorney-in-fact for health care supersedes:

26 (a) Any power of a guardian or other person appointed by a court to make health care decisions
 27 for the protected person; and

28 (b) Any other prior appointment or designation of a health care representative.

29 (7) Unless the power of attorney for health care expressly provides otherwise, a power of at-
 30 torney for health care is suspended:

31 (a) If both the attorney-in-fact and the alternative attorney-in-fact have withdrawn; [or]

32 (b) If the power of attorney names the principal's spouse as attorney-in-fact, a petition for dis-
 33 solution or annulment of marriage is filed and the principal does not reaffirm the appointment in
 34 writing after the filing of the petition[.]; or

35 **(c) If the power of attorney names the principal's reciprocal beneficiary, as defined in**
 36 **section 1 of this 2007 Act, as attorney-in-fact, the reciprocal beneficiary agreement has been**
 37 **terminated under section 7 of this 2007 Act and the principal does not reaffirm the appoint-**
 38 **ment in writing after the termination of the reciprocal beneficiary agreement.**

39 (8) If the principal has both a valid health care instruction and a valid power of attorney for
 40 health care, and the directions reflected in those documents are inconsistent, the document last ex-
 41 ecuted governs to the extent of the inconsistency.

42 (9) Any reinstatement of an advance directive must be in writing.

43 **SECTION 86.** ORS 127.550 is amended to read:

44 127.550. (1) A health care decision made by an individual who is authorized to make the decision
 45 under ORS 127.505 to 127.660 and 127.995 is effective immediately and does not require judicial ap-

1 proval.

2 (2) A petition may be filed under ORS 127.505 to 127.660 and 127.995 for any one or more of the
3 following purposes:

4 (a) Determining whether a principal is incapable.

5 (b) Determining whether an appointment of the health care representative or a health care in-
6 struction is valid or has been suspended, reinstated, revoked or terminated.

7 (c) Determining whether the acts or proposed acts of the health care representative breach any
8 duty of the representative and whether those acts should be enjoined.

9 (d) Declaring that an individual is authorized to act as a health care representative.

10 (e) Disqualifying the health care representative upon a determination of the court that the
11 health care representative has violated, failed to perform or is unable to perform the duties under
12 ORS 127.535 (4).

13 (f) Approving any health care decision that by law requires court approval.

14 (g) Determining whether the acts or proposed acts of the health care representative are clearly
15 inconsistent with the desires of the principal as made known to the health care representative, or
16 where the desires of the principal are unknown or unclear, whether the acts or proposed acts of the
17 health care representative are clearly contrary to the best interests of the principal.

18 (h) Declaring that a power of attorney for health care is revoked upon a determination by the
19 court that the attorney-in-fact has made a health care decision for the principal that authorized
20 anything illegal. A suspension or revocation of a power of attorney under this paragraph shall be
21 in the discretion of the court.

22 (i) Considering any other matter that the court determines needs to be decided for the pro-
23 tection of the principal.

24 (3) A petition may be filed by any of the following:

25 (a) The principal.

26 (b) The health care representative.

27 (c) The spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, parent, sibling
28 or adult child of the principal.

29 (d) An adult relative or adult friend of the principal who is familiar with the desires of the
30 principal.

31 (e) The guardian of the principal.

32 (f) The conservator of the principal.

33 (g) The attending physician or health care provider of the principal.

34 (4) A petition under this section shall be filed in the circuit court in the county in which the
35 principal resides or is located.

36 (5) Any of the determinations described in this section may be made by the court as a part of
37 a protective proceeding under ORS chapter 125 if a guardian or temporary guardian has been ap-
38 pointed for the principal, or if the petition seeks the appointment of a guardian or a temporary
39 guardian for the principal.

40 **SECTION 87.** ORS 127.635 is amended to read:

41 127.635. (1) Life-sustaining procedures as defined in ORS 127.505 which would otherwise be ap-
42 plied to an incapable principal who does not have an appointed health care representative or ap-
43 plicable valid advance directive may be withheld or withdrawn in accordance with subsections (2)
44 and (3) of this section if the principal has been medically confirmed to be in one of the following
45 conditions:

1 (a) A terminal condition;
 2 (b) Permanently unconscious;
 3 (c) A condition in which administration of life-sustaining procedures would not benefit the
 4 principal's medical condition and would cause permanent and severe pain; or
 5 (d) The person has a progressive illness that will be fatal and is in an advanced stage, the per-
 6 son is consistently and permanently unable to communicate by any means, swallow food and water
 7 safely, care for the person's self and recognize the person's family and other people, and it is very
 8 unlikely that the person's condition will substantially improve.

9 (2) If a principal's condition has been determined to meet one of the conditions set forth in
 10 subsection (1) of this section, and the principal does not have an appointed health care represen-
 11 tative or applicable advance directive, the principal's health care representative shall be the first
 12 of the following, in the following order, who can be located upon reasonable effort by the health
 13 care facility and who is willing to serve as the health care representative:

14 (a) A guardian of the principal who is authorized to make health care decisions, if any;
 15 (b) The principal's spouse;
 16 (c) **The principal's reciprocal beneficiary, as defined in section 1 of this 2007 Act;**
 17 [(c)] (d) An adult designated by the others listed in this subsection who can be so located, if no
 18 person listed in this subsection objects to the designation;
 19 [(d)] (e) A majority of the adult children of the principal who can be so located;
 20 [(e)] (f) Either parent of the principal;
 21 [(f)] (g) A majority of the adult siblings of the principal who can be located with reasonable ef-
 22 fort; or
 23 [(g)] (h) Any adult relative or adult friend.

24 (3) If none of the persons described in subsection (2) of this section is available, then life-
 25 sustaining procedures may be withheld or withdrawn upon the direction and under the supervision
 26 of the attending physician.

27 (4) Life-sustaining procedures may be withheld or withdrawn upon the direction and under the
 28 supervision of the attending physician at the request of a person designated the health care repre-
 29 sentative under subsections (2) and (3) of this section only after the person has consulted with con-
 30 cerned family and close friends, and if the principal has a case manager, as defined by rules adopted
 31 by the Department of Human Services, after giving notice to the principal's case manager.

32 **SECTION 88.** ORS 127.727 is amended to read:
 33 127.727. None of the following may serve as attorney-in-fact:
 34 (1) The attending physician or mental health service provider or an employee of the physician
 35 or provider, if the physician, provider or employee is unrelated to the principal by blood, marriage,
 36 **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption.
 37 (2) An owner, operator or employee of a health care facility in which the principal is a patient
 38 or resident, if the owner, operator or employee is unrelated to the principal by blood, marriage,
 39 **reciprocal beneficiary agreement** or adoption.

40 **SECTION 89.** ORS 127.730 is amended to read:
 41 127.730. None of the following may serve as a witness to the signing of a declaration:
 42 (1) The attending physician or mental health service provider or a relative of the physician or
 43 provider;
 44 (2) An owner, operator or relative of an owner or operator of a health care facility in which the
 45 principal is a patient or resident; or

1 (3) A person related to the principal by blood, marriage, **reciprocal beneficiary agreement as**
2 **defined in section 1 of this 2007 Act** or adoption.

3 **SECTION 90.** ORS 127.736 is amended to read:

4 127.736. A declaration for mental health treatment shall be in substantially the following form:
5 _____

6
7 **DECLARATION FOR MENTAL HEALTH TREATMENT**

8 I, _____, being an adult of sound mind, willfully and voluntarily
9 make this declaration for mental health treatment. I want this declaration to be followed if a court
10 or two physicians determine that I am unable to make decisions for myself because my ability to
11 receive and evaluate information effectively or communicate decisions is impaired to such an extent
12 that I lack the capacity to refuse or consent to mental health treatment. "Mental health
13 treatment" means treatment of mental illness with psychoactive medication, admission to and re-
14 tention in a health care facility for a period up to 17 days, convulsive treatment and outpatient
15 services that are specified in this declaration.
16 _____

17
18 **CHOICE OF DECISION MAKER**

19 If I become incapable of giving or withholding informed consent for mental health treatment, I
20 want these decisions to be made by: (INITIAL ONLY ONE)

21 — My appointed representative consistent with my desires, or, if my desires are unknown by
22 my representative, in what my representative believes to be my best interests.

23 — By the mental health treatment provider who requires my consent in order to treat me, but
24 only as specifically authorized in this declaration.

25 **APPOINTED REPRESENTATIVE**

26 If I have chosen to appoint a representative to make mental health treatment decisions for me
27 when I am incapable, I am naming that person here. I may also name an alternate representative
28 to serve. Each person I appoint must accept my appointment in order to serve. I understand that I
29 am not required to appoint a representative in order to complete this declaration.

30 I hereby appoint:

31 NAME _____

32 ADDRESS _____

33 TELEPHONE # _____ to act as my representative to make decisions regarding my
34 mental health treatment if I become incapable of giving or withholding informed consent for that
35 treatment.

36 **(OPTIONAL)**

37 If the person named above refuses or is unable to act on my behalf, or if I revoke that person's
38 authority to act as my representative, I authorize the following person to act as my representative:

39 NAME _____

40 ADDRESS _____

41 TELEPHONE # _____

42 My representative is authorized to make decisions that are consistent with the wishes I have
43 expressed in this declaration or, if not expressed, as are otherwise known to my representative. If
44 my desires are not expressed and are not otherwise known by my representative, my representative
45 is to act in what he or she believes to be my best interests. My representative is also authorized

1 to receive information regarding proposed mental health treatment and to receive, review and con-
2 sent to disclosure of medical records relating to that treatment.

3 _____

4
5 DIRECTIONS FOR
6 MENTAL HEALTH TREATMENT

7 This declaration permits me to state my wishes regarding mental health treatments including
8 psychoactive medications, admission to and retention in a health care facility for mental health
9 treatment for a period not to exceed 17 days, convulsive treatment and outpatient services.

10 If I become incapable of giving or withholding informed consent for mental health treatment,
11 my wishes are: I CONSENT TO THE FOLLOWING MENTAL HEALTH TREATMENTS: (May in-
12 clude types and dosage of medications, short-term inpatient treatment, a preferred provider or fa-
13 cility, transport to a provider or facility, convulsive treatment or alternative outpatient treatments.)

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

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25 _____

26 _____

27 _____

28 _____

29 I DO NOT CONSENT TO THE FOLLOWING MENTAL HEALTH TREATMENT: (Consider

30 including your reasons, such as past adverse reaction, allergies or misdiagnosis. Be aware

31 that a person may be treated without consent if the person is held pursuant to civil com-

32 mitment law.)

33 _____

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ADDITIONAL INFORMATION ABOUT MY MENTAL HEALTH TREATMENT NEEDS:
(Consider including mental or physical health history, dietary requirements, religious concerns, people to notify and other matters of importance.)

YOU MUST SIGN HERE FOR THIS DECLARATION TO BE EFFECTIVE:

(Signature/Date)

AFFIRMATION OF WITNESSES

I affirm that the person signing this declaration:

- (a) Is personally known to me;
- (b) Signed or acknowledged his or her signature on this declaration in my presence;
- (c) Appears to be of sound mind and not under duress, fraud or undue influence;
- (d) Is not related to me by blood, marriage, **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption;
- (e) Is not a patient or resident in a facility that I or my relative owns or operates;
- (f) Is not my patient and does not receive mental health services from me or my relative; and
- (g) Has not appointed me as a representative in this document.

Witnessed by:

(Signature of Witness (Printed Name of Witness)
/Date)

(Signature of Witness (Printed Name of Witness)
/Date)

ACCEPTANCE OF APPOINTMENT
AS REPRESENTATIVE

1 I accept this appointment and agree to serve as representative to make mental health treatment
2 decisions. I understand that I must act consistently with the desires of the person I represent, as
3 expressed in this declaration or, if not expressed, as otherwise known by me. If I do not know the
4 desires of the person I represent, I have a duty to act in what I believe in good faith to be that
5 person’s best interest. I understand that this document gives me authority to make decisions about
6 mental health treatment only while that person has been determined to be incapable of making those
7 decisions by a court or two physicians. I understand that the person who appointed me may revoke
8 this declaration in whole or in part by communicating the revocation to the attending physician or
9 other provider when the person is not incapable.

10 _____
11 (Signature of (Printed name)
12 Representative/Date)

13 _____
14 (Signature of Alternate (Printed name)
15 Representative/Date)

16
17 NOTICE TO PERSON
18 MAKING A DECLARATION FOR
19 MENTAL HEALTH TREATMENT

20 This is an important legal document. It creates a declaration for mental health treatment. Before
21 signing this document, you should know these important facts:

22 This document allows you to make decisions in advance about certain types of mental health
23 treatment: psychoactive medication, short-term (not to exceed 17 days) admission to a treatment fa-
24 cility, convulsive treatment and outpatient services. Outpatient services are mental health services
25 provided by appointment by licensed professionals and programs. The instructions that you include
26 in this declaration will be followed only if a court or two physicians believe that you are incapable
27 of making treatment decisions. Otherwise, you will be considered capable to give or withhold con-
28 sent for the treatments. Your instructions may be overridden if you are being held pursuant to civil
29 commitment law.

30 You may also appoint a person as your representative to make treatment decisions for you if
31 you become incapable. The person you appoint has a duty to act consistently with your desires as
32 stated in this document or, if not stated, as otherwise known by the representative. If your repre-
33 sentative does not know your desires, he or she must make decisions in your best interests. For the
34 appointment to be effective, the person you appoint must accept the appointment in writing. The
35 person also has the right to withdraw from acting as your representative at any time. A “repre-
36 sentative” is also referred to as an “attorney-in-fact” in state law but this person does not need to be
37 an attorney at law.

38 This document will continue in effect for a period of three years unless you become incapable
39 of participating in mental health treatment decisions. If this occurs, the directive will continue in
40 effect until you are no longer incapable.

41 You have the right to revoke this document in whole or in part at any time you have not been
42 determined to be incapable. **YOU MAY NOT REVOKE THIS DECLARATION WHEN YOU ARE**
43 **CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS.** A revocation is effective when
44 it is communicated to your attending physician or other provider.

45 If there is anything in this document that you do not understand, you should ask a lawyer to

1 explain it to you. This declaration will not be valid unless it is signed by two qualified witnesses
 2 who are personally known to you and who are present when you sign or acknowledge your signa-
 3 ture.

4 **NOTICE TO PHYSICIAN OR PROVIDER**

5 Under Oregon law, a person may use this declaration to provide consent for mental health
 6 treatment or to appoint a representative to make mental health treatment decisions when the person
 7 is incapable of making those decisions. A person is “incapable” when, in the opinion of a court or
 8 two physicians, the person’s ability to receive and evaluate information effectively or communicate
 9 decisions is impaired to such an extent that the person currently lacks the capacity to make mental
 10 health treatment decisions. This document becomes operative when it is delivered to the person’s
 11 physician or other provider and remains valid until revoked or expired. Upon being presented with
 12 this declaration, a physician or provider must make it a part of the person’s medical record. When
 13 acting under authority of the declaration, a physician or provider must comply with it to the fullest
 14 extent possible. If the physician or provider is unwilling to comply with the declaration, the physi-
 15 cian or provider may withdraw from providing treatment consistent with professional judgment and
 16 must promptly notify the person and the person’s representative and document the notification in
 17 the person’s medical record. A physician or provider who administers or does not administer mental
 18 health treatment according to and in good faith reliance upon the validity of this declaration is not
 19 subject to criminal prosecution, civil liability or professional disciplinary action resulting from a
 20 subsequent finding of the declaration’s invalidity.

21
 22
 23 **SECTION 91.** ORS 127.810 is amended to read:

24 127.810. §2.02. Form of the written request. (1) A valid request for medication under ORS 127.800
 25 to 127.897 shall be in substantially the form described in ORS 127.897, signed and dated by the pa-
 26 tient and witnessed by at least two individuals who, in the presence of the patient, attest that to the
 27 best of their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced
 28 to sign the request.

29 (2) One of the witnesses shall be a person who is not:

30 (a) A relative of the patient by blood, marriage, **reciprocal beneficiary agreement as defined**
 31 **in section 1 of this 2007 Act** or adoption;

32 (b) A person who at the time the request is signed would be entitled to any portion of the estate
 33 of the qualified patient upon death under any will or by operation of law; or

34 (c) An owner, operator or employee of a health care facility where the qualified patient is re-
 35 ceiving medical treatment or is a resident.

36 (3) The patient’s attending physician at the time the request is signed shall not be a witness.

37 (4) If the patient is a patient in a long term care facility at the time the written request is made,
 38 one of the witnesses shall be an individual designated by the facility and having the qualifications
 39 specified by the Department of Human Services by rule.

40 **SECTION 92.** ORS 127.897 is amended to read:

41 127.897. §6.01. Form of the request. A request for a medication as authorized by ORS 127.800 to
 42 127.897 shall be in substantially the following form:

43
 44
 45 **REQUEST FOR MEDICATION**

TO END MY LIFE IN A HUMANE
AND DIGNIFIED MANNER

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I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including comfort care, hospice care and pain control.

I request that my attending physician prescribe medication that will end my life in a humane and dignified manner.

INITIAL ONE:

_____ I have informed my family of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family of my decision.

_____ I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____

Dated: _____

DECLARATION OF WITNESSES

We declare that the person signing this request:

- (a) Is personally known to us or has provided proof of identity;
- (b) Signed this request in our presence;
- (c) Appears to be of sound mind and not under duress, fraud or undue influence;
- (d) Is not a patient for whom either of us is attending physician.

_____ Witness 1/Date

_____ Witness 2/Date

NOTE: One witness shall not be a relative (by blood, marriage, **reciprocal beneficiary agreement as defined in section 1 of this 2007 Act** or adoption) of the person signing this request, shall not be entitled to any portion of the person's estate upon death and shall not own, operate or be employed at a health care facility where the person is a patient or resident. If the patient is an in-patient at a health care facility, one of the witnesses shall be an individual designated by the fa-

1 cility.

2
3
4 **SECTION 93.** ORS 130.655 is amended to read:

5 130.655. (1) A trustee shall administer the trust solely in the interests of the beneficiaries.

6 (2) Subject to the rights of persons dealing with or assisting the trustee as provided in ORS
7 130.855, a sale, encumbrance or other transaction involving the investment or management of trust
8 property entered into by the trustee for the trustee's own personal account or that is otherwise af-
9 fected by a conflict between the trustee's fiduciary and personal interests is voidable by a benefi-
10 cary affected by the transaction unless:

11 (a) The transaction was authorized by the terms of the trust;

12 (b) The transaction was approved by a court;

13 (c) The beneficiary did not commence a judicial proceeding within the time allowed by ORS
14 130.820;

15 (d) The beneficiary consented to the trustee's conduct, ratified the transaction or released the
16 trustee in the manner provided by ORS 130.840; or

17 (e) The transaction involves a contract entered into or claim acquired by the trustee before the
18 person became or contemplated becoming trustee.

19 (3) A sale, encumbrance or other transaction involving the investment or management of trust
20 property is presumed to be affected by a conflict between the personal and fiduciary interests of the
21 trustee if it is entered into by the trustee with:

22 (a) The trustee's spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act;**

23 (b) The trustee's descendants, siblings or parents, or their spouses **or reciprocal beneficiaries;**

24 (c) An agent or attorney of the trustee; or

25 (d) A corporation or other person or enterprise in which the trustee, or a person that owns a
26 significant interest in the trustee, has an interest that might affect the trustee's best judgment.

27 (4) Unless a trustee can establish that the transaction was fair to the beneficiary, a transaction
28 between a trustee and a beneficiary that does not concern trust property but from which the trustee
29 obtains an advantage is voidable by the beneficiary if the transaction occurs during the existence
30 of the trust or while the trustee retains significant influence over the beneficiary.

31 (5) A transaction not concerning trust property in which the trustee engages in the trustee's
32 individual capacity involves a conflict between personal and fiduciary interests if the transaction
33 concerns an opportunity properly belonging to the trust.

34 (6) An investment by a trustee in securities of an investment company or an investment trust
35 to which the trustee, or an affiliate of the trustee, provides services in a capacity other than as
36 trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the
37 investment otherwise complies with the prudent investor rule of ORS 130.750 to 130.775. In addition
38 to compensation for acting as trustee, the trustee may be compensated by the investment company
39 or investment trust for providing those services out of fees charged to the trust. If the trustee re-
40 ceives compensation from the investment company or investment trust for providing investment ad-
41 visory or investment management services, the trustee at least annually shall give notice of the rate
42 and method by which that compensation was determined to the persons entitled under ORS 130.710
43 to receive a copy of the trustee's annual report.

44 (7) In voting shares of stock of a corporation or in exercising powers of control over similar
45 interests in other forms of business entities, the trustee shall act in the best interests of the bene-

1 ficiaries. If the trust is the sole owner of a corporation or other form of business entity, the trustee
 2 shall elect or appoint directors or other managers who will manage the corporation or entity in the
 3 best interests of the beneficiaries.

4 (8) This section does not preclude the following transactions, if fair to the beneficiaries:

5 (a) An agreement between a trustee and a beneficiary relating to the appointment or compen-
 6 sation of the trustee;

7 (b) Payment of reasonable compensation to the trustee;

8 (c) A transaction between a trust and another trust, decedent's estate, custodianship or conser-
 9 vatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

10 (d) A deposit of trust money in a financial institution operated by the trustee; or

11 (e) An advance by the trustee of money for the protection of the trust.

12 (9) The court may appoint a special fiduciary to make a decision with respect to any proposed
 13 transaction that might violate this section if entered into by the trustee.

14 **SECTION 94.** ORS 135.050 is amended to read:

15 135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice
 16 court if:

17 (a) The defendant is before a court on a matter described in subsection (5) of this section;

18 (b) The defendant requests aid of counsel;

19 (c) The defendant provides to the court a written and verified financial statement; and

20 (d) It appears to the court that the defendant is financially unable to retain adequate represen-
 21 tation without substantial hardship in providing basic economic necessities to the defendant or the
 22 defendant's dependent family.

23 (2) Suitable counsel for a defendant shall be appointed by a circuit court if:

24 (a) The defendant is before the court on a matter described in subsection (5) of this section;

25 (b) The defendant requests aid of counsel;

26 (c) The defendant provides to the court a written and verified financial statement; and

27 (d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the stan-
 28 dards established by the Public Defense Services Commission under ORS 151.216; or

29 (B) The court finds, on the record, substantial and compelling reasons why the defendant is fi-
 30 nancially unable to retain adequate representation without substantial hardship in providing basic
 31 economic necessities to the defendant or the defendant's dependent family despite the fact that the
 32 defendant does not meet the financial eligibility standards established by the commission.

33 (3) Appointed counsel may not be denied to any defendant merely because the defendant's
 34 friends or relatives have resources adequate to retain counsel or because the defendant has depos-
 35 ited or is capable of depositing security for release. However, appointed counsel may be denied to
 36 a defendant if the defendant's spouse **or reciprocal beneficiary, as defined in section 1 of this**
 37 **2007 Act**, has adequate resources which the court determines should be made available to retain
 38 counsel.

39 (4) The defendant's financial statement under subsection (1) or (2) of this section shall include,
 40 but not be limited to:

41 (a) A list of bank accounts in the name of defendant or defendant's spouse **or reciprocal ben-**
 42 **eficiary, as defined in section 1 of this 2007 Act**, and the balance in each;

43 (b) A list of defendant's interests in real property and those of defendant's spouse **or reciprocal**
 44 **beneficiary;**

45 (c) A list of automobiles and other personal property of significant value belonging to defendant

1 or defendant's spouse **or reciprocal beneficiary**;

2 (d) A list of debts in the name of defendant or defendant's spouse **or reciprocal beneficiary**,
 3 and the total of each; and

4 (e) A record of earnings and other sources of income in the name of defendant or defendant's
 5 spouse **or reciprocal beneficiary**, and the total of each.

6 (5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or
 7 (2) of this section and who is before a court on any of the following matters:

8 (a) Charged with a crime.

9 (b) For a hearing to determine whether an enhanced sentence should be imposed when such
 10 proceedings may result in the imposition of a felony sentence.

11 (c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

12 (d) For any proceeding concerning an order of probation, including but not limited to the re-
 13 voking or amending thereof.

14 (6) Unless otherwise ordered by the court, the appointment of counsel under this section shall
 15 continue during all criminal proceedings resulting from the defendant's arrest through acquittal or
 16 the imposition of punishment. The court having jurisdiction of the case may not substitute one ap-
 17 pointed counsel for another except pursuant to the policies, procedures, standards and guidelines
 18 of the Public Defense Services Commission under ORS 151.216.

19 (7) If, at any time after the appointment of counsel, the court having jurisdiction of the case
 20 finds that the defendant is financially able to obtain counsel, the court may terminate the appoint-
 21 ment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the
 22 case finds that the defendant is financially unable to pay counsel whom the defendant has retained,
 23 the court may appoint counsel as provided in this section.

24 (8) The court may order the defendant in a circuit court to pay to the Public Defense Services
 25 Account in the General Fund, through the clerk of the court, in full or in part the administrative
 26 costs of determining the eligibility of the defendant for appointed counsel and the costs of the legal
 27 and other services that are related to the provision of appointed counsel under ORS 151.487, 151.505
 28 or 161.665.

29 (9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public
 30 body which has expended moneys for the defendant's legal assistance within two years of judgment
 31 if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal
 32 assistance.

33 (10) The civil proceeding shall be subject to the exemptions from execution as provided for by
 34 law.

35 (11) As used in this section unless the context requires otherwise, "counsel" includes a legal
 36 advisor appointed under ORS 135.045.

37 **SECTION 95.** ORS 135.230 is amended to read:

38 135.230. As used in ORS 135.230 to 135.290, unless the context requires otherwise:

39 (1) "Abuse" means:

40 (a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury;

41 (b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical
 42 injury; or

43 (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

44 (2) "Conditional release" means a nonsecurity release which imposes regulations on the activ-
 45 ities and associations of the defendant.

- 1 (3) “Domestic violence” means abuse between family or household members.
- 2 (4) “Family or household members” means any of the following:
- 3 (a) Spouses.
- 4 (b) Former spouses.
- 5 **(c) Reciprocal beneficiaries, as defined in section 1 of this 2007 Act.**
- 6 **(d) Former reciprocal beneficiaries.**
- 7 [(c)] **(e)** Adult persons related by blood or marriage.
- 8 [(d)] **(f)** Persons cohabiting with each other.
- 9 [(e)] **(g)** Persons who have cohabited with each other or who have been involved in a sexually
10 intimate relationship.
- 11 [(f)] **(h)** Unmarried parents of a minor child.
- 12 (5) “Magistrate” has the meaning provided for this term in ORS 133.030.
- 13 (6) “Personal recognizance” means the release of a defendant upon the promise of the defendant
14 to appear in court at all appropriate times.
- 15 (7) “Primary release criteria” includes the following:
- 16 (a) The reasonable protection of the victim or public;
- 17 (b) The nature of the current charge;
- 18 (c) The defendant’s prior criminal record, if any, and, if the defendant previously has been re-
19 leased pending trial, whether the defendant appeared as required;
- 20 (d) Any facts indicating the possibility of violations of law if the defendant is released without
21 regulations; and
- 22 (e) Any other facts tending to indicate that the defendant is likely to appear.
- 23 (8) “Release” means temporary or partial freedom of a defendant from lawful custody before
24 judgment of conviction or after judgment of conviction if defendant has appealed.
- 25 (9) “Release agreement” means a sworn writing by the defendant stating the terms of the release
26 and, if applicable, the amount of security.
- 27 (10) “Release decision” means a determination by a magistrate, using primary and secondary
28 release criteria, which establishes the form of the release most likely to ensure the safety of the
29 public and the victim, the defendant’s court appearance and that the defendant does not engage in
30 domestic violence while on release.
- 31 (11) “Secondary release criteria” includes the following:
- 32 (a) The defendant’s employment status and history and financial condition;
- 33 (b) The nature and extent of the family relationships of the defendant;
- 34 (c) The past and present residences of the defendant;
- 35 (d) Names of persons who agree to assist the defendant in attending court at the proper time;
36 and
- 37 (e) Any facts tending to indicate that the defendant has strong ties to the community.
- 38 (12) “Security release” means a release conditioned on a promise to appear in court at all ap-
39 propriate times which is secured by cash, stocks, bonds or real property.
- 40 (13) “Surety” is one who executes a security release and binds oneself to pay the security
41 amount if the defendant fails to comply with the release agreement.
- 42 **SECTION 96.** ORS 136.655 is amended to read:
- 43 136.655. (1) Except as provided in subsection [(2)] **(3)** of this section, in [all] criminal actions in
44 which the husband is the party accused, the wife is a competent witness and when the wife is the
45 party accused, the husband is a competent witness; but neither husband nor wife [*in such cases*

1 shall] **may** be compelled or allowed to testify in such cases, except as provided in ORS 40.255.

2 **(2) Except as provided in subsection (3) of this section, in criminal actions in which**
 3 **person who is in a reciprocal beneficiary agreement, as defined in section 1 of this 2007 Act,**
 4 **is the party accused, the other reciprocal beneficiary is a competent witness but may not**
 5 **be compelled or allowed to testify in such cases, except as provided in ORS 40.255.**

6 [(2)] **(3)** There is no privilege under this section, or under ORS 40.255 in all criminal actions in
 7 which one spouse is charged with bigamy or **if one spouse or reciprocal beneficiary is charged**
 8 with an offense or attempted offense against the person or property of the other spouse **or recip-**
 9 **rocal beneficiary** or of a child of either, or with an offense against the person or property of a third
 10 person committed in the course of committing or attempting to commit an offense against the other
 11 spouse **or reciprocal beneficiary.**

12 **SECTION 97.** ORS 144.102 is amended to read:

13 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
 14 responsible for correctional services for a person shall specify in writing the conditions of post-
 15 prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person
 16 upon release from prison or jail.

17 (2) The board or the supervisory authority shall determine, and may at any time modify, the
 18 conditions of post-prison supervision, which may include, among other conditions, that the person
 19 shall:

20 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
 21 sory authority.

22 (b) Be under the supervision of the Department of Corrections and its representatives or other
 23 supervisory authority and abide by their direction and counsel.

24 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

25 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
 26 thority.

27 (e) Not own, possess or be in control of any weapon.

28 (f) Respect and obey all municipal, county, state and federal laws.

29 (g) Understand that the board or supervisory authority may, at its discretion, punish violations
 30 of post-prison supervision.

31 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
 32 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
 33 sory authority may require the person, as an additional condition of post-prison supervision, to pay
 34 a reasonable fee to the victim impact program to offset the cost of the person's participation. The
 35 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-
 36 agraph.

37 (i) If required to report as a sex offender under ORS 181.595, report with the Department of
 38 State Police, a chief of police, a county sheriff or the supervising agency:

39 (A) When supervision begins;

40 (B) Within 10 days of a change in residence;

41 (C) Once each year within 10 days of the person's date of birth;

42 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 43 institution of higher education; and

44 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 45 education.

1 (3)(a) The board or supervisory authority may establish special conditions as the board or su-
2 pervisory authority determines necessary because of the individual circumstances of the person on
3 post-prison supervision.

4 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in
5 ORS 181.594, the board or supervisory authority shall include all of the following as special condi-
6 tions of the person's post-prison supervision:

7 (A) Agreement to comply with any curfew set by the board, the supervisory authority or the
8 supervising officer.

9 (B) A prohibition against contacting a person under 18 years of age without the prior written
10 approval of the board, supervisory authority or supervising officer.

11 (C) A prohibition against being present more than one time, without the prior written approval
12 of the board, supervisory authority or supervising officer, at a place where persons under 18 years
13 of age regularly congregate.

14 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
15 against being present, without the prior written approval of the board, supervisory authority or
16 supervising officer, at, or on property adjacent to, a school, child care center, playground or other
17 place intended for use primarily by persons under 18 years of age.

18 (E) A prohibition against working or volunteering at a school, child care center, park, play-
19 ground or other place where persons under 18 years of age regularly congregate.

20 (F) Entry into and completion of or successful discharge from a sex offender treatment program
21 approved by the board, supervisory authority or supervising officer. The program may include
22 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-
23 gram.

24 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
25 by the victim, the person's treatment provider and the board, supervisory authority or supervising
26 officer.

27 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
28 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
29 visual or auditory materials that are relevant to the person's deviant behavior.

30 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
31 upon the request of a representative of the board or supervisory authority if the representative has
32 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision
33 will be found.

34 (J) Participation in random polygraph examinations to obtain information for risk management
35 and treatment. The person is responsible for paying the expenses of the examinations. The results
36 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
37 prove a violation of post-prison supervision.

38 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
39 approved by the board, supervisory authority or supervising officer.

40 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-
41 thority or supervising officer.

42 (M) A prohibition against residing in any dwelling in which another sex offender who is on
43 probation, parole or post-prison supervision resides unless approved by the board, supervisory au-
44 thority or supervising officer, or in which more than one other sex offender who is on probation,
45 parole or post-prison supervision resides unless approved by the board or the director of the super-

1 visory authority, or a designee of the board or director. As soon as practicable, the supervising of-
 2 ficer of a person subject to the requirements of this subparagraph shall review the person’s living
 3 arrangement with the person’s sex offender treatment provider to ensure that the arrangement
 4 supports the goals of offender rehabilitation and community safety. As used in this subparagraph:

5 (i) “Dwelling” has the meaning given that term in ORS 469.160.

6 (ii) “Dwelling” does not include a residential treatment facility or a halfway house.

7 (iii) “Halfway house” means a publicly or privately operated profit or nonprofit residential fa-
 8 cility that provides rehabilitative care and treatment for sex offenders.

9 (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined
 10 in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
 11 years of age, the board or supervisory authority, if requested by the victim, shall include as a special
 12 condition of the person’s post-prison supervision that the person not reside within three miles of the
 13 victim unless:

14 (i) The victim resides in a county having a population of less than 130,000 and the person is
 15 required to reside in that county under subsection (6) of this section;

16 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the
 17 evidence that no mental intimidation or pressure was brought to bear during the commission of the
 18 crime;

19 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the
 20 evidence that imposition of the condition will deprive the person of a residence that would be
 21 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison
 22 supervision; or

23 (iv) The person resides in a halfway house. As used in this sub-subparagraph, “halfway house”
 24 means a publicly or privately operated profit or nonprofit residential facility that provides
 25 rehabilitative care and treatment for sex offenders.

26 (B) A victim may request imposition of the special condition of post-prison supervision described
 27 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim’s
 28 request may be included in the judgment document.

29 (C) If the board or supervisory authority imposes the special condition of post-prison supervision
 30 described in this paragraph and if at any time during the period of post-prison supervision the victim
 31 moves to within three miles of the person’s residence, the board or supervisory authority may not
 32 require the person to change the person’s residence in order to comply with the special condition
 33 of post-prison supervision.

34 (4)(a) The board or supervisory authority may require the person to pay, as a condition of
 35 post-prison supervision, any compensatory fines, restitution or attorney fees:

36 (A) As determined, imposed or required by the sentencing court; or

37 (B) When previously required as a condition of any type of supervision that is later revoked.

38 (b) The board may require a person to pay restitution as a condition of post-prison supervision
 39 imposed for an offense other than the offense for which the restitution was ordered if the person:

40 (A) Was ordered to pay restitution as a result of another conviction; and

41 (B) Has not fully paid the restitution by the time the person has completed the period of post-
 42 prison supervision imposed for the offense for which the restitution was ordered.

43 (5) A person’s failure to apply for or accept employment at any workplace where there is a labor
 44 dispute in progress does not constitute a violation of the conditions of post-prison supervision. As
 45 used in this subsection, “labor dispute” has the meaning given that term in ORS 662.010.

1 (6)(a) When a person is released from imprisonment on post-prison supervision, the board shall
 2 order, as a condition of post-prison supervision, that the person reside for the first six months after
 3 release in the county where the person resided at the time of the offense that resulted in the
 4 imprisonment.

5 (b) Upon motion of the board, the person, a victim or a district attorney, the board may waive
 6 the residency requirement only after making a finding that one of the following conditions has been
 7 met:

8 (A) The person provides proof of employment with no set ending date in a county other than the
 9 established county of residence;

10 (B) The person is found to pose a significant danger to a victim of the person’s crime, or a vic-
 11 tim or victim’s family is found to pose a significant danger to the person residing in the established
 12 county of residence;

13 (C) The person has a spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**
 14 or biological or adoptive family residing in a county other than the established county of residence
 15 who will be materially significant in aiding in the rehabilitation of the person and in the success
 16 of the post-prison supervision;

17 (D) As another condition of post-prison supervision, the person is required to participate in a
 18 treatment program that is not available in the established county of residence;

19 (E) The person desires to be released to another state; or

20 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
 21 paragraph, for the waiver.

22 (c)(A) The board shall determine the county where the person resided at the time of the offense
 23 by establishing the person’s last address at the time of the offense. In making its determination, the
 24 board shall examine all of the following:

25 (i) An Oregon driver license, regardless of its validity;

26 (ii) Records maintained by the Department of Revenue;

27 (iii) Records maintained by the Department of State Police Bureau of Criminal Identification;

28 (iv) Records maintained by the Department of Human Services; and

29 (v) Records maintained by the Department of Corrections.

30 (B) When the person did not have an identifiable address of record at the time of the offense,
 31 the person is considered to have resided in the county where the offense occurred.

32 (C) If the person is serving multiple sentences, the county of residence shall be determined ac-
 33 cording to the date of the last arrest resulting in a conviction.

34 (D) In determining the person’s county of residence for purposes of this subsection, the board
 35 may not consider offenses committed by the person while the person was incarcerated in a Depart-
 36 ment of Corrections facility.

37 (7) As used in this section, “attends,” “institution of higher education,” “works” and “carries
 38 on a vocation” have the meanings given those terms in ORS 181.594.

39 **SECTION 98.** ORS 144.270 is amended to read:

40 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
 41 parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be
 42 given to the person paroled.

43 (2) The board shall determine, and may at any time modify, the conditions of parole, which may
 44 include, among other conditions, that the parolee shall:

45 (a) Accept the parole granted subject to all terms and conditions specified by the board.

1 (b) Be under the supervision of the Department of Corrections and its representatives and abide
2 by their direction and counsel.

3 (c) Answer all reasonable inquiries of the board or the parole officer.

4 (d) Report to the parole officer as directed by the board or parole officer.

5 (e) Not own, possess or be in control of any weapon.

6 (f) Respect and obey all municipal, county, state and federal laws.

7 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines
8 that the parole is not in the best interest of the parolee, or in the best interest of society.

9 (3)(a) The board may establish such special conditions as it determines are necessary because
10 of the individual circumstances of the parolee.

11 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, the
12 board shall include all of the following as special conditions of the person's parole:

13 (A) Agreement to comply with any curfew set by the board or the supervising officer.

14 (B) A prohibition against contacting a person under 18 years of age without the prior written
15 approval of the board or supervising officer.

16 (C) A prohibition against being present more than one time, without the prior written approval
17 of the board or supervising officer, at a place where persons under 18 years of age regularly con-
18 gregate.

19 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
20 against being present, without the prior written approval of the board or supervising officer, at, or
21 on property adjacent to, a school, child care center, playground or other place intended for use
22 primarily by persons under 18 years of age.

23 (E) A prohibition against working or volunteering at a school, child care center, park, play-
24 ground or other place where persons under 18 years of age regularly congregate.

25 (F) Entry into and completion of or successful discharge from a sex offender treatment program
26 approved by the board or supervising officer. The program may include polygraph and
27 plethysmograph testing. The person is responsible for paying for the treatment program.

28 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
29 by the victim, the person's treatment provider and the board or supervising officer.

30 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
31 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
32 visual or auditory materials that are relevant to the person's deviant behavior.

33 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
34 upon the request of a representative of the board if the representative has reasonable grounds to
35 believe that evidence of a violation of a condition of parole will be found.

36 (J) Participation in random polygraph examinations to obtain information for risk management
37 and treatment. The person is responsible for paying the expenses of the examinations. The results
38 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
39 prove a violation of parole.

40 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
41 approved by the board or supervising officer.

42 (L) A prohibition against using a post-office box unless approved by the board or supervising
43 officer.

44 (M) A prohibition against residing in any dwelling in which another sex offender who is on
45 probation, parole or post-prison supervision resides unless approved by the board or supervising of-

1 ficer, or in which more than one other sex offender who is on probation, parole or post-prison
 2 supervision resides unless approved by the board or a designee of the board. As soon as practicable,
 3 the supervising officer of a person subject to the requirements of this subparagraph shall review the
 4 person's living arrangement with the person's sex offender treatment provider to ensure that the
 5 arrangement supports the goals of offender rehabilitation and community safety. As used in this
 6 subparagraph:

7 (i) "Dwelling" has the meaning given that term in ORS 469.160.

8 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

9 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential fa-
 10 cility that provides rehabilitative care and treatment for sex offenders.

11 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594,
 12 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the
 13 board, if requested by the victim, shall include as a special condition of the person's parole that the
 14 person not reside within three miles of the victim unless:

15 (i) The victim resides in a county having a population of less than 130,000 and the person is
 16 required to reside in that county under subsection (5) of this section;

17 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental
 18 intimidation or pressure was brought to bear during the commission of the crime;

19 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition
 20 of the condition will deprive the person of a residence that would be materially significant in aiding
 21 in the rehabilitation of the person or in the success of the parole; or

22 (iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house"
 23 means a publicly or privately operated profit or nonprofit residential facility that provides
 24 rehabilitative care and treatment for sex offenders.

25 (B) A victim may request imposition of the special condition of parole described in this para-
 26 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request
 27 may be included in the judgment document.

28 (C) If the board imposes the special condition of parole described in this paragraph and if at any
 29 time during the period of parole the victim moves to within three miles of the parolee's residence,
 30 the board may not require the parolee to change the parolee's residence in order to comply with the
 31 special condition of parole.

32 (4) It is not a cause for revocation of parole that the parolee failed to apply for or accept em-
 33 ployment at any workplace where there is a labor dispute in progress. As used in this subsection,
 34 "labor dispute" has the meaning for that term provided in ORS 662.010.

35 (5)(a) When the board grants an inmate parole from the custody of the Department of Cor-
 36 rections, the board shall order, as a condition of parole, that the inmate reside for the first six
 37 months in the county where the inmate resided at the time of the offense that resulted in the
 38 imprisonment.

39 (b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive
 40 the residency requirement only after making a finding that one of the following conditions has been
 41 met:

42 (A) The inmate provides proof of a job with no set ending date in a county other than the es-
 43 tablished county of residence;

44 (B) The inmate is found to pose a significant danger to the victim of the offender's crime, or the
 45 victim or victim's family is found to pose a significant danger to the inmate residing in the county

1 of residence;

2 (C) The inmate has a spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**
 3 or biological or adoptive family residing in other than the county of residence who will be materially
 4 significant in aiding in the rehabilitation of the offender and in the success of the parole;

5 (D) As another condition of parole, the inmate is required to participate in a treatment program
 6 which is not available or located in the county of residence;

7 (E) The inmate desires to be paroled to another state; or

8 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
 9 paragraph, for the waiver.

10 (c)(A) For purposes of this subsection, “residency” means the last address at the time of the
 11 offense, as established by an examination of all of the following:

12 (i) An Oregon driver license, regardless of its validity;

13 (ii) Records maintained by the Department of Revenue;

14 (iii) Records maintained by the Department of State Police, Bureau of Criminal Identification;

15 (iv) Records maintained by the Department of Human Services; and

16 (v) Records maintained by the Department of Corrections.

17 (B) When an inmate did not have one identifiable address of record at the time of the offense,
 18 the inmate shall be considered to have resided in the county where the offense occurred.

19 (C) If the inmate is serving multiple sentences, the county of residence shall be determined ac-
 20 cording to the date of the last arrest resulting in a conviction.

21 (D) If the inmate is being rereleased after revocation of parole, the county of residence shall
 22 be determined according to the date of the arrest resulting in a conviction of the underlying offense.

23 (E) In determining the inmate’s county of residence, a conviction for an offense that the inmate
 24 committed while incarcerated in a state corrections institution may not be considered.

25 (6) When the board grants an inmate parole from the custody of the Department of Corrections
 26 and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condi-
 27 tion of parole, shall order the inmate to report with the Department of State Police, a chief of police,
 28 a county sheriff or the supervising agency:

29 (a) When supervision begins;

30 (b) Within 10 days of a change in residence;

31 (c) Once each year within 10 days of the inmate’s date of birth;

32 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 33 institution of higher education; and

34 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 35 education.

36 (7) As used in this section, “attends,” “institution of higher education,” “works” and “carries
 37 on a vocation” have the meanings given those terms in ORS 181.594.

38 **SECTION 99.** ORS 146.035 is amended to read:

39 146.035. (1) There shall be established within the Department of State Police the State Medical
 40 Examiner’s office for the purpose of directing and supporting the state death investigation program.

41 (2) The State Medical Examiner shall manage all aspects of the State Medical Examiner’s pro-
 42 gram.

43 (3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or
 44 discharge other personnel of the State Medical Examiner’s office.

45 (4) The State Medical Examiner’s office shall:

1 (a) File and maintain appropriate reports on all deaths requiring investigation.

2 (b) Maintain an accurate list of all active district medical examiners, assistant district medical
3 examiners and designated pathologists.

4 (c) Transmit monthly to the Department of Transportation a report for the preceding calendar
5 month of all information obtained under ORS 146.113.

6 (5) Any parent, spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, child
7 or personal representative of the deceased, or any person who may be criminally or civilly liable for
8 the death, or their authorized representatives respectively, may examine and obtain copies of any
9 medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner
10 under ORS 146.117. The system described in ORS 192.517 (1) shall have access to reports described
11 in this subsection as provided in ORS 192.517.

12 **SECTION 100.** ORS 146.125 is amended to read:

13 146.125. (1) The medical examiner, deputy medical examiner, district attorney or sheriff may
14 temporarily retain possession of any property found on the body or in the possession of the deceased
15 which in the opinion of the medical examiner, deputy medical examiner, district attorney or sheriff
16 may be useful in establishing the cause or manner of death or may be used in further proceedings.

17 (2) When a medical examiner, deputy medical examiner, district attorney or sheriff assumes
18 control or custody of money or personal property found on the body or in the possession of the de-
19 ceased, the medical examiner, deputy medical examiner, district attorney or sheriff shall:

20 (a) Make a verified inventory of such money or property.

21 (b) File the inventory in the district medical examiner's office.

22 (c) Deposit the money with the county treasurer to the credit of the county general fund.

23 (3) If personal property is not retained by the medical examiner, deputy medical examiner, dis-
24 trict attorney or sheriff, and is not claimed within 30 days, the inventory shall be filed with the
25 board of county commissioners to be disposed of as follows:

26 (a) If the property has value, the board may order it sold and after deducting the cost of sale,
27 shall deposit the proceeds of the sale with the county treasurer to the credit of the county general
28 fund.

29 (b) If the property has no value in the judgment of the board, the board may order the sheriff
30 to destroy such property.

31 (4) Any expenses incurred by the county in transporting or disposing of the body may be de-
32 ducted from the money or proceeds of the sale of personal property before it is delivered to a
33 claimant.

34 (5) If it appears that the person whose death required investigation died wholly intestate and
35 without heirs, the county whose official has control or custody of the property shall notify an estate
36 administrator of the Department of State Lands appointed under ORS 113.235 within 15 days after
37 the death.

38 (6) If a legally qualified personal representative, spouse, **reciprocal beneficiary as defined in**
39 **section 1 of this 2007 Act** or next of kin:

40 (a) Claims the money of the deceased, the treasurer shall, subject to the provisions of subsection
41 (4) of this section, deliver such money to the claimant.

42 (b) Within 30 days, claims the personal property of the deceased, the property shall be delivered
43 to such claimant subject to the provisions of subsections (1) and (5) of this section.

44 (7) If money of the deceased is not claimed within seven years and is presumed abandoned as
45 provided by ORS 98.302 to 98.436 and 98.992, the board of county commissioners shall order the

1 money paid as required by law.

2 **SECTION 101.** ORS 147.005 is amended to read:

3 147.005. As used in ORS 135.905 and 147.005 to 147.367 unless the context requires otherwise:

4 (1) "Applicant" means:

5 (a) Any victim of a compensable crime who applies to the Department of Justice for compen-
6 sation under ORS 135.905 and 147.005 to 147.367;

7 (b) Any person who was a dependent of a deceased victim at the time of the death of that victim;

8 (c) Any person who is a survivor of a deceased victim; or

9 (d) Any person eligible for compensation under ORS 147.025.

10 (2) "Board" means the Workers' Compensation Board.

11 (3) "Child" means an unmarried person who is under 18 years of age and includes a posthumous
12 child, stepchild or an adopted child.

13 (4) "Compensable crime" means abuse of corpse in any degree or an intentional, knowing or
14 reckless act that results in serious bodily injury or death of another person and which, if committed
15 by a person of full legal capacity, would be punishable as a crime in this state.

16 (5) "Dependent" means such relatives of a deceased victim who wholly or partially were de-
17 pendent upon the victim's income at the time of death or would have been so dependent but for the
18 victim's incapacity due to the injury from which the death resulted.

19 (6) "Department" means the Department of Justice.

20 (7) "Funeral expenses" means expenses of the funeral, burial, cremation or other chosen method
21 of interment, including plot or tomb and other necessary incidents to the disposition of the remains
22 and also including, in the case of abuse of corpse in any degree, reinterment.

23 (8) "Injury" means abuse of a corpse or actual bodily harm and, with respect to a victim, in-
24 cludes pregnancy and mental or nervous shock.

25 (9) "International terrorism" means activities that:

26 (a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws
27 of the United States or any state or that would be a criminal violation if committed within the ju-
28 risdiction of the United States or of any state;

29 (b) Appear to be intended to:

30 (A) Intimidate or coerce a civilian population;

31 (B) Influence the policy of a government by intimidation or coercion; or

32 (C) Affect the conduct of a government by assassination or kidnapping; and

33 (c) Occur primarily outside the territorial jurisdiction of the United States or transcend national
34 boundaries in terms of the means by which they are accomplished, the persons they appear intended
35 to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

36 (10) "Law enforcement official" means a sheriff, constable, marshal, municipal police officer or
37 member of the Oregon State Police and such other persons as may be designated by law as a peace
38 officer.

39 (11) "Relative" means a person related to the victim within the third degree as determined by
40 the common law, a spouse, **a reciprocal beneficiary as defined in section 1 of this 2007 Act** or
41 an individual related to the spouse **or reciprocal beneficiary** within the third degree as so deter-
42 mined and includes an individual in an adoptive relationship.

43 (12) "Survivor" means any spouse, **reciprocal beneficiary**, parent, grandparent, guardian, sib-
44 ling, child or other immediate family member or household member of a deceased victim.

45 (13) "Victim" means:

1 (a) A person:

2 (A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted
3 against that person;

4 (B) Killed or injured in this state while attempting to assist a person against whom a
5 compensable crime is being perpetrated or attempted, if that attempt of assistance would be ex-
6 pected of a reasonable person under the circumstances;

7 (C) Killed or injured in this state while assisting a law enforcement official to apprehend a
8 person who has perpetrated a crime or to prevent the perpetration of any such crime, if that as-
9 sistance was in response to the express request of the law enforcement official;

10 (D) Killed or injured in another state as a result of a criminal episode that began in this state;

11 (E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated
12 or attempted against the person in a state, within the United States, without a reciprocal crime
13 victims' compensation program; or

14 (F) Who is an Oregon resident killed or injured by an act of international terrorism committed
15 outside the United States; or

16 (b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse.

17 **SECTION 102.** ORS 161.270 is amended to read:

18 161.270. (1) The commission of acts which would otherwise constitute an offense, other than
19 murder, is not criminal if the actor engaged in the proscribed conduct because the actor was co-
20 erced to do so by the use or threatened use of unlawful physical force upon the actor or a third
21 person, which force or threatened force was of such nature or degree to overcome earnest resist-
22 ance.

23 (2) Duress is not a defense for one who intentionally or recklessly places oneself in a situation
24 in which it is probable that one will be subjected to duress.

25 (3) It is not a defense that a spouse acted on the command of the other spouse, unless the spouse
26 acted under such coercion as would establish a defense under subsection (1) of this section.

27 **(4) It is not a defense that a reciprocal beneficiary, as defined in section 1 of this 2007**
28 **Act, acted on the command of the other reciprocal beneficiary, unless the reciprocal benefi-**
29 **ciary acted under such coercion as would establish a defense under subsection (1) of this**
30 **section.**

31 **SECTION 103.** ORS 163.375 is amended to read:

32 163.375. (1) A person who has sexual intercourse with another person commits the crime of rape
33 in the first degree if:

34 (a) The victim is subjected to forcible compulsion by the person;

35 (b) The victim is under 12 years of age;

36 (c) The victim is under 16 years of age and is the person's sibling, of the whole or half blood,
37 the person's child [or], the person's spouse's child **or the child of the person's reciprocal benefi-**
38 **ciary, as defined in section 1 of this 2007 Act;** or

39 (d) The victim is incapable of consent by reason of mental defect, mental incapacitation or
40 physical helplessness.

41 (2) Rape in the first degree is a Class A felony.

42 **SECTION 104.** ORS 163.405 is amended to read:

43 163.405. (1) A person who engages in deviate sexual intercourse with another person or causes
44 another to engage in deviate sexual intercourse commits the crime of sodomy in the first degree if:

45 (a) The victim is subjected to forcible compulsion by the actor;

1 (b) The victim is under 12 years of age;

2 (c) The victim is under 16 years of age and is the actor's brother or sister, of the whole or half
3 blood, the son or daughter of the actor [or], the son or daughter of the actor's spouse **or the son**
4 **or daughter of the actor's reciprocal beneficiary, as defined in section 1 of this 2007 Act;** or

5 (d) The victim is incapable of consent by reason of mental defect, mental incapacitation or
6 physical helplessness.

7 (2) Sodomy in the first degree is a Class A felony.

8 **SECTION 105.** ORS 163.730 is amended to read:

9 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

10 (1) "Alarm" means to cause apprehension or fear resulting from the perception of danger.

11 (2) "Coerce" means to restrain, compel or dominate by force or threat.

12 (3) "Contact" includes but is not limited to:

13 (a) Coming into the visual or physical presence of the other person;

14 (b) Following the other person;

15 (c) Waiting outside the home, property, place of work or school of the other person or of a
16 member of that person's family or household;

17 (d) Sending or making written or electronic communications in any form to the other person;

18 (e) Speaking with the other person by any means;

19 (f) Communicating with the other person through a third person;

20 (g) Committing a crime against the other person;

21 (h) Communicating with a third person who has some relationship to the other person with the
22 intent of affecting the third person's relationship with the other person;

23 (i) Communicating with business entities with the intent of affecting some right or interest of
24 the other person;

25 (j) Damaging the other person's home, property, place of work or school; or

26 (k) Delivering directly or through a third person any object to the home, property, place of work
27 or school of the other person.

28 (4) "Household member" means any person residing in the same residence as the victim.

29 (5) "Immediate family" means father, mother, child, sibling, parent, spouse, **reciprocal benefi-**
30 **ciary as defined in section 1 of this 2007 Act,** grandparent, stepparent and stepchild.

31 (6) "Law enforcement officer" means any person employed in this state as a police officer by a
32 county sheriff, constable, marshal or municipal or state police agency.

33 (7) "Repeated" means two or more times.

34 (8) "School" means a public or private institution of learning or a child care facility.

35 **SECTION 106.** ORS 163.735 is amended to read:

36 163.735. (1) Upon a complaint initiated as provided in ORS 163.744, a law enforcement officer
37 shall issue a citation ordering the person to appear in court within three judicial days and show
38 cause why the court should not enter a court's stalking protective order when the officer has
39 probable cause to believe that:

40 (a) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact
41 with the other person or a member of that person's immediate family or household thereby alarming
42 or coercing the other person;

43 (b) It is objectively reasonable for a person in the victim's situation to have been alarmed or
44 coerced by the contact; and

45 (c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the

1 personal safety of the victim or a member of the victim’s immediate family or household.

2 (2) The Department of State Police shall develop and distribute a form for the citation. The form
3 shall be uniform throughout the state and shall contain substantially the following in addition to
4 any other material added by the department:

5 _____

6
7
8 OFFICER:_____

9 AGENCY:_____

10 PETITIONER:_____

11 PERSON TO BE PROTECTED IF OTHER THAN PETITIONER:_____

12 RESPONDENT:_____

13 On behalf of petitioner, I affirm that I am a law enforcement officer in the State of Oregon.

14 You, the respondent, must appear at _____ (name and location of court at
15 which respondent is to appear) on _____ (date and time respondent is to appear in court).
16 At this hearing, you must be prepared to establish why the court should not enter a court’s stalking
17 protective order which shall be for an unlimited duration unless limited by law or court order. If
18 you fail to appear at this hearing, the court shall immediately issue a warrant for your arrest and
19 shall enter a court’s stalking protective order.

20 If the court issues a stalking protective order at this hearing, and while the protective order is
21 in effect, federal law may prohibit you from:

22 Traveling across state lines or tribal land lines with the intent to violate this order and then
23 violating this order.

24 Causing the person protected by the order, if the person is your spouse, **reciprocal beneficiary**
25 or intimate partner, to cross state lines or tribal land lines for your purpose of violating the order.

26 Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

27 Whether or not a stalking protective order is in effect, federal law may prohibit you from:

28 Traveling across state lines or tribal land lines with the intent to injure or harass another
29 person and during, or because of, that travel placing that person in reasonable fear of death or se-
30 rious bodily injury to that person or to a member of that person’s immediate family.

31 Traveling across state lines or tribal land lines with the intent to injure your spouse, **reciprocal**
32 **beneficiary** or intimate partner and then intentionally committing a crime of violence causing bod-
33 ily injury to that person.

34 Causing your spouse, **reciprocal beneficiary** or intimate partner to travel across state lines or
35 tribal land lines if your intent is to cause bodily injury to that person or if the travel results in your
36 causing bodily injury to that person.

37 It has been alleged that you have alarmed or coerced the petitioner, or person to be protected
38 if other than the petitioner. If you engage in contact that alarms or coerces the petitioner, or person
39 to be protected if other than the petitioner, in violation of ORS 163.732, you may be arrested for the
40 crime of stalking.

41
42 Date: _____ Time: _____

43 Signed: _____

44 (Respondent)

45 Signed: _____

1 (Law enforcement officer).
 2
 3

4 **SECTION 107.** ORS 164.035 is amended to read:

5 164.035. (1) In a prosecution for theft it is a defense that the defendant acted under an honest
 6 claim of right, in that:

7 (a) The defendant was unaware that the property was that of another; or

8 (b) The defendant reasonably believed that the defendant was entitled to the property involved
 9 or had a right to acquire or dispose of it as the defendant did.

10 (2) In a prosecution for theft by extortion committed by instilling in the victim a fear that the
 11 victim or another person would be charged with a crime, it is a defense that the defendant reason-
 12 ably believed the threatened charge to be true and that the sole purpose of the defendant was to
 13 compel or induce the victim to take reasonable action to make good the wrong which was the sub-
 14 ject of the threatened charge.

15 (3) In a prosecution for theft by receiving, it is a defense that the defendant received, retained,
 16 concealed or disposed of the property with the intent of restoring it to the owner.

17 (4) It is a defense that:

18 (a) The property involved was that of the defendant's spouse, unless the parties were not living
 19 together as husband and wife and were living in separate abodes at the time of the alleged theft[.];
 20 **or**

21 **(b) The property involved was that of the defendant's reciprocal beneficiary, as defined**
 22 **in section 1 of this 2007 Act, unless the parties were living in separate abodes at the time**
 23 **of the alleged theft.**

24 **SECTION 108.** ORS 164.164 is amended to read:

25 164.164. (1) In a prosecution under ORS 164.162, it is a defense that the defendant acted under
 26 an honest claim of right in that:

27 (a) The defendant was unaware that the property was that of another person;

28 (b) The defendant reasonably believed that the defendant was entitled to the property involved
 29 or had a right to acquire or dispose of it as the defendant did; [*or*]

30 (c) The property involved was that of the defendant's spouse, unless the parties were not living
 31 together as husband and wife and were living in separate abodes at the time of the alleged
 32 offense[.]; **or**

33 **(d) The property involved was that of the defendant's reciprocal beneficiary, as defined**
 34 **in section 1 of this 2007 Act, unless the parties were living in separate abodes at the time**
 35 **of the alleged offense.**

36 (2)(a) ORS 164.162 does not apply to employees charged with the operation of facilities listed in
 37 paragraph (b) of this subsection when the employees are carrying out their official duties to protect
 38 the safety and security of the facilities.

39 (b) The facilities to which paragraph (a) of this subsection applies are juvenile detention facili-
 40 ties and local correctional facilities as defined in ORS 169.005, detention facilities as defined in ORS
 41 419A.004, youth correction facilities as defined in ORS 420.005 and Department of Corrections in-
 42 stitutions as defined in ORS 421.005.

43 **SECTION 109.** ORS 167.017 is amended to read:

44 167.017. (1) A person commits the crime of compelling prostitution if the person knowingly:

45 (a) Uses force or intimidation to compel another to engage in prostitution; or

1 (b) Induces or causes a person under 18 years of age to engage in prostitution; or

2 (c) Induces or causes the spouse, **reciprocal beneficiary as defined in section 1 of this 2007**
3 **Act**, child or stepchild of the person to engage in prostitution.

4 (2) Compelling prostitution is a Class B felony.

5 **SECTION 110.** ORS 167.027 is amended to read:

6 167.027. (1) On the issue of whether a place is a place of prostitution as defined in ORS 167.002,
7 its general repute and repute of persons who reside in or frequent the place shall be competent ev-
8 idence.

9 (2) Notwithstanding ORS 136.655, in any prosecution under ORS 167.012 and 167.017, spouses
10 are competent and compellable witnesses for or against either party, **and reciprocal beneficiaries**
11 **as defined in section 1 of this 2007 Act are competent and compellable witnesses for or**
12 **against either party.**

13 **SECTION 111.** ORS 192.526 is amended to read:

14 192.526. If no person has been appointed as a personal representative under ORS chapter 113
15 or a person appointed as a personal representative under ORS chapter 113 has been discharged, the
16 personal representative of a deceased individual shall be the first of the following persons, in the
17 following order, who can be located upon reasonable effort by the covered entity and who is willing
18 to serve as the personal representative:

19 (1) A person appointed as guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
20 authority to make medical and health care decisions at the time of the individual's death.

21 (2) The individual's spouse.

22 (3) **The individual's reciprocal beneficiary, as defined in section 1 of this 2007 Act.**

23 [(3)] (4) An adult designated in writing by the persons listed in this section, if no person listed
24 in this section objects to the designation.

25 [(4)] (5) A majority of the adult children of the individual who can be located.

26 [(5)] (6) Either parent of the individual or an individual acting in loco parentis to the individual.

27 [(6)] (7) A majority of the adult siblings of the individual who can be located.

28 [(7)] (8) Any adult relative or adult friend.

29 **SECTION 112.** ORS 197.352 is amended to read:

30 197.352. The following provisions are added to and made a part of ORS chapter 197:

31 (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regu-
32 lation enacted prior to December 2, 2004, that restricts the use of private real property or any in-
33 terest therein and has the effect of reducing the fair market value of the property, or any interest
34 therein, then the owner of the property shall be paid just compensation.

35 (2) Just compensation shall be equal to the reduction in the fair market value of the affected
36 property interest resulting from enactment or enforcement of the land use regulation as of the date
37 the owner makes written demand for compensation under this section.

38 (3) Subsection (1) of this section shall not apply to land use regulations:

39 (A) Restricting or prohibiting activities commonly and historically recognized as public nui-
40 sances under common law. This subsection shall be construed narrowly in favor of a finding of
41 compensation under this section;

42 (B) Restricting or prohibiting activities for the protection of public health and safety, such as
43 fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and
44 pollution control regulations;

45 (C) To the extent the land use regulation is required to comply with federal law;

1 (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or
2 performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights
3 provided by the Oregon or United States Constitutions; or

4 (E) Enacted prior to the date of acquisition of the property by the owner or a family member
5 of the owner who owned the subject property prior to acquisition or inheritance by the owner,
6 whichever occurred first.

7 (4) Just compensation under subsection (1) of this section shall be due the owner of the property
8 if the land use regulation continues to be enforced against the property 180 days after the owner
9 of the property makes written demand for compensation under this section to the public entity en-
10 acting or enforcing the land use regulation.

11 (5) For claims arising from land use regulations enacted prior to December 2, 2004, written de-
12 mand for compensation under subsection (4) shall be made within two years of December 2, 2004,
13 or the date the public entity applies the land use regulation as an approval criteria to an application
14 submitted by the owner of the property, whichever is later. For claims arising from land use regu-
15 lations enacted after December 2, 2004, written demand for compensation under subsection (4) shall
16 be made within two years of the enactment of the land use regulation, or the date the owner of the
17 property submits a land use application in which the land use regulation is an approval criteria,
18 whichever is later.

19 (6) If a land use regulation continues to apply to the subject property more than 180 days after
20 the present owner of the property has made written demand for compensation under this section, the
21 present owner of the property, or any interest therein, shall have a cause of action for compensation
22 under this section in the circuit court in which the real property is located, and the present owner
23 of the real property shall be entitled to reasonable attorney fees, expenses, costs, and other dis-
24 bursements reasonably incurred to collect the compensation.

25 (7) A metropolitan service district, city, or county, or state agency may adopt or apply proce-
26 dures for the processing of claims under this section, but in no event shall these procedures act as
27 a prerequisite to the filing of a compensation claim under subsection (6) of this section, nor shall
28 the failure of an owner of property to file an application for a land use permit with the local gov-
29 ernment serve as grounds for dismissal, abatement, or delay of a compensation claim under sub-
30 section (6) of this section.

31 (8) Notwithstanding any other state statute or the availability of funds under subsection (10) of
32 this section, in lieu of payment of just compensation under this section, the governing body respon-
33 sible for enacting the land use regulation may modify, remove, or not to apply the land use regu-
34 lation or land use regulations to allow the owner to use the property for a use permitted at the time
35 the owner acquired the property.

36 (9) A decision by a governing body under this section shall not be considered a land use decision
37 as defined in ORS 197.015 (11).

38 (10) Claims made under this section shall be paid from funds, if any, specifically allocated by the
39 legislature, city, county, or metropolitan service district for payment of claims under this section.
40 Notwithstanding the availability of funds under this subsection, a metropolitan service district, city,
41 county, or state agency shall have discretion to use available funds to pay claims or to modify, re-
42 move, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this
43 section. If a claim has not been paid within two years from the date on which it accrues, the owner
44 shall be allowed to use the property as permitted at the time the owner acquired the property.

45 (11) Definitions - for purposes of this section:

1 (A) "Family member" shall include the wife, husband, son, daughter, mother, father, brother,
 2 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt,
 3 uncle, niece, nephew, stepparent, stepchild, grandparent, [or] grandchild **or reciprocal beneficiary,**
 4 **as defined in section 1 of this 2007 Act,** of the owner of the property, an estate of any of the
 5 foregoing family members, or a legal entity owned by any one or combination of these family mem-
 6 bers or the owner of the property.

7 (B) "Land use regulation" shall include:

8 (i) Any statute regulating the use of land or any interest therein;

9 (ii) Administrative rules and goals of the Land Conservation and Development Commission;

10 (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and
 11 transportation ordinances;

12 (iv) Metropolitan service district regional framework plans, functional plans, planning goals and
 13 objectives; and

14 (v) Statutes and administrative rules regulating farming and forest practices.

15 (C) "Owner" is the present owner of the property, or any interest therein.

16 (D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.

17 (12) The remedy created by this section is in addition to any other remedy under the Oregon
 18 or United States Constitutions, and is not intended to modify or replace any other remedy.

19 (13) If any portion or portions of this section are declared invalid by a court of competent ju-
 20 risdiction, the remaining portions of this section shall remain in full force and effect.

21 **SECTION 113.** ORS 197.756 is amended to read:

22 197.756. (1) Upon the sale of a lot or parcel located inside an urban growth boundary that is
 23 assessed at its value for farm use under ORS 308A.050 to 308A.128, the lot or parcel shall be dis-
 24 qualified for farm use assessment if:

25 (a) The lot or parcel is in an area identified for urban services under ORS 197.754; and

26 (b) The urban services are available by ordinance for urbanization.

27 (2) Disqualification under subsection (1) of this section [shall] **does** not apply to the sale of a lot
 28 or parcel to the owner's spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act,**
 29 parent, stepparent, grandparent, sister, brother, daughter, son, stepchild or grandchild, or sale to a
 30 lessee of the owner if the lessee is conducting farm use as defined in ORS 215.203 on the lot or
 31 parcel at the time of sale.

32 **SECTION 114.** ORS 215.213 is amended to read:

33 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
 34 Edition), the following uses may be established in any area zoned for exclusive farm use:

35 (a) Public or private schools, including all buildings essential to the operation of a school.

36 (b) Churches and cemeteries in conjunction with churches.

37 (c) The propagation or harvesting of a forest product.

38 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
 39 not including commercial facilities for the purpose of generating electrical power for public use by
 40 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
 41 may be established as provided in ORS 215.275.

42 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 43 farm operator or the farm operator's spouse **or reciprocal beneficiary, as defined in section 1 of**
 44 **this 2007 Act,** which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent,
 45 sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require

1 the assistance of the relative in the management of the farm use and the dwelling is located on the
2 same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.190 or
3 the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described
4 in this paragraph obtains construction financing or other financing secured by the dwelling and the
5 secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as
6 defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create
7 a new parcel.

8 (f) Nonresidential buildings customarily provided in conjunction with farm use.

9 (g) Primary or accessory dwellings customarily provided in conjunction with farm use. For a
10 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-
11 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-
12 edged under ORS 197.251.

13 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
14 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
15 compressors, separators and other customary production equipment for an individual well adjacent
16 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
17 an exception under ORS 197.732 (1)(a) or (b).

18 (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
19 construction relating to such operations shall not be a basis for an exception under ORS 197.732
20 (1)(a) or (b).

21 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
22 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
23 necessary for its operation.

24 (k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
25 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
26 hardship suffered by the existing resident or a relative of the resident. Within three months of the
27 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
28 ished or, in the case of an existing building, the building shall be removed, demolished or returned
29 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
30 view of the hardship claimed under this paragraph. A temporary residence approved under this
31 paragraph is not eligible for replacement under paragraph (t) of this subsection.

32 (L) The breeding, kenneling and training of greyhounds for racing in any county with a popu-
33 lation of more than 200,000 in which there is located a greyhound racing track or in a county with
34 a population of more than 200,000 that is contiguous to such a county.

35 (m) Climbing and passing lanes within the right of way existing as of July 1, 1987.

36 (n) Reconstruction or modification of public roads and highways, including the placement of
37 utility facilities overhead and in the subsurface of public roads and highways along the public right
38 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
39 would occur, or no new land parcels result.

40 (o) Temporary public road and highway detours that will be abandoned and restored to original
41 condition or use at such time as no longer needed.

42 (p) Minor betterment of existing public road and highway related facilities, such as maintenance
43 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
44 public-owned property utilized to support the operation and maintenance of public roads and high-
45 ways.

1 (q) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
2 been listed in a county inventory as historic property as defined in ORS 358.480.

3 (r) Creation of, restoration of or enhancement of wetlands.

4 (s) A winery, as described in ORS 215.452.

5 (t) Alteration, restoration or replacement of a lawfully established dwelling that:

6 (A) Has intact exterior walls and roof structure;

7 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
8 a sanitary waste disposal system;

9 (C) Has interior wiring for interior lights;

10 (D) Has a heating system; and

11 (E) In the case of replacement:

12 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
13 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
14 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
15 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
16 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
17 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
18 deed records for the county where the property is located a deed restriction prohibiting the siting
19 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
20 a statement of release is placed in the deed records for the county. The release shall be signed by
21 the county or its designee and state that the provisions of this paragraph regarding replacement
22 dwellings have changed to allow the siting of another dwelling. The county planning director or the
23 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
24 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
25 and release statements filed under this paragraph; and

26 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
27 ished within three months after the deferred replacement permit is issued. A deferred replacement
28 permit allows construction of the replacement dwelling at any time. If, however, the established
29 dwelling is not removed or demolished within three months after the deferred replacement permit
30 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
31 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
32 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
33 or otherwise, except by the applicant to the spouse, **reciprocal beneficiary** or a child of the appli-
34 cant.

35 (u) Farm stands if:

36 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
37 farm operation, or grown on the farm operation and other farm operations in the local agricultural
38 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
39 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
40 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
41 and

42 (B) The farm stand does not include structures designed for occupancy as a residence or for
43 activity other than the sale of farm crops or livestock and does not include structures for banquets,
44 public gatherings or public entertainment.

45 (v) An armed forces reserve center, if the center is within one-half mile of a community college.

1 For purposes of this paragraph, “armed forces reserve center” includes an armory or National
2 Guard support facility.

3 (w) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
4 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
5 area or placed on a permanent foundation unless the building or facility preexisted the use approved
6 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
7 the surface preexisted the use approved under this paragraph. As used in this paragraph, “model
8 aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
9 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
10 ground.

11 (x) A facility for the processing of farm crops located on a farm operation that provides at least
12 one-quarter of the farm crops processed at the facility. The building established for the processing
13 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
14 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
15 activities within another building supporting farm uses. A processing facility shall comply with all
16 applicable siting standards but the standards shall not be applied in a manner that prohibits the
17 siting of the processing facility.

18 (y) Fire service facilities providing rural fire protection services.

19 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-
20 sociated with a district as defined in ORS 540.505.

21 (aa) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
22 cilities or structures that end at the point where the utility service is received by the customer and
23 that are located on one or more of the following:

24 (A) A public right of way;

25 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
26 jacent property owners has been obtained; or

27 (C) The property to be served by the utility.

28 (bb) Subject to the issuance of a license, permit or other approval by the Department of Envi-
29 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
30 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
31 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
32 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
33 exclusive farm use zone under this chapter.

34 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
35 the following uses may be established in any area zoned for exclusive farm use subject to ORS
36 215.296:

37 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
38 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
39 eration or woodlot:

40 (A) Consists of 20 or more acres; and

41 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
42 annual gross income from the crops, livestock or forest products to be raised on the farm operation
43 or woodlot.

44 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
45 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-

1 required under paragraph (a) of this subsection, if the lot or parcel:

2 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
3 years out of the three calendar years before the year in which the application for the dwelling was
4 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
5 in annual gross farm income; or

6 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
7 nual income.

8 (c) Commercial activities that are in conjunction with farm use but not including the processing
9 of farm crops as described in subsection (1)(x) of this section.

10 (d) Operations conducted for:

11 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
12 as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

13 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
14 sources subject to ORS 215.298;

15 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

16 (D) Processing of other mineral resources and other subsurface resources.

17 (e) Community centers owned by a governmental agency or a nonprofit community organization
18 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
19 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
20 county governing body or its designee, a private campground may provide yurts for overnight
21 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
22 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
23 Upon request of a county governing body, the Land Conservation and Development Commission may
24 provide by rule for an increase in the number of yurts allowed on all or a portion of the
25 campgrounds in a county if the commission determines that the increase will comply with the stan-
26 dards described in ORS 215.296 (1). A public park or campground may be established as provided
27 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
28 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
29 ance.

30 (f) Golf courses.

31 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

32 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
33 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
34 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
35 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
36 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
37 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
38 granted through waiver action by the Oregon Department of Aviation in specific instances. A
39 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
40 ject to any applicable rules of the Oregon Department of Aviation.

41 (i) A facility for the primary processing of forest products, provided that such facility is found
42 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
43 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
44 renewable. These facilities are intended to be only portable or temporary in nature. The primary
45 processing of a forest product, as used in this section, means the use of a portable chipper or stud

1 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
2 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
3 contiguous land where the primary processing facility is located.

4 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
5 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
6 mental Quality together with equipment, facilities or buildings necessary for its operation.

7 (k) Dog kennels not described in subsection (1)(L) of this section.

8 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

9 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
10 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
11 shall not include any species under quarantine by the State Department of Agriculture or the United
12 States Department of Agriculture. The county shall provide notice of all applications under this
13 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
14 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
15 tive decision or initial public hearing on the application.

16 (n) Home occupations as provided in ORS 215.448.

17 (o) Transmission towers over 200 feet in height.

18 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
19 but not resulting in the creation of new land parcels.

20 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
21 placement of buildings but not resulting in the creation of new land parcels.

22 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
23 stations and rest areas, where additional property or right of way is required but not resulting in
24 the creation of new land parcels.

25 (s) A destination resort that is approved consistent with the requirements of any statewide
26 planning goal relating to the siting of a destination resort.

27 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
28 dences.

29 (u) A living history museum related to resource based activities owned and operated by a gov-
30 ernmental agency or a local historical society, together with limited commercial activities and fa-
31 cilities that are directly related to the use and enjoyment of the museum and located within
32 authentic buildings of the depicted historic period or the museum administration building, if areas
33 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
34 the museum administration buildings and parking lot are located within one quarter mile of the
35 metropolitan urban growth boundary. As used in this paragraph:

36 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
37 culture of some specific historic period using authentic buildings, tools, equipment and people to
38 simulate past activities and events; and

39 (B) "Local historical society" means the local historical society, recognized as such by the
40 county governing body and organized under ORS chapter 65.

41 (v) Operations for the extraction and bottling of water.

42 (w) An aerial fireworks display business that has been in continuous operation at its current
43 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
44 permit to sell or provide fireworks.

45 (x) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-

1 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
2 growing and marketing of nursery stock on the land that constitutes farm use.

3 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
4 a single-family residential dwelling not provided in conjunction with farm use may be established
5 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
6 the Agricultural Capability Classification System in use by the United States Department of Agri-
7 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
8 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
9 showing all of the following:

10 (a) The dwelling or activities associated with the dwelling will not force a significant change in
11 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

12 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
13 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location
14 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
15 or location if it can reasonably be put to farm use in conjunction with other land.

16 (c) Complies with such other conditions as the governing body or its designee considers neces-
17 sary.

18 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
19 one single-family dwelling, not provided in conjunction with farm use, may be established in any
20 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
21 is not larger than three acres upon written findings showing:

22 (a) The dwelling or activities associated with the dwelling will not force a significant change in
23 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

24 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
25 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
26 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
27 applicable; and

28 (c) The dwelling complies with other conditions considered necessary by the governing body or
29 its designee.

30 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
31 body shall notify:

32 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
33 tablished; and

34 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
35 imposed by the county to cover the cost of such notice.

36 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
37 following the date of postmark of the notice to file a written objection on the grounds only that the
38 dwelling or activities associated with it would force a significant change in or significantly increase
39 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
40 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
41 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
42 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
43 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
44 this section.

45 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,

1 1948, and July 1, 1983. For the purposes of this section:

2 (a) Only one lot or parcel exists if:

3 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
4 scribed in this section; and

5 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
6 or lots and parcels by the same person, spouses, **reciprocal beneficiaries** or a single partnership
7 or business entity, separately or in tenancy in common.

8 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
9 but not limited to, lots, parcels or lots and parcels separated only by a public road.

10 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
11 retain a life estate in a dwelling on that property and in a tract of land under and around the
12 dwelling.

13 (9) No final approval of a nonfarm use under this section shall be given unless any additional
14 taxes imposed upon the change in use have been paid.

15 (10) Roads, highways and other transportation facilities and improvements not allowed under
16 subsections (1) and (2) of this section may be established, subject to the approval of the governing
17 body or its designee, in areas zoned for exclusive farm use subject to:

18 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
19 goal with which the facility or improvement does not comply; or

20 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
21 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

22 **SECTION 115.** ORS 215.283 is amended to read:

23 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

24 (a) Public or private schools, including all buildings essential to the operation of a school.

25 (b) Churches and cemeteries in conjunction with churches.

26 (c) The propagation or harvesting of a forest product.

27 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
28 not including commercial facilities for the purpose of generating electrical power for public use by
29 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
30 may be established as provided in ORS 215.275.

31 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
32 farm operator or the farm operator's spouse[,] **or reciprocal beneficiary, as defined in section 1**
33 **of this 2007 Act**, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent,
34 sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require
35 the assistance of the relative in the management of the farm use and the dwelling is located on the
36 same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.190 or
37 the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described
38 in this paragraph obtains construction financing or other financing secured by the dwelling and the
39 secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as
40 defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create
41 a new parcel.

42 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
43 farm use.

44 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
45 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of

1 compressors, separators and other customary production equipment for an individual well adjacent
 2 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 3 an exception under ORS 197.732 (1)(a) or (b).

4 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
 5 construction relating to such operations shall not be a basis for an exception under ORS 197.732
 6 (1)(a) or (b).

7 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
 8 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
 9 necessary for its operation.

10 (j) The breeding, kenneling and training of greyhounds for racing.

11 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

12 (L) Reconstruction or modification of public roads and highways, including the placement of
 13 utility facilities overhead and in the subsurface of public roads and highways along the public right
 14 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
 15 would occur, or no new land parcels result.

16 (m) Temporary public road and highway detours that will be abandoned and restored to original
 17 condition or use at such time as no longer needed.

18 (n) Minor betterment of existing public road and highway related facilities such as maintenance
 19 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
 20 public-owned property utilized to support the operation and maintenance of public roads and high-
 21 ways.

22 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
 23 been listed in a county inventory as historic property as defined in ORS 358.480.

24 (p) Creation of, restoration of or enhancement of wetlands.

25 (q) A winery, as described in ORS 215.452.

26 (r) Farm stands if:

27 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 28 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 29 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
 30 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
 31 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
 32 and

33 (B) The farm stand does not include structures designed for occupancy as a residence or for
 34 activity other than the sale of farm crops or livestock and does not include structures for banquets,
 35 public gatherings or public entertainment.

36 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

37 (A) Has intact exterior walls and roof structure;

38 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
 39 a sanitary waste disposal system;

40 (C) Has interior wiring for interior lights;

41 (D) Has a heating system; and

42 (E) In the case of replacement:

43 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
 44 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
 45 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable

1 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
2 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
3 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
4 deed records for the county where the property is located a deed restriction prohibiting the siting
5 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
6 a statement of release is placed in the deed records for the county. The release shall be signed by
7 the county or its designee and state that the provisions of this paragraph regarding replacement
8 dwellings have changed to allow the siting of another dwelling. The county planning director or the
9 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
10 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
11 and release statements filed under this paragraph; and

12 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
13 ished within three months after the deferred replacement permit is issued. A deferred replacement
14 permit allows construction of the replacement dwelling at any time. If, however, the established
15 dwelling is not removed or demolished within three months after the deferred replacement permit
16 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
17 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
18 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
19 or otherwise, except by the applicant to the spouse, **reciprocal beneficiary** or a child of the appli-
20 cant.

21 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
22 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
23 area or placed on a permanent foundation unless the building or facility preexisted the use approved
24 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
25 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
26 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
27 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
28 ground.

29 (u) A facility for the processing of farm crops located on a farm operation that provides at least
30 one-quarter of the farm crops processed at the facility. The building established for the processing
31 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
32 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
33 activities within another building supporting farm uses. A processing facility shall comply with all
34 applicable siting standards but the standards shall not be applied in a manner that prohibits the
35 siting of the processing facility.

36 (v) Fire service facilities providing rural fire protection services.

37 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
38 associated with a district as defined in ORS 540.505.

39 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
40 cilities or structures that end at the point where the utility service is received by the customer and
41 that are located on one or more of the following:

42 (A) A public right of way;

43 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
44 jacent property owners has been obtained; or

45 (C) The property to be served by the utility.

1 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
2 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
3 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
4 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
5 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
6 exclusive farm use zone under this chapter.

7 (z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
8 provide rural law enforcement services primarily in rural areas, including parole and post-prison
9 supervision, but not including a correctional facility as defined under ORS 162.135.

10 (2) The following nonfarm uses may be established, subject to the approval of the governing body
11 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

12 (a) Commercial activities that are in conjunction with farm use but not including the processing
13 of farm crops as described in subsection (1)(u) of this section.

14 (b) Operations conducted for:

15 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
16 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

17 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
18 sources subject to ORS 215.298;

19 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

20 (D) Processing of other mineral resources and other subsurface resources.

21 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
22 approval of the county governing body or its designee, a private campground may provide yurts for
23 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
24 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
25 foundation. Upon request of a county governing body, the Land Conservation and Development
26 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
27 of the campgrounds in a county if the commission determines that the increase will comply with the
28 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
29 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
30 internal cooking appliance.

31 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
32 ORS 195.120.

33 (e) Community centers owned by a governmental agency or a nonprofit community organization
34 and operated primarily by and for residents of the local rural community. A community center au-
35 thorized under this paragraph may provide services to veterans, including but not limited to emer-
36 gency and transitional shelter, preparation and service of meals, vocational and educational
37 counseling and referral to local, state or federal agencies providing medical, mental health, disability
38 income replacement and substance abuse services, only in a facility that is in existence on January
39 1, 2006. The services may not include direct delivery of medical, mental health, disability income
40 replacement or substance abuse services.

41 (f) Golf courses.

42 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

43 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
44 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
45 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional

1 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
2 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
3 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
4 granted through waiver action by the Oregon Department of Aviation in specific instances. A
5 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
6 ject to any applicable rules of the Oregon Department of Aviation.

7 (i) Home occupations as provided in ORS 215.448.

8 (j) A facility for the primary processing of forest products, provided that such facility is found
9 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
10 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
11 renewable. These facilities are intended to be only portable or temporary in nature. The primary
12 processing of a forest product, as used in this section, means the use of a portable chipper or stud
13 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
14 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
15 contiguous land where the primary processing facility is located.

16 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
17 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
18 mental Quality together with equipment, facilities or buildings necessary for its operation.

19 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
20 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
21 hardship suffered by the existing resident or a relative of the resident. Within three months of the
22 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
23 ished or, in the case of an existing building, the building shall be removed, demolished or returned
24 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
25 view of the hardship claimed under this paragraph. A temporary residence approved under this
26 paragraph is not eligible for replacement under subsection (1)(s) of this section.

27 (m) Transmission towers over 200 feet in height.

28 (n) Dog kennels not described in subsection (1)(j) of this section.

29 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

30 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
31 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
32 shall not include any species under quarantine by the State Department of Agriculture or the United
33 States Department of Agriculture. The county shall provide notice of all applications under this
34 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
35 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
36 tive decision or initial public hearing on the application.

37 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
38 but not resulting in the creation of new land parcels.

39 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
40 placement of buildings but not resulting in the creation of new land parcels.

41 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
42 stations and rest areas, where additional property or right of way is required but not resulting in
43 the creation of new land parcels.

44 (t) A destination resort that is approved consistent with the requirements of any statewide
45 planning goal relating to the siting of a destination resort.

1 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
 2 dences.

3 (v) Operations for the extraction and bottling of water.

4 (w) Expansion of existing county fairgrounds and activities directly relating to county
 5 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

6 (x) A living history museum related to resource based activities owned and operated by a gov-
 7 ernmental agency or a local historical society, together with limited commercial activities and fa-
 8 cilities that are directly related to the use and enjoyment of the museum and located within
 9 authentic buildings of the depicted historic period or the museum administration building, if areas
 10 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
 11 the museum administration buildings and parking lot are located within one quarter mile of an ur-
 12 ban growth boundary. As used in this paragraph:

13 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
 14 culture of some specific historic period using authentic buildings, tools, equipment and people to
 15 simulate past activities and events; and

16 (B) "Local historical society" means the local historical society recognized by the county gov-
 17 erning body and organized under ORS chapter 65.

18 (y) An aerial fireworks display business that has been in continuous operation at its current
 19 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
 20 permit to sell or provide fireworks.

21 (z) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-
 22 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
 23 growing and marketing of nursery stock on the land that constitutes farm use.

24 (3) Roads, highways and other transportation facilities and improvements not allowed under
 25 subsections (1) and (2) of this section may be established, subject to the approval of the governing
 26 body or its designee, in areas zoned for exclusive farm use subject to:

27 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
 28 goal with which the facility or improvement does not comply; or

29 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
 30 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

31 **SECTION 116.** ORS 215.705 is amended to read:

32 215.705. (1) A governing body of a county or its designate may allow the establishment of a
 33 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this
 34 section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the
 35 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

36 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired
 37 by the present owner:

38 (A) Prior to January 1, 1985; or

39 (B) By devise or by intestate succession from a person who acquired the lot or parcel prior to
 40 January 1, 1985.

41 (b) The tract on which the dwelling will be sited does not include a dwelling.

42 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the
 43 acknowledged comprehensive plan and land use regulations and other provisions of law.

44 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that
 45 high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this

1 section.

2 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in
3 ORS 215.720, 215.740 or 215.750.

4 (f) When the lot or parcel on which the dwelling will be sited lies within an area designated in
5 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent
6 with the limitations on density upon which the acknowledged comprehensive plan and land use
7 regulations intended to protect the habitat are based.

8 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining
9 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

10 (2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
11 dwelling not in conjunction with farm use may be sited on high-value farmland if:

12 (A) It meets the other requirements of ORS 215.705 to 215.750;

13 (B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1);
14 and

15 (C) A hearings officer of a county determines that:

16 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with
17 other land, due to extraordinary circumstances inherent in the land or its physical setting that do
18 not apply generally to other land in the vicinity.

19 (ii) The dwelling will comply with the provisions of ORS 215.296 (1).

20 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the
21 area.

22 (b) A local government shall provide notice of all applications for dwellings allowed under this
23 subsection to the State Department of Agriculture. Notice shall be provided in accordance with the
24 governing body's land use regulations but shall be mailed at least 20 calendar days prior to the
25 public hearing before the hearings officer under paragraph (a) of this subsection.

26 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling
27 not in conjunction with farm use may be sited on high-value farmland if:

28 (a) It meets the other requirements of ORS 215.705 to 215.750.

29 (b) The tract on which the dwelling will be sited is:

30 (A) Identified in ORS 215.710 (3) or (4);

31 (B) Not protected under ORS 215.710 (1); and

32 (C) Twenty-one acres or less in size.

33 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller
34 than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;

35 (B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts
36 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-
37 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the
38 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

39 (C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that
40 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter
41 mile of the center of the subject tract and on the same side of the public road that provides access
42 to the subject tract. The governing body of a county must interpret the center of the subject tract
43 as the geographic center of the flaglot if the applicant makes a written request for that interpreta-
44 tion and that interpretation does not cause the center to be located outside the flaglot. Up to two
45 of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts

1 an urban growth boundary. As used in this subparagraph:

2 (i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from
3 the public road to the rest of the tract.

4 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines
5 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to
6 that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

7 (4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compli-
8 ance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use
9 zone under this chapter, the county may apply the standards for siting a dwelling under either
10 subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predom-
11 inant use of the tract on January 1, 1993.

12 (5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling
13 allowed under this section in any area where the county determines that approval of the dwelling
14 would:

15 (a) Exceed the facilities and service capabilities of the area;

16 (b) Materially alter the stability of the overall land use pattern in the area; or

17 (c) Create conditions or circumstances that the county determines would be contrary to the
18 purposes or intent of its acknowledged comprehensive plan or land use regulations.

19 (6) For purposes of subsection (1)(a) of this section, "owner" includes the wife, husband, **recip-**
20 **rocal beneficiary as defined in section 1 of this 2007 Act**, son, daughter, mother, father, brother,
21 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt,
22 uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business
23 entity owned by any one or combination of these family members.

24 (7) When a local government approves an application for a single-family dwelling under the
25 provisions of this section, the application may be transferred by a person who has qualified under
26 this section to any other person after the effective date of the land use decision.

27 **SECTION 117.** ORS 238.005 is amended to read:

28 238.005. For purposes of this chapter:

29 (1) "Annuity" means payments for life derived from contributions made by a member as provided
30 in this chapter.

31 (2) "Board" means the Public Employees Retirement Board.

32 (3) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
33 cember 31 following.

34 (4) "Continuous service" means service not interrupted for more than five years, except that
35 such continuous service shall be computed without regard to interruptions in the case of:

36 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
37 who remained in that employment until having established membership in the Public Employees
38 Retirement System.

39 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
40 of the employer within one year of the date of being otherwise than dishonorably discharged and
41 remained in that employment until having established membership in the Public Employees Retire-
42 ment System.

43 (5) "Creditable service" means any period of time during which an active member is being paid
44 a salary by a participating public employer and for which benefits under this chapter are funded by
45 employer contributions and earnings on the fund. For purposes of computing years of "creditable

1 service,” full months and major fractions of a month shall be considered to be one-twelfth of a year
2 and shall be added to all full years. “Creditable service” includes all retirement credit received by
3 a member.

4 (6) “Earliest service retirement age” means the age attained by a member when the member
5 could first make application for retirement under the provisions of ORS 238.280.

6 (7) “Employee” includes, in addition to employees, public officers, but does not include:

7 (a) Persons engaged as independent contractors.

8 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
9 ployer or public employers do not total 600 hours in any calendar year.

10 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
11 vided sheltered employment or made-work by a public employer in an employment or industries
12 program maintained for the benefit of such persons.

13 (d) Persons employed and paid from federal funds received under the Emergency Job and Un-
14 employment Assistance Act of 1974 (Public Law 93-567) or any other federal program intended pri-
15 marily to alleviate unemployment. However, any such person shall be considered an “employee” if
16 not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to
17 have the person so considered by an irrevocable written notice to the board.

18 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
19 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
20 shall be deemed to have been in effect since the inception of the system.

21 (8) “Final average salary” means whichever of the following is greater:

22 (a) The average salary per calendar year paid by one or more participating public employers to
23 an employee who is an active member of the system in three of the calendar years of membership
24 before the effective date of retirement of the employee, in which three years the employee was paid
25 the highest salary. The three calendar years in which the employee was paid the largest total salary
26 may include calendar years in which the employee was employed for less than a full calendar year.
27 If the number of calendar years of active membership before the effective date of retirement of the
28 employee is three or fewer, the final average salary for the employee is the average salary per cal-
29 endar year paid by one or more participating public employers to the employee in all of those years,
30 without regard to whether the employee was employed for the full calendar year.

31 (b) One-third of the total salary paid by a participating public employer to an employee who is
32 an active member of the system in the last 36 calendar months of active membership before the ef-
33 fective date of retirement of the employee.

34 (9) “Firefighter” does not include a volunteer firefighter, but does include:

35 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and

36 (b) An employee of the State Forestry Department who is certified by the State Forester as a
37 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
38 fires as described in ORS 477.064.

39 (10) “Fiscal year” means 12 calendar months commencing on July 1 and ending on June 30 fol-
40 lowing.

41 (11) “Fund” means the Public Employees Retirement Fund.

42 (12)(a) “Member” means a person who has established membership in the system and whose
43 membership has not been terminated as described in ORS 238.095. “Member” includes active, inac-
44 tive and retired members.

45 (b) “Active member” means a member who is presently employed by a participating public em-

1 ployer in a qualifying position and who has completed the six-month period of service required by
 2 ORS 238.015.

3 (c) "Inactive member" means a member who is not employed in a qualifying position, whose
 4 membership has not been terminated in the manner described by ORS 238.095, and who is not retired
 5 for service or disability.

6 (d) "Retired member" means a member who is retired for service or disability.

7 (13)(a) "Member account" means the regular account and the variable account.

8 (b) "Regular account" means the account established for each active and inactive member under
 9 ORS 238.250.

10 (c) "Variable account" means the account established for a member who participates in the
 11 Variable Annuity Account under ORS 238.260.

12 (14) "Normal retirement age" means:

13 (a) For a person who establishes membership in the system before January 1, 1996, as described
 14 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
 15 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

16 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
 17 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
 18 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
 19 firefighter.

20 (15) "Pension" means annual payments for life derived from contributions by one or more public
 21 employers.

22 (16) "Police officer" includes:

23 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
 24 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
 25 persons committed to the custody of or transferred to the Department of Corrections and employees
 26 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
 27 whether or not such classification was authorized by law.

28 (b) Employees of the Department of State Police who are classified as police officers by the
 29 Superintendent of State Police.

30 (c) Employees of the Oregon Liquor Control Commission who are classified as enforcement of-
 31 ficers by the administrator of the commission.

32 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
 33 by the sheriff, are the regular duties of police officers or corrections officers.

34 (e) Police chiefs and police personnel of a city who are classified as police officers by the
 35 council or other governing body of the city.

36 (f) Parole and probation officers employed by the Department of Corrections, parole and pro-
 37 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
 38 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes
 39 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
 40 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
 41 ented by a labor organization, any proposal by the county to change that classification or to cease
 42 to classify adult parole and probation officers as police officers for the purposes of this chapter is
 43 a mandatory subject of bargaining.

44 (g) Police officers appointed under ORS 276.021 or 276.023.

45 (h) Employees of the Port of Portland who are classified as airport police by the Board of

1 Commissioners of the Port of Portland.

2 (i) Employees of the State Department of Agriculture who are classified as livestock police of-
3 ficers by the Director of Agriculture.

4 (j) Employees of the Department of Public Safety Standards and Training who are classified by
5 the department as other than secretarial or clerical personnel.

6 (k) Investigators of the Criminal Justice Division of the Department of Justice.

7 (L) Corrections officers as defined in ORS 181.610.

8 (m) Employees of the Oregon State Lottery Commission who are classified by the Director of the
9 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

10 (n) The Director of the Department of Corrections.

11 (o) An employee who for seven consecutive years has been classified as a police officer as de-
12 fined by this section, and who is employed or transferred by the Department of Corrections to fill
13 a position designated by the Director of the Department of Corrections as being eligible for police
14 officer status.

15 (p) An employee of the Department of Corrections classified as a police officer on or prior to
16 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
17 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
18 tem implemented pursuant to ORS 240.190 does not affect police officer status.

19 (q) Employees of a school district who are appointed and duly sworn members of a law
20 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
21 police officers commissioned by the district.

22 (r) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
23 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
24 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
25 Department of Corrections or the Oregon Youth Authority.

26 (s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
27 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
28 in such facilities.

29 (t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation
30 officers.

31 (17) "Public employer" means the state, one of its agencies, any city, county, or municipal or
32 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
33 created by one or more such governmental organizations to provide governmental services. For
34 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
35 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
36 sue and be sued.

37 (18) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
38 to (6) (1999 Edition).

39 (19) "Qualifying position" means one or more jobs with one or more participating public em-
40 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
41 any service in a job for which a participating public employer does not provide benefits under this
42 chapter pursuant to an application made under ORS 238.035.

43 (20) "Retirement credit" means a period of time that is treated as creditable service for the
44 purposes of this chapter.

45 (21)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public

1 employer in return for services to the employer, plus the monetary value, as determined by the
 2 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
 3 other advantages the employer furnishes the employee in return for services.

4 (b) "Salary" includes but is not limited to:

5 (A) Payments of employee and employer money into a deferred compensation plan, which are
 6 deemed salary paid in each month of deferral;

7 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
 8 paid in each month of participation;

9 (C) Retroactive payments made to an employee to correct a clerical error or pursuant to an
 10 award by a court or by order of or a conciliation agreement with an administration agency charged
 11 with enforcing federal or state law protecting the employee's rights to employment or wages, which
 12 shall be allocated to and deemed paid in the periods in which the work was done or in which it
 13 would have been done; and

14 (D) Wages of a deceased member paid to a surviving spouse, **surviving reciprocal beneficiary**
 15 **as defined in section 1 of this 2007 Act** or dependent children under ORS 652.190.

16 (c) "Salary" or "other advantages" does not include:

17 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
 18 employer;

19 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
 20 dependents, for which the employee has no cash option;

21 (C) Payments made on account of an employee's death;

22 (D) Any lump sum payment for accumulated unused sick leave;

23 (E) Any accelerated payment of an employment contract for a future period or an advance
 24 against future wages;

25 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
 26 gratuitous payment;

27 (G) Payments for periods of leave of absence after the date the employer and employee have
 28 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
 29 sick leave and vacation;

30 (H) Payments for instructional services rendered to institutions of the Department of Higher
 31 Education or the Oregon Health and Science University when such services are in excess of full-
 32 time employment subject to this chapter. A person employed under a contract for less than 12
 33 months is subject to this subparagraph only for the months to which the contract pertains; or

34 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
 35 employee.

36 (22) "School year" means the period beginning July 1 and ending June 30 next following.

37 (23) "System" means the Public Employees Retirement System.

38 (24) "Vested" means being an active member of the system in each of five calendar years.

39 (25) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
 40 hours of service per year.

41 **SECTION 118.** ORS 238.055 is amended to read:

42 238.055. (1) On August 1, 1991, all judges receiving retirement pay from the Judges' Retirement
 43 Fund and all surviving spouses **or surviving reciprocal beneficiaries, as defined in section 1 of**
 44 **this 2007 Act**, of judges receiving a pension from the Judges' Retirement Fund shall be retired
 45 members of the Public Employees Retirement System, except that:

1 (a) The amount of retirement pay or pension payable to the judge or surviving spouse **or sur-**
2 **viving reciprocal beneficiary** of a judge and the terms and conditions of eligibility to receive re-
3 tirement pay or a pension shall be as established by ORS 1.314 to 1.380 (1989 Edition); and

4 (b) The right of any person to receive any benefit as a result of the death of a judge by reason
5 of the provisions of ORS 1.314 to 1.380 (1989 Edition) shall solely be as provided by ORS 1.314 to
6 1.380 (1989 Edition).

7 (2) After August 1, 1991, any judge who would have become eligible to receive retirement pay
8 from the Judges' Retirement Fund shall, upon retirement, be a retired member of the Public Em-
9 ployees Retirement System, except that:

10 (a) The amount of retirement pay or pension payable to the judge or the surviving spouse **or**
11 **surviving reciprocal beneficiary** of the judge and the terms and conditions of eligibility to receive
12 retirement pay or a pension shall be as established by ORS 1.314 to 1.380 (1989 Edition); and

13 (b) The right of any person to receive any benefit as a result of the death of the judge by reason
14 of the provisions of ORS 1.314 to 1.380 (1989 Edition) shall solely be as provided by ORS 1.314 to
15 1.380 (1989 Edition).

16 (3) On August 1, 1991, the Judges' Retirement Fund shall cease to exist as a separate fund and
17 the assets and earnings of the Judges' Retirement Fund shall be paid into the employer reserves for
18 judge members of the Public Employees Retirement Fund. The Public Employees Retirement Board
19 shall continue to keep a separate regular account for any person who may become eligible to receive
20 a retirement benefit under subsection (2) of this section and for any person whose child or children
21 may become entitled to a benefit under ORS 1.346 (1989 Edition).

22 (4) Upon deposit of the assets and earnings of the Judge's Retirement Fund as provided under
23 subsection (3) of this section, the Public Employees Retirement Board shall cause to be deposited
24 from the employer reserves for judge members to the retired reserves of the Public Employees Re-
25 tirement Fund, the amount actuarially determined to be necessary to fund the retirement pay and
26 pensions of those judges and surviving spouses **or surviving reciprocal beneficiaries** of judges who
27 were receiving retirement pay or a pension from the Judges' Retirement Fund on August 1, 1991.

28 (5) The amount of retirement pay or pension payable to a judge or spouse **or reciprocal bene-**
29 **fiary** of a retired judge who previously received retirement pay or a pension from the Judges'
30 Retirement Fund, or who would have received retirement pay or a pension from the Judges' Re-
31 tirement Fund, shall not be recalculated or affected in any way based on the provisions of ORS
32 chapter 238, nor shall the eligibility of a judge or surviving spouse **or surviving reciprocal bene-**
33 **fiary** of a judge to receive retirement pay or a pension be affected by ORS chapter 238.

34 (6) The provisions of ORS 238.390, 238.395, 238.400 and 238.500 to 238.585 do not apply to a judge
35 or surviving spouse **or surviving reciprocal beneficiary** of a judge who received retirement pay
36 or a pension from the Judges' Retirement Fund prior to August 1, 1991, or to a judge who retires
37 as a member of the Public Employees Retirement System under subsection (2) of this section.

38 (7) Any person who served as a judge before August 1, 1991, who had amounts deducted from
39 the person's salary while serving as a judge for the purpose of making contributions to the Judges'
40 Retirement Fund, and who is not eligible to become a retired member of the Public Employees Re-
41 tirement System under this section, may withdraw the amounts deducted from the person's salary,
42 with all earnings on those deductions, at any time after May 24, 2003. Withdrawal under this sub-
43 section cancels all rights the person may have in the Judges' Retirement Fund or the Public Em-
44 ployees Retirement System, and the rights that any spouse, **reciprocal beneficiary** or **other**
45 beneficiary of the person may have in the Judges' Retirement Fund or the Public Employees Re-

1 tirement System, by reason of service by the person as a judge for which contributions were made
2 to the Judges' Retirement Fund.

3 **SECTION 119.** ORS 238.305 is amended to read:

4 238.305. (1) Not later than 60 days after the first benefit payment is made to a retired member
5 of the Public Employees Retirement System, the member may elect to convert the allowance de-
6 scribed by ORS 238.300 as payable after retirement into a service retirement annuity of equivalent
7 actuarial value of one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall
8 be effective immediately upon the member's retirement.

9 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be
10 the actuarial equivalent of accumulated contributions by the member and interest thereon credited
11 at the time of retirement (if death occurs before the first payment is due, the member account shall
12 be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided
13 by the contributions of employers as provided in ORS 238.300 (2); (c) an additional nonrefund pension
14 for prior service credit, including military service, credited to the member at the time of first be-
15 coming a member of the system, as elsewhere provided in this chapter, which pension shall be pro-
16 vided by the contributions of the employer; or

17 Option 2. A reduced service retirement allowance payable during the member's life, with the
18 provision that it continue after death for the life of the beneficiary the member nominates by written
19 designation duly acknowledged and filed with the Public Employees Retirement Board at the time
20 of election, should the beneficiary survive the member; or

21 Option 2A. A reduced service retirement allowance payable during the member's life which,
22 unless modified under subsection (6) of this section, continues after death for the life of the benefi-
23 ciary the member nominates by written designation duly acknowledged and filed with the board at
24 the time of election, should the beneficiary survive the member; or

25 Option 3. A reduced service retirement allowance payable during the member's life, with the
26 provision that it continue after death at one-half the rate paid to the member and be paid for the
27 life of the beneficiary the member nominates by written designation duly acknowledged and filed
28 with the board at the time of election, should the beneficiary survive the member; or

29 Option 3A. A reduced service retirement allowance payable during the member's life which,
30 unless modified under subsection (6) of this section, continues after death at one-half the rate paid
31 to the member and is paid for the life of the beneficiary the member nominates by written desig-
32 nation duly acknowledged and filed with the board at the time of election, should the beneficiary
33 survive the member; or

34 Option 4. A reduced service retirement allowance payable during the member's life, with the
35 provisions that if the member dies before a total of 180 monthly payments is made, the remainder
36 of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by
37 written designation duly acknowledged and filed with the board at any time before the member's
38 death; and that if the member designates no beneficiary to receive the monthly payments or no such
39 beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the
40 date of the member's death, of the total of the monthly payments not made to the member shall be
41 paid according to ORS 238.390 for disposal of an amount credited to the member account of a
42 member at the time of death; and that if the beneficiary receiving monthly payments dies before the
43 total number of monthly payments to which the beneficiary is entitled is made, an amount equal to
44 the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not
45 made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an

1 amount credited to the member account of a member at the time of death and as if the beneficiary
2 had been a member.

3 (2) Not later than 60 days after the first benefit payment is made to a retired member of the
4 system, the member may elect, in lieu of the allowance described by ORS 238.300 as payable after
5 retirement, a service retirement benefit consisting of:

6 (a) A refund of accumulated contributions by the member and interest thereon credited at the
7 time of refund; and

8 (b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS
9 237.147 (2) (1979 Replacement Part), and an additional life pension (nonrefund) for prior service
10 credit as provided in ORS 238.300 (3). At the same time as making the election under this subsection,
11 the member may elect to convert the pensions described by this paragraph into a service retirement
12 annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A
13 under subsection (1) of this section.

14 (3) Not later than 60 days after the first benefit payment is made to a retired member of the
15 system, the member may elect in lieu of the allowance described by ORS 238.300 a refund service
16 retirement benefit consisting of:

17 (a) A refund of accumulated contributions by the member and interest thereon credited at the
18 time of retirement;

19 (b) An amount that matches the amount of accumulated contributions by the member and in-
20 terest thereon, provided by the contributions of employers; and

21 (c) Interest on the amounts described in paragraphs (a) and (b) of this subsection from the ef-
22 fective date of retirement until the amounts are paid.

23 (4)(a) If the member elects to receive the service retirement benefit described in subsection (2)
24 or (3) of this section, the member shall elect at the same time to receive the refund described in
25 subsection (2)(a) or (3) of this section in one lump sum payment or in more than one but not more
26 than five installment payments. If the member elects installment payments:

27 (A) The amount to be paid by employer contributions under subsection (3)(b) of this section shall
28 be transferred to the individual account of the member in the Public Employees Retirement Fund
29 as of the effective date of retirement.

30 (B) The installment payments shall be paid once each year for the number of consecutive years
31 equal to the number of installment payments elected.

32 (C) The amount of each installment payment shall be designated by the member at the time of
33 making the election, but the last installment payment shall be the unrefunded balance remaining in
34 the member account of the member in the fund.

35 (D) The member account of the member in the fund shall be maintained until the last installment
36 payment is paid. The board shall establish procedures for computing and crediting interest annually
37 on the unrefunded balance of the member account.

38 (E) A yearly installment payment shall be paid on the anniversary of the date of the first in-
39 stallment payment.

40 (F) The member is considered to have elected to transfer any balance in the variable account
41 of the member to the regular account of the member.

42 (G) If the member dies before payment of all installment payments, the unrefunded balance in
43 the member account of the member plus interest to date of disbursement is payable as provided in
44 ORS 238.390 (4).

45 (b) If a member elects to receive the refund service retirement benefit described in subsection

1 (3) of this section, and does not elect to receive those amounts in installments under the provisions
2 of this subsection, all rights of the member in the system shall terminate upon the payment of the
3 amounts provided for in subsection (3) of this section, except as provided in paragraph (c) of this
4 subsection. If a member elects to receive the refund service retirement benefit described in sub-
5 section (3) of this section, and also elects to receive those amounts in installments under the pro-
6 visions of this subsection, all rights of the member in the system shall terminate upon the making
7 of the first payment, except as provided in paragraph (c) of this subsection.

8 (c) A member who elects to receive the refund service retirement benefit described in subsection
9 (3) of this section, and any eligible spouse, **reciprocal beneficiary, as defined in section 1 of this**
10 **2007 Act**, or dependent of the member, shall continue to be eligible for insurance under ORS
11 238.410, and for any premium payments the member may be entitled to under ORS 238.415 and
12 238.420.

13 (5) The designation of a beneficiary, the election of an option or any other election or desig-
14 nation under subsection (1), (2), (3) or (4) of this section may be changed by the member within 60
15 days after the date of the first benefit payment, except that the designation of a beneficiary under
16 Option 4 may be changed by the member at any time before the member's death.

17 (6) If a retired member has elected to receive a service retirement allowance under Option 2A
18 or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option
19 dies after the expiration of the time within which the member could change the election of an option
20 or if the beneficiary is the spouse **or reciprocal beneficiary** of the member and the marriage re-
21 lationship **or reciprocal beneficiary agreement** is terminated as provided by law after the expira-
22 tion of the time within which the member could change the election of an option, the member may
23 elect to receive, in lieu of the optional form of allowance previously elected, the allowance that the
24 member would have received on the effective date of retirement under Option 1 as provided in
25 subsection (1) of this section and adjusted by the actual amount of any cost-of-living or other post-
26 retirement adjustments made to the original allowance since the effective date of retirement. Notice
27 of election under this subsection must be in a form approved by the board. If an election is made
28 under this subsection, the Option 1 payment amount is applicable to the first full month after the
29 death of the beneficiary, or the first full month after entry of the judgment of divorce **or termi-**
30 **nation of the reciprocal beneficiary agreement**, and payable the first day of the month thereafter.
31 If the increased amount is not paid in any month in which the increased amount is due, the board
32 shall make a lump sum payment to the retired member that is equal to the difference between the
33 amount paid to the member for that month and the amount that should have been paid under the
34 provisions of this subsection.

35 (7) Notwithstanding any other provision of this section, any member of the system who retired
36 before October 3, 1989, and elected to receive a service retirement allowance under either Option
37 2 or 3 as provided in subsection (1) of this section shall be entitled to receive a service retirement
38 allowance equal to that which the member would have received on the effective date of retirement
39 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of
40 any cost-of-living or other post-retirement adjustments made to the original allowance since the ef-
41 fective date of retirement if:

42 (a) The member has attained 80 years of age;

43 (b) The person designated by the member as the member's beneficiary has predeceased the
44 member; and

45 (c) The member gives written notice to the board of the death of the member's beneficiary.

1 (8) Notwithstanding any other provision of this section, any member of the system who retired
2 before October 3, 1989, who elected to receive a refund of accumulated employee contributions and
3 a life pension or pensions under subsection (2) of this section, and who elected to convert the life
4 pension or pensions provided for in subsection (2) of this section into a service retirement annuity
5 under Option 2 or 3 under subsection (1) of this section, shall be entitled to receive a life pension
6 or pensions equal to that which the member would have received on the effective date of retirement
7 under subsection (2) of this section and adjusted by the actual amount of any cost-of-living or other
8 post-retirement adjustments made to the original life pension or pensions since the effective date of
9 retirement if:

10 (a) The member has attained 80 years of age;

11 (b) The person designated by the member as the member's beneficiary has predeceased the
12 member; and

13 (c) The member gives written notice to the board of the death of the member's beneficiary.

14 (9) The service retirement allowance provided in subsection (7) or (8) of this section shall be
15 applicable to the first full month after the death of the member's beneficiary, or the first full month
16 after the member attains 80 years of age, whichever is later.

17 (10) The board may deny an election to convert a service retirement allowance under this sec-
18 tion, a change of beneficiary under this section or a change in benefit options under this section if
19 that denial is required to maintain the status of the system and the Public Employees Retirement
20 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and
21 under regulations adopted pursuant to the Internal Revenue Code.

22 **SECTION 120.** ORS 238.325 is amended to read:

23 238.325. (1) At any time after establishing membership, but before the expiration of 90 days after
24 the Public Employees Retirement Board makes its finding that the employee is disabled, an employee
25 who is a member of the Public Employees Retirement System may elect to convert the disability
26 retirement allowance otherwise payable on the member account of the member into a disability re-
27 tirement annuity of equivalent actuarial value, by selecting one of the optional forms named below.
28 The election of Option 2, 2A, 3 or 3A shall be effective immediately upon the effective date of the
29 member's disability, and in the event of death within the first 90-day period of incapacity, payment
30 to the beneficiary of the member shall be made in accordance with the option selected.

31 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be
32 the actuarial equivalent of the accumulated contributions and interest thereon credited to the
33 member at the time the member retires (if death occurs before the first payment is due, the member
34 account of the member shall be treated as though death had occurred before retirement); (b) a life
35 pension (nonrefund) provided by the contributions of employers as provided in ORS 238.320 (1)(b); (c)
36 an additional nonrefund pension for prior service credit, including military service, credited to the
37 member at the time the member first becomes a member of the system, as elsewhere provided in this
38 chapter, which pension shall be provided by the contributions of the employer; or

39 Option 2. A reduced disability retirement allowance payable during the period of incapacity,
40 with the provision that after death, if death shall occur after the effective date of the disability and
41 during the period of incapacity, it shall continue for the life of the beneficiary whom the member
42 has designated in writing duly acknowledged and filed with the board at the time of election, should
43 the beneficiary survive the member; or

44 Option 2A. A reduced disability retirement allowance payable during the period of incapacity
45 which, unless modified under subsection (3) of this section, continues after death, if death shall occur

1 after the effective date of the disability and during the period of incapacity, for the life of the ben-
2 eficiary whom the member nominates by written designation duly acknowledged and filed with the
3 board at the time of election, should the beneficiary survive the member; or

4 Option 3. A reduced disability retirement allowance payable during the period of incapacity,
5 with the provision that after death, if death shall occur after the effective date of the disability and
6 during the period of incapacity, such allowance shall continue at one-half the rate paid to the
7 member and be paid for the life of the beneficiary whom the member has designated in writing duly
8 acknowledged and filed with the board at the time of election, should the beneficiary survive the
9 member; or

10 Option 3A. A reduced disability retirement allowance payable during the period of incapacity
11 which, unless modified under subsection (3) of this section, continues after death, if death shall occur
12 after the effective date of the disability and during the period of incapacity, at one-half the rate paid
13 to the member and is paid for the life of the beneficiary whom the member nominates by written
14 designation duly acknowledged and filed with the board at the time of election, should the benefi-
15 ciary survive the member; or

16 Option 4. A reduced disability retirement allowance payable during the period of incapacity,
17 with the provisions that if the member dies during the period of incapacity and before a total of 180
18 monthly payments is made, the remainder of the 180 monthly payments shall be paid monthly to the
19 beneficiary the member nominates by written designation duly acknowledged and filed with the
20 board at any time before the member's death; and that if the member designates no beneficiary to
21 receive the monthly payments or no such beneficiary is able to receive the monthly payments, an
22 amount equal to the actuarial value, on the date of the member's death, of the total of the monthly
23 payments not made to the member shall be paid according to ORS 238.390 for disposal of an amount
24 credited to the member account of a member at the time of death; and that if the beneficiary re-
25 ceiving monthly payments dies before the total number of monthly payments to which the benefi-
26 ciary is entitled is made, an amount equal to the actuarial value, on the date of the beneficiary's
27 death, of the total of the monthly payments not made to the member and beneficiary shall be paid
28 according to ORS 238.390 for disposal of an amount credited to the member account of a member
29 at the time of death and as if the beneficiary had been a member.

30 (2) The beneficiary designated by a member to receive any benefit under this section shall be
31 the same as designated under ORS 238.390 (1). The designation of a beneficiary or the election of
32 an option may be changed by a member within 60 days after the date of the first benefit payment,
33 except that the designation of a beneficiary under Option 4 may be changed by the member at any
34 time before the member's death.

35 (3) If a retired member has elected to receive a disability retirement allowance under Option
36 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that op-
37 tion dies after the expiration of the time within which the member could change the election of an
38 option or if the beneficiary is the spouse **or reciprocal beneficiary, as defined in section 1 of this**
39 **2007 Act**, of the member and the marriage relationship **or reciprocal beneficiary agreement** is
40 terminated as provided by law after the expiration of the time within which the member could
41 change the election of an option, the member may elect to receive, in lieu of the optional form of
42 allowance previously elected, the allowance that the member would have received on the effective
43 date of retirement under Option 1 as provided in subsection (1) of this section and adjusted by the
44 actual amount of any cost-of-living or other post-retirement adjustments made to the original allow-
45 ance since the effective date of retirement. Notice of election under this subsection must be in a

1 form approved by the board. If an election is made under this subsection, the Option 1 payment
 2 amount is applicable to the first full month after the death of the beneficiary, or the first full month
 3 after entry of the judgment of divorce **or the termination of the reciprocal beneficiary agree-**
 4 **ment**, and payable the first day of the month thereafter. If the increased amount is not paid in any
 5 month in which the increased amount is due, the board shall make a lump sum payment to the re-
 6 tired member that is equal to the difference between the amount paid to the member for that month
 7 and the amount that should have been paid under the provisions of this subsection.

8 (4) The cost to the system of a disability retirement allowance in any optional form may not
 9 exceed the cost to the system of a nonrefund disability retirement allowance payable to, and on
 10 account of, the member making such election.

11 (5) The obligation for payment of any benefit in force prior to April 8, 1953, may not be altered
 12 by subsections (1) to (4) of this section. However, the beneficiary of a retired member who prior to
 13 July 1, 1953, elected an option but died prior to the effective date of such election, shall have a right
 14 to repay, before December 31, 1953, the amount of the lump sum refund made in lieu of the monthly
 15 life benefit elected and receive payment of such benefit, computed as of the date of the member's
 16 death and payable from such date.

17 (6) If a member who would have qualified for disability benefits makes preliminary application
 18 for such benefits but dies prior to being found by the board to be disabled or prior to electing a plan
 19 of benefit payments, and the records of the board indicate that the member had designated the sur-
 20 viving spouse **or surviving reciprocal beneficiary** as beneficiary under ORS 238.390 (1), [*such*] **the**
 21 surviving spouse **or surviving reciprocal beneficiary** may, not more than 90 days after the board
 22 makes its finding that the member would have qualified for disability benefits if living:

23 (a) Elect to receive the amount referred to in ORS 238.395 if such benefit would have been
 24 available if the member had not applied for disability benefits;

25 (b) If not eligible for benefits under ORS 238.395, elect to receive benefits under ORS 238.390 (1);
 26 or

27 (c) Elect Option 2 or 3 under subsection (1) of this section and designate the surviving spouse
 28 **or surviving reciprocal beneficiary** as beneficiary thereunder with the same force and effect as if
 29 the election and designation had been properly made by the deceased member.

30 (7) The board may deny an election to convert a disability retirement allowance under this
 31 section, a change of beneficiary under this section or a change in benefit options under this section
 32 if that denial is required to maintain the status of the system and the Public Employees Retirement
 33 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and
 34 under regulations adopted pursuant to the Internal Revenue Code.

35 **SECTION 121.** ORS 238.400 is amended to read:

36 238.400. If a person who is a member of the system, who has attained normal retirement age and
 37 who has retired from service, dies without making an election under ORS 238.305 and prior to the
 38 expiration of the time within which such an election could be made by the person, and the records
 39 of the Public Employees Retirement Board indicate that the person has designated the surviving
 40 spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act**, as the
 41 beneficiary under ORS 238.390 (1), [*such*] **the** surviving spouse **or surviving reciprocal beneficiary**
 42 may, not more than 60 days after the date of the death of such deceased member, elect to receive
 43 the amount referred to in ORS 238.390 (1), or elect Option 2 or Option 3 under ORS 238.305 and
 44 designate self as the beneficiary thereunder with the same force and effect as if the election and
 45 designation had been properly made by the deceased member.

1 **SECTION 122.** ORS 238.405 is amended to read:

2 238.405. (1) The surviving spouse, **surviving reciprocal beneficiary as defined in section 1**
 3 **of this 2007 Act** or **surviving** child of a police officer or firefighter, who died a member of the
 4 Public Employees Retirement System while retired either for service or disability and while receiv-
 5 ing or being entitled to receive a benefit under ORS 238.345 or under this chapter, is entitled to a
 6 benefit under this section. The benefit shall be equal to 25 percent of the unmodified retirement al-
 7 lowance the police officer or firefighter was receiving or was entitled to receive at the time of death
 8 under ORS 238.345 or under this chapter. The benefit authorized by this section is in addition to any
 9 other benefit the surviving spouse, **surviving reciprocal beneficiary** or **surviving** child is entitled
 10 to and is available to the child until the child attains 18 years of age.

11 (2) For the purpose of this section, the unmodified retirement allowance is that allowance de-
 12 scribed in ORS 238.300, or if election to receive the benefits authorized under ORS 238.345 has been
 13 made, the unmodified retirement allowance is 50 percent of the final average salary of the police
 14 officer or firefighter as determined on the date of the injury causing disability.

15 (3) The board shall pay to a surviving spouse, **surviving reciprocal beneficiary** or **surviving**
 16 child entitled to a benefit under this section a lump sum amount equal to the actuarial value of the
 17 allowance provided under this section if the allowance is less than \$30 per month. The lump sum
 18 amount shall be in lieu of the allowance provided for under this section.

19 **SECTION 123.** ORS 238.410 is amended to read:

20 238.410. (1) As used in this section:

21 (a) “Carrier” means an insurance company or health care service contractor holding a valid
 22 certificate of authority from the Director of the Department of Consumer and Business Services, an
 23 insurance company or health care service contractor licensed or certified in another state that is
 24 operating under the laws of that state, or two or more of those companies or contractors acting
 25 together pursuant to a joint venture, partnership or other joint means of operation.

26 (b) “Eligible person” means:

27 (A) A member of the Public Employees Retirement System who is retired for service or disability
 28 and is receiving a retirement allowance or benefit under the system, and a spouse, **reciprocal**
 29 **beneficiary as defined in section 1 of this 2007 Act** or dependent of that member;

30 (B) A person who is a surviving spouse, **reciprocal beneficiary** or dependent of a deceased re-
 31 tired member of the system or the surviving spouse, **reciprocal beneficiary** or dependent of a
 32 member of the system who had not retired but who had reached earliest retirement age at the time
 33 of death;

34 (C) A person who is receiving retirement pay or a pension calculated under ORS 1.314 to 1.380
 35 (1989 Edition), and a spouse, **reciprocal beneficiary** or dependent of that person; or

36 (D) A surviving spouse, **reciprocal beneficiary** or dependent of a deceased retired member of
 37 the system or of a person who was receiving retirement pay or a pension calculated under ORS 1.314
 38 to 1.380 (1989 Edition) if the surviving spouse, **reciprocal beneficiary** or dependent was covered
 39 at the time of the decedent’s death by a health care insurance plan contracted for under this section.

40 (c) “Health care” means medical, surgical, hospital or any other remedial care recognized by
 41 state law and related services and supplies and includes comparable benefits for persons who rely
 42 on spiritual means of healing.

43 (2) The Public Employees Retirement Board shall conduct a continuing study and investigation
 44 of all matters connected with the providing of health care insurance protection to eligible persons.
 45 The board shall design benefits, devise specifications, invite proposals, analyze carrier responses to

1 advertisements for proposals and do acts necessary to award contracts to provide health care in-
2 surance, including insurance that provides coverage supplemental to federal Medicare coverage,
3 with emphasis on features based on health care cost containment principles, for eligible persons.
4 The board is not subject to the provisions of ORS chapters 279A and 279B, except ORS 279B.235,
5 in awarding contracts under the provisions of this section. The board shall establish procedures for
6 inviting proposals and awarding contracts under this section.

7 (3) The board shall enter into a contract with a carrier to provide health care insurance for
8 eligible persons for a one or two-year period. The board may enter into more than one contract with
9 one or more carriers, contracting jointly or severally, if in the opinion of the board it is necessary
10 to do so to obtain maximum coverage at minimum cost and consistent with the health care insurance
11 needs of eligible persons. The board periodically shall review a current contract or contracts and
12 make suitable study and investigation for the purpose of determining whether a different contract
13 or contracts can and should, in the best interest of eligible persons, be entered into. If it would be
14 advantageous to eligible persons to do so, the board shall enter into a different contract or con-
15 tracts. Contracts shall be signed by the chairperson on behalf of the board.

16 (4) Except as provided in ORS 238.415 and 238.420, the board may deduct monthly from the re-
17 tirement allowance or benefit, retirement pay or pension payable to an eligible person who elects
18 to participate in a health care insurance plan the monthly cost of the coverage for the person under
19 a health care insurance contract entered into under this section and the administrative costs in-
20 curred by the board under this section, and shall pay those amounts into the Standard Retiree
21 Health Insurance Account established under subsection (7) of this section. The board by rule may
22 establish other procedures for collecting the monthly cost of the coverage and the administrative
23 costs incurred by the board under this section if the board does not deduct those costs from the
24 retirement allowance or benefit, retirement pay or pension payable to an eligible person.

25 (5) Subject to applicable provisions of ORS chapter 183, the board may make rules not incon-
26 sistent with this section to determine the terms and conditions of eligible person participation and
27 coverage and otherwise to implement and carry out the purposes and provisions of this section and
28 ORS 238.420.

29 (6) The board may retain consultants, brokers or other advisory personnel, organizations spe-
30 cializing in health care cost containment or other administrative services when it determines the
31 necessity and, subject to the State Personnel Relations Law, shall employ such personnel as are
32 required to assist in performing the functions of the board under this section.

33 (7) Pursuant to section 401(h) of the Internal Revenue Code, the Standard Retiree Health In-
34 surance Account is established within the Public Employees Retirement Fund, separate and distinct
35 from the General Fund. All payments made by eligible persons for health insurance coverage pro-
36 vided under this section shall be held in the account. Interest earned by the account shall be cred-
37 ited to the account. All moneys in the account are continuously appropriated to the Public
38 Employees Retirement Board and may be used by the board only to pay the cost of health insurance
39 coverage under this section and to pay the administrative costs incurred by the board under this
40 section.

41 (8) The sum of all amounts paid by eligible persons into the Standard Retiree Health Insurance
42 Account, by participating public employers into the Retiree Health Insurance Premium Account
43 under ORS 238.415, and by participating public employers into the Retirement Health Insurance
44 Account under ORS 238.420, may not exceed 25 percent of the aggregate contributions made by
45 participating public employers to the Public Employees Retirement Fund on or after July 11, 1987,

1 not including contributions made by participating public employers to fund prior service credits.

2 (9) Until all liabilities for health benefits under the system are satisfied, contributions and
 3 earnings in the Standard Retiree Health Insurance Account, the Retiree Health Insurance Premium
 4 Account under ORS 238.415 and the Retirement Health Insurance Account under ORS 238.420 may
 5 not be diverted or otherwise put to any use other than providing health benefits and payment of
 6 reasonable costs incurred in administering this section and ORS 238.415 and 238.420. Upon satis-
 7 fication of all liabilities for providing health benefits under this section, any amount remaining in the
 8 Standard Retiree Health Insurance Account shall be returned to the participating public employers
 9 who have made contributions to the account. The distribution shall be made in such equitable
 10 manner as the board determines appropriate.

11 **SECTION 124.** ORS 238.415 is amended to read:

12 238.415. (1) As used in this section:

13 (a) "Board" means the Public Employees Retirement Board.

14 (b) "Eligible retired state employee" means:

15 (A) A retired member of the Public Employees Retirement System who was a state employee at
 16 the time of retirement, is retired for service or disability, is receiving a retirement allowance or
 17 benefit under the system, had eight years or more of qualifying service in the system at the time
 18 of retirement or is receiving a disability retirement allowance including a pension computed as if
 19 the member had eight years or more of creditable service in the system at the time of retirement,
 20 and has attained earliest service retirement age but is not eligible for federal Medicare coverage;
 21 or

22 (B) A person who is a surviving spouse, **reciprocal beneficiary as defined in section 1 of this**
 23 **2007 Act** or dependent of a deceased eligible retired state employee as provided in subparagraph (A)
 24 of this paragraph at the time of death, who:

25 (i) Is receiving a retirement allowance or benefit under the system; or

26 (ii) Was covered at the time of the eligible retired state employee's death by the retired em-
 27 ployee's health insurance contracted for under ORS 238.410, and the employee retired on or after
 28 September 29, 1991.

29 (c) "Qualifying service" means creditable service in the system and any periods of employment
 30 with an employer participating in the system required of the employee before becoming a member
 31 of the system.

32 (d) "System" means the Public Employees Retirement System.

33 (2) Of the monthly cost of coverage for an eligible retired state employee under a health care
 34 insurance contract entered into under ORS 238.410, an amount as determined under subsection (3)
 35 of this section shall be paid from the Retiree Health Insurance Premium Account established by
 36 subsection (4) of this section, and any monthly cost in excess of the amount so determined shall be
 37 paid by the eligible retired state employee in the manner provided in ORS 238.410 (4). Any amount
 38 paid under this subsection shall be exempt from all state, county and municipal taxes imposed on
 39 the eligible retired member.

40 (3) On or before January 1 of each year, the Public Employees Retirement Board shall calculate
 41 the average difference between the health insurance premiums paid by retired state employees under
 42 contracts entered into by the board under ORS 238.410 and the health insurance premiums paid by
 43 state employees who are not retired under contracts entered into by the Public Employees' Benefit
 44 Board. For the purposes of subsection (2) of this section, an eligible retired state employee shall be
 45 entitled to receive toward the monthly cost of coverage under a health insurance contract entered

1 into under ORS 238.410:

2 (a) For an eligible retired state employee with eight years or more of qualifying service in the
3 system, but less than 10 years of qualifying service in the system, 50 percent of the amount calcu-
4 lated by the board under this subsection.

5 (b) For an eligible retired state employee with 10 years or more of qualifying service in the
6 system, but less than 15 years of qualifying service in the system, 60 percent of the amount calcu-
7 lated by the board under this subsection.

8 (c) For an eligible retired state employee with 15 years or more of qualifying service in the
9 system, but less than 20 years of qualifying service in the system, 70 percent of the amount calcu-
10 lated by the board under this subsection.

11 (d) For an eligible retired state employee with 20 years or more of qualifying service in the
12 system, but less than 25 years of qualifying service in the system, 80 percent of the amount calcu-
13 lated by the board under this subsection.

14 (e) For an eligible retired state employee with 25 years or more of qualifying service in the
15 system, but less than 30 years of qualifying service in the system, 90 percent of the amount calcu-
16 lated by the board under this subsection.

17 (f) For an eligible retired state employee with 30 years or more of qualifying service in the
18 system, 100 percent of the amount calculated by the board under this subsection.

19 (4) Pursuant to section 401(h) of the Internal Revenue Code, the Retiree Health Insurance Pre-
20 mium Account is established within the Public Employees Retirement Fund, separate and distinct
21 from the General Fund. Interest earned by the account shall be credited to the account. All moneys
22 in the account are continuously appropriated to the Public Employees Retirement Board and may
23 be used only to pay costs of health care insurance contract coverage under subsection (2) of this
24 section, paying the administrative costs incurred by the board under this section and investment of
25 moneys in the account under any law of this state specifically authorizing that investment.

26 (5) The Retiree Health Insurance Premium Account shall be funded by employer contributions.
27 The state shall transmit to the board those amounts the board determines to be actuarially neces-
28 sary to fund the liabilities of the account. The level of employer contributions shall be established
29 by the board using the same actuarial assumptions it uses to determine employer contribution rates
30 to the Public Employees Retirement Fund. The amounts shall be transmitted at the same time and
31 in the same manner as contributions for pension benefits are transmitted under ORS 238.225.

32 (6) The Public Employees Retirement Board shall, by rule, establish a procedure for calculating
33 the average difference between the health insurance premiums paid by retired state employees under
34 contracts entered into by the board under ORS 238.410 and the health insurance premiums paid by
35 state employees who are not retired under contracts entered into by the Public Employees' Benefit
36 Board.

37 (7) As provided in section 401(h)(5) of the Internal Revenue Code of 1986, upon satisfaction of
38 all liabilities for providing benefits described in subsection (2) of this section, any amount remaining
39 in the Retiree Health Insurance Premium Account shall be returned to the state.

40 (8) No member of the system shall have an interest in the Retiree Health Insurance Premium
41 Account or in the benefits provided under this section.

42 **SECTION 125.** ORS 238.462 is amended to read:

43 238.462. (1) A member of the Public Employees Retirement System who is married **or in a re-**
44 **ciproc**al beneficiary agreement, as defined in section 1 of this 2007 Act, on the effective date
45 of the member's retirement shall receive a service retirement allowance in the form provided for in

1 Option 3 under ORS 238.305 (1) or a disability retirement allowance in the form provided for in
2 Option 3 under ORS 238.325 (1) unless the member provides proof of [*spousal*] consent **by the**
3 **member's spouse or reciprocal beneficiary** to receiving an allowance in the form provided by
4 ORS 238.300 or 238.320, or in one of the optional forms provided for in ORS 238.305 and 238.325
5 other than Option 3.

6 (2) Except as provided in subsection (3) of this section, a member of the system who is married
7 **or in a reciprocal beneficiary agreement** on the effective date of the member's retirement may
8 not change the form in which a retirement allowance is paid after an election has been made as to
9 the form of the retirement allowance unless the member provides proof of [*spousal*] consent **by the**
10 **member's spouse or reciprocal beneficiary**.

11 (3) A member of the system who is married **or in a reciprocal beneficiary agreement** on the
12 effective date of the member's retirement is not required to provide [*spousal*] consent **by the**
13 **member's spouse or reciprocal beneficiary** to a change in the form in which a retirement allow-
14 ance is paid if the spouse **or reciprocal beneficiary** of the member dies after the effective date of
15 the member's retirement or disability and the change in the form of the allowance is made within
16 the time periods provided by ORS 238.305 and 238.325. A member seeking to change the form of a
17 retirement allowance without [*spousal*] consent **by the member's spouse or reciprocal beneficiary**
18 under the provisions of this subsection must provide a notarized statement to the Public Employees
19 Retirement Board that certifies to the board that the spouse **or reciprocal beneficiary** of the
20 member is deceased.

21 (4) Any member of the system who is not married **or in a reciprocal beneficiary agreement**
22 on the effective date of the member's retirement must provide a notarized statement to the Public
23 Employees Retirement Board that certifies to the board that the member is not married **or in a**
24 **reciprocal beneficiary agreement**. [*No*] A retirement allowance may **not** be paid to a member of
25 the system who is not married **or in a reciprocal beneficiary agreement** until the statement re-
26 quired by this subsection is provided to the board.

27 (5) A member of the system who is married **or in a reciprocal beneficiary agreement** on the
28 effective date of the member's retirement must provide proof of [*spousal*] consent **by the member's**
29 **spouse or reciprocal beneficiary** for the purposes of this section by submitting a statement to the
30 board that:

31 (a) Contains the notarized signature of the member's spouse **or reciprocal beneficiary**;

32 (b) Indicates the form in which the retirement allowance is to be paid; and

33 (c) Contains a statement that the member's spouse **or reciprocal beneficiary** consents to the
34 payment of the retirement allowance in the specified form.

35 (6) If a member of the system who is married **or in a reciprocal beneficiary agreement** on the
36 effective date of the member's retirement fails to provide proof of [*spousal*] consent **by the mem-**
37 **ber's spouse or reciprocal beneficiary** as required by this section, the board shall calculate and
38 pay to the member a retirement allowance in the form provided for in Option 3 under ORS 238.305
39 (1) if the retirement is for service, or a retirement allowance in the form provided for in Option 3
40 under ORS 238.325 (1) if the retirement is for disability. The allowance will be calculated based on
41 the ages of the member and the **member's spouse or reciprocal beneficiary**, and the spouse **or**
42 **reciprocal beneficiary** will be designated as the beneficiary for any survivor benefits that may
43 thereafter become payable.

44 (7) Proof of spousal consent under this section is not required for, and cannot alter, the desig-
45 nation of any form of a retirement allowance that is required under the terms of any judgment of

1 annulment or dissolution of marriage or of separation, or the terms of any court order or court-
2 approved property settlement agreement incident to any judgment of annulment or dissolution of
3 marriage or of separation, that has been received by the board in compliance with the requirements
4 prescribed by ORS 238.465.

5 **SECTION 126.** ORS 238.465 is amended to read:

6 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this
7 chapter or ORS chapter 238A of any pension, annuity, retirement allowance, disability benefit, death
8 benefit, refund benefit or other benefit that would otherwise be made to a person entitled thereto
9 under this chapter or ORS chapter 238A shall be paid, in whole or in part, by the Public Employees
10 Retirement Board to an alternate payee if and to the extent expressly provided for in the terms of
11 any judgment of annulment or dissolution of marriage or of separation, or the terms of any court
12 order or court-approved property settlement agreement incident to any judgment of annulment or
13 dissolution of marriage or of separation. Notwithstanding any other provisions of this section, the
14 total value of benefits payable to a member and to an alternate payee under this section may not
15 be greater than the value of the benefits the member would otherwise be eligible to receive. Any
16 payment under this subsection to an alternate payee bars recovery by any other person.

17 (2) A judgment, order or settlement providing for payment to an alternate payee under sub-
18 section (1) of this section may also provide:

19 (a) That payments to the alternate payee may commence, at the election of the alternate payee,
20 at any time after the earlier of:

21 (A) The earliest date the member would be eligible to receive retirement benefits if the member
22 separates from service; or

23 (B) The date the member actually separates from service due to death, disability, retirement or
24 termination of employment.

25 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-
26 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit
27 in the form of a joint and survivor annuity, that would be available to the member under this
28 chapter or ORS chapter 238A, or that would be available to the member if the member retired or
29 separated from service at the time of election by the alternate payee, without regard to the form
30 of benefit elected by the member.

31 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments
32 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose
33 of determining necessary employer reserves.

34 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the
35 member as a beneficiary under ORS 238.300, 238.305, 238.325, 238A.190 or 238A.400 be changed, even
36 though the member has retired and has begun receiving a retirement allowance or pension. If a
37 change of beneficiary is ordered under this paragraph, the board shall adjust the anticipated benefits
38 that would be payable to the member and the beneficiary to ensure that the cost to the system of
39 providing benefits to the member and the new beneficiary does not exceed the cost that the system
40 would have incurred to provide benefits to the member and the original beneficiary. The judgment,
41 order or settlement may not provide for any change to the option selected by the retired member
42 under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400 as to the form of the retirement
43 benefit.

44 (3) The board shall adopt rules that provide for:

45 (a) The creation of a separate account in the name of the alternate payee reflecting the judg-

1 ment's, order's or agreement's distribution of the member's benefits under this chapter or ORS
2 chapter 238A;

3 (b) The establishing of criteria to determine whether domestic relations judgments, orders and
4 agreements comply with this section; and

5 (c) The definitions and procedures for the administration of this section.

6 (4) An alternate payee may designate a beneficiary for the purposes of death benefits payable
7 under ORS 238.390 and 238.395. Subject to ORS 238A.410 (2) **and (3)**, an alternate payee may des-
8 ignate a beneficiary for the purposes of death benefits payable under ORS 238A.410. If the alternate
9 payee fails to designate a beneficiary for the purposes of death benefits payable under ORS 238.390
10 and 238.395, the benefits shall be paid as provided by ORS 238.390 (2). If the alternate payee fails
11 to designate a beneficiary for the purposes of death benefits payable under ORS 238A.410, the ben-
12 efits shall be paid as provided by ORS 238A.410 [(3)] (4). If a judgment, order or agreement awards
13 an interest to an alternate payee, and if the alternate payee predeceases the member before the al-
14 ternate payee has commenced receiving benefits, the alternate payee shall be considered a member
15 of the system who died before retiring for the purposes of the death benefits provided in ORS
16 238.390, 238.395, 238A.230 and 238A.410, but for purposes of the death benefits provided in ORS
17 238.395, the alternate payee shall be considered a member of the system who died before retiring
18 only if the member would have been eligible for death benefits under ORS 238.395 had the member
19 died at the same time as the alternate payee. Payment of the death benefits to the beneficiaries,
20 estate or other persons entitled to receive the benefits under ORS 238.390, 238.395, 238A.230 and
21 238A.410, shall constitute payment in full of the alternate payee's interest under the judgment, order
22 or agreement.

23 (5) Any increase in the retirement allowance provided to the member shall increase the amounts
24 paid to the spouse or former spouse of the member in the same proportion, except that an alternate
25 payee is not entitled to receive cost-of-living adjustments under ORS 238.360 or any other retirement
26 allowance increase until benefits are first paid from the system on behalf of the member.

27 (6) An alternate payee under this section is not eligible to receive the benefits provided under
28 ORS 238.410, 238.415, 238.420 and 238.440 by reason of the provisions of this section.

29 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-
30 tion before the member's effective date of retirement is not eligible to receive any additional pay-
31 ment by reason of credit in the system acquired by the member after the alternate payee begins to
32 receive payments.

33 (8) Subsection (1) of this section applies only to payments made by the board after the date of
34 receipt by the board of written notice of the judgment, order or agreement and such additional in-
35 formation and documentation as the board may prescribe.

36 (9) Whenever the board is required to make payment to an alternate payee under the provisions
37 of this section, the board shall charge and collect out of the benefits payable to the member and the
38 alternate payee actual and reasonable administrative expenses and related costs incurred by the
39 board in obtaining data and making calculations that are necessary by reason of the provisions of
40 this section. The board may not charge more than \$300 for total administrative expenses and related
41 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-
42 visions of this section. The board shall allocate expenses and costs charged under the provisions of
43 this subsection between the member and the alternate payee based on the fraction of the benefit
44 received by the member or alternate payee.

45 (10) Unless otherwise provided by the judgment, order or agreement, a member has no interest

1 in the benefit payable to an alternate payee under this section. Upon the death of an alternate
 2 payee, the board shall make such payment to the beneficiary designated by the alternate payee as
 3 may be required under the form of benefit elected by the alternate payee. If a death benefit is pay-
 4 able under ORS 238.390 or 238.395 by reason of the death of an alternate payee, payment of the
 5 death benefit shall be made to the beneficiary designated by the alternate payee under ORS 238.390
 6 (1), or as otherwise provided by ORS 238.390 and 238.395.

7 (11) As used in this section, “court” means any court of appropriate jurisdiction of this or any
 8 other state or of the District of Columbia.

9 **SECTION 127.** ORS 238.565 is amended to read:

10 238.565. (1) For the purposes of this section, the beneficiary of the judge member shall be any
 11 person, or the personal representative of the estate of the judge member, or a trustee named by the
 12 judge member to execute an express trust, whom the judge member designates as a beneficiary by
 13 written designation duly acknowledged and filed with the board before the death of the judge mem-
 14 ber.

15 (2)(a) If a judge member who has six or more years of service as a judge dies before retiring,
 16 and the judge member is not an inactive judge member who is performing a pro tem service obli-
 17 gation under the provisions of ORS 238.545 (4), the surviving spouse **or surviving reciprocal ben-**
 18 **eficiary, as defined in section 1 of this 2007 Act,** of the judge member shall receive a life pension,
 19 payable monthly, equal to two-thirds of the service retirement allowance the judge member would
 20 have received under ORS 238.535 (1)(a) had the judge member retired on the date of death.

21 (b) If a judge member who has six or more years of service as a judge dies before retiring, and
 22 the judge member is an inactive member who is performing a pro tem service obligation under the
 23 provisions of ORS 238.545 (4), the surviving spouse **or surviving reciprocal beneficiary** of the judge
 24 member shall receive a life pension, payable monthly, equal to two-thirds of the service retirement
 25 allowance the judge member would have received under ORS 238.535 (1)(b) had the judge member
 26 retired on the date of death.

27 (c) If a surviving spouse **or a surviving reciprocal beneficiary** receiving a pension under par-
 28 agraph (a) or (b) of this subsection dies and the total amount received as pension by the surviving
 29 spouse **or surviving reciprocal beneficiary** is less than the amount credited to the member account
 30 of the judge member in the fund on the date of death of the judge member, the beneficiary shall
 31 receive a lump sum amount equal to the difference between the total amount received by the sur-
 32 viving spouse **or surviving reciprocal beneficiary** and the amount so credited to the member ac-
 33 count of the judge member.

34 (d) If a judge member who has six or more years of service as a judge dies before retiring and
 35 has no surviving spouse **or surviving reciprocal beneficiary**, the beneficiary shall receive a lump
 36 sum amount equal to the amount credited to the member account of the judge member in the fund
 37 on the date of death of the judge member.

38 (e) If the surviving spouse **or surviving reciprocal beneficiary** of a judge member who dies
 39 before retiring is not entitled to a pension under paragraph (a) or (b) of this subsection, the sur-
 40 viving spouse **or surviving reciprocal beneficiary** shall receive a lump sum amount equal to the
 41 amount credited to the member account of the judge member in the fund on the date of death of the
 42 judge member.

43 (3)(a) If a judge member dies after retiring, the surviving spouse **or surviving reciprocal ben-**
 44 **eficiary** of the judge member shall receive a life pension, payable monthly, equal to two-thirds of
 45 the retirement allowance the judge member is receiving or is entitled to receive on the date of

1 death.

2 (b) If a surviving spouse **or a surviving reciprocal beneficiary** receiving a pension under par-
 3 agraph (a) or (b) of this subsection dies and the total amount received as retirement allowance by
 4 the retired judge member and as pension by the surviving spouse **or surviving reciprocal benefi-
 5 ciary** is less than the amount credited to the member account of the judge member on the date of
 6 retirement of the judge member, the beneficiary shall receive a lump sum amount equal to the dif-
 7 ference between the total amount received as retirement allowance and pension and the amount so
 8 credited to the member account of the judge member.

9 (c) If a judge member dies after retiring and has no surviving spouse **or surviving reciprocal**
 10 **beneficiary**, and the total amount received as retirement allowance by the retired judge member is
 11 less than the amount credited to the member account of the judge member on the date of retirement
 12 of the judge member, the beneficiary shall receive a lump sum amount equal to the difference be-
 13 tween the total amount received as retirement allowance and the amount so credited to the member
 14 account of the judge member.

15 (4) At any time after becoming a judge member, but not later than the date on which the first
 16 payment on account of retirement is due, a judge member may elect to provide an addition to the
 17 pension of the surviving spouse **or surviving reciprocal beneficiary** of the judge member under
 18 subsection (3)(a) of this section by selecting a reduced retirement allowance for the judge member.
 19 The additional pension to the surviving spouse **or surviving reciprocal beneficiary** shall be the
 20 actuarial equivalent of the reduction in the retirement allowance of the judge member and, in no
 21 event, when added to the pension under subsection (3)(a) of this section, [*shall*] **may** it exceed the
 22 reduced retirement allowance elected by the judge member.

23 (5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of
 24 death of the judge member shall be paid to the surviving spouse **or surviving reciprocal benefi-
 25 ciary** of the judge member. If there is no surviving spouse **or surviving reciprocal beneficiary**, the
 26 accrued retirement allowance shall be paid to the beneficiary of the judge member. If there is no
 27 surviving spouse **or surviving reciprocal beneficiary** or beneficiary, the accrued retirement al-
 28 lowance shall be paid as provided in ORS 238.390 (2).

29 (6) Notwithstanding any other provision of this section, a judge member shall be considered to
 30 have died with no surviving spouse if:

31 (a) The judge member has entered into a prenuptial or antenuptial agreement with the spouse
 32 of the judge that provides that the spouse shall have no right or claim to a surviving spouse's pen-
 33 sion; and

34 (b) The judge member has filed a copy of the prenuptial or antenuptial agreement with the board
 35 before the death of the judge member.

36 (7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial
 37 or antenuptial agreement filed with the board under subsection (6) of this section unless the board
 38 has actual knowledge that the agreement has been revoked.

39 **SECTION 128.** ORS 238.575 is amended to read:

40 238.575. (1) Every monthly retirement allowance or pension payable to a judge member or sur-
 41 viving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of
 42 a judge member under ORS 238.500 to 238.585 shall be adjusted annually to reflect the percentage
 43 increase or decrease in the cost of living as provided in ORS 238.360.

44 (2) ORS 238.387 applies to judge members, and for that purpose the monthly retirement allow-
 45 ance referred to in ORS 238.387 shall be the monthly retirement allowance payable to a judge

1 member or the monthly pension payable to the surviving spouse **or surviving reciprocal benefi-**
 2 **ary** of a judge member under ORS 238.565 (3)(a).

3 **SECTION 129.** ORS 238.607 is amended to read:

4 238.607. (1) Once every two calendar years, the Public Employees Retirement Board shall adopt
 5 actuarial equivalency factor tables for the purpose of computing the payments to be made to mem-
 6 bers and their beneficiaries, alternate payees and judge members, and [*their*] **judge members'**
 7 **spouses or reciprocal beneficiaries, as defined in section 1 of this 2007 Act**, and beneficiaries.
 8 The tables may be adopted in conjunction with the system evaluation required by ORS 238.605. Ta-
 9 bles adopted under this section must use the best actuarial information on mortality available at the
 10 time the board adopts the tables, as provided by the actuary engaged by the board. Actuarial
 11 equivalency factor tables adopted under this section become effective on January 1 of the calendar
 12 year following adoption of the tables by the board. All computations of payments must use the
 13 actuarial equivalency factor tables that are in effect on:

14 (a) The effective date of retirement for any member, judge member or alternate payee;

15 (b) The date that the first payment is due for any death beneficiary; or

16 (c) The date that the first payment is due for any recalculation of payments that is not attrib-
 17 utable to error, including but not limited to recalculations under ORS 238.465 (2).

18 (2) The board may not defer or delay implementation of the actuarial equivalency factor tables
 19 adopted under this section.

20 **SECTION 130.** ORS 238A.190 is amended to read:

21 238A.190. (1) Before the effective date of retirement of a member of the pension program, the
 22 member may elect to convert the pension calculated under ORS 238A.180 or 238A.185 into the
 23 actuarial equivalent pension as follows:

24 (a) A pension payable monthly during the member's life and, after the death of the member,
 25 continuing at the same monthly amount for the life of a beneficiary named by the member in a
 26 written designation filed with the Public Employees Retirement Board at the time of election.

27 (b) A pension payable monthly during the member's life and, subject to modification under sub-
 28 section (2) of this section, after the death of the member, continuing at the same monthly amount
 29 for the life of a beneficiary named by the member in a written designation filed with the board at
 30 the time of election.

31 (c) A pension payable monthly during the member's life and, after the death of the member,
 32 continuing at one-half of the monthly amount paid to the member for the life of a beneficiary named
 33 by the member in a written designation filed with the board at the time of election.

34 (d) A pension payable monthly during the member's life and, subject to modification under sub-
 35 section (2) of this section, after the death of the member, continuing at one-half of the monthly
 36 amount paid to the member for the life of a beneficiary named by the member in a written desig-
 37 nation filed with the board at the time of election.

38 (2) A retired member who elects to receive a pension under subsection (1)(b) or (d) of this sec-
 39 tion shall receive the pension that the member would have received on the effective date of retire-
 40 ment under ORS 238A.180 or 238A.185 adjusted by the actual amount of any cost-of-living or other
 41 post-retirement adjustments made to the original allowance since the effective date of retirement,
 42 if:

43 (a) The spouse or [*other beneficiary*] **reciprocal beneficiary, as defined in section 1 of this**
 44 **2007 Act**, dies after the member retires; or

45 (b) The marriage relationship or [*other relationship with the beneficiary*] **reciprocal beneficiary**

1 **agreement** is terminated after the member retires.

2 (3) An increased benefit under subsection (2) of this section is first effective on the first day of
3 the month following the date on which one of the events specified in subsection (2) of this section
4 occurs.

5 (4) If a member of the pension program is married **or in a reciprocal beneficiary agreement**
6 on the effective date of retirement, [*or there exists any other person on the effective date of retirement*
7 *who is constitutionally required to be treated in the same manner as a spouse for the purpose of re-*
8 *retirement benefits,*] the pension payable to the member shall be as provided in subsection (1)(c) of this
9 section with the spouse or **reciprocal beneficiary** [*other person as beneficiary*], unless:

10 (a) The member has selected a different pension provided for in subsection (1) of this section
11 with the spouse or [*other person as beneficiary*] **reciprocal beneficiary**; or

12 (b) The member submits to the board a document signed by the spouse or [*other person*] **recip-**
13 **rocal beneficiary**, acknowledged by a notary public, consenting to a different option or a different
14 beneficiary.

15 (5) Subsection (4) of this section does not apply to a pension benefit that is paid in a lump sum
16 under ORS 238A.195.

17 **SECTION 131.** ORS 238A.230 is amended to read:

18 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-
19 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided
20 for in this section to the spouse **or reciprocal beneficiary, as defined in section 1 of this 2007**
21 **Act**, of the member [*or to any other person who is constitutionally required to be treated in the same*
22 *manner as a spouse for the purpose of retirement benefits*].

23 (2)(a) The death benefit to be paid under this section shall be for the life of the spouse or [*other*
24 *person who is constitutionally required to be treated in the same manner as a spouse*] **reciprocal**
25 **beneficiary**, and shall be the actuarial equivalent of 50 percent of the pension that would otherwise
26 have been paid to the deceased member.

27 (b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would
28 otherwise have been paid to the deceased member shall be calculated:

29 (A) As of the date of death if the member dies after the earliest retirement date for the member
30 under ORS 238A.165; or

31 (B) As if the member became an inactive member on the date of death and thereafter retired
32 at the earliest retirement date if the member dies before the earliest retirement date for the member
33 under ORS 238A.165.

34 (3) The death benefit provided under this section is first effective on the first day of the month
35 following the date of death of the member. The surviving spouse or [*other person entitled to the death*
36 *benefit*] **reciprocal beneficiary** may elect to delay payment of the death benefit, but payment must
37 commence no later than December 31 of the calendar year in which the member would have reached
38 70-1/2 years of age.

39 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.245, distributions of death
40 benefits under the pension program must comply with the minimum distribution requirements of 26
41 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on August 29, 2003. The
42 board shall adopt rules implementing those minimum distribution requirements.

43 **SECTION 132.** ORS 238A.410 is amended to read:

44 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
45 in the member's employee account, rollover account and employer account, to the extent the member

1 is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or
2 beneficiaries designated by the member for the purposes of this section.

3 (2) If a member of the individual account program is married **or in a reciprocal beneficiary**
4 **agreement, as defined in section 1 of this 2007 Act**, at the time of death, [*or there exists at the*
5 *time of death any other person who is constitutionally required to be treated in the same manner as a*
6 *spouse for the purpose of retirement benefits,*] the spouse or [*other person*] **reciprocal beneficiary**
7 shall be the beneficiary for purposes of the death benefit payable under this section unless the
8 spouse or [*other person*] **reciprocal beneficiary** consents to the designation of a different beneficiary
9 or beneficiaries before the designation has been made and the consent has not been revoked by the
10 spouse or [*other person*] **reciprocal beneficiary** as of the time of the member's death. Consent and
11 revocation of consent must be in writing, acknowledged by a notary public, and submitted to the
12 Public Employees Retirement Board in accordance with rules adopted by the board.

13 (3)(a) If the member's spouse is designated as the member's beneficiary and the marriage of the
14 member and spouse is subsequently dissolved, the former spouse shall be treated as predeceasing the
15 member for purposes of this section, unless the member expressly designates the former spouse as
16 beneficiary after the effective date of the dissolution or the former spouse is required to be desig-
17 nated as a beneficiary under the provisions of ORS 238.465.

18 (b) **If the member's reciprocal beneficiary is designated as the member's beneficiary and**
19 **the reciprocal beneficiary agreement is subsequently terminated, the former reciprocal ben-**
20 **eficiary shall be treated as predeceasing the member for purposes of this section, unless the**
21 **member expressly designates the former reciprocal beneficiary as beneficiary after the ef-**
22 **fective date of the termination.**

23 [(3)] (4) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a
24 beneficiary, or if the person or persons designated do not survive the member, the death benefit
25 provided for in this section shall be paid to the following person or persons, in the following order
26 of priority:

27 (a) The member's surviving spouse or [*other person who is constitutionally required to be treated*
28 *in the same manner as a spouse*] **surviving reciprocal beneficiary**;

29 (b) The member's surviving children, in equal shares; or

30 (c) The member's estate.

31 [(4)] (5) The entire amount of a deceased member's vested accounts must be distributed by De-
32 cember 31 of the fifth calendar year after the year in which the member died. Notwithstanding any
33 other provision of this chapter, distributions of death benefits under the individual account program
34 must comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations
35 implementing that section, as in effect on August 29, 2003. The Public Employees Retirement Board
36 shall adopt rules implementing those minimum distribution requirements.

37 **SECTION 133.** ORS 243.105 is amended to read:

38 243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

39 (1) "Benefit plan" includes, but is not limited to:

40 (a) Contracts for insurance or other benefits, including medical, dental, vision, life, disability and
41 other health care recognized by state law, and related services and supplies;

42 (b) Comparable benefits for employees who rely on spiritual means of healing; and

43 (c) Self-insurance programs managed by the Public Employees' Benefit Board.

44 (2) "Board" means the Public Employees' Benefit Board.

45 (3) "Carrier" means an insurance company or health care service contractor holding a valid

1 certificate of authority from the Director of the Department of Consumer and Business Services, or
 2 two or more companies or contractors acting together pursuant to a joint venture, partnership or
 3 other joint means of operation, or a board-approved guarantor of benefit plan coverage and com-
 4 pensation.

5 (4)(a) "Eligible employee" means an officer or employee of a state agency who elects to partic-
 6 ipate in one of the group benefit plans described in ORS 243.135. The term includes state officers
 7 and employees in the exempt, unclassified and classified service, and state officers and employees,
 8 whether or not retired, who:

9 (A) Are receiving a service retirement allowance, a disability retirement allowance or a pension
 10 under the Public Employees Retirement System or are receiving a service retirement allowance, a
 11 disability retirement allowance or a pension under any other retirement or disability benefit plan
 12 or system offered by the State of Oregon for its officers and employees;

13 (B) Are eligible to receive a service retirement allowance under the Public Employees Retire-
 14 ment System and have reached earliest retirement age under ORS chapter 238;

15 (C) Are eligible to receive a pension under ORS 238A.100 to 238A.245, and have reached earliest
 16 retirement age as described in ORS 238A.165; or

17 (D) Are eligible to receive a service retirement allowance or pension under another retirement
 18 benefit plan or system offered by the State of Oregon and have attained earliest retirement age
 19 under the plan or system.

20 (b) "Eligible employee" does not include individuals:

21 (A) Engaged as independent contractors;

22 (B) Whose periods of employment in emergency work are on an intermittent or irregular basis;

23 (C) Who are employed on less than half-time basis unless the individuals are employed in posi-
 24 tions classified as job-sharing positions or unless the individuals are defined as eligible under rules
 25 of the board;

26 (D) Appointed under ORS 240.309;

27 (E) Provided sheltered employment or make-work by the state in an employment or industries
 28 program maintained for the benefit of such individuals; or

29 (F) Provided student health care services in conjunction with their enrollment as students at the
 30 state institutions of higher education.

31 (5) "Family member" means an eligible employee's spouse **or reciprocal beneficiary, as defined**
 32 **in section 1 of this 2007 Act**, and any unmarried child or stepchild within age limits and other
 33 conditions imposed by the board with regard to unmarried children or stepchildren.

34 (6) "Payroll disbursing officer" means the officer or official authorized to disburse moneys in
 35 payment of salaries and wages of employees of a state agency.

36 (7) "Premium" means the monthly or other periodic charge for a benefit plan.

37 (8) "State agency" means every state officer, board, commission, department or other activity
 38 of state government.

39 **SECTION 134.** ORS 243.291 is amended to read:

40 243.291. (1) The Public Employees' Benefit Board shall make available one or more fully insured
 41 long term care insurance plans. The plans shall be made available to eligible employees, retired
 42 employees and family members. Notwithstanding ORS 243.105, for purposes of this subsection,
 43 "family members" includes family members as defined by the board and also includes the parents
 44 of the employee or retiree and the parents of the spouse **or reciprocal beneficiary, as defined in**
 45 **section 1 of this 2007 Act**, of the employee or retiree.

1 (2) Employees of local governments and employees of political subdivisions may participate in
 2 the plans under terms and conditions established by the board, if it does not jeopardize the financial
 3 viability of the board’s long term care insurance plans. However, unless the local government or
 4 political subdivision provides otherwise, the employee’s participation is a personal action of the
 5 employee and does not obligate the local government or political subdivision to pay for the provision
 6 of benefits under this subsection.

7 (3) Participation of eligible employees or retired employees in any long term care insurance plan
 8 made available by the board is voluntary and is subject to reasonable underwriting guidelines and
 9 eligibility rules established by the board.

10 (4) The employee or retired employee is solely responsible for the payment of the long term care
 11 premium rates developed by the board. The board is authorized to charge a reasonable administra-
 12 tive fee, in addition to the premium charged by the long term care insurer, to cover the cost of ad-
 13 ministration and consumer education materials.

14 **SECTION 135.** ORS 243.954 is amended to read:

15 243.954. As used in ORS 243.954 to 243.974:

16 (1) “Child” means a person who is a natural child, adopted child or stepchild of a public safety
 17 officer and who is:

- 18 (a) 18 years of age or younger;
- 19 (b) 19 through 22 years of age and enrolled as a full-time undergraduate student; or
- 20 (c) 19 years of age or older and incapable of self-support due to a physical or mental disability.

21 (2) “Family member” means:

- 22 (a) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of a public
 23 safety officer.
- 24 (b) A child of a public safety officer.
- 25 (c) A person who qualifies as a dependent of a public safety officer for state income tax pur-
 26 poses.

27 (3) “Permanent total disability” has the meaning given that term in ORS 656.206.

28 (4) “Public safety officer” means:

- 29 (a) Corrections officers, as defined in ORS 181.610.
- 30 (b) Fire service professionals, as defined in ORS 181.610, and includes volunteer firefighters as
 31 defined in ORS 652.050.
- 32 (c) Parole and probation officers, as defined in ORS 181.610.
- 33 (d) Police officers, as defined in ORS 181.610, and includes reserve officers, as defined in ORS
 34 181.610.
- 35 (e) Youth correction officers, as defined in ORS 181.610.

36 (5) “Qualifying death or disability” means death or permanent total disability suffered by a
 37 public safety officer while on or off duty that is the direct or proximate result of:

- 38 (a) An enforcement action, an emergency response or public safety training for an enforcement
 39 action or emergency response that the public safety officer is authorized or obligated to perform by
 40 law, rule, regulation or condition of employment or service; or
- 41 (b) An act committed against the public safety officer because of the public safety officer’s po-
 42 sition as a public safety officer.

43 (6) “Survivor” means:

- 44 (a) A family member; or
- 45 (b) A parent of a public safety officer.

SECTION 136. ORS 243.956 is amended to read:

243.956. (1) A person is eligible for an award of benefits from the Public Safety Memorial Fund if the person:

(a)(A) Is a family member or a parent of a public safety officer who has suffered a qualifying death or disability; or

(B) Is a public safety officer who has suffered a qualifying disability; and

(b) Has submitted an initial application for an award of benefits under ORS 243.958.

(2) Notwithstanding subsection (1) of this section, a person is not eligible for an award of benefits if:

(a) The person's actions were a substantial contributing factor to the qualifying death or disability of the public safety officer;

(b) The public safety officer's intentional misconduct caused the qualifying death or disability;

(c) The public safety officer intended to bring about the officer's qualifying death or disability;

(d) The public safety officer was voluntarily intoxicated at the time of the injury that caused the qualifying death or disability; or

(e) The public safety officer was performing the officer's duties in a grossly negligent manner at the time of the injury that caused the qualifying death or disability.

(3) If a person who is eligible for an award of benefits under subsection (1) of this section is younger than 18 years of age or is incompetent, another person may file the application for an award of benefits on behalf of the eligible person.

(4) Within 14 days after receipt of a notice under ORS 243.974 or entry of an order under ORS 243.964 awarding benefits based on an initial application, whichever occurs later, the Public Safety Memorial Fund Board shall pay a lump sum amount of \$25,000:

(a) In the manner described under ORS 243.969, to a survivor of a public safety officer who suffered a qualifying death; or

(b) To the public safety officer who suffered a qualifying disability.

(5) If alternative coverage is not provided, the board may award benefits to the family members of a public safety officer who has suffered a qualifying death or disability in an amount sufficient to allow the family members to purchase health and dental insurance comparable to that provided by the public safety officer:

(a) For five years or until the spouse *[remarries]* **or reciprocal beneficiary, as defined in section 1 of this 2007 Act, enters into a subsequent marriage or reciprocal beneficiary agreement**, whichever occurs first; and

(b) Until a child or a dependent attains 18 years of age or, if the child or the dependent is attending school, 23 years of age.

(6) If alternative coverage is not provided, the board may award benefits for five years to a public safety officer who has suffered a qualifying disability in an amount sufficient to allow the public safety officer to purchase health and dental insurance comparable to the health and dental insurance coverage that the public safety officer had immediately prior to the qualifying disability.

(7) The board may award benefits to an eligible spouse **or reciprocal beneficiary** of a public safety officer who has suffered a qualifying death or to a public safety officer who has suffered a qualifying disability in an amount up to the equivalent of 12 monthly mortgage payments on the residence of the spouse, **reciprocal beneficiary** or the public safety officer if there is no mortgage insurance to cover the cost.

(8) The board may award scholarships for a graduate program of higher education to a family

1 member of a public safety officer who has suffered a qualifying death or disability or to a public
 2 safety officer who has suffered a qualifying disability. In determining the amount of a scholarship,
 3 the board shall consider the person's financial need, the funds available in the Public Safety Me-
 4 morial Fund and the anticipated demands on the fund. The board may not grant a scholarship in an
 5 amount exceeding the highest tuition charged by a state institution of higher education for a grad-
 6 uate program.

7 (9) A family member or a public safety officer is eligible to apply for a scholarship under sub-
 8 section (8) of this section only if the family member or public safety officer:

9 (a) Has exhausted the education benefits available under 28 C.F.R., Part 32, subpart B;

10 (b) Applies for the scholarship within one year from the date of exhaustion of the education
 11 benefits under paragraph (a) of this subsection; and

12 (c) Has applied for other available public education benefits.

13 (10) If a person described in subsection (8) of this section is ineligible to receive education
 14 benefits under 28 C.F.R., Part 32, subpart B, if funds for education benefits are unavailable under
 15 those provisions or if the education benefit program under those provisions no longer exists, the
 16 person may apply to the board for a scholarship for an undergraduate program. Scholarships for only
 17 undergraduate degrees may be awarded to a person under this subsection. The board may not grant
 18 a scholarship under this subsection in an amount exceeding the highest tuition charged by a state
 19 institution of higher education for an undergraduate program.

20 (11)(a) A person may apply for a scholarship under subsection (10) of this section at any time
 21 up to:

22 (A) Five years after the date on which the applicant graduated from high school if:

23 (i) The applicant was a minor at the time the public safety officer suffered a qualifying death
 24 or disability; and

25 (ii) An application for an award of some type of benefits was filed by a person described in
 26 subsection (8) of this section;

27 (B) The date the applicant *[remarries]* **marries or enters into a reciprocal beneficiary**
 28 **agreement**, if the applicant is the surviving spouse **or surviving reciprocal beneficiary** of a public
 29 safety officer who suffered a qualifying death, *[or]* the date the applicant divorces the public safety
 30 officer, if the applicant is the spouse of a public safety officer who suffered a qualifying disability
 31 **or the date the applicant terminates the reciprocal beneficiary agreement, if the applicant**
 32 **is the reciprocal beneficiary of a public safety officer who suffered a qualifying disability;** or

33 (C) Five years after the date of the injury that caused the disability, if the applicant is a public
 34 safety officer who suffered a qualifying disability.

35 (b) The board may extend the time period for applying for a scholarship under subsection (10)
 36 of this section.

37 (12) If the family member or public safety officer who is awarded a scholarship under this sec-
 38 tion is receiving other public education benefits, the amount of the scholarship awarded to the
 39 family member or the public safety officer shall be reduced by the amount of the other public edu-
 40 cation benefits.

41 **SECTION 137.** ORS 243.969 is amended to read:

42 243.969. (1) If the Public Safety Memorial Fund Board awards lump sum benefits under ORS
 43 243.956, the board shall pay the benefits to the survivor of a public safety officer who suffered a
 44 qualifying death as follows:

45 (a) 100 percent to the surviving spouse **or reciprocal beneficiary, as defined in section 1 of**

1 **this 2007 Act.**

2 (b) If there is no surviving spouse **or reciprocal beneficiary**, 100 percent to the surviving child.

3 (c) If there is no surviving spouse, **reciprocal beneficiary** or child, 100 percent to a person who
4 qualifies as a dependent of the public safety officer for state income tax purposes.

5 (d) If there is no surviving spouse, **reciprocal beneficiary**, [or] child or dependent, 100 percent
6 to the parent of the public safety officer.

7 (2) If more than one child, or both parents, or more than one dependent are survivors, the board
8 shall pay the percentage amount one child or one parent or one dependent would have received
9 under subsection (1) of this section in equal shares to the children or parents or dependents.

10 **SECTION 138.** ORS 244.020 is amended to read:

11 244.020. As used in this chapter, unless the context requires otherwise:

12 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-
13 son acting in a capacity as a public official, the effect of which would be to the private pecuniary
14 benefit or detriment of the person or the person's relative or any business with which the person
15 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-
16 cumstances described in subsection (14) of this section.

17 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,
18 association, organization, self-employed individual and any other legal entity operated for economic
19 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
20 501(c) of the Internal Revenue Code with which a public official or a relative of the public official
21 is associated only as a member or board director or in a nonremunerative capacity.

22 (3) "Business with which the person is associated" means:

23 (a) Any private business or closely held corporation of which the person or the person's relative
24 is a director, officer, owner or employee, or agent or any private business or closely held corpo-
25 ration in which the person or the person's relative owns or has owned stock, another form of equity
26 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-
27 endar year;

28 (b) Any publicly held corporation in which the person or the person's relative owns or has
29 owned \$100,000 or more in stock or another form of equity interest, stock options or debt instru-
30 ments at any point in the preceding calendar year;

31 (c) Any publicly held corporation of which the person or the person's relative is a director or
32 officer; or

33 (d) For public officials required to file a statement of economic interest under ORS 244.050, any
34 business from which 50 percent or more of the total annual income of the person and members of
35 the person's household is derived during the current calendar year.

36 (4) "Commission" means the Oregon Government Standards and Practices Commission.

37 (5) "Development commission" means any entity which has the authority to purchase, develop,
38 improve or lease land or the authority to operate or direct the use of land. This authority must be
39 more than ministerial.

40 (6) "Expenditure" has the meaning given that term in ORS 260.005.

41 (7) "Gift" means something of economic value given to a public official or the public official's
42 relative without valuable consideration of equivalent value, including the full or partial forgiveness
43 of indebtedness, which is not extended to others who are not public officials or the relatives of
44 public officials on the same terms and conditions; and something of economic value given to a public
45 official or the public official's relative for valuable consideration less than that required from others

1 who are not public officials. However, “gift” does not mean:

2 (a) Campaign contributions, as described in ORS chapter 260.

3 (b) Gifts from family members.

4 (c) The giving or receiving of food, lodging and travel when participating in an event which
5 bears a relationship to the public official’s office and when appearing in an official capacity, subject
6 to the reporting requirement of ORS 244.060 (6).

7 (d) The giving or receiving of food or beverage if the food or beverage is consumed by the public
8 official or the public official’s relatives in the presence of the purchaser or provider thereof.

9 (e) The giving or receiving of entertainment if the entertainment is experienced by the public
10 official or the public official’s relatives in the presence of the purchaser or provider thereof and the
11 value of the entertainment does not exceed \$100 per person on a single occasion and is not greater
12 than \$250 in any one calendar year.

13 (8) “Honoraria” means a payment or something of economic value given to a public official in
14 exchange for services upon which custom or propriety prevents the setting of a price. Services in-
15 clude, but are not limited to, speeches or other services rendered in connection with an event at
16 which the public official appears in an official capacity.

17 (9) “Income” means income of any nature derived from any source, including, but not limited to,
18 any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital, forgiveness
19 of indebtedness, or anything of economic value.

20 (10) “Legislative or administrative interest” means an economic interest, distinct from that of
21 the general public, in one or more bills, resolutions, regulations, proposals or other matters subject
22 to the action or vote of a person acting in the capacity of a public official.

23 (11) “Legislative official” means any member or member-elect of the Legislative Assembly, any
24 member of an agency, board or committee that is part of the legislative branch and any staff person,
25 assistant or employee thereof.

26 (12) “Member of household” means any relative who resides with the public official.

27 (13) “Planning commission” means a county planning commission created under ORS chapter 215
28 or a city planning commission created under ORS chapter 227.

29 (14) “Potential conflict of interest” means any action or any decision or recommendation by a
30 person acting in a capacity as a public official, the effect of which could be to the private pecuniary
31 benefit or detriment of the person or the person’s relative, or a business with which the person or
32 the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the fol-
33 lowing:

34 (a) An interest or membership in a particular business, industry, occupation or other class re-
35 quired by law as a prerequisite to the holding by the person of the office or position.

36 (b) Any action in the person’s official capacity which would affect to the same degree a class
37 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or
38 other group including one of which or in which the person, or the person’s relative or business with
39 which the person or the person’s relative is associated, is a member or is engaged. The commission
40 may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller
41 classes that qualify under this exception.

42 (c) Membership in or membership on the board of directors of a nonprofit corporation that is
43 tax-exempt under section 501(c) of the Internal Revenue Code.

44 (15) “Public official” means any person who, when an alleged violation of this chapter occurs,
45 is serving the State of Oregon or any of its political subdivisions or any other public body of the

1 state as an officer, employee, agent or otherwise, and irrespective of whether the person is com-
 2 pensated for such services.

3 (16) "Relative" means *[the spouse of the public official, any children of the public official or of the*
 4 *public official's spouse, and brothers, sisters or parents of the public official or of the public official's*
 5 *spouse]* **the public official's spouse or reciprocal beneficiary, as defined in section 1 of this**
 6 **2007 Act, and any children, brothers, sisters or parents of the public official or the public**
 7 **official's spouse or reciprocal beneficiary.**

8 (17) "Statement of economic interest" means a statement as described by ORS 244.060 to 244.080.

9 (18) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treas-
 10 urer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public
 11 Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of
 12 Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

13 (19) "Zoning commission" means an entity to which is delegated at least some of the discre-
 14 tionary authority of a planning commission or governing body relating to zoning and land use mat-
 15 ters.

16 **SECTION 139.** ORS 244.135 is amended to read:

17 244.135. (1) A member of a city or county planning commission shall not participate in any
 18 commission proceeding or action in which any of the following has a direct or substantial financial
 19 interest:

20 (a) The member or the spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act,**
 21 brother, sister, child, parent, father-in-law[,] **or** mother-in-law of the member;

22 (b) Any business in which the member is then serving or has served within the previous two
 23 years; or

24 (c) Any business with which the member is negotiating for or has an arrangement or under-
 25 standing concerning prospective partnership or employment.

26 (2) Any actual or potential interest shall be disclosed at the meeting of the commission where
 27 the action is being taken.

28 **SECTION 140.** ORS 246.310 is amended to read:

29 246.310. (1) Not later than the 30th day before the primary election:

30 (a) The county clerk shall appoint persons to serve on election boards. There shall be at least
 31 one election board for each polling place.

32 (b) The county clerk may appoint more than one election board for any precinct in which 100
 33 or more ballots were cast at the last general election or in which there are more than 200 electors.

34 (2) The election board shall consist of a day board to issue ballots and may include a counting
 35 board to count ballots. A day board shall consist of three or more clerks. A counting board shall
 36 consist of four or more clerks. No election board clerk shall serve on the day board and the count-
 37 ing board at the same time. The county clerk shall designate one clerk of each day board and one
 38 clerk of each counting board as chairperson.

39 (3) The county clerk shall appoint the election board clerks for a term of two years. The county
 40 clerk may withdraw the appointment of a clerk at any time. Clerks may be reappointed for more
 41 than one term.

42 (4) Except as provided in this subsection, an election board clerk shall be an elector of the
 43 county, shall be able to read, write and speak English and may not serve at a polling place in an
 44 electoral district in which the election board clerk is a candidate for any office, except precinct
 45 committeeperson, to be voted on in that election. The clerks of a day board or a counting board

1 may not all be members of the same political party. The Secretary of State shall adopt by rule
2 standards under which county clerks may employ persons to serve as election board clerks who are
3 not electors of the county but who are residents of the county and who are at least 16 years of age.
4 A person who is the spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, child,
5 son or daughter-in-law, parent, mother or father-in-law, sibling, brother or sister-in-law, aunt, uncle,
6 niece, nephew, stepparent or stepchild of a candidate on the ballot at an election may not serve as
7 election board clerk at a polling place where the candidate may be voted on, unless the candidate
8 is a candidate for precinct committeeperson and is the only such relative who is a candidate on the
9 ballot in the same election. The county clerk shall appoint board clerks who have the necessary
10 capacity and ability to carry out their functions with sufficient skill and dispatch.

11 (5) In the event of a vacancy in the office of board clerk, the county clerk shall appoint a
12 qualified person to fill the vacancy.

13 **SECTION 141.** ORS 253.530 is amended to read:

14 253.530. (1) A spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act** or de-
15 pendent of a long term absent elector, temporarily living outside the county or city in which is sit-
16 uated the last home residence in this state of the spouse, **reciprocal beneficiary** or dependent, may
17 vote in the same manner as a long term absent elector.

18 (2) A spouse, **reciprocal beneficiary** or dependent of a long term absent elector, not previously
19 a resident of this state who intends to reside in this state, shall be considered a resident of this state
20 for voting purposes, and may vote in the same manner as a long term absent elector. The spouse,
21 **reciprocal beneficiary** or dependent shall be considered to have resided for more than 30 days at
22 the last residence of the long term absent elector in this state.

23 **SECTION 142.** ORS 253.540 is amended to read:

24 253.540. (1) Any long term absent elector may secure an absentee ballot by submitting an ap-
25 plication as specified in subsection (2) of this section to the clerk of the county of the long term
26 absent elector's residence, or to the Secretary of State. If the application is addressed to the Sec-
27 retary of State, the secretary shall forward it to the appropriate county clerk.

28 (2) An application for an absentee ballot by a long term absent elector shall be made in the form
29 of a written request. The application shall be valid for every subsequent election until the elector
30 otherwise notifies the clerk or is no longer an elector of the county. The application shall be signed
31 by the applicant and contain:

32 (a) The name and current mailing address of the applicant;

33 (b) A statement that the applicant is a citizen of the United States;

34 (c) A statement that the applicant will be 18 years of age or older on the date of the election;

35 (d) A statement that for more than 20 days preceding the election the applicant's home residence
36 has been in this state, and giving the address of the last home residence;

37 (e) A statement of the facts that qualify the applicant as a long term absent elector or as the
38 spouse, **the reciprocal beneficiary as defined in section 1 of this 2007 Act** or a dependent of a
39 long term absent elector;

40 (f) A statement that the applicant is not requesting a ballot from any other state and is not
41 voting in any other manner in the election except by the requested absentee ballot; and

42 (g) If the applicant desires to vote in a primary election, a designation of the applicant's political
43 party affiliation or a statement that the applicant is not affiliated with any political party. An ap-
44 plicant not affiliated with any political party may request a ballot for a major political party. The
45 applicant shall be sent the ballot for the political party that the applicant requested if that political

1 party has provided under ORS 254.365 for a primary election that admits electors not affiliated with
 2 any political party.

3 **SECTION 143.** ORS 253.565 is amended to read:

4 253.565. (1) Any long term absent elector may secure a special absentee ballot for a primary
 5 election or general election by making an application under this section if the elector believes that:

6 (a) The elector will be residing, stationed or working outside the territorial limits of the United
 7 States and the District of Columbia; and

8 (b) The elector will be unable to vote and return a regular absentee ballot by normal mail de-
 9 livery within the period provided for regular absentee ballots.

10 (2) A long term absent elector shall make the application for a special absentee ballot in the
 11 form of a written request. The elector shall submit the application before the date of the applicable
 12 election to the clerk of the county of the long term absent elector's residence or to the Secretary
 13 of State. If the application is addressed to the Secretary of State, the secretary shall forward it to
 14 the appropriate county clerk. The application shall be signed by the applicant and contain:

15 (a) The name and current mailing address of the applicant;

16 (b) A designation of the election for which the applicant requests a special absentee ballot;

17 (c) A statement that the applicant is a citizen of the United States;

18 (d) A statement that the applicant will be 18 years of age or older on the date of the election;

19 (e) A statement that for more than 20 days preceding the election the applicant's home residence
 20 has been in this state, and giving the address of the last home residence;

21 (f) A statement of the facts that qualify the applicant as a long term absent elector or as the
 22 spouse, **the reciprocal beneficiary as defined in section 1 of this 2007 Act** or a dependent of a
 23 long term absent elector;

24 (g) A statement of the facts that qualify the applicant to vote by means of a special absentee
 25 ballot;

26 (h) A statement that the applicant is not requesting a ballot from any other state and is not
 27 voting in any other manner in the election except by the requested special absentee ballot; and

28 (i) If the applicant requests a ballot for a primary election, a designation of the applicant's pol-
 29 itical party affiliation or a statement that the applicant is not affiliated with any political party.
 30 An applicant not affiliated with any political party may request a ballot for a major political party.
 31 The applicant shall be sent the ballot for the political party that the applicant requested if that
 32 political party has provided under ORS 254.365 for a primary election that admits electors not af-
 33 filiated with any political party.

34 (3) An application for a special absentee ballot shall be valid only for the election specified in
 35 the application.

36 (4) The county clerk shall list on the special absentee ballot the offices and measures scheduled
 37 to appear on the regular ballot, if known when the ballot is prepared, and provide space in which
 38 the elector may write in the elector's preference.

39 (5) The elector may write in the name of any eligible candidate for each office to be filled or for
 40 which nominations will be made at the election, and may vote on any measure submitted at the
 41 election.

42 **SECTION 144.** ORS 254.476 is amended to read:

43 254.476. The county clerk may employ personnel as necessary to open envelopes, prepare ballots
 44 for counting and count ballots. Such personnel shall not all be members of the same political party.
 45 A person who is the spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, child,

1 son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law,
 2 aunt, uncle, niece, nephew, stepparent or stepchild of a candidate on the ballot at an election shall
 3 not be employed and may not serve as a volunteer in the capacity described in this section.

4 **SECTION 145.** ORS 260.007 is amended to read:

5 260.007. As used in this chapter, “contribute,” “contribution,” “expend” or “expenditure” does
 6 not include:

7 (1) Any written news story, commentary or editorial distributed through the facilities of any
 8 broadcasting station, newspaper, magazine or other regularly published publication, unless a poli-
 9 tical committee owns the facility;

10 (2) An individual’s use of the individual’s own personal residence, including a community room
 11 associated with the individual’s residence, to conduct a reception for a candidate or political com-
 12 mittee, and the individual’s cost of invitations, food and beverages provided at the reception;

13 (3) A vendor’s sale of food and beverages for use in a candidate’s or political committee’s cam-
 14 paign at a charge less than the normal comparable charge, if the charge is at least equal to the cost
 15 of the food or beverages to the vendor;

16 (4) Any unreimbursed payment for travel expenses an individual, including a candidate, makes
 17 on behalf of a candidate or political committee;

18 (5) Any loan of money made by a financial institution as defined in ORS 706.008, other than any
 19 overdraft made with respect to a checking or savings account, if the loan bears the usual and cus-
 20 tomary interest rate for the category of loan involved, is made on a basis that assures repayment,
 21 is evidenced by a written instrument and is subject to a due date or amortization schedule. How-
 22 ever, each indorser or guarantor of the loan shall be considered to have contributed that portion
 23 of the total amount of the loan for which that person agreed to be liable in a written agreement,
 24 except if the indorser or guarantor is the candidate’s spouse **or reciprocal beneficiary, as defined**
 25 **in section 1 of this 2007 Act;**

26 (6) Nonpartisan activity designed to encourage individuals to vote or to register to vote;

27 (7) Any communication a membership organization or corporation makes to its members, share-
 28 holders or employees if the membership organization or corporation is not organized primarily for
 29 the purpose of influencing an election;

30 (8) The payment of compensation for legal and accounting services rendered to a candidate or
 31 political committee if the person paying for the services is the regular employer of the individual
 32 rendering the services and the services are solely for the purpose of insuring compliance with the
 33 provisions of this chapter; and

34 (9) The payment by a state or local committee of a political party of the costs of preparation,
 35 display or mailing or other distribution incurred by the committee with respect to a printed slate
 36 card or sample ballot, or other printed listing, of three or more candidates for any public office for
 37 which an election is held in this state. This subsection does not apply to costs incurred by the
 38 committee with respect to a display of any such listing made on broadcasting stations or in news-
 39 papers, magazines or similar types of general public political advertising.

40 **SECTION 146.** ORS 292.110 is amended to read:

41 292.110. (1) If a state employee dies having moneys to the credit of the state employee in the
 42 Employees’ Bond Savings Account, the moneys shall be paid to the coowner or beneficiary named in
 43 the employee’s payroll allotment authorization for the purchase of such bonds or obligations. If no
 44 coowner or beneficiary is designated therein, [*then, if the employee is married,*] the moneys shall be
 45 paid or refunded [*to the employee’s surviving spouse, or, if the employee is unmarried, to a next of*

1 *kin.*] as follows:

2 (a) If the employee is married, to the employee's surviving spouse;

3 (b) If the employee is in a reciprocal beneficiary agreement, as defined in section 1 of this
4 2007 Act, to the employee's reciprocal beneficiary; or

5 (c) If the employee is unmarried and not in a reciprocal beneficiary agreement, to a next
6 of kin.

7 (2) Uncashed refund checks or orders issued and delivered to state employees before death, may
8 be paid to the like parties in the order named, upon indorsement of the checks or orders by such
9 parties in the name of the deceased payee and individually.

10 **SECTION 147.** ORS 293.490 is amended to read:

11 293.490. (1) Except for property described under ORS 98.304 to 98.436, and as otherwise directed
12 by law, upon the death of any person entitled to payment of money in the State Treasury or on de-
13 posit with a state agency or officer, if the estate is not to be administered in a court having probate
14 jurisdiction, the State Treasurer or the state agency or officer authorized to disburse the funds may
15 pay or cause to be paid the money due, as provided in subsection (3) of this section. Except as to
16 payment of salary or wages due a deceased state officer or employee from the State of Oregon, no
17 payment under this section shall be made in excess of \$10,000.

18 (2) Notwithstanding the provisions of subsection (1) of this section, moneys on deposit with a
19 state agency or officer representing unpaid wages collected on behalf of a person by the Bureau of
20 Labor and Industries shall be payable pursuant to subsection (3) of this section.

21 (3) Payment authorized by subsection (1) of this section shall be made to the following groups
22 of survivors of the decedent, their guardians or the conservators of their estates, in equal shares to
23 all survivors in a group, and in the order listed, with no payment to survivors in any group if there
24 is any survivor in any group preceding it as listed:

25 (a) Surviving spouse.

26 (b) **Surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act.**

27 [(b)] (c) The trustee of a revocable inter vivos trust created by the decedent, unless within six
28 months after the decedent dies a will executed by the decedent requiring distribution of the amount
29 to a different person is admitted to probate.

30 [(c)] (d) In equal shares to the children of the decedent and to the issue of any deceased child
31 by right of representation.

32 [(d)] (e) Parents.

33 [(e)] (f) Brothers and sisters.

34 [(f)] (g) Nephews and nieces.

35 **SECTION 148.** ORS 307.250 is amended to read:

36 307.250. (1) Upon compliance with ORS 307.260, there shall be exempt from taxation not to ex-
37 ceed \$15,000 of the assessed value of the homestead or personal property of any of the following
38 residents of this state other than those described in subsection (2) of this section:

39 (a) Any war veteran who is officially certified by the United States Department of Veterans
40 Affairs or any branch of the Armed Forces of the United States as having disabilities of 40 percent
41 or more.

42 (b) Any war veteran having served with the United States Armed Forces who, as certified by
43 one duly licensed physician, is rated as having disabilities of 40 percent or more. However, a veteran
44 shall be entitled to the exemption granted under this paragraph only if the veteran during the cal-
45 endar year immediately preceding the assessment year for which the exemption is claimed had total

1 gross income, including pensions, disability compensation or retirement pay, or any combination of
2 such payments from the United States Government on account of such service, of not more than 185
3 percent of federal poverty guidelines.

4 (c) The surviving spouse [*remaining unmarried*] of a war veteran, but the exemption shall [*apply*
5 *only to the period preceding the date of the first remarriage of the surviving spouse.*] **apply only until**
6 **the surviving spouse remarries or enters into a reciprocal beneficiary agreement, as defined**
7 **in section 1 of this 2007 Act.**

8 (d) **The surviving reciprocal beneficiary of a war veteran, but the exemption shall only**
9 **apply until the reciprocal beneficiary marries or enters into a subsequent reciprocal benefi-**
10 **ciary agreement.**

11 (2) Upon compliance with ORS 307.260, there shall be exempt from taxation not to exceed
12 \$18,000 of the assessed value of the homestead or personal property of any of the following residents
13 of this state:

14 (a) Any war veteran who is officially certified by the United States Department of Veterans
15 Affairs or any branch of the Armed Forces of the United States as having service-connected disa-
16 bilities of 40 percent or more.

17 (b) The surviving spouse **or surviving reciprocal beneficiary** remaining unmarried of a war
18 veteran, if the war veteran died as a result of service-connected injury or illness or if the war vet-
19 eran received at least one year of the maximum exemption from taxation allowed under paragraph
20 (a) of this subsection after 1981 for a veteran certified as having service-connected disabilities of 40
21 percent or more.

22 (3) The amount of the exemption allowed under subsection (1) or (2) of this section shall equal
23 103 percent of the amount of the exemption for the prior tax year.

24 **SECTION 149.** ORS 307.260 is amended to read:

25 307.260. (1)(a) Each veteran, [*or*] surviving spouse **or surviving reciprocal beneficiary, as de-**
26 **defined in section 1 of this 2007 Act**, qualifying for the exemption under ORS 307.250 shall file with
27 the county assessor, on forms supplied by the assessor, a claim therefor in writing on or before April
28 1 of the assessment year for which the exemption is claimed, except that when the property desig-
29 nated is acquired after March 1 but prior to July 1 the claim for that year shall be filed within 30
30 days after the date of acquisition.

31 (b) Not later than April 10 in each year, the county assessor shall notify each veteran, [*or*]
32 surviving spouse **or surviving reciprocal beneficiary** of a veteran in the county who secured an
33 exemption under ORS 307.250 in the preceding year but who did not make application therefor on
34 or before April 1 of the current year. Such notice may be given on an unsealed postal card. Any
35 veteran, [*or*] surviving spouse **or surviving reciprocal beneficiary** so notified may secure such
36 exemption, if still qualified, by making application therefor to the county assessor not later than
37 May 1 of the current year, accompanied by a late-filing fee of \$10 which shall be deposited in the
38 general fund of the county for general governmental expenses. If the claim for any year is not filed
39 within the time specified, the exemption shall not be allowed on the assessment roll of that year.

40 (2) The claim shall set out the basis of the claim and designate the property to which the ex-
41 emption may apply. Except as provided in subsection (3) of this section, claims for exemptions under
42 ORS 307.250 (1)(a) and (2)(a) shall have annexed thereto the certificate last issued by United States
43 Department of Veterans Affairs or the branch of the Armed Forces of the United States, as the case
44 may be, but dated within three years prior to the date of the claim for exemption, certifying the rate
45 of disability of the claimant. Claims for exemption under ORS 307.250 (1)(b) shall, except as provided

1 in subsection (3) of this section, have annexed thereto, in addition to any certificate prescribed, a
 2 statement by the claimant under oath or affirmation setting forth the total gross income received
 3 by the claimant from all sources during the last calendar year. There shall be annexed to each claim
 4 the affidavit or affirmation of the claimant that the statements contained therein are true.

5 (3) The provisions of subsection (2) of this section which require a veteran to annex to the claim
 6 certificates of either the United States Department of Veterans Affairs, any branch of the Armed
 7 Forces of the United States or a duly licensed physician, shall not apply to a veteran who has filed
 8 the required certificate after attaining the age of 65 years or to a veteran who has filed, on or after
 9 September 27, 1987, a certificate certifying a disability rating that, under federal law, is permanent
 10 and cannot be changed.

11 (4)(a) Notwithstanding subsection (1) of this section, a surviving spouse **or surviving reciprocal**
 12 **beneficiary** may file a claim for the exemption under ORS 307.250 at any time during the tax year
 13 if:

14 (A) The veteran died during the previous tax year; or

15 (B) The property designated as the homestead was acquired after March 1 but prior to July 1
 16 of the assessment year and the veteran died within 30 days of the date the property was acquired.

17 (b) The claim shall be allowed by the county assessor if the surviving spouse **or surviving re-**
 18 **ciprocal beneficiary** meets all of the qualifications for an exemption under ORS 307.250 other than
 19 the timely filing of a claim under subsection (1) of this section.

20 (c) If taxes on the exempt value have been paid, the taxes shall be refunded in the manner
 21 prescribed in paragraph (d) of this subsection. If taxes on the exempt value have not been paid, the
 22 taxes and any interest thereon shall be abated.

23 (d) The tax collector shall notify the governing body of the county of any refund required under
 24 this section and the governing body shall cause a refund of the taxes and any interest paid to be
 25 made from the unsegregated tax collections account described in ORS 311.385. The refund under this
 26 subsection shall be made without interest. The county assessor and tax collector shall make the
 27 necessary corrections in the records of their offices.

28 **SECTION 150.** ORS 307.270 is amended to read:

29 307.270. (1) The exemption under ORS 307.250 shall apply to property any such veteran or sur-
 30 viving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act, of**
 31 **the veteran** may own, or have in possession under a recorded contract of purchase, on January 1
 32 of the year in which the exemption is claimed. The exemption shall first apply to the homestead of
 33 the veteran or surviving spouse **or surviving reciprocal beneficiary of the veteran** and then to
 34 the personal property of the veteran or surviving spouse **or reciprocal beneficiary**. Property of the
 35 spouse **or reciprocal beneficiary** of any such veteran where they are living together and occupying
 36 the same as their homestead shall be deemed the homestead of the veteran. When any such veteran
 37 or surviving spouse **or surviving reciprocal beneficiary of the veteran** applies for exemption on
 38 properties in two or more counties, the total amount of the exemption allowed in all such counties
 39 shall not exceed \$8,750 or \$11,670, whichever is applicable.

40 (2) For each qualified veteran, [or] surviving spouse **or surviving reciprocal beneficiary**, only
 41 one valid and allowable claim for an exemption on a homestead shall be permitted in any one as-
 42 sessment year.

43 **SECTION 151.** ORS 307.380 is amended to read:

44 307.380. (1) Each corporation described in ORS 307.375, claiming the personal property tax ex-
 45 emption pursuant to ORS 307.370, shall file with the county assessor, on forms supplied by the

1 assessor, a written claim therefor in duplicate on or before April 1 of each year in which the ex-
 2 emption is claimed, except that when the property designated is acquired after March 1 and before
 3 July 1, the claim for that year shall be filed within 30 days after the date of acquisition. If the claim
 4 for any year is not filed within the time specified, the exemption shall not be allowed on the as-
 5 sessment roll for that year. The claim shall be signed by the taxpayer subject to the penalties for
 6 false swearing.

7 (2)(a) Each corporation annually shall aid residents, who could qualify for property tax ex-
 8 emptions pursuant to ORS 307.250 to 307.283, if the living unit of such elderly person were the
 9 homestead of the person and owned in fee simple, to prepare applications in duplicate for property
 10 tax exemptions on behalf of the corporation, for the benefit of the elderly person as provided by ORS
 11 307.370 to 307.385 and 308.490. The duplicate forms shall be completed and signed by the resident-
 12 applicant and filed with the assessor on or before the date required by law.

13 (b) The corporation shall determine the amount of assessed value that each resident of a
 14 nonprofit home who would have qualified for an exemption under ORS 307.250 to 307.283 would have
 15 had exempted if the living unit of such elderly person was the homestead of the person and owned
 16 in fee simple. The amount of the property tax exemption provided for in ORS 307.370 to 307.385 and
 17 308.490 and attributable to the veteran or surviving spouse **or surviving reciprocal beneficiary,**
 18 **as defined in section 1 of this 2007 Act,** of the veteran shall be the lesser of:

19 (A) The maximum amount of exemption that the veteran or surviving spouse **or surviving re-**
 20 **reciprocal beneficiary** of a veteran would have qualified for under ORS 307.250 or 307.283, whichever
 21 is applicable; or

22 (B) The assessed value of the living unit of the veteran or the surviving spouse **or surviving**
 23 **reciprocal beneficiary.**

24 (c) The assessor shall process each such application in the manner otherwise required under
 25 ORS 307.250 to 307.283, except for the requirement of owning or purchasing a homestead. The total
 26 of such exempt amounts in each facility, together with the exemption on personal property, shall
 27 constitute the exemption allowed the corporation.

28 (3) The assessor shall act upon the claim and shall approve it or reject it, noting the action upon
 29 both the original and the duplicate copies. The duplicate copy thereupon shall be returned to the
 30 claimant.

31 (4) The Department of Revenue shall furnish to a county assessor, upon request, a statement
 32 certifying the qualification or nonqualification of a corporation under ORS 307.375.

33 **SECTION 152.** ORS 310.630 is amended to read:

34 310.630. As used in ORS 310.630 to 310.706:

35 (1) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, in-
 36 cluding the right to use the personal property located therein. "Contract rent" does not include
 37 rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu
 38 of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the
 39 homestead. "Contract rent" does not include advanced rental payments for another period and rental
 40 deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit
 41 home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each
 42 other at arm's length, and the Department of Revenue is satisfied that the contract rent charged
 43 was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630
 44 to 310.706.

45 (2) "Department" means the Department of Revenue.

1 (3) "Fuel and utility payments" includes payments for heat, lights, water, sewer and garbage
2 made solely to secure those commodities or services for the homestead of the taxpayer. "Fuel and
3 utility payments" does not include telephone service.

4 (4) "Gross rent" means contract rent paid plus the fuel and utility payments made for the
5 homestead in addition to the contract rent, during the calendar year for which the claim is filed.

6 (5) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal
7 property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

8 (6) "Household" means the taxpayer, the spouse **or reciprocal beneficiary, as defined in sec-**
9 **tion 1 of this 2007 Act**, of the taxpayer and all other persons residing in the homestead during any
10 part of the calendar year for which a claim is filed.

11 (7) "Household income" means the aggregate income of the taxpayer and the spouse **or recip-**
12 **rocal beneficiary** of the taxpayer who reside in the household, that was received during the cal-
13 endar year for which the claim is filed. "Household income" includes payments received by the
14 taxpayer or the spouse **or reciprocal beneficiary** of the taxpayer under the federal Social Security
15 Act for the benefit of a minor child or minor children who are members of the household.

16 (8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
17 as amended and in effect on December 31, 2004, even when the amendments take effect or become
18 operative after that date, relating to the measurement of taxable income of individuals, estates and
19 trusts, with the following modifications:

20 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-
21 come:

22 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

23 (B) Child support received by the taxpayer.

24 (C) Inheritances.

25 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

26 (E) Amounts received by a taxpayer or **a spouse or reciprocal beneficiary** of a taxpayer for
27 support from a parent who is not a member of the taxpayer's household.

28 (F) Life insurance proceeds.

29 (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

30 (H) Personal injury damages.

31 (I) Sick pay which is not included in federal adjusted gross income.

32 (J) Strike benefits excluded from federal gross income.

33 (K) Worker's compensation, except for reimbursement of medical expense.

34 (L) Military pay and benefits.

35 (M) Veteran's benefits.

36 (N) Payments received under the federal Social Security Act which are excluded from federal
37 gross income.

38 (O) Welfare payments, except as follows:

39 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly
40 to the welfare recipient;

41 (ii) In-home services authorized and approved by the Department of Human Services; and

42 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
43 training programs.

44 (P) Nontaxable dividends.

45 (Q) Nontaxable interest not included in federal adjusted gross income.

1 (R) Rental allowance paid to a minister that is excluded from federal gross income.

2 (S) Income from sources without the United States that is excluded from federal gross income.

3 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

4 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
5 properties.

6 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

7 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
8 profession or other activity entered into for the production or collection of income.

9 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
10 the production of rents, royalties or other income.

11 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
12 gross income.

13 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
14 ciation, amortization or depletion.

15 (G) The amount added or subtracted, as required within the context of this section, for adjust-
16 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

17 (c) "Income" does not include any of the following:

18 (A) Any governmental grant which must be used by the taxpayer for rehabilitation of the
19 homestead of the taxpayer.

20 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

21 (C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

22 (9) "Payments for heat" means those payments made to secure the commodities or services to
23 be used as the principal source of heat for the homestead of the taxpayer and includes payments for
24 natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use
25 as a primary source of heat for the homestead.

26 (10) "Statement of gross rent" means a declaration by the applicant, under penalties of false
27 swearing, that the amount of contract rent and fuel and utility payments designated is the actual
28 amount both incurred and paid during the year for which elderly rental assistance is claimed.

29 (11) "Taxpayer" means an individual who is a resident of this state on December 31 of the year
30 for which elderly rental assistance is claimed and whose homestead, as of the same December 31
31 and during all or a portion of the year ending on the same December 31, is rented and while rented
32 is the subject, directly or indirectly, of property tax levied by this state or a political subdivision
33 or of payments made in lieu of taxes.

34 **SECTION 153.** ORS 310.652 is amended to read:

35 310.652. (1) A taxpayer who is under 65 years of age on December 31 of the year for which a
36 claim for elderly rental assistance is filed under ORS 310.635 and 310.657 or 310.706 and who has
37 household assets that in combination exceed \$25,000 in value as of that same December 31 shall not
38 be eligible to receive the rental assistance for that year.

39 (2) For purposes of determining if the assets of the taxpayer exceed the amount permitted under
40 subsection (1) of this section, the values of the following household assets and no other household
41 assets shall be added together:

42 (a) Real property, but excluding the value of the homestead.

43 (b) Tangible personal property used in a trade or business in which the taxpayer has an own-
44 ership interest, but excluding under this paragraph the value of any assets described under para-
45 graph (c) of this subsection.

1 (c) Intangible personal property, including but not limited to shares of stock, evidence of debt,
 2 funds on deposit, money on hand and money on deposit, all as defined under ORS 310.651 and ex-
 3 cluding the value of any benefits or contributions made to a retirement or deferred compensation
 4 plan by or on behalf of the taxpayer.

5 (3) Any claim filed under ORS 310.657 or 310.706 shall be accompanied by a statement, signed
 6 by the taxpayer or representative and verified upon oath or affirmation of the taxpayer or repre-
 7 sentative, stating that the assets of the taxpayer, as of the December 31 of the year for which the
 8 claim is filed, do not in combination exceed \$25,000.

9 (4) As used in this section, "household assets" means the sum of the assets of the taxpayer and
 10 the spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the taxpayer
 11 that have been added together as described under subsection (2) of this section.

12 **SECTION 154.** ORS 311.645 is amended to read:

13 311.645. (1) Whenever, after delinquency, in the opinion of the tax collector, it becomes neces-
 14 sary to charge taxes on personal property against real property in order that the personal property
 15 taxes may be collected, the tax collector shall select for the purpose some particular tract or lots
 16 of real property owned by the person, firm, corporation or association owing the personal property
 17 taxes and shall note on the tax roll opposite the tract or lots selected the taxes on the personal
 18 property. Thereafter, the personal property taxes shall be a lien on the real property selected and
 19 shall be enforced in the same manner as other tax liens on real property. The notation of the lien,
 20 with the date thereof, shall be entered on the tax roll. Unless the notation and date are entered on
 21 the roll, the lien shall be of no force or effect.

22 (2) Subsection (1) of this section shall not be applicable to real property as to which all of the
 23 following conditions exist:

24 (a) The property is owned as tenants by the entirety by a member of a partnership and the
 25 spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the member who is
 26 not a member of the partnership.

27 (b) The property is used as the personal residence of the spouse **or reciprocal beneficiary**.

28 (c) The partner contributed no part of the consideration in the transaction which vested an
 29 ownership interest in the spouse **or reciprocal beneficiary**.

30 (d) The delinquent personal property taxes for which a lien is sought under subsection (1) of this
 31 section are the taxes of the partnership and not of the spouse **or reciprocal beneficiary**.

32 (3) Any lien upon real property described in subsection (2) of this section is void and of no ef-
 33 fect.

34 (4) Any lien upon property described in subsection (2) of this section existing on August 22, 1969,
 35 or which may hereinafter be imposed, shall be extinguished, set aside and held for naught upon the
 36 verified petition of the spouse **or reciprocal beneficiary** to the county commissioners and proof by
 37 the spouse **or reciprocal beneficiary** of the requirements described in subsection (2) of this section.
 38 Upon approval of the petition, the county commissioners shall order the necessary correction to be
 39 made in the tax rolls.

40 **SECTION 155.** ORS 311.670 is amended to read:

41 311.670. In order to qualify for tax deferral under ORS 311.666 to 311.701, the property must
 42 meet all of the following requirements when the claim is filed and thereafter so long as the payment
 43 of taxes by the taxpayer is deferred:

44 (1) The property must be the homestead of the individual or individuals who file the claim for
 45 deferral, except for an individual required to be absent from the homestead by reason of health.

1 (2) The person claiming the deferral must, *[by himself or herself]* **alone** or together with *[his or*
 2 *her]* **the person's spouse or reciprocal beneficiary as defined in section 1 of this 2007 Act**, own
 3 the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or
 4 two or more persons must together own or be purchasing the fee simple estate with rights of
 5 survivorship under a recorded instrument of sale if all owners live in the homestead and if all
 6 owners apply for the deferral jointly.

7 (3) There must be no prohibition to the deferral of property taxes contained in any provision
 8 of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or condi-
 9 tional sale contract for which the homestead is security.

10 **SECTION 156.** ORS 311.681 is amended to read:

11 311.681. (1) Notwithstanding ORS 311.668, if an individual (or two or more individuals jointly)
 12 who has elected to defer homestead property taxes in a prior tax year has not filed a timely claim
 13 for deferral for one or more tax years succeeding the year in which property taxes were initially
 14 deferred under ORS 311.666 to 311.701, then the individual may request that the Director of the
 15 Department of Revenue grant a retroactive deferral of property taxes on the property. A spouse **or**
 16 **reciprocal beneficiary, as defined in section 1 of this 2007 Act**, who is eligible to make the
 17 election under ORS 311.688 may also request a grant of retroactive deferral under this section.

18 (2) The director may, in the discretion of the director, grant or deny the retroactive deferral of
 19 property taxes. No appeal from a decision of the director under this section may be made.

20 (3) The director shall not grant a retroactive deferral of property taxes if, in any intervening
 21 year between the year in which deferral was last granted to the property and the last year for which
 22 retroactive deferral is being requested, the property would not have been eligible for deferral had
 23 the claim for deferral been timely filed.

24 (4) If the director grants a retroactive deferral of property taxes under this section, the de-
 25 partment shall pay to the county tax collector an amount equal to the deferred taxes for each year,
 26 less three percent. Interest shall accrue on the actual amount of taxes advanced to the county.

27 (5) The department shall have a lien against the tax-deferred property for amounts deferred un-
 28 der this section as provided in ORS 311.673. The lien shall attach as of July 1 of the tax year for
 29 which the payment relates. In the case of a payment representing more than one year's property
 30 taxes, the department shall have a lien in the amount of that portion of a payment related to a
 31 particular tax year, which shall attach as of July 1 of that tax year.

32 **SECTION 157.** ORS 311.688 is amended to read:

33 311.688. (1) Notwithstanding ORS 311.684, when one of the circumstances listed in ORS 311.684
 34 (1) to (3) occurs, the spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**,
 35 who was not eligible to or did not file a claim jointly with the taxpayer may continue the property
 36 in its deferred tax status by filing a claim within the time and in the manner provided under ORS
 37 311.668 if:

38 (a) The spouse **or reciprocal beneficiary** of the taxpayer is or will be 60 years of age or older
 39 not later than six months from the day the circumstance listed in ORS 311.684 (1) to (3) occurs; and

40 (b) The property is the homestead of the spouse **or reciprocal beneficiary** of the taxpayer and
 41 meets the requirements of ORS 311.670 (2).

42 (2) A spouse **or reciprocal beneficiary** who does not meet the age requirements of subsection
 43 (1)(a) of this section but is otherwise qualified to continue the property in its tax-deferred status
 44 under subsection (1) of this section may continue the deferral of property taxes deferred for previous
 45 years by filing a claim within the time and in the manner provided under ORS 311.668. If a spouse

1 **or reciprocal beneficiary** eligible for and continuing the deferral of taxes previously deferred under
 2 this subsection becomes 62 years of age prior to April 15 of any year, the spouse **or reciprocal**
 3 **beneficiary** may elect to continue the deferral of previous years' taxes deferred under this sub-
 4 section and may elect to defer the current assessment year's taxes on the homestead by filing a
 5 claim within the time and in the manner provided under ORS 311.668. Thereafter, payment of the
 6 taxes levied on the homestead and deferred under this subsection and payment of taxes levied on
 7 the homestead in the current assessment year and in future years may be deferred in the manner
 8 provided in and subject to ORS 311.666 to 311.701.

9 (3) Notwithstanding that ORS 311.668 requires that a claim be filed no later than April 15, if the
 10 Department of Revenue determines that good and sufficient cause exists for the failure of a spouse
 11 **or reciprocal beneficiary** to file a claim under this section on or before April 15, the claim may
 12 be filed within 180 days after notice of taxes due and payable under ORS 311.686 is mailed or de-
 13 livered by the department to the taxpayer, [*or*] spouse **or reciprocal beneficiary**.

14 **SECTION 158.** ORS 311.690 is amended to read:

15 311.690. (1) All payments of deferred taxes shall be made to the Department of Revenue.

16 (2) Subject to subsection (3) of this section, all or part of the deferred taxes and accrued interest
 17 may at any time be paid to the department by:

18 (a) The taxpayer [*or*].

19 (b) The spouse of the taxpayer.

20 (c) **The reciprocal beneficiary, as defined in section 1 of this 2007 Act, of the taxpayer.**

21 [*(b)*] (d) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or
 22 any person having or claiming a legal or equitable interest in the property.

23 (3) A person listed in subsection [(2)(b)] **(2)(d)** of this section may make such payments only if
 24 no objection is made by the taxpayer within 30 days after the department deposits in the mail notice
 25 to the taxpayer of the fact that such payment has been tendered.

26 (4) Any payment made under this section shall be applied first against accrued interest and any
 27 remainder against the deferred taxes. Such payment does not affect the deferred tax status of the
 28 property. Unless otherwise provided by law, such payment does not give the person paying the taxes
 29 any interest in the property or any claim against the estate, in the absence of a valid agreement to
 30 the contrary.

31 (5) When the deferred taxes and accrued interest are paid in full and the property is no longer
 32 subject to deferral, the department shall prepare and record in the county in which the property is
 33 located a satisfaction of deferred property tax lien.

34 **SECTION 159.** ORS 311.695 is amended to read:

35 311.695. (1) If the taxpayer who claimed homestead property tax deferral dies, or if a spouse **or**
 36 **reciprocal beneficiary, as defined in section 1 of this 2007 Act**, who continued the deferral under
 37 ORS 311.688 dies, the Department of Revenue may extend the time for payment of the deferred taxes
 38 and interest accruing with respect to the taxes becoming due and payable under ORS 311.686 (2) if:

39 (a) The homestead property becomes property of an individual or individuals:

40 (A) By inheritance or devise; or

41 (B) If the individual or individuals are heirs or devisees, as defined under ORS 111.005, in the
 42 course of settlement of the estate;

43 (b) The individual or individuals commence occupancy of the property as a principal residence
 44 on or before August 15 of the calendar year following the calendar year of death; and

45 (c) The individual or individuals make application to the department for an extension of time for

1 payment of the deferred taxes and interest prior to August 15 of the calendar year following the
2 calendar year of death.

3 (2)(a) Subject to paragraph (b) of this subsection, an extension granted under this section shall
4 be for a period not to exceed five years after August 15 of the calendar year following the calendar
5 year of death. The terms and conditions under which the extension is granted shall be in accordance
6 with a written agreement entered into by the department and the individual or individuals.

7 (b) An extension granted under this section shall terminate immediately if:

8 (A) The homestead property is sold or otherwise transferred by any party to the extension
9 agreement;

10 (B) All of the heirs or devisees who are parties to the extension agreement cease to occupy the
11 property as a principal residence; or

12 (C) The homestead property, a manufactured structure or floating home, is moved out of the
13 state.

14 (3) If the department has reason to believe that the homestead property is not sufficient security
15 for the deferred taxes and interest, the department may require the individual or individuals to
16 furnish a bond conditioned upon payment of the amount extended in accordance with the terms of
17 the extension. The bond shall not exceed in amount double the taxes with respect to which tax ex-
18 tension is granted.

19 (4) During the period of extension, and until paid, the deferred taxes shall continue to accrue
20 interest in the same manner and at the same rate as provided under ORS 311.674 (3). No interest
21 shall accrue upon interest.

22 **SECTION 160.** ORS 311.706 is amended to read:

23 311.706. (1) In order to qualify for deferral of payment of special assessment for local improve-
24 ment amounts under ORS 311.702 to 311.735, the taxpayer or, in the case of two or more individuals
25 filing a claim jointly, each filing the claim for deferral and the homestead with respect to which the
26 claim is filed must meet the following requirements at the time the claim for deferral is filed and
27 thereafter so long as payment of the amount of special assessment for local improvement is deferred:

28 (a) The taxpayer filing the claim for deferral must be 62 years of age or older.

29 (b) The taxpayer filing the claim, [*by himself or herself*] **alone** or together with [*his or her*] **the**
30 **taxpayer's spouse or reciprocal beneficiary as defined in section 1 of this 2007 Act**, must own
31 the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale.

32 (c) The property with respect to which the claim is filed must be the homestead of the taxpayer
33 who files the claim for deferral, except for a taxpayer required to be absent from the homestead by
34 reason of health.

35 (d) If the taxpayer is delinquent in payment of the special assessment for local improvement or
36 any installments thereof, the homestead must not have yet been sold at foreclosure sale.

37 (e) The household income, as defined in ORS 310.630, of the taxpayer filing the claim must have
38 been \$32,000 or less for the calendar year immediately preceding the calendar year in which the
39 claim for deferral of special assessment for local improvement installment amounts is filed.

40 (f) There must be no prohibition to the deferral of special assessments contained in any pro-
41 vision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or
42 conditional sale contract for which the homestead is security.

43 (2) If a trustee of an inter vivos trust which was created by and is revocable by a taxpayer, who
44 is both the trustor and beneficiary of the trust and who is otherwise qualified to obtain a deferral
45 of special assessment for local improvement under ORS 311.702 to 311.735 owns the fee simple estate

1 under a recorded instrument of sale, the trustee may act for the taxpayer in complying with the
2 provisions of ORS 311.702 to 311.735.

3 (3) Nothing in this section shall be construed to require a spouse **or reciprocal beneficiary** of
4 a taxpayer to file a claim jointly with the taxpayer even though the spouse **or reciprocal benefi-**
5 **ciary** may be eligible to claim the deferral jointly with the taxpayer.

6 (4) Nothing in this section shall be construed to disqualify a taxpayer otherwise qualifying for
7 deferral if the spouse **or reciprocal beneficiary** of the taxpayer is less than 62 years of age or if
8 the spouse **or reciprocal beneficiary** does not own, or is not purchasing under a recorded instru-
9 ment of sale, a fee simple estate in the homestead.

10 (5) Subject to ORS 311.729, when a taxpayer exercises the election to claim the deferral under
11 ORS 311.704, it shall have the effect of:

12 (a) Deferring payment of the amount of special assessment for local improvements deferred
13 pursuant to the claim until the special assessment for local improvements become delinquent under
14 ORS 311.718.

15 (b) Continuing the deferral of payment by the taxpayer of any special assessment for local im-
16 provements deferred under ORS 311.702 to 311.735 for previous years which have not become de-
17 linquent under ORS 311.718.

18 (6)(a) For each tax year beginning on or after July 1, 2002, the Department of Revenue shall
19 recompute the maximum household income that may be incurred under an allowable claim for
20 deferral under subsection (1)(e) of this section. The computation shall be as follows:

21 (A) Divide the average U.S. City Average Consumer Price Index for the first six months of the
22 current calendar year by the average U.S. City Average Consumer Price Index for the first six
23 months of 2001.

24 (B) Recompute the maximum household income by multiplying \$32,000 by the appropriate in-
25 dexing factor determined as provided in subparagraph (A) of this paragraph.

26 (b) As used in this section, "U.S. City Average Consumer Price Index" means the U.S. City Av-
27 erage Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
28 Labor Statistics of the United States Department of Labor.

29 (c) If any change in the maximum household income determined under paragraph (a) of this
30 subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of \$500.

31 **SECTION 161.** ORS 311.721 is amended to read:

32 311.721. (1) Notwithstanding ORS 311.716 and 311.718, when one of the circumstances listed in
33 ORS 311.716 occurs, the spouse **or reciprocal beneficiary, as defined in section 1 of this 2007**
34 **Act**, of the taxpayer who claimed the deferral may elect to continue the homestead in its deferred
35 status if:

36 (a) The spouse **or reciprocal beneficiary** of the taxpayer is or will be 60 years of age or older
37 not later than six months from the day the circumstances listed in ORS 311.716 occur; and

38 (b) The homestead is the homestead of the spouse **or reciprocal beneficiary** of the taxpayer and
39 meets the requirements of ORS 311.706.

40 (2) The election under subsection (1) of this section to continue the property in its deferred
41 status by the spouse **or reciprocal beneficiary** shall be filed in the same manner as a claim for
42 deferral is filed under ORS 311.704, not later than August 15 of the year following the calendar year
43 in which the circumstances listed in ORS 311.716 occur. Thereupon, the homestead with respect to
44 which the deferral is claimed shall continue to be subject to special assessment deferral and the
45 appropriate local officials shall cancel all actions taken under ORS 311.718 and make any necessary

1 correcting entries in their records. Subject to ORS 311.729, the deferral shall continue until the
 2 special assessment for local improvement becomes delinquent under ORS 311.718.

3 **SECTION 162.** ORS 311.722 is amended to read:

4 311.722. (1) If the taxpayer who claimed the deferral of special assessment for local improvement
 5 dies, or if a spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, who con-
 6 tinued the deferral under ORS 311.702 to 311.735 dies, the Department of Revenue may extend the
 7 time for payment of the special assessment for local improvement and interest accruing with respect
 8 to the special assessment for local improvement becoming due and payable under ORS 311.718 if:

9 (a) The homestead property becomes property of an individual or individuals:

10 (A) By inheritance or devise; or

11 (B) If the individual or individuals are heirs or devisees, as defined under ORS 111.005, in the
 12 course of settlement of the estate;

13 (b) The individual or individuals commence occupancy of the property as a principal residence
 14 on or before August 15 of the calendar year following the calendar year of death; and

15 (c) The individual or individuals make application to the department for an extension of time for
 16 payment of the deferred special assessment for local improvement and interest prior to August 15
 17 of the calendar year following the calendar year of death.

18 (2)(a) Subject to paragraph (b) of this subsection, an extension granted under this section shall
 19 be for a period not to exceed five years after August 15 of the calendar year following the calendar
 20 year of death. The terms and conditions under which the extension is granted shall be in accordance
 21 with a written agreement entered into by the department and the individual or individuals.

22 (b) An extension granted under this section shall terminate immediately if:

23 (A) The homestead property is sold or otherwise transferred by any party to the extension
 24 agreement;

25 (B) All of the heirs or devisees who are parties to the extension agreement cease to occupy the
 26 property as a principal residence; or

27 (C) The homestead property, a manufactured structure or floating home, is moved out of the
 28 state.

29 (3) If the department has reason to believe that the homestead property is not sufficient security
 30 for the deferred special assessment for local improvement and interest the department may require
 31 the individual or individuals to furnish a bond conditioned upon payment of the amount extended in
 32 accordance with the terms of the extension. The bond shall not exceed in amount double the special
 33 assessment for local improvement with respect to which extension is granted.

34 (4) During the period of extension, and until paid the deferred special assessment for local im-
 35 provement shall continue to accrue interest in the same manner and at the same rate as provided
 36 under ORS 311.674 (3). No interest shall accrue upon interest.

37 **SECTION 163.** ORS 311.723 is amended to read:

38 311.723. (1) Subject to subsection (2) of this section, all or part of the amounts of deferred special
 39 assessment for local improvement, and accrued interest, may at any time be paid to the Department
 40 of Revenue by:

41 (a) The taxpayer who filed the claim for deferral or the *[taxpayer's]* spouse **or reciprocal ben-**
 42 **eficiary, as defined in section 1 of this 2007 Act, of the taxpayer.**

43 (b) The next of kin of the taxpayer who filed the claim for deferral, the taxpayer's heir at law,
 44 the taxpayer's child or any person having or claiming a legal or equitable interest in the property.

45 (2) A person referred to in subsection (1)(b) of this section may make the payments only if no

1 objection is made by the taxpayer who filed the claim for deferral within 30 days after the depart-
 2 ment deposits in the mail notice to the taxpayer who filed the claim that the payment has been
 3 tendered.

4 (3) Any payments made under this section shall be applied first against accrued interest and any
 5 remainder against the deferred special assessment for local improvement. A payment made pursuant
 6 to this section does not affect the deferred status of the homestead. Unless otherwise provided by
 7 law, the payment does not give the person paying the deferred special assessment any interest in
 8 the property or any claim against the estate, in the absence of a valid agreement to the contrary.

9 **SECTION 164.** ORS 315.163 is amended to read:

10 315.163. As used in ORS 315.163 to 315.172:

11 (1) "Acquisition costs" means the cost of acquiring buildings, structures and improvements that
 12 constitute or will constitute farmworker housing. "Acquisition costs" does not include the cost of
 13 acquiring land on which farmworker housing is or will be located.

14 (2) "Condition of habitability" means a condition that is in compliance with:

15 (a) The applicable provisions of the state building code under ORS chapter 455 and the rules
 16 adopted thereunder; or

17 (b) If determined on or before December 31, 1995, sections 12 and 13, chapter 964, Oregon Laws
 18 1989.

19 (3) "Contributor" means a person that acquired, constructed, manufactured or installed
 20 farmworker housing or contributed money to finance a farmworker housing project.

21 (4) "Eligible costs" includes acquisition costs, finance costs, construction costs, excavation costs,
 22 installation costs and permit costs and excludes land costs.

23 (5) "Farmworker" means any person who, for an agreed remuneration or rate of pay, performs
 24 temporary or permanent labor for another in the production of farm products or in the planting,
 25 cultivating or harvesting of seasonal agricultural crops or in the forestation or reforestation of
 26 lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and
 27 thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related
 28 activities.

29 (6) "Farmworker housing" means housing:

30 (a) Limited to occupancy by farmworkers and their immediate families; and

31 (b) No dwelling unit of which is occupied by a relative of the owner or operator of the
 32 farmworker housing.

33 (7) "Farmworker housing project" means the acquisition, construction, installation or rehabili-
 34 tation of farmworker housing.

35 (8) "Owner" means a person that owns farmworker housing. "Owner" does not include a person
 36 that only has an interest in the housing as a holder of a security interest.

37 (9) "Rehabilitation" means to make repairs or improvements to a building that improve its
 38 livability and are consistent with applicable building codes.

39 (10) "Relative" means a brother or sister (whether by the whole or by half blood), spouse, **re-**
 40 **reciprocal beneficiary as defined in section 1 of this 2007 Act**, ancestor (whether by law or by
 41 blood)[,] or lineal descendant of an individual.

42 (11) "Taxpayer" includes a nonprofit corporation or other person not subject to tax under ORS
 43 chapter 316, 317 or 318.

44 **SECTION 165.** ORS 321.349 is amended to read:

45 321.349. (1) Subject to subsection (2) of this section, land that is changed from farm use special

1 assessment under ORS 308A.050 to 308A.128 to special assessment as forestland under ORS 321.257
2 to 321.390, at the election of the owner made under rules adopted by the Department of Revenue,
3 shall not be valued under ORS 308.205, 308.232 and 321.257 to 321.390 for the tax year of the change
4 and years thereafter in which such special forestland assessment is in effect for the land, but shall
5 be valued under ORS 308A.050 to 308A.128, if:

6 (a) The land has been assessed under ORS 308A.050 to 308A.128 for at least the 10 consecutive
7 years immediately prior to the year for which the change is first effective;

8 (b) The planting of the timber takes place after October 15, 1983, and qualifies for the current
9 tax year for special assessment as forestland under ORS 321.257 to 321.390;

10 (c) The timber on the land is of an average age of less than 40 years; and

11 (d) The land is held by an owner having a total ownership of forestland in western Oregon not
12 in excess of 2,000 acres, as determined under subsection (3) of this section.

13 (2) If timber on land valued under subsection (1) of this section reaches, for any tax year, an
14 average age of 40 years or more, this section shall cease to apply. However, without application and
15 without any additional tax, interest or penalty, the land shall for that tax year and for each year
16 thereafter for which the land is qualified, be valued under ORS 308.205, 308.232 and 321.257 to
17 321.390.

18 (3) In computing a forestland owner's acreage for purposes of subsection (1) of this section, total
19 ownership of the owner's forestland, as defined in ORS 321.257, in western Oregon shall be included.

20 (4)(a) An owner may not have forestland valued under subsection (1) of this section if the owner,
21 or any individual having a share in the owner, has a spouse, **reciprocal beneficiary as defined in**
22 **section 1 of this 2007 Act**, brother, sister, ancestor or lineal descendant who is an owner, or who
23 holds a share in an owner having forestland valued under subsection (1) of this section.

24 (b) The county assessor may grant exceptions to paragraph (a) of this subsection if the owner
25 satisfactorily demonstrates that the combination of ownership with the indicated relatives arose
26 from bona fide business reasons other than a desire to circumvent the 2,000 acre limitation imposed
27 under subsection (1) of this section.

28 (5) As used in this section, "total ownership" includes:

29 (a) Forestland owned by an owner individually; and

30 (b) Forestland owned by any corporate or other group or entity in which an owner of the cor-
31 poration, group or entity owns a 10 percent or greater interest, directly or indirectly, in the corpo-
32 ration, group or entity.

33 **SECTION 166.** ORS 409.290 is amended to read:

34 409.290. As used in ORS 409.290 to 409.300 unless the context requires otherwise:

35 (1) "Crisis line" means an emergency telephone service staffed by persons who are trained to
36 provide emergency peer counseling, information, referral and advocacy to victims of domestic vi-
37 olence and their families.

38 (2) "Director" means the Director of Human Services.

39 (3) "Family violence" means the physical injury, sexual abuse or forced imprisonment, or threat
40 thereof, of a person by another who is related by blood, marriage, **reciprocal beneficiary agree-**
41 **ment as defined in section 1 of this 2007 Act** or intimate cohabitation at the present or has been
42 related at some time in the past, to the extent that the person's health or welfare is harmed or
43 threatened thereby, as determined in accordance with rules prescribed by the director.

44 (4) "Safe house" means a place of temporary refuge, offered on an "as needed" basis to victims
45 of domestic violence and their families.

1 (5) "Shelter home" means a place of temporary refuge, offered on a 24-hour, seven-day per week
 2 basis to victims of domestic violence and their children.

3 **SECTION 167.** ORS 409.292 is amended to read:

4 409.292. (1) The Director of Human Services may make grants to and enter into contracts with
 5 nonprofit private organizations or public agencies for programs and projects designed to prevent,
 6 identify and treat family violence. Grants or contracts under this subsection may be:

7 (a) For the funding of shelter homes for spouses, **reciprocal beneficiaries as defined in section**
 8 **1 of this 2007 Act** and children who are or have experienced family violence including acquisition
 9 and maintenance of shelter homes;

10 (b) For the funding of crisis lines providing services to victims of domestic violence and their
 11 families;

12 (c) For the funding of safe houses for victims of domestic violence and their families; and

13 (d) For the development and establishment of programs for professional and paraprofessional
 14 personnel in the fields of social work, law enforcement, education, law, medicine and other relevant
 15 fields who are engaged in the field of the prevention, identification and treatment of family violence
 16 and training programs in methods of preventing family violence.

17 (2) The director shall not make a grant to any organization or agency under this section except
 18 on the condition that a local governmental unit or community organization provide matching moneys
 19 equal to 25 percent of the amount of the grant. The applying organization itself may contribute to
 20 or provide the required local matching funds. The value of in kind contributions and volunteer labor
 21 from the community may be computed and included as a part of the local matching requirement
 22 imposed by this subsection.

23 (3) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to
 24 192.990:

25 (a) The director may by rule provide that the locations of premises utilized for shelter homes
 26 or other physical facilities in family violence programs and projects shall be kept confidential.

27 (b) All information maintained by the shelter home, safe house or crisis line relating to clients
 28 is confidential. However, crisis lines specifically funded to provide services for victims of child abuse
 29 are subject to the requirements of ORS 419B.005 to 419B.050. Except for the names of clients, nec-
 30 essary information may be disclosed to the director.

31 **SECTION 168.** ORS 411.117 is amended to read:

32 411.117. (1) The Department of Human Services shall:

33 (a) Identify applicants for and recipients of assistance under the temporary assistance to needy
 34 families program who are currently victims of domestic violence, have been victims of domestic vi-
 35 olence or are at risk of victimization by domestic violence.

36 (b) Ensure that appropriate individuals on the local level who provide assistance to domestic
 37 violence victims participate in individualized case management with the department.

38 (c) Refer individuals identified under this subsection to appropriate counseling and support ser-
 39 vices.

40 (d) Waive or modify any temporary assistance to needy families program requirements that may
 41 make it more difficult for individuals identified under this subsection to escape domestic violence
 42 or place those individuals at risk of further or future domestic violence, including but not limited
 43 to:

44 (A) Time limits on receipt of benefits;

45 (B) Work requirements;

1 (C) Paternity establishment and child support cooperation requirements;

2 (D) Residency requirements;

3 (E) Family cap provisions; and

4 (F) Penalties for failure to comply with a program requirement.

5 (e) Maintain emergency assistance eligibility and payment limits for victims of domestic violence
6 or persons at risk of victimization by domestic violence identified under this section at no less than
7 the levels in effect on January 1, 1997.

8 (f) Allow eligibility for temporary assistance to needy families for persons identified under this
9 section as victims of domestic violence or persons identified as at risk of victimization by domestic
10 violence who would otherwise be eligible except for the fact that they are noncitizens.

11 (2) All information received by the department in identifying the individuals described in sub-
12 section (1) of this section shall remain confidential.

13 (3) For purposes of this section, “domestic violence” means the occurrence of one or more of the
14 following acts between family members, **reciprocal beneficiaries as defined in section 1 of this**
15 **2007 Act**, intimate partners or household members:

16 (a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or
17 emotional, mental or verbal abuse;

18 (b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical
19 injury;

20 (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427; or

21 (d) Using coercive or controlling behavior.

22 **SECTION 169.** ORS 411.610 is amended to read:

23 411.610. Any check or warrant issued by the Department of Human Services to a recipient of
24 public assistance who subsequently dies may be indorsed in the name of the deceased by the sur-
25 viving spouse, **the surviving reciprocal beneficiary as defined in section 1 of this 2007 Act** or
26 a next of kin in the order described in ORS 293.490 (3); and payment may be made and the proceeds
27 used without any of the restrictions enumerated in ORS 293.495 (1).

28 **SECTION 170.** ORS 411.650 is amended to read:

29 411.650. (1) Every person 18 years of age or over who applies for or receives any type of general
30 assistance or public assistance, as defined in ORS 411.010, whether such general assistance or public
31 assistance is applied for or received for the benefit of the person or of another individual, shall ex-
32 ecute to the Department of Human Services at the time of making such application, and at such
33 times as may be required by the department in any case, written statements relating to each indi-
34 vidual for whose benefit such general assistance or public assistance is applied for or received, and
35 to any person who has a duty to support such individual, or to whom such individual owes a duty
36 of support. Such statements shall include, but need not be limited to, so much of the following in-
37 formation, relating to each such individual or other person, as may be specified or required by the
38 department:

39 (a) The name of the individual, address, date and place of birth, residence, family relationships,
40 and the composition of the household in which the individual lives;

41 (b) The financial circumstances of the individual and means of and ability for support of the
42 individual and other individuals, including but not limited to information concerning:

43 (A) The employment of the individual and the nature and amount of the income of the individual,
44 from whatever source derived;

45 (B) The tangible and intangible assets of the individual, property and resources of any nature

1 including, but not limited to, money, real and personal property, rights and expectancies as an heir,
 2 devisee, legatee, trustee or cestui que trust, and any rights, benefits, claims or choses in action,
 3 whether arising in tort or based upon statute, contract or judgment;

4 (C) The receipt of the individual, transfer or disposal of any assets, property or resources, re-
 5 ferred to in subparagraph (B) of this paragraph, within three years immediately preceding such ap-
 6 plication and during any period with respect to which such general assistance or public assistance
 7 is granted; and

8 (D) Such other information as may be required pursuant to state or federal laws applicable to
 9 such general assistance or public assistance.

10 (2) All applications for such general assistance or public assistance and all statements referred
 11 to in subsection (1) of this section shall be upon forms prescribed and furnished by the department.
 12 Each such statement shall be subscribed by each individual who executes or joins in the execution
 13 of such statement.

14 (3) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of any
 15 individual who applies for or receives such general assistance or public assistance may be required
 16 by the department to join in the execution of, or separately to execute, any statement referred to
 17 in subsection (1) of this section, under oath or affirmation, except during any period in which it
 18 appears to the department that:

19 (a) Such individual and the spouse **or reciprocal beneficiary** of the individual are estranged
 20 and are living apart;

21 (b) The spouse **or reciprocal beneficiary** is absent from this state or the whereabouts of the
 22 spouse **or reciprocal beneficiary** is unknown; or

23 (c) The spouse **or reciprocal beneficiary** is physically or mentally incapable of executing such
 24 statement or of providing any information referred to in subsection (1) of this section.

25 **SECTION 171.** ORS 411.708 is amended to read:

26 411.708. (1) The amount of any assistance paid under ORS 411.706 is a claim against the property
 27 or interest in the property belonging to and a part of the estate of any deceased recipient. If the
 28 deceased recipient has no estate, the estate of the surviving spouse **or surviving reciprocal bene-**
 29 **fiary, as defined in section 1 of this 2007 Act**, of the deceased recipient, if any, shall be charged
 30 for assistance granted under ORS 411.706 to the deceased recipient or the surviving spouse **or**
 31 **surviving reciprocal beneficiary**. There shall be no adjustment or recovery of assistance correctly
 32 paid on behalf of any deceased recipient under ORS 411.706 except after the death of the surviving
 33 spouse **or surviving reciprocal beneficiary** of the deceased recipient, if any, and only at a time
 34 when the deceased recipient has no surviving child who is under 21 years of age or who is blind
 35 or disabled. Transfers of real or personal property by recipients of assistance without adequate
 36 consideration are voidable and may be set aside under ORS 411.620 (2).

37 (2) Except when there is a surviving spouse[,] **or surviving reciprocal beneficiary**, or a sur-
 38 viving child who is under 21 years of age or who is blind or disabled, the amount of any assistance
 39 paid under ORS 411.706 is a claim against the estate in any conservatorship proceedings and may
 40 be paid pursuant to ORS 125.495.

41 (3) Nothing in this section authorizes the recovery of the amount of any assistance from the
 42 estate, [or] surviving spouse **or surviving reciprocal beneficiary** of a recipient to the extent that
 43 the need for assistance resulted from a crime committed against the recipient.

44 **SECTION 172.** ORS 411.802 is amended to read:

45 411.802. If an approved provider providing in-home care to a recipient of public assistance for

1 compensation marries **the recipient or enters into a reciprocal beneficiary agreement, as de-**
 2 **defined in section 1 of this 2007 Act, with** the recipient, the Department of Human Services shall
 3 consider the care provided as compensable even though provided by a spouse **or reciprocal bene-**
 4 **ficiary.** The standard of compensation under this section shall be the same as the standard applied
 5 for in-home care provided by an approved provider not residing in the home of the recipient.

6 **SECTION 173.** ORS 411.803 is amended to read:

7 411.803. When a [*married*] recipient of public assistance provided under ORS 411.706 **who is**
 8 **married or in a reciprocal beneficiary agreement, as defined in section 1 of this 2007 Act,**
 9 requires in-home care, the Department of Human Services shall provide that such care be compen-
 10 sated even though provided by the spouse **or reciprocal beneficiary,** in the manner and to the ex-
 11 tent specified by rule of the department based on the extent of need and the availability of funds
 12 therefor.

13 **SECTION 174.** ORS 416.310 is amended to read:

14 416.310. (1) Except as otherwise provided by ORS 411.708, the estate of every deceased person
 15 who received aid from the state or any county or whose burial expenses have been paid by the state
 16 or any county, other than aid received pursuant to ORS 418.040, 444.120 or 444.220, is liable for the
 17 actual cost of such aid so rendered or the actual expenses of such burial. The state or the county
 18 shall have a just and valid claim against such estate therefor.

19 (2) Nothing in this section relieves the parents, children, brothers or sisters of any needy person
 20 from their obligation to support such person, or prevents the county court from recovering for such
 21 support.

22 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate,
 23 [*or*] surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this 2007**
 24 **Act,** of a recipient to the extent that the need for aid resulted from a crime committed against the
 25 recipient.

26 **SECTION 175.** ORS 418.050 is amended to read:

27 418.050. Subject to rules of the Department of Human Services and to such conditions and lim-
 28 itations as may be prescribed pursuant to the temporary assistance for needy families program:

29 (1) Money payments of aid with respect to the temporary assistance for needy families program,
 30 including payments to meet the needs of the relative, and the relative's spouse **or reciprocal ben-**
 31 **eficiary, as defined in section 1 of this 2007 Act,** with whom a dependent child is living, may be
 32 made to an individual other than such relative, [*or*] spouse **or reciprocal beneficiary** if it is deter-
 33 mined by the department that the relative to whom such payments are made has such inability to
 34 manage funds that continuation of such payments to the relative would be contrary to the welfare
 35 of such child and that, therefore, it is necessary to provide such aid through payments in the manner
 36 authorized by this section. Such determination shall be subject to review and hearing, upon appli-
 37 cation of such relative, in the manner prescribed pursuant to ORS 418.125. However, the pendency
 38 of such application, review or hearing shall not stay the effect of such determination.

39 (2) The department may designate any responsible individual, including any public officer or
 40 employee, as a representative payee if such individual is willing to act in such capacity. Repre-
 41 sentative payees shall receive no compensation for their services, but shall be allowed expenses
 42 actually and necessarily incurred by them in the performance of their duties under ORS 418.059.
 43 Such expenses shall be paid from funds appropriated to the department for administrative expen-
 44 ditures.

45 (3) During the time payments of aid pursuant to the temporary assistance for needy families

1 program with respect to a dependent child or relative are made to a representative payee, the de-
2 partment shall:

3 (a) Undertake and continue special efforts to develop greater ability on the part of such relative
4 to manage funds in such manner as to protect the welfare of the relative and the family of the rel-
5 ative; and

6 (b) Periodically review the determination made pursuant to subsection (1) of this section and
7 terminate payments to the representative payee if it is established by such review that the condi-
8 tions justifying such determination no longer exist.

9 **SECTION 176.** ORS 418.140 is amended to read:

10 418.140. (1) No person over the age of 18 years, other than a stepchild, shall habitually accept
11 subsistence or lodging in the dwelling place of any householder, who is a recipient of aid, to whom
12 the person is [*neither*] **not** married, [*nor*] **not** related to within the fourth degree of consanguinity
13 computed according to the rules of the civil law **or not in a reciprocal beneficiary agreement**
14 **with, as defined in section 1 of this 2007 Act.**

15 (2) It shall be a defense to a charge of violation of subsection (1) of this section that the person
16 accused has fully paid to the householder, in cash or in kind, the actual costs of any such
17 subsistence and the value of any such lodging so accepted. However, such payment shall constitute
18 a defense to a charge of violation of subsection (1) of this section only if:

19 (a) The payment was made before the commencement of the criminal action based upon such
20 violation;

21 (b) The payment was made pursuant to an express agreement entered into between the
22 householder and the person accused, before acceptance of the subsistence or lodging; and

23 (c) The person accused or the householder has, within three days after entering into such
24 agreement, furnished the Department of Human Services with a true and complete statement of the
25 terms and conditions of such agreement.

26 **SECTION 177.** ORS 418.712 is amended to read:

27 418.712. As used in ORS 418.714 and 418.718, “domestic violence fatality” means a fatality in
28 which:

29 (1) The deceased was the victim of a homicide committed by a current or former spouse, fiancé,
30 fiancée, [*or*] dating partner **or reciprocal beneficiary, as defined in section 1 of this 2007 Act;**

31 (2) The deceased was the victim of a suicide and there is evidence that the suicide is related to
32 previous domestic violence;

33 (3) The deceased was the perpetrator of the homicide of a current or former spouse, fiancé,
34 fiancée, **reciprocal beneficiary** or dating partner and the perpetrator also died in the course of the
35 domestic violence incident;

36 (4) The deceased was a child who died in the course of a domestic violence incident in which
37 either a parent of the child or the perpetrator also died;

38 (5) The deceased was a current or former spouse, fiancé, fiancée, **reciprocal beneficiary** or
39 dating partner of the current or former spouse, fiancé, fiancée, **reciprocal beneficiary** or dating
40 partner of the perpetrator; or

41 (6) The deceased was a person 18 years of age or older not otherwise described in this section
42 and was the victim of a homicide related to domestic violence.

43 **SECTION 178.** ORS 418.800 is amended to read:

44 418.800. (1) If, in a case of alleged child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D)
45 or (E) by a parent, guardian or caregiver living in the child’s home, the Department of Human Ser-

1 vices asks the parent, guardian or caregiver to move from the family home during the investigation
 2 and the parent, guardian or caregiver consents to leave the family home, the department shall notify
 3 the district attorney responsible for the county multidisciplinary child abuse team for the county in
 4 which the child resides about the case. The notification shall be in writing and be given no later
 5 than three business days after the departure of the parent, guardian or caregiver from the family
 6 home.

7 (2) A parent, guardian or caregiver who consents to leave the family home as described in sub-
 8 section (1) of this section or the spouse **or reciprocal beneficiary, as defined in section 1 of this**
 9 **2007 Act**, of the parent, guardian or caregiver may ask the district attorney responsible for the team
 10 for a review of the case by the team.

11 (3) No later than 90 days after receiving a request under subsection (2) of this section, the team
 12 shall:

13 (a) Review the case and consider at least the following:

14 (A) Whether the investigation should continue;

15 (B) The welfare of the child and the adults living in the family home; and

16 (C) The proposed timeline for completing the investigation; and

17 (b) Provide to the person who requested the review a summary of the proposed timeline for
 18 completing the investigation.

19 (4)(a) This section may not be construed to create a new private right of action against a district
 20 attorney or any member of a county multidisciplinary child abuse team.

21 (b) A district attorney and members of a county multidisciplinary child abuse team reviewing a
 22 case under subsection (2) of this section are immune from any liability, civil or criminal, that might
 23 otherwise be incurred or imposed with respect to reviewing a case, failing to review a case referred
 24 to the team under subsection (2) of this section or providing to the person who requested the review
 25 a summary of the proposed timeline for completing the investigation.

26 (c) The act of reviewing a case or failing to review a case referred to the team under subsection
 27 (2) of this section or providing or failing to provide a summary to the person who requested the
 28 review may not be used by a defendant in any subsequent criminal prosecution or juvenile pro-
 29 ceeding.

30 **SECTION 179.** ORS 419B.040 is amended to read:

31 419B.040. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, in-
 32 cluding the psychotherapist-patient privilege, the physician-patient privilege, **the reciprocal bene-**
 33 **fiary privilege**, the privileges extended to nurses, to staff members of schools and to registered
 34 clinical social workers and the husband-wife privilege, shall not be a ground for excluding evidence
 35 regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report
 36 made pursuant to ORS 419B.010 to 419B.050.

37 (2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to
 38 419B.050[.]:

39 (a) Either spouse shall be a competent and compellable witness against the other.

40 (b) **Either reciprocal beneficiary, as defined in section 1 of this 2007 Act, shall be a com-**
 41 **petent and compellable witness against the other.**

42 **SECTION 180.** ORS 426.180 is amended to read:

43 426.180. (1) This section applies to commitments of a person from a reservation for land-based
 44 tribes of Native Americans when, under federal law, the state does not have jurisdiction of com-
 45 mitments on the reservation.

1 (2) When this section is applicable as provided under subsection (1) of this section, a person
 2 alleged to be mentally ill by affidavit of two other persons may be admitted to a state hospital for
 3 the mentally ill for emergency treatment, care and custody, provided such affidavit includes or is
 4 accompanied by all of the following:

5 (a) The circumstances constituting the emergency.

6 (b) Written application for admission to the hospital, executed in duplicate.

7 (c) A certificate to the effect that the person is so mentally ill as to be in need of immediate
 8 hospitalization.

9 (d) A medical history, including the name, condition, sex and age of the person.

10 (e) The name and address of the nearest relative or legal guardian, if any, of the person.

11 (3) The certificates, applications and medical histories shall be made upon forms prescribed by
 12 the Department of Human Services and shall be executed by the county health officer or by two
 13 physicians licensed by the Board of Medical Examiners, none of whom shall be related to the person
 14 by blood, [or] marriage **or reciprocal beneficiary agreement as defined in section 1 of this 2007**
 15 **Act.**

16 (4) When a person is admitted to a state hospital under this section, any physician treating the
 17 person shall give the person the warning under ORS 426.123.

18 (5) This section may be applied as provided by agreement with the ruling body of the reserva-
 19 tion. Payment of costs for a commitment made under this section shall be as provided under ORS
 20 426.250.

21 **SECTION 181.** ORS 426.231 is amended to read:

22 426.231. (1) A physician licensed by the Board of Medical Examiners for the State of Oregon
 23 may hold a person for transportation to a treatment facility for up to 12 hours in a health care fa-
 24 cility licensed under ORS chapter 431 and approved by the Department of Human Services if:

25 (a) The physician believes the person is dangerous to self or to any other person and is in need
 26 of emergency care or treatment for mental illness;

27 (b) The physician is not related to the person by blood, [or] marriage **or reciprocal beneficiary**
 28 **agreement as defined in section 1 of this 2007 Act;** and

29 (c) An admitting physician at the receiving facility consents to the transporting.

30 (2) Before transporting the person, the physician shall prepare a written statement that:

31 (a) The physician has examined the person within the preceding 12 hours;

32 (b) An admitting physician at the receiving facility has consented to the transporting of the
 33 person for examination and admission if appropriate; and

34 (c) The physician believes the person is dangerous to self or to any other person and is in need
 35 of emergency care or treatment for mental illness.

36 (3) The written statement required by subsection (2) of this section authorizes a peace officer,
 37 a person authorized under ORS 426.233 or the designee of a community mental health and develop-
 38 mental disabilities program director to transport a person to the treatment facility indicated on the
 39 statement.

40 **SECTION 182.** ORS 426.232 is amended to read:

41 426.232. (1) When a physician licensed to practice medicine by the Board of Medical Examiners
 42 for the State of Oregon believes a person who is brought to a hospital or nonhospital facility by a
 43 peace officer under ORS 426.228, a person authorized under ORS 426.233 or a person who is at a
 44 hospital or nonhospital facility is dangerous to self or to any other person and is in need of emer-
 45 gency care or treatment for mental illness, the physician may do one of the following:

1 (a) After consulting with a physician or a qualified mental health professional, as defined by rule
 2 of the Department of Human Services, detain the person and cause the person to be admitted or, if
 3 the person is already admitted, cause the person to be retained in a hospital where the physician
 4 has admitting privileges or is on staff. Neither the physician nor the qualified mental health pro-
 5 fessional may be related by blood, [or] marriage **or reciprocal beneficiary agreement, as defined**
 6 **in section 1 of this 2007 Act**, to the person.

7 (b) Approve the person for emergency care or treatment at a nonhospital facility approved by
 8 the department.

9 (2) When approving a person for emergency care or treatment at a nonhospital facility under
 10 this section, the physician shall notify immediately the community mental health and developmental
 11 disabilities program director in the county where the person was taken into custody and maintain
 12 the person, if the person is being held at a hospital, for as long as is feasible given the needs of the
 13 person for mental or physical health or safety. However, under no circumstances may the person
 14 be held for longer than five judicial days.

15 **SECTION 183.** ORS 427.330 is amended to read:

16 427.330. As used in ORS 427.330 to 427.345:

17 (1) "Care provider" means an individual, family member or entity that provides care.

18 (2)(a) "Community housing" includes:

19 (A) Real property, including but not limited to buildings, structures, improvements to real
 20 property and related equipment, that is used or could be used to house and provide care for indi-
 21 viduals with mental retardation or other developmental disability; and

22 (B) A single-family home or multiple-unit residential housing that an individual with mental re-
 23 tardation or other developmental disability shares with other inhabitants, including but not limited
 24 to family members, care providers or friends.

25 (b) "Community housing" does not include the Eastern Oregon Training Center.

26 (3) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate.
 27 "Construct" includes to install equipment and to prepare a site.

28 (4) "Developmental disability" means a disability attributable to mental retardation, cerebral
 29 palsy, epilepsy or other neurological handicapping condition or severe physical impairment that re-
 30 quires training similar to that required by mentally retarded persons, and the disability:

31 (a) Originates before the person attains the age of 22 years;

32 (b) Has continued or can be expected to continue indefinitely; and

33 (c) Constitutes a substantial handicap to the ability of the person to function in society.

34 (5) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies
 35 that are used or could be used to provide care in community housing.

36 (6) "Family member" means an individual who is related by blood, [or] marriage **or reciprocal**
 37 **beneficiary agreement, as defined in section 1 of this 2007 Act**, to an individual with mental
 38 retardation or other developmental disability.

39 (7) "Financial assistance" means a grant or loan to pay expenses incurred to provide community
 40 housing.

41 (8) "Housing provider" means an individual or entity that provides community housing.

42 **SECTION 184.** ORS 432.121 is amended to read:

43 432.121. (1) To protect the integrity of vital records and vital reports, to ensure their proper use
 44 and to ensure the efficient and proper administration of the system of vital statistics, it shall be
 45 unlawful for any person to permit inspection of, or to disclose information from vital records or vital

1 reports in the custody of the State Registrar of the Center for Health Statistics, county registrar
2 or local registrar or to copy or issue a copy of all or part of any such record or report unless au-
3 thorized by this chapter and by rules adopted pursuant thereto or by order of a court of competent
4 jurisdiction. Rules adopted under this section shall provide for adequate standards of security and
5 confidentiality of vital records and vital reports. The state registrar shall adopt rules to ensure
6 that, for records of dissolution of marriage issued in proceedings under ORS 107.085 or 107.485, So-
7 cial Security numbers of the parties are kept confidential and exempt from public inspection.

8 (2) The State Registrar of the Center for Health Statistics shall authorize the inspection, dis-
9 closure and copying of the information referred to in subsection (1) of this section as follows:

10 (a) To the subject of the record; spouse, **reciprocal beneficiary as defined in section 1 of this**
11 **2007 Act**, child, parent, sibling or legal guardian of the subject of the record; an authorized repre-
12 sentative of the subject of the record, spouse, **reciprocal beneficiary**, child, parent, sibling or legal
13 guardian of the subject of the record; and, in the case of death, marriage or divorce records, to other
14 next of kin.

15 (b) When a person demonstrates that a death, marriage or divorce record is needed for the de-
16 termination or protection of a personal or property right.

17 (c) When 100 years have elapsed after the date of birth or 50 years have elapsed after the date
18 of death, marriage or divorce.

19 (d) When the person requesting the information demonstrates that the person intends to use the
20 information solely for research purposes. In order to receive the information, the person must submit
21 a written request to the state registrar requesting a research agreement. The state registrar shall
22 issue a research agreement if the person demonstrates that the information will be used only for
23 research and will be held confidential. The research agreement shall prohibit the release by the
24 person of any information other than that authorized by the agreement that might identify any
25 person or institution.

26 (e) To the federal agency responsible for national vital statistics, upon request. The copies or
27 data may be used solely for the conduct of official duties. Before furnishing the records, reports or
28 data, the state registrar shall enter into an agreement with the federal agency indicating the sta-
29 tistical or research purposes for which the records, reports or data may be used. The agreement
30 shall also set forth the support to be provided by the federal agency for the collection, processing
31 and transmission of the records, reports or data. Upon written request of the federal agency, the
32 state registrar may approve, in writing, additional statistical or research uses of the records, reports
33 or data supplied under the agreement.

34 (f) To federal, state and local governmental agencies, upon request. The copies or data may be
35 used solely for the conduct of official duties of the requesting governmental agency.

36 (g) To offices of vital statistics outside this state when such records or other reports relate to
37 residents of those jurisdictions or persons born in those jurisdictions. Before furnishing the records,
38 reports or data, the state registrar shall enter into an agreement with the office of vital statistics.
39 The agreement shall specify the statistical and administrative purposes for which the records, re-
40 ports or data may be used and the agreement shall further provide instructions for the proper re-
41 tention and disposition of the copies. Copies received by the Center for Health Statistics from offices
42 of vital statistics in other states shall be handled in the same manner as prescribed in this section.

43 (h) To an investigator licensed under ORS 703.430, upon request.

44 (3) The state registrar, upon request of a family member or legal representative, shall issue a
45 certified copy or other copy of a death certificate containing the cause of death information as

1 provided in subsection (2) of this section or as follows:

2 (a) When a person has demonstrated through documented evidence a need for the cause of death
3 to establish a legal right or claim.

4 (b) When the request for the copy is made by or on behalf of an organization that provides
5 benefits to the decedent's survivors or beneficiaries.

6 (4) Nothing in this section prohibits the release of information or data that would not identify
7 any person or institution named in a vital record or a vital report.

8 (5) Nothing in this section shall prohibit a health care provider from disclosing information
9 contained in the provider's records as otherwise allowed by law.

10 (6) Nothing in this section shall be construed to permit disclosure of information contained in
11 the "Information for Medical and Health Use Only" section of the birth certificate, fetal death re-
12 port or the "Information for Statistical Purposes Only" section of the certificate of marriage or
13 certificate of divorce, unless specifically authorized by the state registrar for statistical or research
14 purposes. The data shall not be subject to subpoena or court order and shall not be admissible be-
15 fore any court, tribunal or judicial body.

16 (7) All forms and procedures used in the issuance of certified copies of vital records and vital
17 reports shall be uniform and provided by or approved by the state registrar. All certified copies is-
18 sued shall have security features that safeguard the document against alteration, counterfeiting,
19 duplication or simulation without ready detection.

20 (8) Each copy issued shall show the date of filing. Copies issued from records marked
21 "Amended" shall be similarly marked and shall show the effective date of the amendment. Copies
22 issued from records marked "Delayed" shall be similarly marked and shall include the date of filing
23 and a description of the evidence used to establish the delayed certificate.

24 (9) Any copy issued of a certificate of foreign birth shall indicate this fact and show the actual
25 place of birth and the fact that the certificate is not proof of United States citizenship for an
26 adoptive child.

27 (10) Appeals from decisions of the state registrar to refuse to disclose information or to permit
28 inspection or copying of records as prescribed by this section and rules adopted pursuant thereto
29 shall be made under ORS chapter 183.

30 (11) The state registrar shall adopt rules to implement this section in accordance with the ap-
31 plicable sections of ORS chapter 183.

32 (12) Indexes of deaths, marriages or divorces that list names, dates of events, county of events
33 or certificate numbers may be disclosed.

34 **SECTION 185.** ORS 436.245 is amended to read:

35 436.245. The petition for determination of ability to give informed consent for sterilization shall
36 be executed under oath and shall set forth:

37 (1) The name, age and residence of the respondent.

38 (2) The names and residences of any parents, spouse, **reciprocal beneficiary as defined in**
39 **section 1 of this 2007 Act**, legal guardian or conservator of the respondent.

40 (3) A statement of the facts describing the respondent's alleged inability to give informed con-
41 sent for sterilization.

42 (4) A statement of facts indicating the likelihood or unlikelihood that the respondent will have
43 the ability to make an informed decision about sterilization in the foreseeable future.

44 (5) A statement of the reasons for which sterilization is sought.

45 (6) The name, position and statement of interest of the person initiating the petition or any

1 person assisting the respondent with a self-initiated petition.

2 **SECTION 186.** ORS 436.255 is amended to read:

3 436.255. (1) Upon such a petition for determination of ability to give informed consent, the court
4 shall assign a time, not later than 30 days thereafter, and a place for hearing the petition.

5 (2) The court may, at its discretion, hold a hearing on the petition at a place other than the
6 courtroom if it would facilitate the presence of the respondent. The court shall cause a copy of the
7 petition and notice of the hearing to be served on the respondent and the respondent's parent, legal
8 guardian or conservator, if any, at least 14 days prior to the hearing date. Notice is also required
9 to the following:

10 (a) The spouse of the respondent, if any;

11 **(b) The reciprocal beneficiary, as defined in section 1 of this 2007 Act, of the respondent,**
12 **if any;**

13 [(b)] (c) The sibling of the respondent if there are no living parents;

14 [(c)] (d) The system described in ORS 192.517 (1); and

15 [(d)] (e) Such other persons as the court may determine have an interest in the respondent.

16 (3) If the parent or legal guardian of the respondent is not a resident of this state, notice may
17 be served by registered mail or by certified mail with return receipt. If the residence of the re-
18 spondent's parent or legal guardian is unknown, an affidavit so stating shall be filed in lieu of ser-
19 vice.

20 **SECTION 187.** ORS 441.605 is amended to read:

21 441.605. It is the intent of the Legislative Assembly that facilities guarantee at a minimum that
22 each resident has the right to be:

23 (1) Fully informed of all resident rights and all facility rules governing resident conduct and
24 responsibilities.

25 (2) Fully informed which services are available and of any additional charges not covered by the
26 daily rates or by Medicare or Medicaid.

27 (3) Informed by a physician of the medical condition of the resident unless medically
28 contraindicated in the medical record, and given the opportunity to participate in planning medical
29 treatment and to refuse experimental research.

30 (4) Transferred or discharged only for medical reasons, or for the welfare of the resident or of
31 other residents of the facility, or for nonpayment and to be given reasonable advance notice to in-
32 sure orderly transfer or discharge.

33 (5) Encouraged and assisted while in the facility to exercise rights as a citizen, and to voice
34 grievances and suggest changes in policies and services to either staff or outside representatives
35 without fear of restraint, interference, coercion, discrimination or reprisal.

36 (6) Allowed either to manage personal finances or be given a quarterly report of account if the
37 facility has been delegated in writing to carry out this responsibility.

38 (7) Free from mental and physical abuse and assured that no chemical or physical restraints
39 will be used except on order of a physician.

40 (8) Assured that medical and personal records are kept confidential and unless the resident
41 transferred, or examination of the records is required by the third party payment contractor, are
42 not released outside the facility. However, nothing in this subsection is intended to prevent a resi-
43 dent from authorizing access to the resident's medical and personal records by another person.

44 (9) Treated with respect and dignity and assured complete privacy during treatment and when
45 receiving personal care.

1 (10) Assured that the resident will not be required to perform services for the facility that are
 2 not for therapeutic purposes as identified in the plan of care for the resident.

3 (11) Allowed to associate and communicate privately with persons of the resident's choice and
 4 send and receive personal mail unopened unless medically contraindicated by the attending physi-
 5 cian in the medical record of the resident.

6 (12) Allowed to participate in activities of social, religious and community groups at the dis-
 7 cretion of the resident unless medically contraindicated.

8 (13) Able to keep and use personal clothing and possessions as space permits unless to do so
 9 infringes on other residents' rights and unless medically contraindicated and upon the resident's
 10 request and the facility management's consent have access to a private locker, chest or chest drawer
 11 that is provided by the resident or the facility that is large enough to accommodate jewelry and
 12 small personal property and that can be locked by the resident although both the resident and the
 13 facility management may have keys.

14 (14) Provided, if married, with privacy for visits by the resident's spouse. If both spouses are
 15 residents in the facility, they are permitted to share a room.

16 **(15) Provided, if in a reciprocal beneficiary agreement as defined in section 1 of this 2007**
 17 **Act, with privacy for visits by the resident's reciprocal beneficiary. If both reciprocal bene-**
 18 **ficiaries are residents in the facility, they are permitted to share a room.**

19 [(15)] (16) Not required to sign a contract or waiver that waives the resident's right to collect
 20 payment for lost or stolen articles.

21 **SECTION 188.** ORS 461.250 is amended to read:

22 461.250. Upon recommendation of the Director of the Oregon State Lottery, the Oregon State
 23 Lottery Commission shall adopt rules to establish a system of verifying the validity of tickets or
 24 shares claimed to win prizes and to effect payment of such prizes, provided:

25 (1) For the convenience of the public, lottery game retailers may be authorized by the commis-
 26 sion to pay winners of up to \$5,000 after performing validation procedures on their premises appro-
 27 priate to the lottery game involved.

28 (2) A prize may not be paid to a person under 18 years of age.

29 (3) A video lottery game prize may not be paid to a person under 21 years of age.

30 (4) A prize may not be paid arising from claimed tickets or shares that are stolen, counterfeit,
 31 altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded
 32 by the Oregon State Lottery by applicable deadlines, lacking in captions that confirm and agree with
 33 the lottery play symbols as appropriate to the lottery game involved or not in compliance with such
 34 additional specific rules or with public or confidential validation and security tests of the lottery
 35 appropriate to the particular lottery game involved. However, the commission may adopt rules to
 36 establish a system of verifying the validity of claims to prizes greater than \$600 that are otherwise
 37 not payable under this subsection due to a lottery game retailer's losing, damaging or destroying the
 38 winning ticket or share while performing validation procedures thereon, and to effect payment of
 39 verified claims. A verification system established by the commission shall include appropriate public
 40 or confidential validation and security tests.

41 (5) A particular prize in any lottery game may not be paid more than once, and in the event of
 42 a binding determination that more than one claimant is entitled to a particular prize, the sole reme-
 43 dy of such claimants is the award to each of them of an equal share in the prize.

44 (6) The commission may specify that winners of less than \$25 claim such prizes from either the
 45 same lottery game retailer who sold the winning ticket or share or from the lottery itself and may

1 also specify that the lottery game retailer who sold the winning ticket or share be responsible for
 2 directly paying that prize.

3 (7) Holders of tickets or shares shall have the right to claim prizes for one year after the
 4 drawing or the end of the lottery game or play in which the prize was won. The commission may
 5 define shorter time periods to claim prizes and for eligibility for entry into drawings involving en-
 6 tries or finalists. If a valid claim is not made for a prize payable directly by the lottery commission
 7 within the applicable period, the unclaimed prize shall remain the property of the commission and
 8 shall be allocated to the benefit of the public purpose.

9 (8)(a) The right of any person to a prize shall not be assignable, except that:

10 (A) Payment of any prize may be made according to the terms of a deceased prize winner's
 11 signed beneficiary designation form filed with the commission or, if no such form has been filed, to
 12 the estate of the deceased prize winner.

13 (B) Payment of any prize shall be made to a person designated pursuant to an appropriate ju-
 14 dicial order or pursuant to a judicial order approving the assignment of the prize in accordance with
 15 ORS 461.253.

16 (b) The director, commission and state shall be discharged of all further liability with respect
 17 to a specific prize payment upon making that prize payment in accordance with this subsection or
 18 ORS 461.253.

19 (9) A ticket or share may not be purchased by, and a prize may not be paid to, a member of the
 20 commission, the director, the assistant directors or any employee of the state lottery or to any
 21 spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**, child, brother, sister or
 22 parent of such person.

23 (10) Payments made according to the terms of a deceased prize winner's signed beneficiary des-
 24 ignation form filed with the commission are effective by reason of the contract involved and this
 25 statute and are not to be considered as testamentary devices or subject to ORS chapter 112. The
 26 director, commission and state shall be discharged of all liability upon payment of a prize.

27 (11) In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50
 28 U.S.C.A. app. 525), a person while in active military service may claim exemption from the one-year
 29 ticket redemption requirement under subsection (7) of this section. However, the person must notify
 30 the commission by providing satisfactory evidence of possession of the winning ticket within the
 31 one-year period, and must claim the prize or share no later than one year after discharge from ac-
 32 tive military service.

33 **SECTION 189.** ORS 461.700 is amended to read:

34 461.700. (1) Any person required to submit disclosure information under this chapter, in addition
 35 to the requirements specifically listed in this chapter, shall also submit for each individual the true
 36 name, as well any other name used, date of birth, place of birth, Social Security number, current
 37 residence address, and residence address for the last 10 years, current marital **status or reciprocal**
 38 **beneficiary, as defined in section 1 of this 2007 Act**, status including how long, spouse's **or re-**
 39 **reciprocal beneficiary's** name, address, date of birth and Social Security number. The person required
 40 to disclose must submit an individual sworn statement as to any criminal convictions and the nature
 41 thereof. The sworn statement must also contain authorization for the Attorney General and the
 42 Assistant Director for Security to confirm with the Oregon Department of Revenue and the United
 43 States Internal Revenue Service the truthfulness of the sworn statement with regard to tax matters.
 44 The commission shall develop a disclosure form which identifies the information required to be dis-
 45 closed, including a certification that the information provided is correct. The form shall be sworn

1 and bear the warning that the applicant bears responsibility for excessive investigation costs and
2 that the providing of false information constitutes the crime of false swearing under ORS 162.075
3 which is a Class A misdemeanor.

4 (2) If the costs of investigation of any applicant exceeds the usual costs of such investigations,
5 the applicant shall be billed for the excessive costs. The payment thereof shall be credited to the
6 State Lottery Fund as a reimbursement of administrative costs.

7 **SECTION 190.** ORS 471.396 is amended to read:

8 471.396. (1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses,
9 grower sales privilege licenses, brewery-public house licenses or brewery licenses, to the extent that
10 retail sales are authorized by the statutes establishing the privileges of each license.

11 (2)(a) The prohibitions of ORS 471.394 (2) and (3) do not apply to a person who wholesales al-
12 coholic liquor and who is not required to be licensed under the provisions of this chapter if the re-
13 tail licensee does not sell any brand of alcoholic liquor sold or distributed by the person and does
14 not sell any brand of alcoholic liquor produced by any manufacturer doing business with the person
15 selling at wholesale.

16 (b) The prohibitions of ORS 471.394 (2) and (3) do not apply to a manufacturer of alcoholic liquor
17 if the retail licensee does not sell any brand of alcoholic liquor sold, distributed or produced by the
18 manufacturer and does not sell any brand of alcoholic liquor sold, distributed or produced by any
19 subsidiary or other business entity that the manufacturer owns or manages, or that the manufac-
20 turer exercises control over.

21 (3) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of
22 a spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act** or family member to a
23 manufacturer or wholesaler if:

24 (a) The manufacturer or wholesaler is licensed by the Oregon Liquor Control Commission to sell
25 alcoholic liquor at wholesale;

26 (b) The license authorizing sale of alcoholic liquor at wholesale was first issued before January
27 1, 1965, and has been held continuously since that date;

28 (c) The spouse, **reciprocal beneficiary** or family member holds or seeks a license that author-
29 izes the retail sale of alcoholic liquor for off-premises consumption only; and

30 (d) The manufacturer or wholesaler does not directly or indirectly sell alcoholic liquor to the
31 spouse, **reciprocal beneficiary** or family member.

32 (4) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of
33 a spouse, **reciprocal beneficiary** or family member to the retail licensee if the manufacturer or
34 wholesaler is licensed by the commission to sell alcoholic liquor at wholesale and does not directly
35 or indirectly sell alcoholic liquor to the spouse, **reciprocal beneficiary** or family member.

36 (5) Notwithstanding ORS 471.394, a manufacturer or wholesaler, and any officer, director or
37 substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indi-
38 rectly, an interest in a full or limited on-premises sales licensee, provided that the interest does not
39 result in exercise of control over, or participation in the management of, the licensee's business or
40 business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

41 (6) Notwithstanding ORS 471.394, a full or limited on-premises sales licensee, and any officer,
42 director or substantial stockholder of any corporate full or limited on-premises sales licensee, may
43 hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest
44 does not result in exercise of control over, or participation in the management of, the manufactur-
45 er's or wholesaler's business or business decisions, and does not result in exclusion of any compet-

1 itor's brand of alcoholic liquor.

2 (7) Notwithstanding ORS 471.394, an institutional investor with a financial interest in a whole-
 3 saler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the
 4 institutional investor controls, is controlled by, or is under common control with, a wholesaler or
 5 manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in
 6 a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless
 7 the institutional investor controls, is controlled by, or is under common control with, a retail
 8 licensee. The provisions of this subsection apply only to an institutional investor that is a state or
 9 federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or
 10 pension fund, or a private investment firm. The principal business activity of the institutional in-
 11 vestor must be the investment of capital provided by depositors, participants or investors. The in-
 12 stitutional investor must maintain a diversified portfolio of investments. The majority of the
 13 institutional investor's investments may not be in businesses that manufacture, distribute or other-
 14 wise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial
 15 shareholders, partners, employees and agents of the institutional investor, may not participate in
 16 management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in
 17 which the institutional investor holds an interest.

18 (8) Notwithstanding ORS 471.394, a member of the board of directors of a parent company of a
 19 corporation that is a manufacturer may serve on the board of directors of a parent company of a
 20 corporation that is a retail licensee if:

21 (a) The manufacturer or parent company of a manufacturer is listed on a national security ex-
 22 change;

23 (b) All purchases of alcoholic beverages by the retail licensee are made from holders of whole-
 24 sale malt beverage and wine licenses, brewery licenses or winery licenses in this state;

25 (c) The interest of the member of the board of directors does not result in the exclusion of any
 26 competitor's brand of alcoholic beverages on the licensed premises of the retail licensee; and

27 (d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds
 28 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed
 29 premises.

30 **SECTION 191.** ORS 471.752 is amended to read:

31 471.752. (1) An agent appointed under ORS 471.750 may participate in a health benefit plan
 32 available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the agent and
 33 may participate in the state deferred compensation plan established under ORS 243.401 to 243.507.
 34 For such purposes, agents shall be considered eligible state employees.

35 (2) A person who is the surviving spouse, **reciprocal beneficiary as defined in section 1 of**
 36 **this 2007 Act** or child of a deceased agent or the spouse, **reciprocal beneficiary** or child of a dis-
 37 abled agent of the Oregon Liquor Control Commission shall be given preference in the appointment
 38 of a successor agent, if otherwise qualified, the spouse **or reciprocal beneficiary** having greater
 39 preference. The experience of such applicant in the business operation of the deceased or disabled
 40 agent shall be the primary consideration in determining the qualifications of the applicant.

41 **SECTION 192.** ORS 474.035 is amended to read:

42 474.035. (1) A wholesaler may transfer, bequeath or devise the wholesaler's business or share in
 43 any wholesale business to the deceased wholesaler's spouse, **reciprocal beneficiary as defined in**
 44 **section 1 of this 2007 Act**, parent, siblings or issue to succeed the decedent in ownership of the
 45 business.

1 (2) A supplier may provide in writing for prior approval of any other individual designed or
 2 designated to succeed a wholesaler in ownership of the business. Conditions of approval by the
 3 supplier shall be reasonable with respect to both the supplier's and the wholesaler's interest.

4 **SECTION 193.** ORS 497.006 is amended to read:

5 497.006. (1) As used in this section:

6 (a) "Active member of the Armed Forces of the United States" means officers and enlisted per-
 7 sonnel of the Armed Forces of the United States who:

8 (A) Reside in this state while assigned to duty at any base, station, shore establishment or other
 9 facility in this state;

10 (B) Reside in this state while serving as members of the crew of a ship that has an Oregon port
 11 or shore establishment as its home port or permanent station; or

12 (C) Reside in another state or a foreign country and establish Oregon residency by filing Oregon
 13 state income taxes no later than 12 months before leaving active duty.

14 (b) "Armed Forces of the United States" means:

15 (A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

16 (B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United
 17 States; and

18 (C) The Oregon National Guard and the National Guard of any other state or territory.

19 (c) "Dependent children" includes any children of an active member of the Armed Forces of the
 20 United States who:

21 (A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

22 (B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution
 23 of higher learning and dependent on the member for over one-half of their support.

24 (2) The following persons shall be considered resident persons for the purpose of purchasing li-
 25 censes, tags and permits issued by the State Fish and Wildlife Commission:

26 (a) Active members of the Armed Forces of the United States who furnish to the commission
 27 evidence satisfactory to the commission that the person is permanently assigned to active duty in
 28 this state and the spouses, **reciprocal beneficiaries as defined in section 1 of this 2007 Act** and
 29 dependent children of such members.

30 (b) Any active member of the Armed Forces of the United States who furnishes to the commis-
 31 sion evidence satisfactory to the commission that the person is a member of the Armed Forces of
 32 the United States and the spouse, **or reciprocal beneficiary**, and dependent children of such mem-
 33 ber.

34 (c) Aliens who furnish to the commission evidence satisfactory to the commission that the per-
 35 son is attending a school in this state pursuant to a foreign student exchange program.

36 **SECTION 194.** ORS 646.435 is amended to read:

37 646.435. (1) A supplier shall repurchase the inventory of a retailer, as if the supplier had ter-
 38 minated the retailer agreement, as follows:

39 (a) Upon the death of a retailer whose business is owned as a tenancy by the entirety, at the
 40 option of the spouse, **the reciprocal beneficiary as defined in section 1 of this 2007 Act** or the
 41 heir or heirs of the retailer.

42 (b) Upon the death of a stockholder of a corporation operating as a retailer, at the option of the
 43 heir or heirs of the stockholder and upon the consent of the board of directors.

44 (2) The surviving spouse, **the surviving reciprocal beneficiary** or the heir or heirs may exer-
 45 cise the option under this section not later than one year from the date of the death of the retailer

1 or the stockholder.

2 (3) Nothing in ORS 646.415 to 646.459 requires the repurchase of inventory by the supplier:

3 (a) If the supplier and the corporation acting as a retailer enter into a new retailer agreement
4 to operate the retail dealership.

5 (b) If the supplier and the surviving spouse, **the surviving reciprocal beneficiary** or the heir
6 or heirs of the retailer enter into a new retailer agreement to operate the retail dealership.

7 **SECTION 195.** ORS 646.445 is amended to read:

8 646.445. (1) If, upon the cancellation of a retailer agreement by the retailer or the supplier, the
9 supplier fails to make payment as required by ORS 646.425 or 646.435, the supplier shall be liable
10 in a civil action to be brought by the retailer or by the retailer's spouse, **reciprocal beneficiary**
11 **as defined in section 1 of this 2007 Act**, heir or heirs for the payments required under ORS 646.425
12 or 646.435.

13 (2) A person who brings an action under this section must commence the action in the county
14 in which the principal place of business of the retailer is located.

15 **SECTION 196.** ORS 646.857 is amended to read:

16 646.857. As used in this section and ORS 646.859:

17 (1) "Authorized driver" means:

18 (a) The person renting the vehicle;

19 (b) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the
20 person renting the vehicle, if the spouse **or reciprocal beneficiary** is a licensed driver and meets
21 any minimum age requirements contained in the rental agreement;

22 (c) The employer or coworker of the person renting the vehicle if the employer or coworker is
23 engaged in a business activity with the person renting the vehicle and the employer or coworker
24 meets any minimum age requirements contained in the rental agreement;

25 (d) Any person driving the vehicle during an emergency; and

26 (e) Any person expressly listed by the rental company on the rental agreement as an authorized
27 driver.

28 (2) "Collision damage waiver" means an agreement between the renter and the rental company
29 in which the company waives its right to impose a financial obligation on the renter or authorized
30 driver if the vehicle is returned with physical damage.

31 (3) "Damage" means any damage or loss to the rented vehicle, including loss of use and any
32 costs and expenses incident to the damage or loss.

33 (4) "Private passenger automobile" or "vehicle" means a motor vehicle designed primarily for
34 transportation of persons.

35 (5) "Rental agreement" means any written agreement setting forth the terms and conditions
36 governing the use of a private passenger automobile provided by a rental company.

37 (6) "Rental company" means any person engaged in the business of renting private passenger
38 automobiles to the public.

39 (7) "Renter" means any person or organization obtaining the use of a private passenger auto-
40 mobile from a rental company under the terms of a rental agreement.

41 **SECTION 197.** ORS 650.162 is amended to read:

42 650.162. (1) To transfer, assign or sell the ownership or management, or any interest in the
43 ownership or management, of a dealer, dealership or franchise, the dealer shall notify the franchisor
44 of the decision to transfer, assign or sell. The notice shall include completed application forms and
45 related information generally used by the manufacturer, distributor or importer to conduct a review

1 of transfers, assignments or sales and a copy of all agreements regarding the transfer, assignment
2 or sale.

3 (2) Within 60 days of receiving notice sent under subsection (1) of this section, a franchisor shall
4 send a notice by certified mail to the dealer. The notice sent under this subsection shall specify
5 approval or disapproval of the transfer, assignment or sale. If the transfer, assignment or sale is
6 disapproved, the notice shall set forth material reasons for the disapproval.

7 (3) A manufacturer, distributor or importer may not unreasonably withhold approval of a
8 transfer, assignment or sale. It is unreasonable for a manufacturer, distributor or importer to reject
9 a prospective transferee, assignee or buyer who is of good moral character and who otherwise meets
10 the manufacturer's, distributor's or importer's written and reasonable standards or qualifications
11 relating to the prospective transferee's, assignee's or buyer's:

12 (a) Business experience and performance; and

13 (b) Financial qualifications.

14 (4) If the manufacturer, distributor or importer does not respond within 60 days of receiving a
15 notice sent under subsection (1) of this section, the transfer, assignment or sale shall be considered
16 approved and shall take effect.

17 (5) A manufacturer, distributor or importer may exercise a right of first refusal if the right is
18 included in the franchise agreement, the transfer, assignment or sale consists of more than 50 per-
19 cent of the dealer's ownership of the franchise and all of the following requirements are met:

20 (a) The manufacturer, distributor or importer sends a notice by certified mail to the dealer
21 within 60 days of receiving a notice under subsection (1) of this section specifying that the
22 franchisor is exercising a right of first refusal.

23 (b) The exercise of the right of first refusal will result in the dealer and any owner of the dealer
24 receiving consideration, terms and conditions that are either the same as or better than those con-
25 tracted to receive under the transfer, assignment or sale.

26 (c) The transferee, assignee or buyer is not any of the following:

27 (A) Any of the following family members of any owner of the dealer:

28 (i) A spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act;**

29 (ii) A child or stepchild;

30 (iii) A grandchild or stepgrandchild;

31 (iv) The spouse **or reciprocal beneficiary** of a child, stepchild, grandchild or stepgrandchild;

32 (v) A brother or sister or a stepbrother or stepsister; or

33 (vi) A parent or stepparent;

34 (B) A manager employed by the dealer who is otherwise qualified to be a dealer;

35 (C) A partnership or corporation controlled by any of the family members listed in paragraph
36 (c)(A) of this subsection; or

37 (D) A trust established or to be established:

38 (i) For the purposes of allowing the transferee, assignee or buyer to continue to qualify as such
39 under the manufacturer's, distributor's or importer's standards; or

40 (ii) To provide for the succession of the franchise to qualified designated family members or a
41 qualified manager in the event of the death or incapacity of the dealer.

42 (d) The manufacturer, distributor or importer pays the reasonable expenses, including attorney
43 fees, that are incurred by the transferee, assignee or buyer before the manufacturer, distributor or
44 importer exercises a right of first refusal. A manufacturer, distributor or importer may require the
45 transferee, assignee or buyer to provide an accounting of expenses incurred prior to issuing pay-

1 ment.

2 **SECTION 198.** ORS 650.225 is amended to read:

3 650.225. (1) Following the death of a motor fuel retailer franchisee and notwithstanding the
 4 terms of the franchise, the franchisor, in the case of leased marketing premises, shall enter into a
 5 new franchise with the designee of the motor fuel retailer franchisee on the terms and conditions
 6 then generally being extended by the franchisor to similarly situated motor fuel retailers if:

7 (a) Prior to the death of a motor fuel retailer franchisee, the motor fuel retailer franchisee no-
 8 tifies the franchisor in writing of the designee, who shall be the surviving spouse, **reciprocal ben-**
 9 **eficiary as defined in section 1 of this 2007 Act**, adult child, or adult stepchild of the motor fuel
 10 retailer franchisee or in the absence of a designation, the motor fuel retailer franchisee’s surviving
 11 spouse **or reciprocal beneficiary**, if any;

12 (b) At the time of the motor fuel retailer franchisee’s death, the designee meets the qualifica-
 13 tions then being required by the franchisor for its motor fuel retailer franchisees; and

14 (c) Within 10 days following the motor fuel retailer franchisee’s death, the designee enters into
 15 a new franchise with the franchisor on the terms and conditions then generally being extended by
 16 the franchisor to similarly situated motor fuel retailer franchisees, except that for the part of the
 17 term of the new lease equal to the unexpired portion of decedent franchisee’s prior lease, the rent
 18 shall be the same as under the prior lease.

19 (2) Until the designee enters into a new franchise as provided in subsection (1) of this section,
 20 the franchisor shall be entitled to possess and to operate the marketing premises for the franchisor’s
 21 own account.

22 **SECTION 199.** ORS 652.190 is amended to read:

23 652.190. All wages earned by an employee, not exceeding \$10,000, shall, upon the employee’s
 24 death, become due and payable to the employee’s surviving spouse **or surviving reciprocal bene-**
 25 **ficiary, as defined in section 1 of this 2007 Act**, or if there is no surviving spouse **or surviving**
 26 **reciprocal beneficiary**, the dependent children, or their guardians or the conservators of their es-
 27 tates, in equal shares, to the same extent as if the wages had been earned by such surviving
 28 spouse, **surviving reciprocal beneficiary** or dependent children. As used in this section, “wages”
 29 means compensation of employees based on time worked or output of production and includes every
 30 form of remuneration payable for a given period to an individual for personal services.

31 **SECTION 200.** ORS 652.330 is amended to read:

32 652.330. (1) The Commissioner of the Bureau of Labor and Industries shall enforce ORS 652.310
 33 to 652.414 and to that end may:

34 (a) Investigate and attempt equitably to adjust controversies between employers and employees
 35 in respect of wage claims or alleged wage claims.

36 (b) Take assignments, in trust, of wage claims or judgments thereon, liens and other instruments
 37 of security for payment of wages from the assigning employees, spouses, **reciprocal beneficiaries**
 38 **as defined in section 1 of this 2007 Act**, parents or legal guardians, having a right to the wages
 39 of such employees. All such assignments shall run to the commissioner and any successors in office.
 40 The commissioner may sue employers on wage claims and other persons or property liable for any
 41 payment thereof thus assigned with the benefits and subject to existing laws applying to actions by
 42 employees for collection of wages. The commissioner is entitled to recover, in addition to costs, such
 43 sum as the court or judge may adjudge reasonable as attorney fees at trial and on appeal. The
 44 commissioner may join in a single proceeding and in one cause of action any number of wage claims
 45 against the same employer. If the commissioner does not prevail in such action, the commissioner

1 shall pay all costs and disbursements from the Bureau of Labor and Industries Account.

2 (c) Make complaint in a criminal court for any violation of any law providing for payment of
3 wages and imposing a penalty for its violation as for a crime.

4 (d) In any case where a civil action may be brought under this chapter for the collection of a
5 wage claim, provide for an administrative proceeding to determine the validity and enforce col-
6 lection of the claim. The administrative proceeding shall be conducted as provided in this chapter,
7 and is subject to the employer's right to elect a trial in a court of law.

8 (2) An assigning wage claimant shall not be regarded as a party to any court action brought
9 by the commissioner under this section for any purpose.

10 **SECTION 201.** ORS 653.020 is amended to read:

11 653.020. ORS 653.010 to 653.261 do not apply to any of the following employees:

12 (1) An individual employed in agriculture if:

13 (a) Such individual is employed as a hand harvest or pruning laborer and is paid on a piece-rate
14 basis in an operation which has been, and is customarily and generally recognized as having been
15 paid, on a piece-rate basis in the region of employment and is employed by an employer who did not,
16 during any calendar quarter during the preceding year use more than 500 piece-rate-work-days of
17 agricultural labor;

18 (b) Such individual is the parent, spouse, **reciprocal beneficiary as defined in section 1 of this**
19 **2007 Act**, child or other member of the employer's immediate family;

20 (c) Such individual:

21 (A) Is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an
22 operation which has been, and is customarily and generally recognized as having been, paid on a
23 piece-rate basis in the region of employment;

24 (B) Commutes daily from a permanent residence to the farm on which the individual is so em-
25 ployed; and

26 (C) Has been employed in agricultural labor less than 13 weeks during the preceding calendar
27 year;

28 (d) Such individual, other than an individual described in paragraph (c) of this subsection:

29 (A) Is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate
30 basis in an operation which has been, and is customarily and generally recognized as having been,
31 paid on a piece-rate basis in the region of employment; and

32 (B) Is paid at the same piece-rate as employees over 16 years of age on the same farm; or

33 (e) Such employee is principally engaged in the range production of livestock and earns a salary
34 and is paid on a salary basis.

35 (2) An individual employed in domestic service on a casual basis in or about a family home.

36 (3) An individual engaged in administrative, executive or professional work who:

37 (a) Performs predominantly intellectual, managerial or creative tasks;

38 (b) Exercises discretion and independent judgment; and

39 (c) Earns a salary and is paid on a salary basis.

40 (4) An individual employed by the United States.

41 (5) An individual who is employed by an institution whose function is primary or secondary ed-
42 ucation, and in which the individual is an enrolled student.

43 (6) An individual engaged in the capacity of an outside salesperson or taxicab operator.

44 (7) An individual domiciled at a place of employment for the purpose of being available for
45 emergency or occasional duties for time other than that spent performing these duties, provided that

1 when the individual performs emergency or occasional duties, the individual must be paid no less
 2 than the wage specified in ORS 653.025.

3 (8) An individual paid for specified hours of employment, the only purpose of which is to be
 4 available for recall to duty.

5 (9) An individual domiciled at multiunit accommodations designed to provide other people with
 6 temporary or permanent lodging, for the purpose of maintenance, management or assisting in the
 7 management of same.

8 (10) An individual employed on a seasonal basis at:

9 (a) An organized camp operated for profit that generates gross annual income of less than
 10 \$500,000; or

11 (b) A nonprofit organized camp.

12 (11) An individual employed at a nonprofit conference ground or center operated for educational,
 13 charitable or religious purposes.

14 (12) An individual who performs services as a volunteer firefighter, as defined in ORS 652.050.

15 (13) An individual who performs child care services in the home of the individual or in the home
 16 of the child.

17 (14) An individual employed in domestic service employment in or about a family home to pro-
 18 vide companionship services for individuals who, because of age or infirmity, are unable to care for
 19 themselves.

20 (15) An individual who performs service as a caddy at a golf course in an established program
 21 for the training and supervision of caddies under the direction of a person who is an employee of
 22 the golf course.

23 (16) An individual employed as a resident manager by an adult foster home that is licensed
 24 pursuant to ORS 443.705 to 443.825 and who is domiciled at the adult foster home.

25 (17) An individual residing in a mobile home park or manufactured dwelling park designed to
 26 provide other people with temporary or permanent lodging, for the purpose of maintenance, man-
 27 agement or in assisting in the management of same.

28 (18) An individual who volunteers as a campground host and who resides in a campground
 29 owned by a public agency that provides temporary accommodations for travelers, whether under
 30 public or private management, and who provides information and emergency assistance.

31 **SECTION 202.** ORS 653.022 is amended to read:

32 653.022. As used in ORS 653.020 (1), “piece-rate-work-day” means any day during which an em-
 33 ployee performs any agricultural labor on a piece-rate basis for not less than one hour. For the
 34 purposes of this section, “employee” does not include any individual employed by an employer in
 35 agriculture if such individual is the parent, spouse, **reciprocal beneficiary as defined in section**
 36 **1 of this 2007 Act**, child or other member of the employer’s immediate family.

37 **SECTION 203.** ORS 654.005 is amended to read:

38 654.005. As used in this chapter, unless the context requires otherwise:

39 (1) “Board” means the Workers’ Compensation Board created by ORS 656.712.

40 (2) “Department” means the Department of Consumer and Business Services.

41 (3) “Director” means the Director of the Department of Consumer and Business Services.

42 (4) “Employee” means any individual, including a minor whether lawfully or unlawfully em-
 43 ployed, who engages to furnish services for a remuneration, financial or otherwise, subject to the
 44 direction and control of an employer, and includes salaried, elected and appointed officials of the
 45 state, state agencies, counties, cities, school districts and other public corporations, or any individ-

1 ual who is provided with workers' compensation coverage as a subject worker pursuant to ORS
2 chapter 656, whether by operation of law or by election.

3 (5) "Employer" means any person who has one or more employees, or any sole proprietor or
4 member of a partnership who elects workers' compensation coverage as a subject worker pursuant
5 to ORS 656.128.

6 (6) "Owner" means and includes every person having ownership, control or custody of any place
7 of employment or of the construction, repair or maintenance of any place of employment.

8 (7) "Person" means one or more individuals, legal representatives, partnerships, joint ventures,
9 associations, corporations (whether or not organized for profit), business trusts, or any organized
10 group of persons, and includes the state, state agencies, counties, municipal corporations, school
11 districts and other public corporations or subdivisions.

12 (8) "Place of employment" means and includes every place, whether fixed or movable or moving,
13 whether indoors or out or underground, and the premises and structures appurtenant thereto, where
14 either temporarily or permanently an employee works or is intended to work and every place where
15 there is carried on any process, operation or activity related, either directly or indirectly, to an
16 employer's industry, trade, business or occupation, including a labor camp, wherever located, pro-
17 vided by an employer for employees or by another person engaged in providing living quarters or
18 shelters for employees. "Place of employment" does not include:

19 (a) Any place where the only employment involves nonsubject workers employed in or about a
20 private home; and

21 (b) Any corporate farm where the only employment involves the farm's family members, includ-
22 ing parents, spouses, **reciprocal beneficiaries as defined in section 1 of this 2007 Act**, sisters,
23 brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews or grandchildren.

24 **SECTION 204.** ORS 654.200 is amended to read:

25 654.200. (1) There is established in the Consumer and Business Services Fund the Workers'
26 Memorial Scholarship Account. Only the interest earned on moneys in the account shall be used
27 by the Director of the Department of Consumer and Business Services for the establishment and
28 administration of a scholarship program to pay education related expenses of the spouses **or re-**
29 **reciprocal beneficiaries, as defined in section 1 of this 2007 Act**, and children of workers who are
30 killed or who have received a permanent total disability award from injury on the job. A maximum
31 of \$250,000 to carry out the provisions of this section shall be credited to the account from civil
32 penalties recovered pursuant to ORS 654.086.

33 (2) The director shall consult with the Safe Employment Education and Training Advisory
34 Committee established pursuant to ORS 654.189 in determining the appropriate scholarship standard
35 and in selecting the recipients.

36 **SECTION 205.** ORS 654.325 is amended to read:

37 654.325. If there is any loss of life by reason of violations of ORS 654.305 to 654.336 by any
38 owner, contractor or subcontractor or any person liable under ORS 654.305 to 654.336, the surviving
39 spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and children and
40 adopted children of the person so killed and, if none, then the lineal heirs of that person and, if
41 none, then the mother or father, as the case may be, shall have a right of action without any limit
42 as to the amount of damages which may be awarded. If none of the persons entitled to maintain such
43 action reside within the state, the executor or administrator of the deceased person may maintain
44 such action for their respective benefits and in the order above named.

45 **SECTION 206.** ORS 656.005 is amended to read:

1 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-
2 ployment, as determined by the Employment Department, for the last quarter of the calendar year
3 preceding the fiscal year in which the injury occurred.

4 (2) "Beneficiary" means an injured worker, and the husband, wife, **reciprocal beneficiary as**
5 **defined in section 1 of this 2007 Act**, child or dependent of a worker, who is entitled to receive
6 payments under this chapter. "Beneficiary" does not include:

7 (a) A spouse of an injured worker living in a state of abandonment for more than one year at
8 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker
9 for a period of two years and who has not during that time received or attempted by process of law
10 to collect funds for support or maintenance is considered living in a state of abandonment.

11 (b) A person who intentionally causes the compensable injury to or death of an injured worker.

12 (3) "Board" means the Workers' Compensation Board.

13 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-
14 age with a guaranty contract insurer.

15 (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child to-
16 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such
17 stepchild was, at the time of the injury, a member of the worker's family and substantially dependent
18 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-
19 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-
20 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,
21 an invalid dependent child is considered to be a child under 18 years of age.

22 (6) "Claim" means a written request for compensation from a subject worker or someone on the
23 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

24 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-
25 ances, arising out of and in the course of employment requiring medical services or resulting in
26 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-
27 dental means, if it is established by medical evidence supported by objective findings, subject to the
28 following limitations:

29 (A) No injury or disease is compensable as a consequence of a compensable injury unless the
30 compensable injury is the major contributing cause of the consequential condition.

31 (B) If an otherwise compensable injury combines at any time with a preexisting condition to
32 cause or prolong disability or a need for treatment, the combined condition is compensable only if,
33 so long as and to the extent that the otherwise compensable injury is the major contributing cause
34 of the disability of the combined condition or the major contributing cause of the need for treatment
35 of the combined condition.

36 (b) "Compensable injury" does not include:

37 (A) Injury to any active participant in assaults or combats which are not connected to the job
38 assignment and which amount to a deviation from customary duties;

39 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-
40 forming, any recreational or social activities primarily for the worker's personal pleasure; or

41 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of
42 the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption
43 of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of
44 such consumption.

45 (c) A "disabling compensable injury" is an injury which entitles the worker to compensation for

1 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless
2 there is a reasonable expectation that permanent disability will result from the injury.

3 (d) A “nondisabling compensable injury” is any injury which requires medical services only.

4 (8) “Compensation” includes all benefits, including medical services, provided for a compensable
5 injury to a subject worker or the worker’s beneficiaries by an insurer or self-insured employer pur-
6 suant to this chapter.

7 (9) “Department” means the Department of Consumer and Business Services.

8 (10) “Dependent” means any of the following-named relatives of a worker whose death results
9 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,
10 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the
11 accident, are dependent in whole or in part for their support upon the earnings of the worker.
12 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the
13 accident other than father, mother, husband, wife or children are not included within the term “de-
14 pendent.”

15 (11) “Director” means the Director of the Department of Consumer and Business Services.

16 (12)(a) “Doctor” or “physician” means a person duly licensed to practice one or more of the
17 healing arts in any country or in any state, territory or possession of the United States within the
18 limits of the license of the licentiate.

19 (b) Except as otherwise provided for workers subject to a managed care contract, “attending
20 physician” means a doctor or physician who is primarily responsible for the treatment of a worker’s
21 compensable injury and who is:

22 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the
23 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed
24 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,
25 territory or possession of the United States; or

26 (B) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,
27 whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners
28 for the State of Oregon or a similarly licensed doctor or physician in any country or in any state,
29 territory or possession of the United States.

30 (c) “Consulting physician” means a doctor or physician who examines a worker or the worker’s
31 medical record to advise the attending physician or nurse practitioner authorized to provide
32 compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable
33 injury.

34 (13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and
35 the state, state agencies, counties, municipal corporations, school districts and other public corpo-
36 rations or political subdivisions, who contracts to pay a remuneration for and secures the right to
37 direct and control the services of any person.

38 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of
39 a temporary service provider is not the employer of temporary workers provided by the temporary
40 service provider.

41 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning
42 for that term provided in ORS 656.850.

43 (14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Cor-
44 poration or an insurer authorized under ORS chapter 731 to transact workers’ compensation insur-
45 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

1 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

2 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

3 (17) “Medically stationary” means that no further material improvement would reasonably be
4 expected from medical treatment, or the passage of time.

5 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS
6 656.017.

7 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or
8 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and
9 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-
10 sponses to physical examinations that are not reproducible, measurable or observable.

11 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the
12 intensity of an otherwise stable medical condition, but does not include those medical services ren-
13 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

14 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time
15 of injury and the insurer, if any, of such employer.

16 (22) “Payroll” means a record of wages payable to workers for their services and includes
17 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or
18 similar advantage received from the employer. However, “payroll” does not include overtime pay,
19 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments
20 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-
21 ticipated under the contract of employment and which are paid at the sole discretion of the em-
22 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices
23 is only for the purpose of calculations based on payroll to determine premium for workers’ com-
24 pensation insurance, and does not affect any other calculation or determination based on payroll for
25 the purposes of this chapter.

26 (23) “Person” includes partnership, joint venture, association, limited liability company and
27 corporation.

28 (24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, con-
29 genital abnormality, personality disorder or similar condition that contributes to disability or need
30 for treatment, provided that:

31 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the
32 worker has been diagnosed with such condition, or has obtained medical services for the symptoms
33 of the condition regardless of diagnosis; and

34 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes
35 the initial injury;

36 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the
37 new medical condition; or

38 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment
39 precedes the onset of the worsened condition.

40 (b) “Preexisting condition” means, for all occupational disease claims, any injury, disease, con-
41 genital abnormality, personality disorder or similar condition that contributes to disability or need
42 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim
43 for worsening in such claims pursuant to ORS 656.273 or 656.278.

44 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or
45 need for treatment if the condition merely renders the worker more susceptible to the injury.

1 (25) "Self-insured employer" means an employer or group of employers certified under ORS
 2 656.430 as meeting the qualifications set out by ORS 656.407.

3 (26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident
 4 Insurance Fund Corporation created under ORS 656.752.

5 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS
 6 656.023.

7 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS
 8 656.027.

9 (29) "Wages" means the money rate at which the service rendered is recompensed under the
 10 contract of hiring in force at the time of the accident, including reasonable value of board, rent,
 11 housing, lodging or similar advantage received from the employer, and includes the amount of tips
 12 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of
 13 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips
 14 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-
 15 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at
 16 which any worker shall be carried upon the payroll of the employer for the purpose of determining
 17 the premium of the employer.

18 (30) "Worker" means any person, including a minor whether lawfully or unlawfully employed,
 19 who engages to furnish services for a remuneration, subject to the direction and control of an em-
 20 ployer and includes salaried, elected and appointed officials of the state, state agencies, counties,
 21 cities, school districts and other public corporations, but does not include any person whose services
 22 are performed as an inmate or ward of a state institution or as part of the eligibility requirements
 23 for a general or public assistance grant. For the purpose of determining entitlement to temporary
 24 disability benefits or permanent total disability benefits under this chapter, "worker" does not in-
 25 clude a person who has withdrawn from the workforce during the period for which such benefits are
 26 sought.

27 (31) "Independent contractor" has the meaning for that term provided in ORS 670.600.

28 **SECTION 207.** ORS 656.005, as amended by section 2, chapter 811, Oregon Laws 2003, is
 29 amended to read:

30 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-
 31 ployment, as determined by the Employment Department, for the last quarter of the calendar year
 32 preceding the fiscal year in which the injury occurred.

33 (2) "Beneficiary" means an injured worker, and the husband, wife, **reciprocal beneficiary as**
 34 **defined in section 1 of this 2007 Act**, child or dependent of a worker, who is entitled to receive
 35 payments under this chapter. "Beneficiary" does not include:

36 (a) A spouse of an injured worker living in a state of abandonment for more than one year at
 37 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker
 38 for a period of two years and who has not during that time received or attempted by process of law
 39 to collect funds for support or maintenance is considered living in a state of abandonment.

40 (b) A person who intentionally causes the compensable injury to or death of an injured worker.

41 (3) "Board" means the Workers' Compensation Board.

42 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-
 43 age with a guaranty contract insurer.

44 (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child to-
 45 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such

1 stepchild was, at the time of the injury, a member of the worker's family and substantially dependent
2 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-
3 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-
4 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,
5 an invalid dependent child is considered to be a child under 18 years of age.

6 (6) "Claim" means a written request for compensation from a subject worker or someone on the
7 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

8 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-
9 ances, arising out of and in the course of employment requiring medical services or resulting in
10 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-
11 dental means, if it is established by medical evidence supported by objective findings, subject to the
12 following limitations:

13 (A) No injury or disease is compensable as a consequence of a compensable injury unless the
14 compensable injury is the major contributing cause of the consequential condition.

15 (B) If an otherwise compensable injury combines at any time with a preexisting condition to
16 cause or prolong disability or a need for treatment, the combined condition is compensable only if,
17 so long as and to the extent that the otherwise compensable injury is the major contributing cause
18 of the disability of the combined condition or the major contributing cause of the need for treatment
19 of the combined condition.

20 (b) "Compensable injury" does not include:

21 (A) Injury to any active participant in assaults or combats which are not connected to the job
22 assignment and which amount to a deviation from customary duties;

23 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-
24 forming, any recreational or social activities primarily for the worker's personal pleasure; or

25 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of
26 the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption
27 of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of
28 such consumption.

29 (c) A "disabling compensable injury" is an injury which entitles the worker to compensation for
30 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless
31 there is a reasonable expectation that permanent disability will result from the injury.

32 (d) A "nondisabling compensable injury" is any injury which requires medical services only.

33 (8) "Compensation" includes all benefits, including medical services, provided for a compensable
34 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-
35 suant to this chapter.

36 (9) "Department" means the Department of Consumer and Business Services.

37 (10) "Dependent" means any of the following-named relatives of a worker whose death results
38 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,
39 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the
40 accident, are dependent in whole or in part for their support upon the earnings of the worker.
41 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the
42 accident other than father, mother, husband, wife or children are not included within the term "de-
43 pendent."

44 (11) "Director" means the Director of the Department of Consumer and Business Services.

45 (12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the

1 healing arts in any country or in any state, territory or possession of the United States within the
 2 limits of the license of the licentiate.

3 (b) Except as otherwise provided for workers subject to a managed care contract, “attending
 4 physician” means a doctor or physician who is primarily responsible for the treatment of a worker’s
 5 compensable injury and who is:

6 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the
 7 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed
 8 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,
 9 territory or possession of the United States; or

10 (B) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,
 11 whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners
 12 for the State of Oregon or a similarly licensed doctor or physician in any country or in any state,
 13 territory or possession of the United States.

14 (c) “Consulting physician” means a doctor or physician who examines a worker or the worker’s
 15 medical record to advise the attending physician regarding treatment of a worker’s compensable
 16 injury.

17 (13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and
 18 the state, state agencies, counties, municipal corporations, school districts and other public corpo-
 19 rations or political subdivisions, who contracts to pay a remuneration for and secures the right to
 20 direct and control the services of any person.

21 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of
 22 a temporary service provider is not the employer of temporary workers provided by the temporary
 23 service provider.

24 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning
 25 for that term provided in ORS 656.850.

26 (14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Cor-
 27 poration or an insurer authorized under ORS chapter 731 to transact workers’ compensation insur-
 28 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

29 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

30 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

31 (17) “Medically stationary” means that no further material improvement would reasonably be
 32 expected from medical treatment, or the passage of time.

33 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS
 34 656.017.

35 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or
 36 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and
 37 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-
 38 sponses to physical examinations that are not reproducible, measurable or observable.

39 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the
 40 intensity of an otherwise stable medical condition, but does not include those medical services ren-
 41 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

42 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time
 43 of injury and the insurer, if any, of such employer.

44 (22) “Payroll” means a record of wages payable to workers for their services and includes
 45 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or

1 similar advantage received from the employer. However, “payroll” does not include overtime pay,
2 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments
3 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-
4 ticipated under the contract of employment and which are paid at the sole discretion of the em-
5 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices
6 is only for the purpose of calculations based on payroll to determine premium for workers’ com-
7 pensation insurance, and does not affect any other calculation or determination based on payroll for
8 the purposes of this chapter.

9 (23) “Person” includes partnership, joint venture, association, limited liability company and
10 corporation.

11 (24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, con-
12 genital abnormality, personality disorder or similar condition that contributes to disability or need
13 for treatment, provided that:

14 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the
15 worker has been diagnosed with such condition, or has obtained medical services for the symptoms
16 of the condition regardless of diagnosis; and

17 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes
18 the initial injury;

19 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the
20 new medical condition; or

21 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment
22 precedes the onset of the worsened condition.

23 (b) “Preexisting condition” means, for all occupational disease claims, any injury, disease, con-
24 genital abnormality, personality disorder or similar condition that contributes to disability or need
25 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim
26 for worsening in such claims pursuant to ORS 656.273 or 656.278.

27 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or
28 need for treatment if the condition merely renders the worker more susceptible to the injury.

29 (25) “Self-insured employer” means an employer or group of employers certified under ORS
30 656.430 as meeting the qualifications set out by ORS 656.407.

31 (26) “State Accident Insurance Fund Corporation” and “corporation” mean the State Accident
32 Insurance Fund Corporation created under ORS 656.752.

33 (27) “Subject employer” means an employer who is subject to this chapter as provided by ORS
34 656.023.

35 (28) “Subject worker” means a worker who is subject to this chapter as provided by ORS
36 656.027.

37 (29) “Wages” means the money rate at which the service rendered is recompensed under the
38 contract of hiring in force at the time of the accident, including reasonable value of board, rent,
39 housing, lodging or similar advantage received from the employer, and includes the amount of tips
40 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of
41 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips
42 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-
43 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at
44 which any worker shall be carried upon the payroll of the employer for the purpose of determining
45 the premium of the employer.

1 (30) "Worker" means any person, including a minor whether lawfully or unlawfully employed,
2 who engages to furnish services for a remuneration, subject to the direction and control of an em-
3 ployer and includes salaried, elected and appointed officials of the state, state agencies, counties,
4 cities, school districts and other public corporations, but does not include any person whose services
5 are performed as an inmate or ward of a state institution or as part of the eligibility requirements
6 for a general or public assistance grant. For the purpose of determining entitlement to temporary
7 disability benefits or permanent total disability benefits under this chapter, "worker" does not in-
8 clude a person who has withdrawn from the workforce during the period for which such benefits are
9 sought.

10 (31) "Independent contractor" has the meaning for that term provided in ORS 670.600.

11 **SECTION 208.** ORS 656.027 is amended to read:

12 656.027. All workers are subject to this chapter except those nonsubject workers described in
13 the following subsections:

14 (1) A worker employed as a domestic servant in or about a private home. For the purposes of
15 this subsection "domestic servant" means any worker engaged in household domestic service by
16 private employment contract, including, but not limited to, home health workers.

17 (2) A worker employed to do gardening, maintenance, repair, remodeling or similar work in or
18 about the private home of the person employing the worker.

19 (3)(a) A worker whose employment is casual and either:

20 (A) The employment is not in the course of the trade, business or profession of the employer;

21 or

22 (B) The employment is in the course of the trade, business or profession of a nonsubject em-
23 ployer.

24 (b) For the purpose of this subsection, "casual" refers only to employments where the work in
25 any 30-day period, without regard to the number of workers employed, involves a total labor cost
26 of less than \$500.

27 (4) A person for whom a rule of liability for injury or death arising out of and in the course of
28 employment is provided by the laws of the United States.

29 (5) A worker engaged in the transportation in interstate commerce of goods, persons or property
30 for hire by rail, water, aircraft or motor vehicle, and whose employer has no fixed place of business
31 in this state.

32 (6) Firefighter and police employees of any city having a population of more than 200,000 that
33 provides a disability and retirement system by ordinance or charter.

34 (7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor
35 or services are performed under contract, the sole proprietor must qualify as an independent con-
36 tractor.

37 (b) Sole proprietors actively registered under ORS 671.525 or licensed under ORS 701.035. When
38 labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (30),
39 the sole proprietor must qualify as an independent contractor. Any sole proprietor registered under
40 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively
41 presumed to be an independent contractor.

42 (8) Except as provided in subsection (23) of this section, partners who are not engaged in work
43 performed in direct connection with the construction, alteration, repair, improvement, moving or
44 demolition of an improvement on real property or appurtenances thereto. When labor or services
45 are performed under contract, the partnership must qualify as an independent contractor.

1 (9) Except as provided in subsection (25) of this section, members, including members who are
 2 managers, of limited liability companies, regardless of the nature of the work performed. However,
 3 members, including members who are managers, of limited liability companies with more than one
 4 member, while engaged in work performed in direct connection with the construction, alteration,
 5 repair, improvement, moving or demolition of an improvement on real property or appurtenances
 6 thereto, are subject workers. When labor or services are performed under contract, the limited li-
 7 ability company must qualify as an independent contractor.

8 (10) Except as provided in subsection (24) of this section, corporate officers who are directors
 9 of the corporation and who have a substantial ownership interest in the corporation, regardless of
 10 the nature of the work performed by such officers, subject to the following limitations:

11 (a) If the activities of the corporation are conducted on land that receives farm use tax assess-
 12 ment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors
 13 in the corporate bylaws, regardless of ownership interest, and who are members of the same family,
 14 whether related by blood, marriage, **reciprocal beneficiary agreement as defined in section 1 of**
 15 **this 2007 Act** or adoption.

16 (b) If the activities of the corporation involve the commercial harvest of timber and all officers
 17 of the corporation are members of the same family and are parents, daughters or sons, daughters-
 18 in-law or sons-in-law or grandchildren, **or are reciprocal beneficiaries**, then all such officers may
 19 elect to be nonsubject workers. For all other corporations involving the commercial harvest of tim-
 20 ber, the maximum number of exempt corporate officers for the corporation shall be whichever is the
 21 greater of the following:

22 (A) Two corporate officers; or

23 (B) One corporate officer for each 10 corporate employees.

24 (c) When labor or services are performed under contract, the corporation must qualify as an
 25 independent contractor.

26 (11) A person performing services primarily for board and lodging received from any religious,
 27 charitable or relief organization.

28 (12) A newspaper carrier utilized in compliance with the provisions of ORS 656.070 and 656.075.

29 (13) A person who has been declared an amateur athlete under the rules of the United States
 30 Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for
 31 performance of services as an athlete other than board, room, rent, housing, lodging or other rea-
 32 sonable incidental subsistence allowance, or any amateur sports official who is certified by a re-
 33 cognized Oregon or national certifying authority, which requires or provides liability and accident
 34 insurance for such officials. A roster of recognized Oregon and national certifying authorities will
 35 be maintained by the Department of Consumer and Business Services, from lists of certifying or-
 36 ganizations submitted by the Oregon School Activities Association and the Oregon Park and Re-
 37 creation Society.

38 (14) Volunteer personnel participating in the ACTION programs, organized under the Domestic
 39 Volunteer Service Act of 1973, P.L. 93-113, known as the Foster Grandparent Program and the
 40 Senior Companion Program, whether or not the volunteers receive a stipend or nominal reimburse-
 41 ment for time and travel expenses.

42 (15) A person who has an ownership or leasehold interest in equipment and who furnishes,
 43 maintains and operates the equipment. As used in this subsection "equipment" means:

44 (a) A motor vehicle used in the transportation of logs, poles or piling.

45 (b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

1 (c) A motor vehicle operated as a taxicab as defined in ORS 825.017.

2 (d) A motor vehicle used in the transportation of property by a for-hire motor carrier that is
3 required under ORS 825.100 or 825.104 to possess a certificate or permit.

4 (16) A person engaged in the transportation of the public for recreational down-river boating
5 activities on the waters of this state pursuant to a federal permit when the person furnishes the
6 equipment necessary for the activity. As used in this subsection, “recreational down-river boating
7 activities” means those boating activities for the purpose of recreational fishing, swimming or
8 sightseeing utilizing a float craft with oars or paddles as the primary source of power.

9 (17) A person who performs volunteer ski patrol activities who receives no wage other than
10 noncash remuneration.

11 (18) A person 19 years of age or older who contracts with a newspaper publishing company or
12 independent newspaper dealer or contractor to distribute newspapers to the general public and
13 perform or undertake any necessary or attendant functions related thereto.

14 (19) A person performing foster parent or adult foster care duties pursuant to ORS chapter 411,
15 418, 430 or 443.

16 (20) A person performing services on a volunteer basis for a nonprofit, religious, charitable or
17 relief organization, whether or not such person receives meals or lodging or nominal reimbursements
18 or vouchers for meals, lodging or expenses.

19 (21) A person performing services under a property tax work-off program established under ORS
20 310.800.

21 (22) A person who performs service as a caddy at a golf course in an established program for
22 the training and supervision of caddies under the direction of a person who is an employee of the
23 golf course.

24 (23)(a) Partners who are actively registered under ORS 671.525 or licensed under ORS 701.035
25 and who have a substantial ownership interest in a partnership. If all partners are members of the
26 same family and are parents, spouses, **reciprocal beneficiaries**, sisters, brothers, daughters or sons,
27 daughters-in-law or sons-in-law or grandchildren, all such partners may elect to be nonsubject
28 workers. For all other partnerships registered under ORS 671.510 to 671.710 or licensed under ORS
29 chapter 701, the maximum number of exempt partners shall be whichever is the greater of the fol-
30 lowing:

31 (A) Two partners; or

32 (B) One partner for each 10 partnership employees.

33 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
34 656.005 (30), the partnership qualifies as an independent contractor. Any partnership registered un-
35 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
36 sively presumed to be an independent contractor.

37 (24)(a) Corporate officers who are directors of a corporation actively registered under ORS
38 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in the corpo-
39 ration, regardless of the nature of the work performed. If all officers of the corporation are members
40 of the same family and are parents, spouses, **reciprocal beneficiaries**, sisters, brothers, daughters
41 or sons, daughters-in-law or sons-in-law or grandchildren, all such officers may elect to be nonsub-
42 ject workers. For all other corporations registered under ORS 671.510 to 671.710 or licensed under
43 ORS chapter 701, the maximum number of exempt corporate officers shall be whichever is the
44 greater of the following:

45 (A) Two corporate officers; or

1 (B) One corporate officer for each 10 corporate employees.

2 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
 3 656.005 (30), the corporation qualifies as an independent contractor. Any corporation registered un-
 4 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
 5 sively presumed to be an independent contractor.

6 (25)(a) Limited liability company members who are members of a company actively registered
 7 under ORS 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in
 8 the company, regardless of the nature of the work performed. If all members of the company are
 9 members of the same family and are parents, spouses, **reciprocal beneficiaries**, sisters, brothers,
 10 daughters or sons, daughters-in-law or sons-in-law or grandchildren, all such members may elect to
 11 be nonsubject workers. For all other companies registered under ORS 671.510 to 671.710 or licensed
 12 under ORS chapter 701, the maximum number of exempt company members shall be whichever is the
 13 greater of the following:

14 (A) Two company members; or

15 (B) One company member for each 10 company employees.

16 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
 17 656.005 (30), the company qualifies as an independent contractor. Any company registered under
 18 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively
 19 presumed to be an independent contractor.

20 (26) A person serving as a referee or assistant referee in a youth or adult recreational soccer
 21 match whose services are retained on a match-by-match basis.

22 (27) A person performing language translator or interpreter services that are provided for others
 23 through an agent or broker.

24 **SECTION 209.** ORS 656.154 is amended to read:

25 656.154. If the injury to a worker is due to the negligence or wrong of a third person not in the
 26 same employ, the injured worker, or if death results from the injury, the spouse, **reciprocal bene-**
 27 **ficiary as defined in section 1 of this 2007 Act**, children or other dependents, as the case may be,
 28 may elect to seek a remedy against such third person.

29 **SECTION 210.** ORS 656.156 is amended to read:

30 656.156. (1) If injury or death results to a worker from the deliberate intention of the worker to
 31 produce such injury or death, neither the worker nor the widow, widower, **reciprocal beneficiary**
 32 **as defined in section 1 of this 2007 Act**, child or dependent of the worker shall receive any pay-
 33 ment whatsoever under this chapter.

34 (2) If injury or death results to a worker from the deliberate intention of the employer of the
 35 worker to produce such injury or death, the worker, the widow, widower, **reciprocal beneficiary**,
 36 child or dependent of the worker may take under this chapter, and also have cause for action
 37 against the employer, as if such statutes had not been passed, for damages over the amount payable
 38 under those statutes.

39 **SECTION 211.** ORS 656.204 is amended to read:

40 656.204. If death results from the accidental injury, payments shall be made as follows:

41 (1) The cost of burial, including transportation of the body, shall be paid, not to exceed 10 times
 42 the average weekly wage in any case.

43 (2)(a) If the worker is survived by a spouse **or reciprocal beneficiary as defined in section 1**
 44 **of this 2007 Act**, monthly benefits shall be paid in an amount equal to 4.35 times 66-2/3 percent of
 45 the average weekly wage to the surviving spouse **or reciprocal beneficiary** until [remarriage] entry

1 **into a subsequent marriage or reciprocal beneficiary agreement.** The payment shall cease at
 2 the end of the month in which the [*remarriage occurs*] **marriage or reciprocal beneficiary agree-**
 3 **ment is entered into.**

4 (b) If the worker is survived by a spouse **or reciprocal beneficiary**, monthly benefits also shall
 5 be paid in an amount equal to 4.35 times 10 percent of the average weekly wage for each child of
 6 the deceased who is substantially dependent on the spouse **or reciprocal beneficiary** for support,
 7 until such child becomes 18 years of age.

8 (c) If the worker is survived by a spouse **or reciprocal beneficiary**, monthly benefits also shall
 9 be paid in an amount equal to 4.35 times 25 percent of the average weekly wage for each child of
 10 the deceased who is not substantially dependent on the spouse **or reciprocal beneficiary** for sup-
 11 port, until such child becomes 18 years of age.

12 (d) If a surviving spouse **or reciprocal beneficiary** receiving monthly payments dies, leaving a
 13 child who is entitled to compensation on account of the death of the worker, a monthly benefit equal
 14 to 4.35 times 25 percent of the average weekly wage shall be paid to each such child until the child
 15 becomes 18 years of age or the child's entitlement to benefits under subsection (8) of this section
 16 ceases, whichever is later.

17 (e) If a child who has become 18 years of age is a full-time high school student, benefits shall
 18 be paid as provided in subsection (8) of this section.

19 (f) In no event shall the total monthly benefits provided for in this subsection exceed 4.35 times
 20 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this max-
 21 imum, the benefit for each child will be reduced proportionally.

22 (3)(a) Upon [*remarriage*] **entry into a subsequent marriage or reciprocal beneficiary agree-**
 23 **ment**, a surviving spouse **or reciprocal beneficiary** shall be paid 36 times the monthly benefit in
 24 a lump sum as final payment of the claim, but the monthly payments for each child shall continue
 25 as before.

26 (b) If, after the date of the subject worker's death, the surviving spouse **or reciprocal benefi-**
 27 **ciary** cohabits with another person for an aggregate period of more than one year and a child has
 28 resulted from the relationship, the surviving spouse **or reciprocal beneficiary** shall be paid 36 times
 29 the monthly benefit in a lump sum as final payment of the claim, but the monthly payment for any
 30 child who is entitled to compensation on account of the death of the worker shall continue as before.

31 (4)(a) If the worker leaves neither wife nor husband **nor reciprocal beneficiary**, but a child
 32 under 18 years of age, a monthly benefit equal to 4.35 times 25 percent of the average weekly wage
 33 shall be paid to each such child until the child becomes 18 years of age.

34 (b) If a child who has become 18 years of age is a full-time high school student, benefits shall
 35 be paid as provided in subsection (8) of this section.

36 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 133-1/3
 37 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the
 38 benefit for each child will be reduced proportionally.

39 (5)(a) If the worker leaves a dependent other than a surviving spouse, **a reciprocal beneficiary**
 40 or a child, a monthly payment shall be made to each dependent equal to 50 percent of the average
 41 monthly support actually received by such dependent from the worker during the 12 months next
 42 preceding the occurrence of the accidental injury. If a dependent is under the age of 18 years at the
 43 time of the accidental injury, the payment to the dependent shall cease when such dependent be-
 44 comes 18 years of age. The payment to any dependent shall cease under the same circumstances that
 45 would have terminated the dependency had the injury not happened.

1 (b) If the dependent who has become 18 years of age is a full-time high school student, benefits
2 shall be paid as provided in subsection (8) of this section.

3 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 10 per-
4 cent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the
5 benefit for each dependent will be reduced proportionally.

6 (6) If a child is an invalid at the time the child otherwise becomes ineligible for benefits under
7 this section, the payment to the child shall continue while the child remains an invalid. If a person
8 is entitled to payment because the person is an invalid, payment shall terminate when the person
9 ceases to be an invalid.

10 (7) If, at the time of the death of a worker, the child of the worker or dependent has become
11 17 years of age but is under 18 years of age, the child or dependent shall receive the payment pro-
12 vided in this section for a period of one year from the date of the death. However, if after such
13 period the child is a full-time high school student, benefits shall be paid as provided in subsection
14 (8) of this section.

15 (8)(a) Benefits under this section which are to be paid as provided in this subsection shall be
16 paid for the child or dependent until the child or dependent becomes 19 years of age. If, however,
17 the child or dependent is attending higher education or begins attending higher education within six
18 months of the date the child or dependent leaves high school, benefits shall be paid until the child
19 or dependent becomes 23 years of age, ceases attending higher education or graduates from an ap-
20 proved institute or program, whichever is earlier.

21 (b) As used in this subsection, "attending higher education" means regularly attending commu-
22 nity college, college or university, or regularly attending a course of vocational or technical training
23 designed to prepare the participant for gainful employment. A child or dependent enrolled in an
24 educational course load of less than one-half of that determined by the educational facility to con-
25 stitute "full-time" enrollment is not "attending higher education."

26 (9) As used in this section, "average weekly wage" has the meaning for that term provided in
27 ORS 656.211.

28 **SECTION 212.** ORS 656.208 is amended to read:

29 656.208. (1) If the injured worker dies during the period of permanent total disability, whatever
30 the cause of death, leaving a spouse, **a reciprocal beneficiary as defined in section 1 of this 2007**
31 **Act** or any dependents listed in ORS 656.204, payment shall be made in the same manner and in the
32 same amounts as provided in ORS 656.204.

33 (2) If any surviving spouse **or surviving reciprocal beneficiary** to whom the provisions of this
34 section apply [*remarries*] **enters into a subsequent marriage or reciprocal beneficiary agree-**
35 **ment**, the payments on account of a child or children shall continue to be made to the child or
36 children the same as before the [*remarriage*] **subsequent marriage or reciprocal beneficiary**
37 **agreement.**

38 **SECTION 213.** ORS 656.313 is amended to read:

39 656.313. (1)(a) Filing by an employer or the insurer of a request for hearing on a reconsideration
40 order before the Hearings Division, a request for Workers' Compensation Board review or court
41 appeal or request for review of an order of the Director of the Department of Consumer and Busi-
42 ness Services regarding vocational assistance stays payment of the compensation appealed, except
43 for:

44 (A) Temporary disability benefits that accrue from the date of the order appealed from until
45 closure under ORS 656.268, or until the order appealed from is itself reversed, whichever event first

1 occurs;

2 (B) Permanent total disability benefits that accrue from the date of the order appealed from until
3 the order appealed from is reversed;

4 (C) Death benefits payable to a surviving spouse **or reciprocal beneficiary as defined in sec-**
5 **tion 1 of this 2007 Act**, prior to [remarriage] **entry into a subsequent marriage or reciprocal**
6 **beneficiary agreement**, to children or dependents that accrue from the date of the order appealed
7 from until the order appealed from is reversed; and

8 (D) Vocational benefits ordered by the director pursuant to ORS 656.283 (2). If a denial of vo-
9 cational benefits is upheld by a final order, the insurer or self-insured employer shall be reimbursed
10 from the Workers' Benefit Fund pursuant to ORS 656.605 for all costs incurred in providing voca-
11 tional benefits as a result of the order that was appealed.

12 (b) If ultimately found payable under a final order, benefits withheld under this subsection shall
13 accrue interest at the rate provided in ORS 82.010 from the date of the order appealed from through
14 the date of payment. The board shall expedite review of appeals in which payment of compensation
15 has been stayed under this section.

16 (2) If the board or court subsequently orders that compensation to the claimant should not have
17 been allowed or should have been awarded in a lesser amount than awarded, the claimant shall not
18 be obligated to repay any such compensation which was paid pending the review or appeal.

19 (3) If an insurer or self-insured employer denies the compensability of all or any portion of a
20 claim submitted for medical services, the insurer or self-insured employer shall send notice of the
21 denial to each provider of such medical services and to any provider of health insurance for the
22 injured worker. Except for medical services payable in accordance with ORS 656.247, after receiving
23 notice of the denial, a medical service provider may submit medical reports and bills for the disputed
24 medical services to the provider of health insurance for the injured worker. The health insurance
25 provider shall pay all such bills in accordance with the limits, terms and conditions of the policy.
26 If the injured worker has no health insurance, such bills may be submitted to the injured worker.
27 A provider of disputed medical services shall make no further effort to collect disputed medical
28 service bills from the injured worker until the issue of compensability of the medical services has
29 been finally determined.

30 (4) Except for medical services payable in accordance with ORS 656.247:

31 (a) When the compensability issue has been finally determined or when disposition or settlement
32 of the claim has been made pursuant to ORS 656.236 or 656.289 (4), the insurer or self-insured em-
33 ployer shall notify each affected service provider and health insurance provider of the results of the
34 disposition or settlement.

35 (b) If the services are determined to be compensable, the insurer or self-insured employer shall
36 reimburse each health insurance provider for the amount of claims paid by the health insurance
37 provider pursuant to this section. Such reimbursement shall be in addition to compensation or
38 medical benefits the worker receives. Medical service reimbursement shall be paid directly to the
39 health insurance provider.

40 (c) If the services are settled pursuant to ORS 656.289 (4), the insurer or self-insured employer
41 shall reimburse, out of the settlement proceeds, each medical service provider for billings received
42 by the insurer or self-insured employer on and before the date on which the terms of settlement are
43 agreed as specified in the settlement document that are not otherwise partially or fully reimbursed.

44 (d) Reimbursement under this section shall be made only for medical services related to the
45 claim that would be compensable under this chapter if the claim were compensable and shall be

1 made at one-half the amount provided under ORS 656.248. In no event shall reimbursement made to
 2 medical service providers exceed 40 percent of the total present value of the settlement amount,
 3 except with the consent of the worker. If the settlement proceeds are insufficient to allow each
 4 medical service provider the reimbursement amount authorized under this subsection, the insurer
 5 or self-insured employer shall reduce each provider's reimbursement by the same proportional
 6 amount. Reimbursement under this section shall not prevent a medical service provider or health
 7 insurance provider from recovering the balance of amounts owing for such services directly from the
 8 worker.

9 (5) As used in this section, "health insurance" has the meaning for that term provided in ORS
 10 731.162.

11 **SECTION 214.** ORS 657.030 is amended to read:

12 657.030. (1) As used in this chapter, unless the context requires otherwise, and subject to ORS
 13 657.035, 657.040 and 657.045 to 657.094, or any other section which excludes services from the term
 14 "employment," "employment" means service for an employer, including service in interstate com-
 15 merce, within or outside of the United States, performed for remuneration or under any contract of
 16 hire, written or oral, express or implied.

17 (2) Notwithstanding any other provisions of this chapter, "employment" shall include service:

18 (a) Which is subject to the tax imposed by the Federal Unemployment Tax Act; or

19 (b) Which is required to be covered under this chapter as a condition for employers to receive
 20 a full tax credit against the tax imposed by the Federal Unemployment Tax Act.

21 (3) Notwithstanding subsections (1) and (2) of this section, "employment" does not include:

22 (a) Service performed in the employ of a school, college or university, if [*such*]:

23 **(A) The service is performed by a student who is enrolled and is regularly attending classes at**
 24 [*such*] **the school, college or university[, or by]; or**

25 **(B) The service is performed by a person who is the spouse or reciprocal beneficiary, as**
 26 **defined in section 1 of this 2007 Act,** of [*such*] **a student who is enrolled and is regularly at-**
 27 **tending classes at the school, college or university,** if [*such spouse*] **the person** is advised at the
 28 time [*such spouse*] **the person** commences to perform [*such*] **the service,** that the **person's** employ-
 29 ment [*of such spouse to perform such service*] is provided under a program to provide financial as-
 30 sistance to [*such*] **the student** by [*such*] **the school, college, or university,** and [*such*] **the employment**
 31 will not be covered by any program of unemployment insurance.

32 (b) Service performed in the employ of a hospital, if such service is performed by a patient of
 33 such hospital.

34 (c) Service performed as a student nurse in the employ of a hospital or a nurses' training school
 35 by an individual who is enrolled in a nurses' training school chartered or approved pursuant to the
 36 laws of this state.

37 (d) Service performed by an individual who is enrolled at a nonprofit or public educational in-
 38 stitution which normally maintains a regular faculty and curriculum and normally has a regularly
 39 organized body of students in attendance at the place where its educational activities are carried
 40 on as a student in a full-time program, taken for credit at such institution, which combines academic
 41 instruction with work experience, if such service is an integral part of such program, and such
 42 program has been approved by the Director of the Employment Department, and such institution has
 43 so certified to the employer, except that this paragraph shall not apply to service performed in a
 44 program established for or on behalf of an employer or group of employers.

45 (e) Service performed by a full-time student in the employ of an organized camp described in

1 section 3306(c)(20) of the Internal Revenue Code:

2 (A) If such camp:

3 (i) Did not operate for more than seven months in the calendar year and did not operate more
4 than seven months in the preceding calendar year; or

5 (ii) Had average gross receipts for any six months in the preceding calendar year which were
6 not more than 33-1/3 percent of its average gross receipts for the other six months in the preceding
7 calendar year; and

8 (B) If such full-time student performed services in the employ of such camp for less than 13
9 calendar weeks in such calendar year.

10 (4) As used in subsection (3)(e) of this section, an individual shall be treated as a full-time stu-
11 dent for any period:

12 (a) During which the individual is enrolled as a full-time student at an educational institution;
13 or

14 (b) Which is between academic years or terms if:

15 (A) The individual was enrolled as a full-time student at an educational institution for the im-
16 mediately preceding academic year or term; and

17 (B) There is a reasonable assurance that the individual will be so enrolled for the immediately
18 succeeding academic year or term after the period described in subparagraph (A) of this paragraph.

19 **SECTION 215.** ORS 657.044 is amended to read:

20 657.044. (1) As used in this chapter, "employment" does not include service performed for:

21 (a) A corporation by corporate officers who are directors of the corporation, who have a sub-
22 stantial ownership interest in the corporation and who are members of the same family if the cor-
23 poration elects not to provide coverage for those individuals. The election shall be in writing and
24 shall be effective on the first day of the calendar quarter in which the request was submitted.

25 (b) A limited liability company by a member, including members who are managers, as defined
26 in ORS 63.001.

27 (c) A limited liability partnership by a partner as described in ORS chapter 67.

28 (2) The provisions of this section do not apply to service performed for:

29 (a) A nonprofit employing unit;

30 (b) This state;

31 (c) A political subdivision of this state; or

32 (d) An Indian tribe.

33 (3) As used in this section, "members of the same family" means persons who are members of
34 a family as parents, stepparents, grandparents, spouses, **reciprocal beneficiaries as defined in**
35 **section 1 of this 2007 Act**, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren,
36 adopted children or grandchildren.

37 **SECTION 216.** ORS 657.060 is amended to read:

38 657.060. (1) "Employment" does not include service performed by a person in the employ of a
39 son, daughter, [or] spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, and
40 service performed by a child under the age of 18 in the employ of the father or mother.

41 (2) "Employment" does not include service performed as foster care parents certified by the
42 Department of Human Services or approved by a licensed child caring facility.

43 **SECTION 217.** ORS 657.255 is amended to read:

44 657.255. (1) Benefits shall be payable from the fund and shall be paid through employment of-
45 fices, in accordance with such regulations as the Director of the Employment Department may pre-

1 scribe.

2 (2) In the event of the death of any person to whom benefits are due under this chapter, but
 3 which benefits remain unpaid in whole or in part, such benefits may be paid to any person or per-
 4 sons designated by the director in the following order:

5 (a) Surviving spouse.

6 **(b) Surviving reciprocal beneficiary, as defined in section 1 of this 2007 Act.**

7 [(b)] (c) Surviving children, including adopted children.

8 [(c)] (d) Mother or father of the deceased.

9 **SECTION 218.** ORS 658.405 is amended to read:

10 658.405. As used in ORS 658.405 to 658.503 and 658.991 (2) and (3), unless the context requires
 11 otherwise:

12 (1) "Agricultural association" means a nonprofit or cooperative association of farmers, growers
 13 or ranchers that is incorporated under applicable state law and that acts as a farm labor contractor
 14 solely on behalf of members of the association.

15 (2) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

16 (3) "Crew leader" means the member of a group of workers who (a) acts as spokesman for the
 17 group, (b) travels with the group from another state into Oregon and (c) performs the same work
 18 along with other group members. A crew leader may transport workers from their local place of
 19 residence to their place of employment so long as the crew leader does not perform this service for
 20 a profit.

21 (4) "Farm labor contractor" means any person who, for an agreed remuneration or rate of pay,
 22 recruits, solicits, supplies or employs workers to perform labor for another to work in forestation
 23 or reforestation of lands, including but not limited to the planting, transplanting, tubing, precom-
 24 mercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and
 25 slash and other related activities or the production or harvesting of farm products; or who recruits,
 26 solicits, supplies or employs workers to gather evergreen boughs, yew bark, bear grass, salal or
 27 ferns from public lands for sale or market prior to processing or manufacture; or who recruits, so-
 28 licits, supplies or employs workers on behalf of an employer engaged in these activities; or who, in
 29 connection with the recruitment or employment of workers to work in these activities, furnishes
 30 board or lodging for such workers; or who bids or submits prices on contract offers for those ac-
 31 tivities; or who enters into a subcontract with another for any of those activities. However, "farm
 32 labor contractor" does not include:

33 (a) Farmers, including owners or lessees of land intended to be used for the production of tim-
 34 ber, their permanent employees, advertising media, platoon leaders or individuals engaged in the
 35 solicitation or recruitment of persons for dayhaul work in connection with the growing, production
 36 or harvesting of farm products;

37 (b) The Employment Department;

38 (c) A crew leader;

39 (d) An individual who performs work, other than recruiting, supplying, soliciting or employing
 40 workers to perform labor for another, alone or only with the assistance of the individual's spouse,
 41 **reciprocal beneficiary as defined in section 1 of this 2007 Act**, son, daughter, brother, sister,
 42 mother or father;

43 (e) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
 44 services with each other, provided the work is performed on land owned or leased by the individuals;

45 (f) An educational institution that is recognized as such by the Department of Education; or

1 (g) A farmer who operates a farmworker camp, regulated under ORS 658.750, who recruits,
 2 supplies, solicits or employs workers only for the farmer’s own operations, and has farmworkers
 3 living in the camp who are employed by another on no more than an incidental basis, and the farmer
 4 receives no remuneration by virtue of such incidental employment.

5 **SECTION 219.** ORS 659A.001 is amended to read:

6 659A.001. As used in this chapter:

7 (1) “Bureau” means the Bureau of Labor and Industries.

8 (2) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

9 (3) “Employee” does not include any individual employed by the individual’s parents, spouse,
 10 **reciprocal beneficiary as defined in section 1 of this 2007 Act** or child or in the domestic service
 11 of any person.

12 (4) “Employer” means any person who in this state, directly or through an agent, engages or
 13 uses the personal service of one or more employees, reserving the right to control the means by
 14 which such service is or will be performed.

15 (5) “Employment agency” includes any person undertaking to procure employees or opportu-
 16 nities to work.

17 (6)(a) “Familial status” means the relationship between one or more individuals who have not
 18 attained 18 years of age and who are domiciled with:

19 (A) A parent or another person having legal custody of the individual; or

20 (B) The designee of the parent or other person having such custody, with the written permission
 21 of the parent or other person.

22 (b) “Familial status” includes any individual, regardless of age or domicile, who is pregnant or
 23 is in the process of securing legal custody of an individual who has not attained 18 years of age.

24 (7) “Labor organization” includes any organization which is constituted for the purpose, in
 25 whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms
 26 or conditions of employment or of other mutual aid or protection in connection with employees.

27 (8) “National origin” includes ancestry.

28 (9) “Person” includes one or more individuals, partnerships, associations, labor organizations,
 29 limited liability companies, joint stock companies, corporations, legal representatives, trustees,
 30 trustees in bankruptcy or receivers. “Person” also includes a public body as defined in ORS 30.260.

31 (10) “Respondent” means any person against whom a complaint or charge of an unlawful prac-
 32 tice is filed with the commissioner or whose name has been added to such complaint or charge
 33 pursuant to ORS 659A.835.

34 (11) “Unlawful employment practice” means a practice specifically denominated as an unlawful
 35 employment practice in this chapter. “Unlawful employment practice” includes a practice that is
 36 specifically denominated in another statute of this state as an unlawful employment practice and
 37 that is specifically made subject to enforcement under this chapter.

38 (12) “Unlawful practice” means any unlawful employment practice or any other practice specifi-
 39 cally denominated as an unlawful practice in this chapter. “Unlawful practice” includes a practice
 40 that is specifically denominated in another statute of this state as an unlawful practice and that is
 41 specifically made subject to enforcement under this chapter, or a practice that violates a rule
 42 adopted by the commissioner for the enforcement of the provisions of this chapter.

43 **SECTION 220.** ORS 659A.150 is amended to read:

44 659A.150. As used in ORS 659A.150 to 659A.186:

45 (1) “Covered employer” means an employer described in ORS 659A.153.

1 (2) “Eligible employee” means any employee of a covered employer other than those employees
 2 exempted under the provisions of ORS 659A.156.

3 (3) “Family leave” means a leave of absence described in ORS 659A.159.

4 (4) “Family member” means the spouse of an employee, **the reciprocal beneficiary, as defined**
 5 **in section 1 of this 2007 Act, of the employee**, the biological, adoptive or foster parent or child
 6 of the employee, a parent-in-law of the employee or a person with whom the employee was or is in
 7 a relationship of in loco parentis.

8 (5) “Health care provider” means:

9 (a) A person who is primarily responsible for providing health care to an eligible employee or
 10 a family member of an eligible employee, who is performing within the scope of the person’s pro-
 11 fessional license or certificate and who is:

12 (A) A physician licensed to practice medicine under ORS 677.110, including a doctor of
 13 osteopathy;

14 (B) A podiatrist licensed under ORS 677.825;

15 (C) A dentist licensed under ORS 679.090;

16 (D) A psychologist licensed under ORS 675.030;

17 (E) An optometrist licensed under ORS 683.070;

18 (F) A naturopath licensed under ORS 685.080;

19 (G) A registered nurse licensed under ORS 678.050;

20 (H) A nurse practitioner certified under ORS 678.375;

21 (I) A direct entry midwife licensed under ORS 687.420;

22 (J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse
 23 midwife nurse practitioner;

24 (K) A clinical social worker licensed under ORS 675.530; or

25 (L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic
 26 physician provides treatment consisting of manual manipulation of the spine to correct a subluxation
 27 demonstrated to exist by X-rays.

28 (b) A person who is primarily responsible for the treatment of an eligible employee or a family
 29 member of an eligible employee solely through spiritual means, including but not limited to a
 30 Christian Science practitioner.

31 (6) “Serious health condition” means:

32 (a) An illness, injury, impairment or physical or mental condition that requires inpatient care
 33 in a hospital, hospice or residential medical care facility;

34 (b) An illness, disease or condition that in the medical judgment of the treating health care
 35 provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility
 36 of death in the near future, or requires constant care; or

37 (c) Any period of disability due to pregnancy, or period of absence for prenatal care.

38 **SECTION 221.** ORS 659A.190 is amended to read:

39 659A.190. As used in ORS 659A.190 to 659A.198:

40 (1) “Covered employer” means an employer who employs six or more persons in the State of
 41 Oregon for each working day during each of 20 or more calendar workweeks in the year in which
 42 an eligible employee takes leave to attend a criminal proceeding or in the year immediately pre-
 43 ceding the year in which an eligible employee takes leave to attend a criminal proceeding.

44 (2) “Crime victim” means a person who has suffered financial, social, psychological or physical
 45 harm as a result of a person felony, as defined in the rules of the Oregon Criminal Justice Com-

1 mission, and includes a member of the immediate family of the person.

2 (3) "Criminal proceeding" has the meaning given that term in ORS 131.005 and includes a juve-
 3 nile proceeding under ORS chapter 419C or any other proceeding at which a crime victim has a
 4 right to be present.

5 (4) "Eligible employee" means an employee who:

6 (a) Worked an average of more than 25 hours per week for a covered employer for at least 180
 7 days immediately before the date the employee takes leave to attend a criminal proceeding; and

8 (b) Is a crime victim.

9 (5) "Immediate family" means spouse, domestic partner, **reciprocal beneficiary as defined in**
 10 **section 1 of this 2007 Act**, father, mother, sibling, child, stepchild and grandparent.

11 **SECTION 222.** ORS 663.005 is amended to read:

12 663.005. As used in this chapter, unless the context requires otherwise:

13 (1) "Board" means the Employment Relations Board.

14 (2) "Conciliator" means the head of the State Conciliation Service.

15 (3) "Employee" includes any employee, and is not limited to the employees of a particular em-
 16 ployer unless this chapter explicitly states otherwise, and includes any individual whose work has
 17 ceased as a consequence of, or in connection with, a current labor dispute and who has not obtained
 18 any other regular and substantially equivalent employment, but does not include an individual:

19 (a) Employed in agricultural labor as defined in ORS 657.045;

20 (b) Employed by the parent, [or] spouse **or reciprocal beneficiary, as defined in section 1 of**
 21 **this 2007 Act**, of the individual;

22 (c) Employed in the domestic service of any family or person at home;

23 (d) Having the status of an independent contractor;

24 (e) Employed as a supervisor;

25 (f) Employed by an employer subject to the Railway Labor Act, as amended (45 U.S.C. 151 to
 26 163 and 181 to 188);

27 (g) Employed in the building and construction industry;

28 (h) Employed by any other person who is not an employer as defined in subsection (4) of this
 29 section; or

30 (i) Employed by an employer subject to the jurisdiction of the National Labor Relations Board
 31 under its existing jurisdictional standards, pursuant to the Labor Management Relations Act of 1947,
 32 as amended (29 U.S.C. 141 to 187).

33 (4) "Employer" includes any person acting as an agent of an employer, directly or indirectly,
 34 but does not include:

35 (a) The United States or any wholly owned government corporation, or any Federal Reserve
 36 Bank.

37 (b) This state, or any county, city or political subdivision or agency thereof.

38 (c) Any person subject to the Railway Labor Act, as amended (45 U.S.C. 151 to 163 and 181 to
 39 188).

40 (d) Any labor organization (other than when acting as an employer), or anyone acting in the
 41 capacity of officer or agent of a labor organization.

42 (e) Any person involved in the building and construction industry.

43 (f) Any person subject to the jurisdiction of the National Labor Relations Board under its ex-
 44 isting jurisdictional standards, pursuant to the Labor Management Relations Act of 1947, as
 45 amended (29 U.S.C. 141 to 187).

1 (5) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employ-
 2 ment or concerning the association or representation of persons in negotiating, fixing, maintaining,
 3 changing or seeking to arrange terms or conditions of employment, regardless of whether the
 4 disputants stand in the proximate relation of employer and employee.

5 (6) "Labor organization" means an organization of any kind, or an agency or an employee rep-
 6 resentation committee or plan, in which employees participate and which exists for the purpose, in
 7 whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of
 8 pay, hours of employment or conditions of work.

9 (7) "Professional employee" means:

10 (a) An employee engaged in work:

11 (A) Predominantly intellectual and varied in character as opposed to routine mental, manual,
 12 mechanical or physical work;

13 (B) Involving the consistent exercise of discretion and judgment in its performance;

14 (C) Of such a character that the output produced or the result accomplished cannot be stand-
 15 ardized in relation to a given period of time;

16 (D) Requiring knowledge of an advanced type in a field of science or learning customarily ac-
 17 quired by a prolonged course of specialized intellectual instruction and study in an institution of
 18 higher learning or a hospital, as distinguished from a general academic education or from an ap-
 19 prenticeship or from training in the performance of routine mental, manual or physical processes;
 20 or

21 (b) An employee who:

22 (A) Has completed the courses of specialized intellectual instruction and study described in
 23 paragraph (a)(D) of this subsection; and

24 (B) Is performing related work under the supervision of a professional person to qualify the
 25 employee to become a professional employee as defined in paragraph (a) of this subsection.

26 (8) "Representative" includes an individual or labor organization.

27 (9) "Supervisor" means any individual, other than a licensed professional or practical nurse,
 28 having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote,
 29 discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust
 30 their grievances, or effectively to recommend such action, if in connection with the foregoing the
 31 exercise of such authority is not of a merely routine or clerical nature, but requires the use of in-
 32 dependent judgment.

33 (10) "Unfair labor practice" means any unfair labor practice listed in ORS 663.120 to 663.165.

34 **SECTION 223.** ORS 671.525 is amended to read:

35 671.525. (1) An applicant for a landscaping business license must qualify as an independent
 36 contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

37 (2) The board shall establish two classes of independent contractor registration:

38 (a) The nonexempt class is composed of the following entities:

39 (A) Sole proprietorships, partnerships, corporations and limited liability companies with one or
 40 more employees; and

41 (B) Partnerships, corporations and limited liability companies with more than two partners,
 42 corporate officers or members if any of the partners, officers or members are not part of the same
 43 family and related as parents, spouses, **reciprocal beneficiaries as defined in section 1 of this**
 44 **2007 Act**, siblings, children, grandchildren, sons-in-law or daughters-in-law.

45 (b) The exempt class is composed of all sole proprietorships, partnerships, corporations and

1 limited liability companies that do not qualify as nonexempt. All partnerships, corporations and
 2 limited liability companies must have a federal tax identification number.

3 (3) If a licensee who qualifies for registration under subsection (2)(b) of this section hires one
 4 or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section,
 5 the licensee is subject to penalties under ORS 671.997 and must reapply to the board for registration
 6 in the correct class.

7 (4) The decision of the board that a licensee is an independent contractor applies only when the
 8 licensee is performing work of the nature described in ORS 671.520 and 671.530.

9 **SECTION 224.** ORS 696.030 is amended to read:

10 696.030. (1) ORS 696.010 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785,
 11 696.990 and 696.995 do not apply to, and the term “real estate licensee” does not include:

12 (a) A nonlicensed regular full-time employee of a single owner of real estate whose real estate
 13 activity involves the real estate of the employer and:

14 (A) Is incidental to the employee’s normal, nonreal estate activities; or

15 (B) Is the employee’s principal activity, but the employer’s principal activity or business is not
 16 the sale, exchange, lease option or acquisition of real estate.

17 (b) A nonlicensed person acting as attorney in fact under a duly executed power of attorney
 18 from the owner or purchaser authorizing the supervision of the closing of or supervision of the
 19 performance of a contract for the sale, leasing or exchanging of real estate if the power of attorney
 20 was executed prior to July 1, 2002, in compliance with the requirements of law at the time of exe-
 21 cution or if:

22 (A) The power of attorney is recorded in the office of the recording officer for the county in
 23 which the real estate is located;

24 (B) The power of attorney specifically describes the real estate; and

25 (C) The person does not use the power of attorney as a device to engage in professional real
 26 estate activity without obtaining the necessary real estate license.

27 (c) A nonlicensed person acting as attorney in fact under a duly executed power of attorney in
 28 which the authorized agent is the spouse **or reciprocal beneficiary, as defined in section 1 of this**
 29 **2007 Act**, of the principal, or the child, grandchild, parent, grandparent, sibling, aunt, uncle, niece
 30 or nephew of the principal or of the spouse **or reciprocal beneficiary** of the principal, authorizing
 31 real estate activity if the power of attorney is recorded in the office of the recording officer for the
 32 county in which the real estate to be sold, leased or exchanged is located.

33 (d) An attorney at law rendering services in the performance of duties as an attorney at law.

34 (e) A person acting in the person’s official capacity as a receiver, a conservator, a trustee in
 35 bankruptcy, a personal representative or a trustee, or a regular salaried employee of the trustee,
 36 acting under a trust agreement, deed of trust or will.

37 (f) A person performing an act of professional real estate activity under order of a court.

38 (g) A nonlicensed regular full-time employee of a single nonlicensed corporation, partnership,
 39 association or individual owner of real property acting for the corporation, partnership, association
 40 or individual in the rental or management of the real property, but not in the sale, exchange, lease
 41 option or purchase of the real property.

42 (h) A registered professional engineer or architect rendering services in performance of duties
 43 as a professional engineer or architect.

44 (i) A nonlicensed individual employed by a real estate broker or principal real estate broker and
 45 acting as a manager for real estate if the real estate activity of the nonlicensed individual is limited

1 to negotiating rental or lease agreements, checking tenant and credit references, physically main-
2 taining the real estate, conducting tenant relations, collecting the rent, supervising the premises'
3 managers and discussing financial matters relating to management of the real estate with the owner.

4 (j) A person, or an employee of the person, selling or leasing cemetery lots, parcels or units
5 while engaged in the disposition of human bodies under ORS 97.010 to 97.040, 97.110 to 97.450, 97.510
6 to 97.730, 97.810 to 97.920 and 97.990.

7 (k) A salaried employee of the State of Oregon, or any of its political subdivisions, engaging in
8 professional real estate activity as a part of such employment.

9 (L) A nonlicensed person, or a regular full-time employee of the person, analyzing or advising
10 of permissible land use alternatives, environmental impact, building and use permit procedures or
11 demographic market studies. This exclusion does not apply to the handling of transactional negoti-
12 ations for transfer of an interest in real estate.

13 (m) A hotelkeeper or innkeeper as defined by ORS 699.005 arranging the rental of transient
14 lodging at a hotel or inn in the course of business as a hotelkeeper or innkeeper.

15 (n) A travel agent arranging the rental of transient lodging at a hotel or inn as defined in ORS
16 699.005 in the course of business as a travel agent for compensation. For the purpose of this para-
17 graph, "travel agent" means a person, and employees of the person, regularly representing and
18 selling travel services to the public directly or indirectly through other travel agents.

19 (o) A common carrier arranging the rental of transient lodging at a hotel or inn as defined in
20 ORS 699.005 in the course of business as a common carrier. For the purpose of this paragraph,
21 "common carrier" means a person who transports or purports to be willing to transport persons
22 from place to place by rail, motor vehicle, boat or aircraft for hire, compensation or consideration.

23 (p) A hotel representative arranging the rental of transient lodging at a hotel or inn as defined
24 in ORS 699.005 in the course of business as a hotel representative. For the purpose of this para-
25 graph, "hotel representative" means a person who provides reservations or sale services to inde-
26 pendent hotels, airlines, steamship companies and government tourist agencies.

27 (q) A nonlicensed person transferring or acquiring an interest in real estate owned or to be
28 owned by the person.

29 (r) A general partner for a domestic or foreign limited partnership duly registered and operating
30 within this state under ORS chapter 70 engaging in the sale of limited partnership interests and the
31 acquisition, sale, exchange, lease, transfer or management of the real estate of the limited partner-
32 ship.

33 (s) A membership camping contract broker or salesperson registered with the Real Estate
34 Agency selling membership camping contracts.

35 (t) A professional forester or farm manager engaging in property management activity on forest
36 or farm land when the activity is incidental to the nonreal estate duties involving overall manage-
37 ment of forest or farm resources.

38 (u) A registered investment adviser under the Investment Advisers Act of 1940, 15 U.S.C. §80b-1
39 et seq., rendering real estate investment services for the office of the State Treasurer or the Oregon
40 Investment Council.

41 (v) A nonlicensed person referring a new tenant for compensation to a real estate licensee act-
42 ing as the property manager for a residential building or facility while the person resides in the
43 building or facility or within six months after termination of the person's tenancy.

44 (w) A nonlicensed person giving an opinion in an administrative or judicial proceeding regarding
45 the value of real estate for taxation or representing a taxpayer under ORS 305.230 or 309.100.

1 (x) A nonlicensed person acting as a paid fiduciary whose real estate activity is limited to ne-
 2 gotiating or closing a transaction to obtain the services of a real estate licensee.

3 (y) A nonlicensed person acting as a fiduciary under a court order, without regard to whether
 4 the court order specifically authorizes real estate activity.

5 (z) A financial institution or trust company, as those terms are defined in ORS 706.008, acting
 6 as attorney in fact under a duly executed power of attorney from the owner or purchaser authoriz-
 7 ing real estate activity, if the power of attorney is recorded in the office of the county clerk for the
 8 county in which the real estate to be sold, leased or exchanged is located.

9 (2) The vesting of title to real estate in more than one person by tenancy by the entirety,
 10 tenancy in common or by survivorship shall be construed as that of a single owner for the purposes
 11 of this section.

12 **SECTION 225.** ORS 701.035 is amended to read:

13 701.035. (1) An applicant must qualify as an independent contractor under ORS 670.600 to be
 14 eligible for a license with the Construction Contractors Board.

15 (2) The board shall establish two classes of independent contractor licenses:

16 (a) The nonexempt class is composed of the following entities:

17 (A) Sole proprietorships, partnerships, corporations, limited liability companies with one or more
 18 employees; and

19 (B) Partnerships, corporations and limited liability companies with more than two partners,
 20 corporate officers or members, if any of the partners, corporate officers or members are not part of
 21 the same family and related as parents, spouses, **reciprocal beneficiaries as defined in section 1**
 22 **of this 2007 Act**, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchil-
 23 dren.

24 (b) The exempt class is composed of all sole proprietorships, partnerships, corporations and
 25 limited liability companies that do not qualify as nonexempt. All partnerships, corporations and
 26 limited liability companies must have an identification number issued for federal tax purposes.

27 (3) If a person who qualifies for a license under subsection (2)(b) of this section hires one or
 28 more employees or falls into any of the categories set out in subsection (2)(a)(B) of this section, the
 29 person is subject to penalties under ORS 701.992 for improper licensing. The person must reapply
 30 to the board in the correct class.

31 (4) The decision of the board that a person is an independent contractor applies only when the
 32 person is performing work of the nature described in ORS 701.055 and 701.060.

33 **SECTION 226.** ORS 702.005 is amended to read:

34 702.005. As used in ORS 702.005 to 702.065, 702.991 and 702.994:

35 (1) "Agency contract" means an agreement in which a student athlete authorizes a person to
 36 negotiate or solicit on behalf of the student athlete a professional sports services contract or an
 37 endorsement contract.

38 (2)(a) "Athlete agent" means an individual who enters into an agency contract with a student
 39 athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency con-
 40 tract. "Athlete agent" includes an individual who represents to the public that the individual is an
 41 athlete agent.

42 (b) "Athlete agent" does not include a spouse, **reciprocal beneficiary as defined in section 1**
 43 **of this 2007 Act**, parent, sibling, grandparent or legal guardian of the student athlete or an indi-
 44 vidual acting solely on behalf of a professional sports team or professional sports organization.

45 (3) "Athletic director" means an individual responsible for administering the overall athletic

1 program of an educational institution or, if an educational institution has separately administered
 2 athletic programs for male students and female students, the athletic program for males or the ath-
 3 letic program for females, as appropriate.

4 (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student
 5 athlete, to recruit or solicit the student athlete to enter into an agency contract.

6 (5) "Endorsement contract" means an agreement under which a student athlete is employed or
 7 receives consideration to use on behalf of the other party any value that the student athlete may
 8 have because of publicity, reputation, following or fame obtained because of athletic ability or per-
 9 formance.

10 (6) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility re-
 11 quirements for participation by a student athlete are established by a national association for the
 12 promotion or regulation of collegiate athletics.

13 (7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited
 14 liability company, association, joint venture, public body, as defined in ORS 174.109, or any other
 15 legal or commercial entity.

16 (8) "Professional sports services contract" means an agreement under which an individual is
 17 employed, or agrees to render services, as a player on a professional sports team, with a professional
 18 sports organization or as a professional athlete.

19 (9) "Record" means information that is inscribed on a tangible medium or that is stored in an
 20 electronic or other medium and is retrievable in perceivable form.

21 (10) "Registration" means registration as an athlete agent pursuant to ORS 702.005 to 702.065,
 22 702.991 and 702.994.

23 (11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
 24 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
 25 United States.

26 (12) "Student athlete" means an individual who engages in, is eligible to engage in or may be
 27 eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible
 28 to participate in a particular intercollegiate sport, the individual is not a student athlete for pur-
 29 poses of that sport.

30 **SECTION 227.** ORS 708A.430 is amended to read:

31 708A.430. (1) On the death of a depositor of a financial institution, if the deposit is \$25,000 or
 32 less, the financial institution may, upon receipt of an affidavit from the person claiming the deposit
 33 as provided in subsection (2) of this section, pay the moneys on deposit to the credit of the deceased
 34 depositor:

35 (a) To the surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of**
 36 **this 2007 Act;**

37 (b) If there is no surviving spouse **or surviving reciprocal beneficiary**, to the Department of
 38 Human Services, on demand of the department within 60 days from the death of the depositor where
 39 there is a preferred claim arising under ORS 411.708, 411.795 or 414.105, or if there is no claim by
 40 the department, to the surviving children 18 years of age or older;

41 (c) If the depositor left no surviving spouse, **surviving reciprocal beneficiary**, Department of
 42 Human Services claim or surviving children, to the depositor's surviving parents; or

43 (d) If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Human
 44 Services claim, surviving child or surviving parent, to the depositor's surviving brothers and sisters
 45 18 years of age or older.

- 1 (2) The affidavit shall:
- 2 (a) State where and when the depositor died;
- 3 (b) State that the total deposits of the deceased depositor in all financial institutions in Oregon
4 do not exceed \$25,000;
- 5 (c) Show the relationship of the affiant or affiants to the deceased depositor; and
- 6 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
7 the deceased out of the deposit to the full extent of the deposit if necessary, in the order of priority
8 prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who are entitled
9 to those moneys by law.
- 10 (3) In the event the decedent died intestate without known heirs, an estate administrator of the
11 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
12 moneys as escheat property.
- 13 (4) The financial institution shall determine the relationship of the affiant to the deceased
14 depositor, however payment of such moneys in good faith to the affiant or affiants shall discharge
15 and release the transferor from any liability or responsibility for the transfer in the same manner
16 and with the same effect as if the property had been transferred, delivered or paid to a personal
17 representative of the estate of the decedent.
- 18 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **sur-**
19 **living reciprocal beneficiary**, Department of Human Services claim, surviving child, surviving
20 parent, surviving brothers and sisters or an estate administrator of the Department of State Lands
21 to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed
22 in an estate where a withdrawal of deposits was made under this section, the person withdrawing
23 the deposits shall account for them to the personal representative.
- 24 (6) When a financial institution transfers moneys under subsection (1) of this section, the
25 transferor may require the transferee to furnish the transferor a written indemnity agreement,
26 indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.
- 27 (7) This section is subject to the rights of other parties in the account under ORS 708A.455 to
28 708A.515.

29 **SECTION 228.** ORS 708A.655 is amended to read:

30 708A.655. (1) This section applies to the safe deposit box of any person who is the sole lessee
31 or last surviving lessee of the box and who has died.

32 (2) Upon being furnished with a certified copy of the decedent's death certificate or other evi-
33 dence of death satisfactory to the Oregon operating institution, the Oregon operating institution
34 within which the box is located shall cause or permit the box to be opened and the contents of the
35 box examined at the request of an individual who furnishes an affidavit stating:

36 (a) That the individual believes the box may contain the will of the decedent, a trust instrument
37 creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death,
38 documents pertaining to the disposition of the remains of the decedent, documents pertaining to
39 property of the estate of the decedent or property of the estate of the decedent; and

40 (b) That the individual is an interested person as defined in this section and wishes to open the
41 box to conduct a will search or trust instrument search, obtain documents relating to the disposition
42 of the decedent's remains or inventory the contents of the box.

43 (3) For the purpose of this section, "interested person" means any of the following:

44 (a) A person named as personal representative of the decedent in a purported will of the
45 decedent;

1 (b) The surviving spouse, **the surviving reciprocal beneficiary as defined in section 1 of this**
2 **2007 Act** or any heir of the decedent;

3 (c) A person who was serving as the court-appointed guardian or conservator of the decedent
4 or as trustee for the decedent immediately prior to the decedent's death;

5 (d) A person named as successor trustee in a purported trust instrument creating a trust of
6 which the decedent was a trustor or a trustee at the time of the decedent's death;

7 (e) A person designated by the decedent in a writing that is acceptable to the Oregon operating
8 institution and is filed with it prior to the decedent's death;

9 (f) A person who immediately prior to the death of the decedent had the right of access to the
10 box as an agent of the decedent under a durable power of attorney; or

11 (g) If there are no heirs of the decedent, an estate administrator of the Department of State
12 Lands appointed under ORS 113.235.

13 (4) If the box is opened for the purpose of conducting a will search, the Oregon operating in-
14 stitution shall remove any document that appears to be a will, make a true and correct copy of it
15 and deliver the original will to a person designated in the will to serve as the decedent's personal
16 representative, or if no such person is designated or the Oregon operating institution cannot, despite
17 reasonable efforts, determine the whereabouts of such person, the Oregon operating institution shall
18 retain the will or deliver it to a court having jurisdiction of the estate of the decedent. A copy of
19 the will shall be retained in the box. At the request of the interested person, a copy of the will,
20 together with copies of any documents pertaining to the disposition of the remains of the decedent,
21 may be given to the interested person.

22 (5) If the box is opened for the purpose of conducting a trust instrument search, the Oregon
23 operating institution shall remove any document that appears to be a trust instrument creating a
24 trust of which the decedent was a trustor or trustee at the time of the decedent's death, make a true
25 and correct copy of it and deliver the original trust instrument to a person designated in the trust
26 instrument to serve as the successor trustee on the death of the decedent. If no such person is
27 designated or the Oregon operating institution cannot, despite reasonable efforts, determine the
28 whereabouts of such person, the Oregon operating institution shall retain the trust instrument. A
29 copy of the trust instrument shall be retained in the box. At the request of any interested person,
30 a copy of the trust instrument may be given to the interested person.

31 (6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of
32 the decedent's remains, the Oregon operating institution shall comply with subsection (4) of this
33 section with respect to any will of the decedent found in the box, and may in its discretion either:

34 (a) Make and retain in the box a copy of any documents pertaining to the disposition of the
35 remains of the decedent and tender the original documents to the interested person; or

36 (b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent
37 to the interested person and retain the original documents in the box.

38 (7) If the box is opened for the purpose of making an inventory of its contents, the Oregon op-
39 erating institution shall comply with subsection (4) or (5) of this section with respect to any will or
40 trust instrument of the decedent that is found in the box, and shall cause the inventory to be made.
41 The inventory shall be attested to by a representative of the Oregon operating institution and may
42 be attested to by the interested person, if the interested person is present when the inventory is
43 made. The Oregon operating institution shall retain the original inventory in the box, and shall
44 furnish a copy of the inventory to the interested person upon request.

45 (8) The Oregon operating institution may presume the truth of any statement contained in the

1 affidavit required to be furnished under this section, and when acting in reliance upon such an af-
2 fidavit, the Oregon operating institution is discharged as if it had dealt with the personal represen-
3 tative of the decedent. The Oregon operating institution is not responsible for the adequacy of the
4 description of any property included in an inventory of the contents of a box, or for the conversion
5 of the property in connection with actions performed under this section, except for conversion by
6 intentional acts of the Oregon operating institution or its employees, directors, officers or agents.
7 If the Oregon operating institution is not satisfied that the requirements of this section have been
8 satisfied, the Oregon operating institution may decline to open the box.

9 (9) If the interested person does not furnish the key needed to open the box, and the Oregon
10 operating institution must incur expense in gaining entry to the box, the Oregon operating institu-
11 tion may require that the interested person pay the expense of opening the box.

12 (10) Any examination of the contents of a box under this section shall be conducted in the
13 presence of at least one employee of the Oregon operating institution.

14 **SECTION 229.** ORS 722.262 is amended to read:

15 722.262. (1) On the death of an account holder or a holder of a demand deposit account, if the
16 savings liability of an association or federal association on all savings accounts of the deceased, and
17 the amounts held in all demand deposit accounts of the deceased, is \$25,000 or less, the association
18 or federal association may, upon receipt of an affidavit from the person claiming the account, pay
19 the withdrawal value of the accounts of the deceased holder:

20 (a) To the surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of**
21 **this 2007 Act;**

22 (b) If there is no surviving spouse **or surviving reciprocal beneficiary**, to the surviving chil-
23 dren 18 years of age or older;

24 (c) If there is no surviving spouse, **surviving reciprocal beneficiary** or surviving children 18
25 years of age or older, to the surviving parents; or

26 (d) If there is no surviving spouse, **surviving reciprocal beneficiary**, surviving child 18 years
27 of age or older or surviving parent, to the surviving brothers and sisters 18 years of age or older.

28 (2) If the deceased account holder or holder of a demand deposit account received public as-
29 sistance pursuant to ORS chapter 411 or 414, the Department of Human Services may claim such
30 withdrawal value by filing an affidavit in the form prescribed by subsection (3) of this section and
31 the Department of Human Services shall be preferred to all other claimants except a surviving
32 spouse **or surviving reciprocal beneficiary**.

33 (3) The affidavit of the person or the Department of Human Services claiming the account shall:

34 (a) State where and when the account holder or holder of a demand deposit account died;

35 (b) State that the total withdrawal value of all savings and demand deposit accounts of the de-
36 ceased holder in all associations in Oregon, including federal associations, does not exceed \$25,000;

37 (c) Show the relationship of the affiant or affiants to the deceased holder; and

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

42 (4) In the event the decedent died intestate without known heirs, an estate administrator of the
43 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
44 withdrawal value of the accounts as escheat property.

45 (5) A savings association or federal association is under no obligation to determine the re-

1 lationship of the affiant to the deceased. Payment made in good faith to the person or the Depart-
 2 ment of Human Services or an estate administrator of the Department of State Lands making the
 3 affidavit is a full acquittance and release of the association or federal association for the amount
 4 so paid.

5 (6) A probate proceeding is not necessary to establish the right of the surviving spouse, **sur-**
 6 **viving reciprocal beneficiary**, surviving children, surviving parent or surviving brothers and sisters
 7 to withdraw an account as provided by this section. However, if a personal representative is ap-
 8 pointed in an estate of a deceased person whose account has been withdrawn under this section, the
 9 person or the Department of Human Services withdrawing the account shall account for it to the
 10 personal representative.

11 **SECTION 230.** ORS 722.660 is amended to read:

12 722.660. (1) This section applies to the safe deposit box of any person who is the sole lessee or
 13 last surviving lessee of the box and who has died.

14 (2) Upon being furnished with a certified copy of the decedent's death certificate or other evi-
 15 dence of death satisfactory to the savings association, the savings association within which the box
 16 is located shall cause or permit the box to be opened and the contents of the box examined at the
 17 request of an individual who furnishes an affidavit stating:

18 (a) That the individual believes the box may contain the will of the decedent, a trust instrument
 19 creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death,
 20 documents pertaining to the disposition of the remains of the decedent, documents pertaining to
 21 property of the estate of the decedent or property of the estate of the decedent; and

22 (b) That the individual is an interested person as defined in this section and wishes to open the
 23 box to conduct a will search or trust instrument search, obtain documents relating to the disposition
 24 of the decedent's remains or inventory the contents of the box.

25 (3) For the purpose of this section, "interested person" means any of the following:

26 (a) A person named as personal representative of the decedent in a purported will of the
 27 decedent;

28 (b) The surviving spouse, **the surviving reciprocal beneficiary as defined in section 1 of this**
 29 **2007 Act** or any heir of the decedent;

30 (c) A person who was serving as the court-appointed guardian or conservator of the decedent
 31 or as trustee for the decedent immediately prior to the decedent's death;

32 (d) A person named as successor trustee in a purported trust instrument creating a trust of
 33 which the decedent was a trustor or a trustee at the time of the decedent's death;

34 (e) A person designated by the decedent in a writing that is acceptable to the savings associ-
 35 ation and is filed with it prior to the decedent's death;

36 (f) A person who immediately prior to the death of the decedent had the right of access to the
 37 box as an agent of the decedent under a durable power of attorney; or

38 (g) If there are no heirs of the decedent, an estate administrator of the Department of State
 39 Lands appointed under ORS 113.235.

40 (4) If the box is opened for the purpose of conducting a will search, the savings association shall
 41 remove any document that appears to be a will, make a true and correct copy of it and deliver the
 42 original will to a person designated in the will to serve as the decedent's personal representative,
 43 or if no such person is designated or the savings association cannot, despite reasonable efforts, de-
 44 termine the whereabouts of such person, the savings association shall retain the will or deliver it
 45 to a court having jurisdiction of the estate of the decedent. A copy of the will shall be retained in

1 the box. At the request of the interested person, a copy of the will, together with copies of any
 2 documents pertaining to the disposition of the remains of the decedent, may be given to the inter-
 3 ested person.

4 (5) If the box is opened for the purpose of conducting a trust instrument search, the savings
 5 association shall remove any document that appears to be a trust instrument creating a trust of
 6 which the decedent was a trustor or trustee at the time of the decedent's death, make a true and
 7 correct copy of it and deliver the original trust instrument to a person designated in the trust in-
 8 strument to serve as the successor trustee on the death of the decedent. If no such person is des-
 9 ignated or the savings association cannot, despite reasonable efforts, determine the whereabouts of
 10 such person, the savings association shall retain the trust instrument. A copy of the trust instrument
 11 shall be retained in the box. At the request of any interested person, a copy of the trust instrument
 12 may be given to the interested person.

13 (6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of
 14 the decedent's remains, the savings association shall comply with subsection (4) of this section with
 15 respect to any will of the decedent found in the box, and may in its discretion either:

16 (a) Make and retain in the box a copy of any documents pertaining to the disposition of the
 17 remains of the decedent and tender the original documents to the interested person; or

18 (b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent
 19 to the interested person and retain the original documents in the box.

20 (7) If the box is opened for the purpose of making an inventory of its contents, the savings as-
 21 sociation shall comply with subsection (4) or (5) of this section with respect to any will or trust in-
 22 strument of the decedent that is found in the box, and shall cause the inventory to be made. The
 23 inventory shall be attested to by a representative of the savings association and may be attested to
 24 by the interested person, if the interested person is present when the inventory is made. The savings
 25 association shall retain the original inventory in the box, and shall furnish a copy of the inventory
 26 to the interested person upon request.

27 (8) The savings association may presume the truth of any statement contained in the affidavit
 28 required to be furnished under this section, and when acting in reliance upon such an affidavit, the
 29 savings association is discharged as if it had dealt with the personal representative of the decedent.
 30 The savings association is not responsible for the adequacy of the description of any property in-
 31 cluded in an inventory of the contents of a box, or for the conversion of the property in connection
 32 with actions performed under this section, except for conversion by intentional acts of the savings
 33 association or its employees, directors, officers or agents. If the savings association is not satisfied
 34 that the requirements of this section have been satisfied, the savings association may decline to
 35 open the box.

36 (9) If the interested person does not furnish the key needed to open the box, and the savings
 37 association must incur expense in gaining entry to the box, the savings association may require that
 38 the interested person pay the expense of opening the box.

39 (10) Any examination of the contents of a box under this section shall be conducted in the
 40 presence of at least one employee of the savings association.

41 **SECTION 231.** ORS 723.466 is amended to read:

42 723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the de-
 43 ceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from the person
 44 claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit:

45 (a) To the surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of**

1 **this 2007 Act;**

2 (b) If there is no surviving spouse **or surviving reciprocal beneficiary**, to the Department of
 3 Human Services, on demand of the Department of Human Services within 60 days from the death
 4 of the member when there is a preferred claim arising under ORS 411.708, 411.795 or 414.105, or if
 5 there is no claim by the Department of Human Services, to the surviving children 18 years of age
 6 or older;

7 (c) If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Human
 8 Services claim or surviving children, to the member's surviving parents; or

9 (d) If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Human
 10 Services claim, surviving children or surviving parents, to the member's surviving brothers and sis-
 11 ters 18 years of age or older.

12 (2) The affidavit shall:

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

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

16 (c) Show the relationship of the affiant or affiants to the deceased member; and

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

21 (3) In the event the decedent died intestate without known heirs, an estate administrator of the
 22 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
 23 moneys as escheat property.

24 (4) The credit union shall determine the relationship of the affiant to the deceased member.
 25 However, payment of such moneys in good faith to the affiant or affiants shall discharge and release
 26 the transferor from any liability or responsibility for the transfer in the same manner and with the
 27 same effect as if the property had been transferred, delivered or paid to a personal representative
 28 of the estate of the decedent.

29 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **sur-**
 30 **viving reciprocal beneficiary**, Department of Human Services claim, surviving children, surviving
 31 parents, surviving brothers and sisters or an estate administrator of the Department of State Lands
 32 to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed
 33 in an estate where a withdrawal of deposits was made under this section, the person withdrawing
 34 the deposits shall account for them to the personal representative.

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

38 (7) This section is subject to the rights of other parties to the account under ORS 723.474 to
 39 723.498.

40 **SECTION 232.** ORS 723.532 is amended to read:

41 723.532. (1) For the purposes of this section, "management team" means any individual who
 42 holds a position of vice president or higher or who has policymaking authority.

43 (2) A credit union may make loans to its individual directors, members of its management team,
 44 credit managers and members of its supervisory and credit committees, provided that:

45 (a) The loan complies with all lawful requirements under this chapter with respect to loans to

1 other borrowers and is not on terms more favorable than those extended to other borrowers;

2 (b) The combined aggregate amount of loans to any one such individual that exceeds five per-
 3 cent of the credit union's equity or \$25,000, whichever is less, has been approved by the credit un-
 4 ion's board of directors; and

5 (c) The combined aggregate amount of such loans to all such individuals may not exceed 10
 6 percent of the credit union's assets.

7 (3) Except when approved by the board of directors of the credit union, no director, officer or
 8 committee member shall be permitted to become surety or guarantor for any loan or advance made
 9 by the credit union except for the spouse, **reciprocal beneficiary as defined in section 1 of this**
 10 **2007 Act** or children of the director, officer or committee member.

11 (4) The Director of the Department of Consumer and Business Services may waive the require-
 12 ments of this section by rule or order upon request of a credit union. The director may establish
 13 by rule a higher amount than set in subsection (2)(b) of this section and the type of loans to direc-
 14 tors, officers or committee members that must be approved by the board of directors of the credit
 15 union.

16 **SECTION 233.** ORS 723.844 is amended to read:

17 723.844. (1) This section applies to the safe deposit box of any person who is the sole lessee or
 18 last surviving lessee of the box and who has died.

19 (2) Upon being furnished with a certified copy of the decedent's death certificate or other evi-
 20 dence of death satisfactory to the credit union, the credit union within which the box is located
 21 shall cause or permit the box to be opened and the contents of the box examined at the request of
 22 an individual who furnishes an affidavit stating:

23 (a) That the individual believes the box may contain the will of the decedent, a trust instrument
 24 creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death,
 25 documents pertaining to the disposition of the remains of the decedent, documents pertaining to
 26 property of the estate of the decedent or property of the estate of the decedent; and

27 (b) That the individual is an interested person as defined in this section and wishes to open the
 28 box to conduct a will search or trust instrument search, obtain documents relating to the disposition
 29 of the decedent's remains or inventory the contents of the box.

30 (3) For the purpose of this section, "interested person" means any of the following:

31 (a) A person named as personal representative of the decedent in a purported will of the
 32 decedent;

33 (b) The surviving spouse, **the surviving reciprocal beneficiary as defined in section 1 of this**
 34 **2007 Act** or any heir of the decedent;

35 (c) A person who was serving as the court-appointed guardian or conservator of the decedent
 36 or as trustee for the decedent immediately prior to the decedent's death;

37 (d) A person named as successor trustee in a purported trust instrument creating a trust of
 38 which the decedent was a trustor or a trustee at the time of the decedent's death;

39 (e) A person designated by the decedent in a writing that is acceptable to the credit union and
 40 is filed with it prior to the decedent's death;

41 (f) A person who immediately prior to the death of the decedent had the right of access to the
 42 box as an agent of the decedent under a durable power of attorney; or

43 (g) If there are no heirs of the decedent, an estate administrator of the Department of State
 44 Lands appointed under ORS 113.235.

45 (4) If the box is opened for the purpose of conducting a will search, the credit union shall re-

1 move any document that appears to be a will, make a true and correct copy of it and deliver the
2 original will to a person designated in the will to serve as the decedent's personal representative,
3 or if no such person is designated or the credit union cannot, despite reasonable efforts, determine
4 the whereabouts of such person, the credit union shall retain the will or deliver it to a court having
5 jurisdiction of the estate of the decedent. A copy of the will shall be retained in the box. At the
6 request of the interested person, a copy of the will, together with copies of any documents pertain-
7 ing to the disposition of the remains of the decedent, may be given to the interested person.

8 (5) If the box is opened for the purpose of conducting a trust instrument search, the credit union
9 shall remove any document that appears to be a trust instrument creating a trust of which the
10 decedent was a trustor or trustee at the time of the decedent's death, make a true and correct copy
11 of it and deliver the original trust instrument to a person designated in the trust instrument to serve
12 as the successor trustee on the death of the decedent. If no such person is designated or the credit
13 union cannot, despite reasonable efforts, determine the whereabouts of such person, the credit union
14 shall retain the trust instrument. A copy of the trust instrument shall be retained in the box. At the
15 request of any interested person, a copy of the trust instrument may be given to the interested
16 person.

17 (6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of
18 the decedent's remains, the credit union shall comply with subsection (4) of this section with respect
19 to any will of the decedent found in the box, and may in its discretion either:

20 (a) Make and retain in the box a copy of any documents pertaining to the disposition of the
21 remains of the decedent and tender the original documents to the interested person; or

22 (b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent
23 to the interested person and retain the original documents in the box.

24 (7) If the box is opened for the purpose of making an inventory of its contents, the credit union
25 shall comply with subsection (4) or (5) of this section with respect to any will or trust instrument
26 of the decedent that is found in the box, and shall cause the inventory to be made. The inventory
27 shall be attested to by a representative of the credit union and may be attested to by the interested
28 person, if the interested person is present when the inventory is made. The credit union shall retain
29 the original inventory in the box, and shall furnish a copy of the inventory to the interested person
30 upon request.

31 (8) The credit union may presume the truth of any statement contained in the affidavit required
32 to be furnished under this section, and when acting in reliance upon such an affidavit, the credit
33 union is discharged as if it had dealt with the personal representative of the decedent. The credit
34 union is not responsible for the adequacy of the description of any property included in an inventory
35 of the contents of a box, or for the conversion of the property in connection with actions performed
36 under this section, except for conversion by intentional acts of the credit union or its employees,
37 directors, officers or agents. If the credit union is not satisfied that the requirements of this section
38 have been satisfied, the credit union may decline to open the box.

39 (9) If the interested person does not furnish the key needed to open the box, and the credit union
40 must incur expense in gaining entry to the box, the credit union may require that the interested
41 person pay the expense of opening the box.

42 (10) Any examination of the contents of a box under this section shall be conducted in the
43 presence of at least one employee of the credit union.

44 **SECTION 234.** ORS 726.990 is amended to read:

45 726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any

1 pawnbroker or any agent, member, officer or employee thereof, or any other person is punishable,
 2 upon conviction, by a fine of not less than \$100 nor more than \$500 or by imprisonment in the
 3 county jail for not less than one month and not more than six months, or both.

4 (2) Upon conviction under subsection (1) of this section, no license shall be granted to such
 5 person, nor to the husband or wife **or reciprocal beneficiary, as defined in section 1 of this 2007**
 6 **Act**, of such person, nor to any partnership, association or corporation of which the person is an
 7 agent or member, until two years after the date of the conviction.

8 **SECTION 235.** ORS 732.325 is amended to read:

9 732.325. (1) Except as set forth in a statement of acquisition described in ORS 732.523 and, in
 10 the case of the issuance or sale of the insurer's securities, as approved by a majority of the board
 11 of directors having no interest therein except as shareholders or directors or failing such majority
 12 by the shareholders, a director, trustee, officer, agent or employee, or spouse, **reciprocal benefi-**
 13 **ciary as defined in section 1 of this 2007 Act** or relative thereof, shall not receive any fee, com-
 14 mission, compensation or other valuable consideration whatsoever, directly or indirectly, for aiding,
 15 promoting or assisting:

16 (a) The planning, preparing or executing of an activity described in ORS 732.521 (1); or

17 (b) The planning, preparing or executing of any plan for the issuance, sale or acquisition of
 18 shares or other securities of the insurer for any purpose.

19 (2) Except as provided in subsections (4) and (5) of this section, a director, trustee or officer of
 20 an insurer shall not:

21 (a) Accept any money or thing of value for negotiating, procuring, recommending or aiding in:

22 (A) The purchase or sale of property by the insurer; or

23 (B) The making of a loan to or from the insurer.

24 (b) Have a pecuniary interest, whether as principal, agent or beneficiary, in a purchase, sale or
 25 loan under paragraph (a) of this subsection.

26 (3) Except as provided in subsections (4) and (5) of this section, an insurer shall not do any of
 27 the following:

28 (a) Pay any money or thing of value to a director, trustee or officer of the insurer for negoti-
 29 ating, procuring, recommending or aiding in:

30 (A) The purchase or sale of property by the insurer; or

31 (B) The making of a loan to or from the insurer.

32 (b) Make a loan to a director, trustee or officer of the insurer.

33 (c) Make any advances to a director, trustee or officer of the insurer for future services to be
 34 performed.

35 (d) Guarantee any financial obligations of a director, trustee or officer of the insurer. The pro-
 36 hibition under this paragraph does not apply to any guarantee of payments to be made upon death
 37 of a person insured under a credit life insurance policy.

38 (4) An insurer may contract, or otherwise enter into a transaction, for the provision of goods
 39 or services to the insurer in the normal course of business with a director, trustee or officer, or a
 40 partnership or corporation in which a director, trustee or officer has, directly or indirectly, a pro-
 41 prietary interest in excess of five percent, if the interest of the director, trustee or officer is fully
 42 disclosed to the board of directors of the insurer and the board thereafter approves and authorizes
 43 the contract or transaction by a vote sufficient for the purpose without counting the vote of the
 44 interested person.

45 (5) The prohibitions set forth in this section shall not apply to or affect:

1 (a) The payment to any director, officer or trustee of reasonable compensation, whether based
2 in whole or in part upon commission or otherwise;

3 (b) The payment of a fee to any approved person for legal or other specialized or professional
4 services rendered to the insurer and approved by the board of directors;

5 (c) The making of loans or advances to agents or other employees of an insurer as required or
6 as is expedient in the conduct of its business;

7 (d) The exercising of any rights under any policy of insurance;

8 (e) The issuance of a debt obligation by an insurer to a director, officer or trustee of the insurer;
9 and

10 (f) The advance of expenses to a director, officer or trustee for travel or other related business
11 activities of the insurer.

12 **SECTION 236.** ORS 735.615 is amended to read:

13 735.615. (1) Except as provided in subsection (3) of this section, a person who is a resident of
14 this state, as defined by the Oregon Medical Insurance Pool Board, is eligible for medical pool
15 coverage if:

16 (a) An insurer, or an insurance company with a certificate of authority in any other state, has
17 made within a time frame established by the board an adverse underwriting decision, as defined in
18 ORS 746.600 (1)(a)(A), (B), (D), (E) or (F), on individual medical insurance for health reasons while
19 the person was a resident;

20 (b) The person has a history of any medical or health conditions on the list adopted by the board
21 under subsection (2) of this section;

22 (c) The person is a spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**
23 or dependent of a person described in paragraph (a) or (b) of this subsection; or

24 (d) The person is eligible for the credit for health insurance costs under section 35 of the federal
25 Internal Revenue Code, as amended and in effect on December 31, 2004.

26 (2) The board may adopt a list of medical or health conditions for which a person is eligible for
27 pool coverage without applying for individual medical insurance pursuant to this section.

28 (3) A person is not eligible for coverage under ORS 735.600 to 735.650 if:

29 (a) Except as provided in ORS 735.625 (3)(c), the person is eligible to receive health services as
30 defined in ORS 414.705 that meet or exceed those adopted by the board or is eligible for Medicare;

31 (b) The person has terminated coverage in the pool within the last 12 months and the termi-
32 nation was for:

33 (A) A reason other than becoming eligible to receive health services as defined in ORS 414.705;
34 or

35 (B) A reason that does not meet exception criteria established by the board;

36 (c) The person has exceeded the maximum lifetime benefit established by the board;

37 (d) The person is an inmate of or a patient in a public institution named in ORS 179.321;

38 (e) The person has, on the date of issue of coverage by the board, coverage under health insur-
39 ance or a self-insurance arrangement that is substantially equivalent to coverage under ORS 735.625;
40 or

41 (f) The person has the premiums paid or reimbursed by a public entity or a health care provider
42 for the sole purpose of reducing the financial loss or obligation of the payer.

43 (4) A person applying for coverage shall establish initial eligibility by providing evidence that
44 the board requires.

45 (5)(a) Notwithstanding ORS 735.625 (4)(c) and subsection (3)(a) of this section, if a person be-

1 comes eligible for Medicare after being enrolled in the pool for a period of time as determined by
2 the board by rule, that person may continue coverage within the pool as secondary coverage to
3 Medicare.

4 (b) The board may adopt rules concerning the terms and conditions for the coverage provided
5 under paragraph (a) of this subsection.

6 (6) The board may adopt rules to establish additional eligibility requirements for a person de-
7 scribed in subsection (1)(d) of this section.

8 **SECTION 237.** ORS 735.615, as amended by section 3, chapter 305, Oregon Laws 2005, is
9 amended to read:

10 735.615. (1) Except as provided in subsection (3) of this section, a person who is a resident of
11 this state, as defined by the Oregon Medical Insurance Pool Board, is eligible for medical pool
12 coverage if:

13 (a) An insurer, or an insurance company with a certificate of authority in any other state, has
14 made within a time frame established by the board an adverse underwriting decision, as defined in
15 ORS 746.600 (1)(a)(A), (B) or (D), on individual medical insurance for health reasons while the person
16 was a resident;

17 (b) The person has a history of any medical or health conditions on the list adopted by the board
18 under subsection (2) of this section;

19 (c) The person is a spouse, **reciprocal beneficiary as defined in section 1 of this 2007 Act**
20 or dependent of a person described in paragraph (a) or (b) of this subsection; or

21 (d) The person is eligible for the credit for health insurance costs under section 35 of the federal
22 Internal Revenue Code, as amended and in effect on December 31, 2004.

23 (2) The board may adopt a list of medical or health conditions for which a person is eligible for
24 pool coverage without applying for individual medical insurance pursuant to this section.

25 (3) A person is not eligible for coverage under ORS 735.600 to 735.650 if:

26 (a) Except as provided in ORS 735.625 (3)(c), the person is eligible to receive health services as
27 defined in ORS 414.705 that meet or exceed those adopted by the board or is eligible for Medicare;

28 (b) The person has terminated coverage in the pool within the last 12 months and the termi-
29 nation was for:

30 (A) A reason other than becoming eligible to receive health services as defined in ORS 414.705;
31 or

32 (B) A reason that does not meet exception criteria established by the board;

33 (c) The person has exceeded the maximum lifetime benefit established by the board;

34 (d) The person is an inmate of or a patient in a public institution named in ORS 179.321;

35 (e) The person has, on the date of issue of coverage by the board, coverage under health insur-
36 ance or a self-insurance arrangement that is substantially equivalent to coverage under ORS 735.625;

37 or

38 (f) The person has the premiums paid or reimbursed by a public entity or a health care provider
39 for the sole purpose of reducing the financial loss or obligation of the payer.

40 (4) A person applying for coverage shall establish initial eligibility by providing evidence that
41 the board requires.

42 (5)(a) Notwithstanding ORS 735.625 (4)(c) and subsection (3)(a) of this section, if a person be-
43 comes eligible for Medicare after being enrolled in the pool for a period of time as determined by
44 the board by rule, that person may continue coverage within the pool as secondary coverage to
45 Medicare.

1 (b) The board may adopt rules concerning the terms and conditions for the coverage provided
 2 under paragraph (a) of this subsection.

3 (6) The board may adopt rules to establish additional eligibility requirements for a person de-
 4 scribed in subsection (1)(d) of this section.

5 **SECTION 238.** ORS 735.700 is amended to read:

6 735.700. As used in ORS 735.700 to 735.714, unless the context requires otherwise:

7 (1) "Carrier" means an insurance company or health care service contractor holding a valid
 8 certificate of authority from the Director of the Department of Consumer and Business Services, or
 9 two or more companies or contractors acting together pursuant to a joint venture, partnership or
 10 other joint means of operation.

11 (2) "Eligible employee" means an employee of an employer who is employed by the employer for
 12 an average of at least 17.5 hours per week who elects to participate in one of the group benefit
 13 plans provided through action of the Office of Private Health Partnerships, and sole proprietors,
 14 business partners, and limited partners. The term does not include individuals:

15 (a) Engaged as independent contractors.

16 (b) Whose periods of employment are on an intermittent or irregular basis.

17 (c) Who have been employed by the employer for a period of time established by the employer
 18 or for fewer than 90 days, whichever is less.

19 (3) "Family member" means an eligible employee's spouse[,] **or reciprocal beneficiary as de-**
 20 **defined in section 1 of this 2007 Act,** any unmarried child or stepchild within age limits and other
 21 conditions imposed by the office with regard to unmarried children or stepchildren, or any other
 22 dependents eligible under the terms of the health benefit plan selected by the employee's employer.

23 (4) "Health benefit plan" means a contract for group medical, surgical, hospital or any other
 24 remedial care recognized by state law and related services and supplies.

25 (5) "Premium" means the monthly or other periodic charge for a health benefit plan.

26 (6) "Small employer" means a person, firm, corporation, partnership or association actively en-
 27 gaged in business that, on at least 50 percent of its working days during the preceding year, em-
 28 ployed no more than 50 eligible employees and no fewer than two eligible employees, the majority
 29 of whom are employed within this state, and in which a bona fide partnership or employer-employee
 30 relationship exists. "Small employer" includes corporations that are eligible to file a consolidated
 31 tax return pursuant to ORS 317.715.

32 **SECTION 239.** ORS 735.720 is amended to read:

33 735.720. For purposes of ORS 735.720 to 735.740:

34 (1) "Carrier" has the meaning given that term in ORS 735.700.

35 (2) "Eligible individual" means an individual who:

36 (a) Is a resident of the State of Oregon;

37 (b) Is not eligible for Medicare;

38 (c) Either has been without health benefit plan coverage for a period of time established by the
 39 Office of Private Health Partnerships, or meets exception criteria established by the office;

40 (d) Except as otherwise provided by the office, has family income less than 200 percent of the
 41 federal poverty level;

42 (e) Has investments and savings less than the limit established by the office; and

43 (f) Meets other eligibility criteria established by the office.

44 (3)(a) "Family" means:

45 (A) A single individual;

1 (B) An adult and the adult's spouse **or reciprocal beneficiary, as defined in section 1 of this**
2 **2007 Act;**

3 (C) An adult and the adult's spouse **or reciprocal beneficiary**, all unmarried, dependent chil-
4 dren under 23 years of age, including adopted children, children placed for adoption and children
5 under the legal guardianship of the adult or the adult's spouse **or reciprocal beneficiary**, and all
6 dependent children of a dependent child; or

7 (D) An adult and the adult's unmarried, dependent children under 23 years of age, including
8 adopted children, children placed for adoption and children under the legal guardianship of the
9 adult, and all dependent children of a dependent child.

10 (b) A family includes a dependent elderly relative or a dependent adult disabled child who meets
11 the criteria established by the office and who lives in the home of the adult described in paragraph
12 (a) of this subsection.

13 (4)(a) "Health benefit plan" means a policy or certificate of group or individual health insurance,
14 as defined in ORS 731.162, providing payment or reimbursement for hospital, medical and surgical
15 expenses. "Health benefit plan" includes a health care service contractor or health maintenance
16 organization subscriber contract, the Oregon Medical Insurance Pool and any plan provided by a
17 less than fully insured multiple employer welfare arrangement or by another benefit arrangement
18 defined in the federal Employee Retirement Income Security Act of 1974, as amended.

19 (b) "Health benefit plan" does not include coverage for accident only, specific disease or condi-
20 tion only, credit, disability income, coverage of Medicare services pursuant to contracts with the
21 federal government, Medicare supplement insurance, student accident and health insurance, long
22 term care insurance, hospital indemnity only, dental only, vision only, coverage issued as a supple-
23 ment to liability insurance, insurance arising out of a workers' compensation or similar law, auto-
24 mobile medical payment insurance, insurance under which the benefits are payable with or without
25 regard to fault and that is legally required to be contained in any liability insurance policy or
26 equivalent self-insurance or coverage obtained or provided in another state but not available in
27 Oregon.

28 (5) "Income" means gross income in cash or kind available to the applicant or the applicant's
29 family. Income does not include earned income of the applicant's children or income earned by a
30 spouse **or reciprocal beneficiary** if there is a legal separation **or termination of the reciprocal**
31 **beneficiary agreement.**

32 (6) "Investment and savings" means cash, securities as defined in ORS 59.015, negotiable in-
33 struments as defined in ORS 73.0104 and such similar investments or savings as the office may es-
34 tablish that are available to the applicant or the applicant's family to contribute toward meeting the
35 needs of an applicant or eligible individual.

36 (7) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902
37 of the Social Security Act).

38 (8) "Resident" means an individual who meets the residency requirements established by rule
39 by the office.

40 (9) "Subsidy" means payment or reimbursement to an eligible individual toward the purchase
41 of a health benefit plan, and may include a net billing arrangement with carriers or a prospective
42 or retrospective payment for health benefit plan premiums and eligible copayments or deductible
43 expenses directly related to the eligible individual.

44 (10) "Third-party administrator" means any insurance company or other entity licensed under
45 the Insurance Code to administer health insurance benefit programs.

1 **SECTION 240.** ORS 742.504 is amended to read:

2 742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide
 3 uninsured motorist coverage that in each instance is no less favorable in any respect to the insured
 4 or the beneficiary than if the following provisions were set forth in the policy. However, nothing
 5 contained in this section requires the insurer to reproduce in the policy the particular language of
 6 any of the following provisions:

7 (1)(a) The insurer will pay all sums that the insured, the heirs or the legal representative of the
 8 insured is legally entitled to recover as general and special damages from the owner or operator
 9 of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and
 10 arising out of the ownership, maintenance or use of the uninsured vehicle. Determination as to
 11 whether the insured, the insured's heirs or the insured's legal representative is legally entitled to
 12 recover such damages, and if so, the amount thereof, shall be made by agreement between the in-
 13 sured and the insurer, or, in the event of disagreement, may be determined by arbitration as pro-
 14 vided in subsection (10) of this section.

15 (b) No judgment against any person or organization alleged to be legally responsible for bodily
 16 injury, except for proceedings instituted against the insurer as provided in this policy, shall be
 17 conclusive, as between the insured and the insurer, on the issues of liability of the person or or-
 18 ganization or of the amount of damages to which the insured is legally entitled.

19 (2) As used in this policy:

20 (a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

21 (b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of
 22 physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the
 23 time of the accident, provided:

24 (A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascer-
 25 tained;

26 (B) The insured or someone on behalf of the insured reported the accident within 72 hours to
 27 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
 28 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
 29 a statement under oath that the insured or the legal representative of the insured has a cause or
 30 causes of action arising out of the accident for damages against a person or persons whose identities
 31 are unascertainable, and setting forth the facts in support thereof; and

32 (C) At the insurer's request, the insured or the legal representative of the insured makes avail-
 33 able for inspection the vehicle the insured was occupying at the time of the accident.

34 (c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

35 (A) The named insured as stated in the policy and any person designated as named insured in
 36 the schedule and, while residents of the same household, the spouse **or reciprocal beneficiary, as**
 37 **defined in section 1 of this 2007 Act**, of any named insured and relatives of either, provided that
 38 *[neither the]* **the** relative, **reciprocal beneficiary or** *[nor the]* spouse is **not** the owner of a vehicle
 39 not described in the policy and that, if the named insured as stated in the policy is other than an
 40 individual, **or reciprocal beneficiaries** or husband and wife who are residents of the same house-
 41 hold, the named insured shall be only a person so designated in the schedule;

42 (B) Any child residing in the household of the named insured if the insured has performed the
 43 duties of a parent to the child by rearing the child as the insured's own although the child is not
 44 related to the insured by blood, marriage or adoption; and

45 (C) Any other person while occupying an insured vehicle, provided the actual use thereof is with

1 the permission of the named insured.

2 (d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

3 (A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of
4 those terms is defined in the public liability coverage of the policy, insured under the public liability
5 provisions of the policy; or

6 (B) A nonowned vehicle operated by the named insured or spouse **or reciprocal beneficiary**
7 **of the named insured** if a resident of the same household, provided that the actual use thereof is
8 with the permission of the owner of the vehicle and the vehicle is not owned by nor furnished for
9 the regular or frequent use of the insured or any member of the same household.

10 (e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described ve-
11 hicle in the policy.

12 (f) "Occupying" means in or upon or entering into or alighting from.

13 (g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a
14 motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or
15 the vehicle the insured is occupying at the time of the accident, provided:

16 (A) The identity of either the operator or the owner of the phantom vehicle cannot be ascer-
17 tained;

18 (B) The facts of the accident can be corroborated by competent evidence other than the testi-
19 mony of the insured or any person having an uninsured motorist claim resulting from the accident;
20 and

21 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
22 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
23 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
24 a statement under oath that the insured or the legal representative of the insured has a cause or
25 causes of action arising out of the accident for damages against a person or persons whose identities
26 are unascertainable, and setting forth the facts in support thereof.

27 (h) "State" includes the District of Columbia, a territory or possession of the United States and
28 a province of Canada.

29 (i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising
30 out of a motor vehicle accident if:

31 (A) The vehicle is operated without the consent of the insured;

32 (B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability
33 insurance;

34 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
35 a police, peace or judicial officer or to the equivalent department in the state where the accident
36 occurred; and

37 (D) The insured or someone on behalf of the insured cooperates with the appropriate law
38 enforcement agency in the prosecution of the theft of the vehicle.

39 (j) "Uninsured vehicle," except as provided in paragraph (k) of this provision, means:

40 (A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible
41 motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily
42 injury or death under ORS 806.070 applicable at the time of the accident with respect to any person
43 or organization legally responsible for the use of the vehicle, or with respect to which there is
44 collectible bodily injury liability insurance applicable at the time of the accident but the insurance
45 company writing the insurance denies coverage or the company writing the insurance becomes vol-

1 untarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insol-
 2 vent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and
 3 the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident,
 4 the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at
 5 the time of the accident.

6 (B) A hit-and-run vehicle.

7 (C) A phantom vehicle.

8 (D) A stolen vehicle.

9 (k) "Uninsured vehicle" does not include:

10 (A) An insured vehicle, unless the vehicle is a stolen vehicle;

11 (B) A vehicle that is owned or operated by a self-insurer within the meaning of any motor ve-
 12 hicle financial responsibility law, motor carrier law or any similar law;

13 (C) A vehicle that is owned by the United States of America, Canada, a state, a political sub-
 14 division of any such government or an agency of any such government;

15 (D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for
 16 use as a residence or premises and not as a vehicle;

17 (E) A farm-type tractor or equipment designed for use principally off public roads, except while
 18 actually upon public roads; or

19 (F) A vehicle owned by or furnished for the regular or frequent use of the insured or any
 20 member of the household of the insured.

21 (L) "Vehicle" means every device in, upon or by which any person or property is or may be
 22 transported or drawn upon a public highway, but does not include devices moved by human power
 23 or used exclusively upon stationary rails or tracks.

24 (3) This coverage applies only to accidents that occur on and after the effective date of the
 25 policy, during the policy period and within the United States of America, its territories or pos-
 26 sessions, or Canada.

27 (4)(a) This coverage does not apply to bodily injury of an insured with respect to which the in-
 28 sured or the legal representative of the insured shall, without the written consent of the insurer,
 29 make any settlement with or prosecute to judgment any action against any person or organization
 30 who may be legally liable therefor.

31 (b) This coverage does not apply to bodily injury to an insured while occupying a vehicle, other
 32 than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any
 33 relative **or reciprocal beneficiary** resident in the same household, or through being struck by the
 34 vehicle.

35 (c) This coverage does not apply so as to inure directly or indirectly to the benefit of any
 36 workers' compensation carrier, any person or organization qualifying as a self-insurer under any
 37 workers' compensation or disability benefits law or any similar law or the State Accident Insurance
 38 Fund Corporation.

39 (d) This coverage does not apply with respect to underinsured motorist benefits unless:

40 (A) The limits of liability under any bodily injury liability insurance applicable at the time of
 41 the accident regarding the injured person have been exhausted by payment of judgments or settle-
 42 ments to the injured person or other injured persons;

43 (B) The described limits have been offered in settlement, the insurer has refused consent under
 44 paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the
 45 claim against the tortfeasor;

1 (C) The insured gives credit to the insurer for the unrealized portion of the described liability
 2 limits as if the full limits had been received if less than the described limits have been offered in
 3 settlement, and the insurer has consented under paragraph (a) of this subsection; or

4 (D) The insured gives credit to the insurer for the unrealized portion of the described liability
 5 limits as if the full limits had been received if less than the described limits have been offered in
 6 settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured
 7 protects the insurer's right of subrogation to the claim against the tortfeasor.

8 (e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow
 9 the insurer a reasonable time in which to collect and evaluate information related to consent to the
 10 proposed offer of settlement. The insured shall provide promptly to the insurer any information that
 11 is reasonably requested by the insurer and that is within the custody and control of the insured.
 12 Consent will be presumed to be given if the insurer does not respond within a reasonable time. For
 13 purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt
 14 of a written request for consent, unless the insured and the insurer agree otherwise.

15 (5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer
 16 written proof of claim, under oath if required, including full particulars of the nature and extent of
 17 the injuries, treatment and other details entering into the determination of the amount payable
 18 hereunder. The insured and every other person making claim hereunder shall submit to examinations
 19 under oath by any person named by the insurer and subscribe the same, as often as may reasonably
 20 be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails
 21 to furnish the forms within 15 days after receiving notice of claim.

22 (b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit
 23 to physical examinations by physicians selected by the insurer and shall, upon each request from the
 24 insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

25 (6) If, before the insurer makes payment of loss hereunder, the insured or the legal represen-
 26 tative of the insured institutes any legal action for bodily injury against any person or organization
 27 legally responsible for the use of a vehicle involved in the accident, a copy of the summons and
 28 complaint or other process served in connection with the legal action shall be forwarded imme-
 29 diately to the insurer by the insured or the legal representative of the insured.

30 (7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit
 31 of the insurer's liability for all damages because of bodily injury sustained by one person as the
 32 result of any one accident and, subject to the above provision respecting each person, the limit of
 33 liability stated in the declarations as applicable to "each accident" is the total limit of the compa-
 34 ny's liability for all damages because of bodily injury sustained by two or more persons as the result
 35 of any one accident.

36 (b) Any payment made under this coverage to or for an insured shall be applied in reduction
 37 of any amount that the insured may be entitled to recover from any person who is an insured under
 38 the bodily injury liability coverage of this policy.

39 (c) Any amount payable under the terms of this coverage because of bodily injury sustained in
 40 an accident by a person who is an insured under this coverage shall be reduced by:

41 (A) All sums paid on account of the bodily injury by or on behalf of the owner or operator of
 42 the uninsured vehicle and by or on behalf of any other person or organization jointly or severally
 43 liable together with the owner or operator for the bodily injury, including all sums paid under the
 44 bodily injury liability coverage of the policy; and

45 (B) The amount paid and the present value of all amounts payable on account of the bodily in-

1 jury under any workers' compensation law, disability benefits law or any similar law.

2 (d) Any amount payable under the terms of this coverage because of bodily injury sustained in
 3 an accident by a person who is an insured under this coverage shall be reduced by the credit given
 4 to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

5 (e) The amount payable under the terms of this coverage may not be reduced by the amount of
 6 liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been
 7 paid to the injured person. If liability proceeds have been offered and not paid, the amount payable
 8 under the terms of the coverage shall include the amount of liability limits offered but not accepted
 9 due to the insurer's refusal to consent. The insured shall cooperate so as to permit the insurer to
 10 proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.

11 (8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured
 12 or the legal representative of the insured has fully complied with all the terms of this policy.

13 (9)(a) With respect to bodily injury to an insured:

14 (A) While occupying a vehicle owned by a named insured under this coverage, the insurance
 15 under this coverage is primary.

16 (B) While occupying a vehicle not owned by a named insured under this coverage, the insurance
 17 under this coverage shall apply only as excess insurance over any primary insurance available to
 18 the occupant that is similar to this coverage, and this excess insurance shall then apply only in the
 19 amount by which the applicable limit of liability of this excess coverage exceeds the sum of the
 20 applicable limits of liability of all primary insurance available to the occupant.

21 (b) If an insured is an insured under other primary or excess insurance available to the insured
 22 that is similar to this coverage, then the insured's damages are deemed not to exceed the higher of
 23 the applicable limits of liability of the additional primary or excess insurance available to the in-
 24 sured, and the insurer is not liable under this coverage for a greater proportion of the insured's
 25 damages than the applicable limit of liability of this coverage bears to the sum of the applicable
 26 limits of liability of this insurance and other primary or excess insurance available to the insured.

27 (c) With respect to bodily injury to an insured while occupying any motor vehicle used as a
 28 public or livery conveyance, the insurance under this coverage shall apply only as excess insurance
 29 over any other insurance available to the insured that is similar to this coverage, and this insurance
 30 shall then apply only in the amount by which the applicable limit of liability of this coverage ex-
 31 ceeds the sum of the applicable limits of liability of all other insurance.

32 (10) If any person making claim hereunder and the insurer do not agree that the person is le-
 33 gally entitled to recover damages from the owner or operator of an uninsured vehicle because of
 34 bodily injury to the insured, or do not agree as to the amount of payment that may be owing under
 35 this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time
 36 of the dispute to settle the matter by arbitration, the arbitration shall take place under the arbi-
 37 tration laws of the State of Oregon or, if the parties agree, according to any other procedure. Any
 38 judgment upon the award rendered by the arbitrators may be entered in any court having jurisdic-
 39 tion thereof, provided, however, that the costs to the insured of the arbitration proceeding do not
 40 exceed \$100 and that all other costs of arbitration are borne by the insurer. "Costs" as used in this
 41 provision does not include attorney fees or expenses incurred in the production of evidence or wit-
 42 nesses or the making of transcripts of the arbitration proceedings. The person and the insurer each
 43 agree to consider themselves bound and to be bound by any award made by the arbitrators pursuant
 44 to this coverage in the event of such election. At the election of the insured, the arbitration shall
 45 be held:

1 (a) In the county and state of residence of the insured;

2 (b) In the county and state where the insured's cause of action against the uninsured motorist
3 arose; or

4 (c) At any other place mutually agreed upon by the insured and the insurer.

5 (11) In the event of payment to any person under this coverage:

6 (a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement
7 or judgment that may result from the exercise of any rights of recovery of the person against any
8 uninsured motorist legally responsible for the bodily injury because of which payment is made;

9 (b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the
10 person shall have against such other uninsured person or organization because of the damages that
11 are the subject of claim made under this coverage, but only to the extent that the claim is made or
12 paid herein;

13 (c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one
14 or more of whom is uninsured, the insured shall have the election to receive from the insurer any
15 payment to which the insured would be entitled under this coverage by reason of the act or acts
16 of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with
17 legal action against any or all persons claimed to be liable to the insured for the injuries. If the
18 insured elects to receive payment from the insurer under this coverage, then the insured shall hold
19 in trust for the benefit of the insurer all rights of recovery the insured shall have against any other
20 person, firm or organization because of the damages that are the subject of claim made under this
21 coverage, but only to the extent of the actual payment made by the insurer;

22 (d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice
23 such rights;

24 (e) If requested in writing by the insurer, the person shall take, through any representative not
25 in conflict in interest with the person, designated by the insurer, such action as may be necessary
26 or appropriate to recover payment as damages from such other uninsured person or organization,
27 such action to be taken in the name of the person, but only to the extent of the payment made
28 hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for ex-
29 penses, costs and attorney fees incurred by the insurer in connection therewith; and

30 (f) The person shall execute and deliver to the insurer any instruments and papers as may be
31 appropriate to secure the rights and obligations of the person and the insurer established by this
32 provision.

33 (12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured
34 under this coverage unless within two years from the date of the accident:

35 (A) Agreement as to the amount due under the policy has been concluded;

36 (B) The insured or the insurer has formally instituted arbitration proceedings;

37 (C) The insured has filed an action against the insurer; or

38 (D) Suit for bodily injury has been filed against the uninsured motorist and, within two years
39 from the date of settlement or final judgment against the uninsured motorist, the insured has
40 formally instituted arbitration proceedings or filed an action against the insurer.

41 (b) For purposes of this subsection:

42 (A) "Date of settlement" means the date on which a written settlement agreement or release is
43 signed by an insured or, in the absence of these documents, the date on which the insured or the
44 attorney for the insured receives payment of any sum required by the settlement agreement. An
45 advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for pur-

1 poses of the time limitation in this subsection.

2 (B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by
 3 entry in an appellate court of an appellate judgment.

4 **SECTION 241.** ORS 743.027 is amended to read:

5 743.027. No life or health insurance policy upon an individual, except a policy of group life in-
 6 surance or of group or blanket health insurance, shall be made or effectuated unless at the time of
 7 the making of the policy the individual insured, being of competent legal capacity to contract, ap-
 8 plies therefor or has consented thereto in writing, except in the following cases:

9 (1) A spouse may effectuate such insurance upon the other spouse.

10 **(2) A reciprocal beneficiary, as defined in section 1 of this 2007 Act, may effectuate such**
 11 **insurance upon the other reciprocal beneficiary.**

12 [(2)] (3) Any person having an insurable interest in the life of a minor, or any person upon whom
 13 a minor is dependent for support and maintenance, may effectuate insurance upon the life of or
 14 pertaining to such minor.

15 [(3)] (4) Family policies may be issued insuring any two or more members of a family on an ap-
 16 plication signed by either parent, a stepparent, [or by] a husband or wife, **or a reciprocal benefi-**
 17 **ciary.**

18 [(4)] (5) A person may effectuate insurance that provides for the final expenses of an adult who
 19 is dependent upon the person for support and maintenance.

20 **SECTION 242.** ORS 743.201 is amended to read:

21 743.201. An industrial life insurance policy shall have the name of the beneficiary designated
 22 thereon, or in the application or other form if attached to the policy, with a reservation of the right
 23 to designate or change the beneficiary after the issuance of the policy unless such beneficiary has
 24 been irrevocably designated. The policy may also provide that no designation or change of benefi-
 25 ciary shall be binding on the insurer until indorsed on the policy by the insurer, and that the insurer
 26 may refuse to indorse the name of any proposed beneficiary who does not appear to the insurer to
 27 have an insurable interest in the life of the insured. The policy may also provide that if the benefi-
 28 ciary designated in the policy does not make a claim under the policy or does not surrender the
 29 policy with due proof of death within the period stated in the policy, which shall not be less than
 30 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor,
 31 or dies before the insured, or is not legally competent to give a valid release, then the insurer may
 32 make any payment thereunder to the executor or administrator of the insured, or to any relative
 33 of the insured by blood or legal adoption or connection by marriage **or reciprocal beneficiary**
 34 **agreement, as defined in section 1 of this 2007 Act,** or to any person appearing to the insurer
 35 to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having
 36 incurred expense for the maintenance, medical attention or burial of the insured. The policy may
 37 also include a similar provision applicable to any other payment due under the policy.

38 **SECTION 243.** ORS 743.210 is amended to read:

39 743.210. (1) Except as otherwise provided in subsections (2) and (3) of this section, any cash
 40 surrender value available under a life insurance policy in the event of default in a premium payment
 41 due on any policy anniversary, whether or not required by ORS 743.207, shall be an amount not less
 42 than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits
 43 which would have been provided for by the policy, including any existing paid-up additions, if there
 44 had been no default, over the sum of:

45 (a) The present value on such anniversary of the adjusted premiums, as defined in ORS 743.215

1 and 743.216, corresponding to premiums which would have fallen due on and after such anniversary;
 2 and

3 (b) The amount of any indebtedness to the insurer on the policy.

4 (2) This subsection applies to a life insurance policy issued on or after the operative date defined
 5 in ORS 743.215 which provides supplemental life insurance or annuity benefits by rider or supple-
 6 mental policy provision at the option of the insured and for an identifiable additional premium. For
 7 such a policy, the cash surrender value shall be an amount not less than the cash surrender value
 8 required by subsection (1) of this section for a policy otherwise similar to the subject policy but
 9 without such rider or supplemental policy provision, plus the cash surrender value required by
 10 subsection (1) of this section for a policy which provides only the benefits provided by such rider
 11 or supplemental policy provision in the subject policy.

12 (3) This subsection applies to a family life insurance policy issued on or after the operative date
 13 defined in ORS 743.215 which policy defines a primary insured and provides term insurance on the
 14 life of the spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of the pri-
 15 mary insured with a term that expires before age 71 of the spouse **or reciprocal beneficiary**. For
 16 such a policy, the cash surrender value shall be an amount not less than the cash surrender value
 17 required by subsection (1) of this section for a policy otherwise similar to the subject policy but
 18 without such term insurance on the life of the spouse **or reciprocal beneficiary**, plus the cash
 19 surrender value required by subsection (1) of this section for a policy which provides only the ben-
 20 efits provided by such term insurance on the life of the spouse **or reciprocal beneficiary** in the
 21 subject policy.

22 (4) Any cash surrender value available within 30 days after any policy anniversary under any
 23 policy which has been paid up by completion of all premium payments or any policy which has been
 24 continued under any paid-up nonforfeiture benefit, whether or not required by ORS 743.207, shall
 25 be an amount not less than the present value, on such anniversary, of the future guaranteed benefits
 26 provided for by the policy, including any existing paid-up additions, decreased by the amount of any
 27 indebtedness to the insurer on the policy.

28 **SECTION 244.** ORS 743.405 is amended to read:

29 743.405. An individual health insurance policy must meet the following requirements:

30 (1) The entire money and other considerations therefor shall be expressed therein.

31 (2) The time at which the insurance takes effect and terminates shall be expressed therein.

32 (3) It shall purport to insure only one person, except that a policy may insure, originally or by
 33 subsequent amendment, upon the application of an adult member of a family who shall be deemed
 34 the policyholder, any two or more eligible members of that family, including husband, wife, **recip-**
 35 **rocal beneficiary as defined in section 1 of this 2007 Act**, dependent children or any children
 36 under a specified age which shall not exceed 19 years and any other person dependent upon the
 37 policyholder.

38 (4) The policy may not be issued individually to an individual in a group of persons as described
 39 in ORS 743.522 for the purpose of separating the individual from health insurance benefits offered
 40 or provided in connection with a group health benefit plan.

41 (5) Except as provided in ORS 743.498, the style, arrangement and overall appearance of the
 42 policy may not give undue prominence to any portion of the text, and every printed portion of the
 43 text of the policy and of any indorsements or attached papers shall be plainly printed in lightfaced
 44 type of a style in general use, the size of which shall be uniform and not less than 10 point with a
 45 lower case unspaced alphabet length not less than 120 point. Captions shall be printed in not less

1 than 12-point type. As used in this subsection, “text” includes all printed matter except the name
 2 and address of the insurer, name or title of the policy, the brief description if any, and captions and
 3 subcaptions.

4 (6) The exceptions and reductions of indemnity must be set forth in the policy. Except those
 5 required by ORS 743.411 to 743.480, exceptions and reductions shall be printed at the insurer’s op-
 6 tion either included with the applicable benefit provision or under an appropriate caption such as
 7 EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS. However, if an exception or reduction spe-
 8 cifically applies only to a particular benefit of the policy, a statement of the exception or reduction
 9 must be included with the applicable benefit provision.

10 (7) Each form constituting the policy, including riders and indorsements, must be identified by
 11 a form number in the lower left-hand corner of the first page of the policy.

12 (8) The policy may not contain provisions purporting to make any portion of the charter, rules,
 13 constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in
 14 the policy, except in the case of the incorporation of or reference to a statement of rates or classi-
 15 fication of risks, or short rate table filed with the Director of the Department of Consumer and
 16 Business Services.

17 **SECTION 245.** ORS 743.435 is amended to read:

18 743.435. (1) A health insurance policy shall contain a provision as follows: “PAYMENT OF
 19 CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation
 20 and the provisions respecting such payment which may be prescribed herein and effective at the
 21 time of payment. If no such designation or provision is then effective, such indemnity shall be pay-
 22 able to the estate of the insured. Any other accrued indemnities unpaid at the insured’s death may,
 23 at the option of the insurer, be paid either to such beneficiary or to such estate. All other indem-
 24 nities will be payable to the insured.”

25 (2) The following provisions, or either of them, may be included with the provision set forth in
 26 subsection (1) of this section at the option of the insurer:

27 (a) “If any indemnity of this policy shall be payable to the estate of the insured, or to an insured
 28 or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may
 29 pay such indemnity, up to an amount not exceeding \$_____ (insert an amount which shall not exceed
 30 \$1,000), to any relative by blood or connection by marriage **or reciprocal beneficiary agreement,**
 31 **as defined in section 1 of this 2007 Act,** of the insured or beneficiary who is deemed by the insurer
 32 to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this
 33 provision shall fully discharge the insurer to the extent of such payment.”

34 (b) “Subject to any written direction of the insured in the application or otherwise all or a
 35 portion of any indemnities provided by this policy on account of hospital, nursing, medical or sur-
 36 gical services may, at the insurer’s option and unless the insured requests otherwise in writing not
 37 later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering
 38 such services; but it is not required that the service be rendered by a particular hospital or
 39 person.”

40 **SECTION 246.** ORS 743.693 is amended to read:

41 743.693. All health benefit plans as defined in ORS 743.730 must provide payment or reimburse-
 42 ment for expenses associated with pregnancy care, as defined by ORS 743.845, and childbirth.
 43 Benefits provided under this section shall be extended to all enrollees, enrolled spouses, **enrolled**
 44 **reciprocal beneficiaries as defined in section 1 of this 2007 Act** and enrolled dependents.

45 **SECTION 247.** ORS 743.730 is amended to read:

1 743.730. As used in ORS 743.730 to 743.773:

2 (1) "Actuarial certification" means a written statement by a member of the American Academy
 3 of Actuaries or other individual acceptable to the Director of the Department of Consumer and
 4 Business Services that a carrier is in compliance with the provisions of ORS 743.736, 743.760 or
 5 743.761, based upon the person's examination, including a review of the appropriate records and of
 6 the actuarial assumptions and methods used by the carrier in establishing premium rates for small
 7 employer and portability health benefit plans.

8 (2) "Affiliate" of, or person "affiliated" with, a specified person means any carrier who, directly
 9 or indirectly through one or more intermediaries, controls or is controlled by or is under common
 10 control with a specified person. For purposes of this definition, "control" has the meaning given that
 11 term in ORS 732.548.

12 (3) "Affiliation period" means, under the terms of a group health benefit plan issued by a health
 13 care service contractor, a period:

14 (a) That is applied uniformly and without regard to any health status related factors to an
 15 enrollee or late enrollee in lieu of a preexisting conditions provision;

16 (b) That must expire before any coverage becomes effective under the plan for the enrollee or
 17 late enrollee;

18 (c) During which no premium shall be charged to the enrollee or late enrollee; and

19 (d) That begins on the enrollee's or late enrollee's first date of eligibility for coverage and runs
 20 concurrently with any eligibility waiting period under the plan.

21 (4) "Basic health benefit plan" means a health benefit plan for small employers that is required
 22 to be offered by all small employer carriers and approved by the Director of the Department of
 23 Consumer and Business Services in accordance with ORS 743.736.

24 (5) "Bona fide association" means an association that meets the requirements of 42 U.S.C.
 25 300gg-11 as amended and in effect on July 1, 1997.

26 (6) "Carrier" means any person who provides health benefit plans in this state, including a li-
 27 censed insurance company, a health care service contractor, a health maintenance organization, an
 28 association or group of employers that provides benefits by means of a multiple employer welfare
 29 arrangement or any other person or corporation responsible for the payment of benefits or provision
 30 of services.

31 (7) "Committee" means the Health Insurance Reform Advisory Committee created under ORS
 32 743.745.

33 (8) "Creditable coverage" means prior health care coverage as defined in 42 U.S.C. 300gg as
 34 amended and in effect on July 1, 1997, and includes coverage remaining in force at the time the
 35 enrollee obtains new coverage.

36 (9) "Department" means the Department of Consumer and Business Services.

37 (10) "Dependent" means the spouse, **reciprocal beneficiary as defined in section 1 of this**
 38 **2007 Act** or child of an eligible employee, subject to applicable terms of the health benefit plan
 39 covering the employee.

40 (11) "Director" means the Director of the Department of Consumer and Business Services.

41 (12) "Eligible employee" means an employee of a small employer who works on a regularly
 42 scheduled basis, with a normal work week of 17.5 or more hours. The employer may determine hours
 43 worked for eligibility between 17.5 and 40 hours per week subject to rules of the carrier. "Eligible
 44 employee" includes sole proprietors, partners of a partnership, leased workers as defined in ORS
 45 743.522 or independent contractors if they are included as employees under a health benefit plan of

1 a small employer but does not include employees who work on a temporary, seasonal or substitute
2 basis. Employees who have been employed by the small employer for fewer than 90 days are not
3 eligible employees unless the small employer so allows.

4 (13) "Enrollee" means an employee, dependent of the employee or an individual otherwise eligi-
5 ble for a group, individual or portability health benefit plan who has enrolled for coverage under the
6 terms of the plan.

7 (14) "Exclusion period" means a period during which specified treatments or services are ex-
8 cluded from coverage.

9 (15) "Financially impaired" means a member that is not insolvent and is:

10 (a) Considered by the Director of the Department of Consumer and Business Services to be po-
11 tentially unable to fulfill its contractual obligations; or

12 (b) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

13 (16)(a) "Geographic average rate" means the arithmetical average of the lowest premium and the
14 corresponding highest premium to be charged by a carrier in a geographic area established by the
15 director for the carrier's:

16 (A) Small employer group health benefit plans;

17 (B) Individual health benefit plans; or

18 (C) Portability health benefit plans.

19 (b) "Geographic average rate" does not include premium differences that are due to differences
20 in benefit design or family composition.

21 (17) "Group eligibility waiting period" means, with respect to a group health benefit plan, the
22 period of employment or membership with the group that a prospective enrollee must complete be-
23 fore plan coverage begins.

24 (18)(a) "Health benefit plan" means any hospital expense, medical expense or hospital or medical
25 expense policy or certificate, health care service contractor or health maintenance organization
26 subscriber contract, any plan provided by a multiple employer welfare arrangement or by another
27 benefit arrangement defined in the federal Employee Retirement Income Security Act of 1974, as
28 amended.

29 (b) "Health benefit plan" does not include coverage for accident only, specific disease or condi-
30 tion only, credit, disability income, coverage of Medicare services pursuant to contracts with the
31 federal government, Medicare supplement insurance policies, coverage of CHAMPUS services pur-
32 suant to contracts with the federal government, benefits delivered through a flexible spending ar-
33 rangement established pursuant to section 125 of the Internal Revenue Code of 1986, as amended,
34 when the benefits are provided in addition to a group health benefit plan, long term care insurance,
35 hospital indemnity only, short term health insurance policies (the duration of which does not exceed
36 six months including renewals), student accident and health insurance policies, dental only, vision
37 only, a policy of stop-loss coverage that meets the requirements of ORS 742.065, coverage issued as
38 a supplement to liability insurance, insurance arising out of a workers' compensation or similar law,
39 automobile medical payment insurance or insurance under which benefits are payable with or
40 without regard to fault and that is statutorily required to be contained in any liability insurance
41 policy or equivalent self-insurance.

42 (c) Nothing in this subsection shall be construed to regulate any employee welfare benefit plan
43 that is exempt from state regulation because of the federal Employee Retirement Income Security
44 Act of 1974, as amended.

45 (19) "Health statement" means any information that is intended to inform the carrier or insur-

1 ance producer of the health status of an enrollee or prospective enrollee in a health benefit plan.
2 “Health statement” includes the standard health statement developed by the Health Insurance Re-
3 form Advisory Committee.

4 (20) “Implementation of chapter 836, Oregon Laws 1989” means that the Health Services Com-
5 mission has prepared a priority list, the Legislative Assembly has enacted funding of the list and
6 all necessary federal approval, including waivers, has been obtained.

7 (21) “Individual coverage waiting period” means a period in an individual health benefit plan
8 during which no premiums may be collected and health benefit plan coverage issued is not effective.

9 (22) “Initial enrollment period” means a period of at least 30 days following commencement of
10 the first eligibility period for an individual.

11 (23) “Late enrollee” means an individual who enrolls in a group health benefit plan subsequent
12 to the initial enrollment period during which the individual was eligible for coverage but declined
13 to enroll. However, an eligible individual shall not be considered a late enrollee if:

14 (a) The individual qualifies for a special enrollment period in accordance with 42 U.S.C. 300gg
15 as amended and in effect on July 1, 1997;

16 (b) The individual applies for coverage during an open enrollment period;

17 (c) A court has ordered that coverage be provided for a spouse, **reciprocal beneficiary** or minor
18 child under a covered employee’s health benefit plan and request for enrollment is made within 30
19 days after issuance of the court order;

20 (d) The individual is employed by an employer who offers multiple health benefit plans and the
21 individual elects a different health benefit plan during an open enrollment period; or

22 (e) The individual’s coverage under Medicaid, Medicare, CHAMPUS, Indian Health Service or
23 a publicly sponsored or subsidized health plan, including but not limited to the Oregon Health Plan,
24 has been involuntarily terminated within 63 days of applying for coverage in a group health benefit
25 plan.

26 (24) “Multiple employer welfare arrangement” means a multiple employer welfare arrangement
27 as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, as amended,
28 29 U.S.C. 1002, that is subject to ORS 750.301 to 750.341.

29 (25) “Oregon Medical Insurance Pool” means the pool created under ORS 735.610.

30 (26) “Preexisting conditions provision” means a health benefit plan provision applicable to an
31 enrollee or late enrollee that excludes coverage for services, charges or expenses incurred during
32 a specified period immediately following enrollment for a condition for which medical advice, diag-
33 nosis, care or treatment was recommended or received during a specified period immediately pre-
34 ceding enrollment. For purposes of ORS 743.730 to 743.773:

35 (a) Pregnancy does not constitute a preexisting condition except as provided in ORS 743.766;

36 (b) Genetic information does not constitute a preexisting condition in the absence of a diagnosis
37 of the condition related to such information; and

38 (c) A preexisting conditions provision shall not be applied to a newborn child or adopted child
39 who obtains coverage in accordance with ORS 743.707.

40 (27) “Premium” includes insurance premiums or other fees charged for a health benefit plan,
41 including the costs of benefits paid or reimbursements made to or on behalf of enrollees covered by
42 the plan.

43 (28) “Rating period” means the 12-month calendar period for which premium rates established
44 by a carrier are in effect, as determined by the carrier.

45 (29) “Small employer” means any person, firm, corporation, partnership or association actively

1 engaged in business that, on at least 50 percent of its working days during the preceding year, em-
 2 ployed no more than 25 eligible employees and no fewer than two eligible employees, the majority
 3 of whom are employed within this state, and in which a bona fide partnership, independent con-
 4 tractor or employer-employee relationship exists. "Small employer" includes companies that are eli-
 5 gible to file a consolidated tax return pursuant to ORS 317.715.

6 (30) "Small employer carrier" means any carrier that offers health benefit plans covering eligible
 7 employees of one or more small employers. A fully insured multiple employer welfare arrangement
 8 otherwise exempt under ORS 750.303 (4) may elect to be a small employer carrier governed by the
 9 provisions of ORS 743.733 to 743.737.

10 **SECTION 248.** ORS 744.073 is amended to read:

11 744.073. (1) The Director of the Department of Consumer and Business Services may issue a
 12 temporary insurance producer license for a period not to exceed 180 days without requiring a writ-
 13 ten examination if the director determines that the temporary license is necessary for the servicing
 14 of an insurance business in the following cases:

15 (a) To the surviving spouse, **surviving reciprocal beneficiary as defined in section 1 of this**
 16 **2007 Act** or court-appointed personal representative of a licensed insurance producer who dies or
 17 becomes mentally or physically disabled to allow adequate time for the sale of the insurance busi-
 18 ness owned by the insurance producer, for the recovery or return of the insurance producer to the
 19 business, or to provide for the training and licensing of new personnel to operate the insurance
 20 producer's business;

21 (b) To a member or employee of a business entity licensed as an insurance producer, upon the
 22 death or disability of the individual designated in the business entity application or the license;

23 (c) To the designee of a licensed insurance producer entering active service in the Armed Forces
 24 of the United States; or

25 (d) In any other circumstance in which the director determines that the public interest will best
 26 be served by the issuance of the license.

27 (2) The director may by order limit the authority of any temporary licensee in any way that the
 28 director determines to be necessary to protect insureds and the public. The director may require the
 29 temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and
 30 who assumes responsibility for all acts of the temporary licensee and may impose other similar re-
 31 quirements designed to protect insureds and the public. The director may revoke a temporary li-
 32 cense if the interest of insureds or the public is endangered. A temporary license may not continue
 33 after the owner or the personal representative disposes of the business.

34 **SECTION 249.** ORS 746.065 is amended to read:

35 746.065. (1) As used in this section, "personal or controlled insurance" means insurance covering
 36 an insurance producer or:

37 (a) The spouse of the insurance producer, **the reciprocal beneficiary, as defined in section 1**
 38 **of this 2007 Act, of the insurance producer**, the employer of the insurance producer or the em-
 39 ployer's spouse, **reciprocal beneficiary** or any group of employees under a group policy issued to
 40 the employer of the insurance producer;

41 (b) Any person related to the insurance producer, to the spouse of the insurance producer, **to**
 42 **the reciprocal beneficiary of the insurance producer**, to the employer of the insurance producer
 43 or to the employer's spouse **or reciprocal beneficiary** within the second degree by blood or mar-
 44 riage **or reciprocal beneficiary agreement**;

45 (c) If the employer of the insurance producer is a corporation, any person directly or indirectly

1 owning or controlling a majority of the voting stock or controlling interest in such corporation;

2 (d) If the employer of the insurance producer is a partnership or association, any person owning
3 any interest in such partnership or association;

4 (e) If the insurance producer is a corporation, any person directly or indirectly owning or con-
5 trolling a majority of the voting stock or controlling interest in the insurance producer, and any
6 corporation which is likewise directly or indirectly controlled by the person who so directly or in-
7 directly controls the insurance producer; or

8 (f) If the insurance producer is a corporation, any corporation making consolidated returns for
9 United States income tax purposes with any corporation described in paragraph (e) of this sub-
10 section.

11 (2) If premiums on personal or controlled insurance transacted by an insurance producer payable
12 in one calendar year exceed the premiums or with respect to life and health insurance twice the
13 premiums, on other insurance transacted by the insurance producer payable in the same year, the
14 receipt of commissions upon the excess is an unlawful rebate.

15 (3) This section shall not apply to an individual licensee who:

16 (a) Is licensed during all of such calendar year individually as an insurance producer;

17 (b) During such calendar year conducts an individual insurance producer business, not being
18 designated to exercise the powers conferred by an insurance producer's license issued to any firm
19 or corporation nor owning any interest in any firm or corporation transacting an insurance producer
20 business;

21 (c) Has been continuously licensed in some manner as an insurance producer, and has been ac-
22 tive as such, for at least 25 years; and

23 (d) Is at least 65 years of age at the beginning of such calendar year.

24 (4) This section does not apply to the writing, issuing or soliciting by a seller of personal prop-
25 erty of insurance covering the personal property sold by the seller on an installment contract
26 whereunder the title to the property is reserved by the seller.

27 (5) This section shall not apply to an insurance producer, whether an individual, firm or corpo-
28 ration, if:

29 (a) The insurance producer is controlled or owned by a nonprofit professional association and
30 offers professional liability and related business and personal umbrella or excess liability insurance
31 exclusively to members of the association; and

32 (b) The primary function of the association is other than marketing insurance.

33 **SECTION 250.** ORS 746.611 is amended to read:

34 746.611. If no person has been appointed as a personal representative under ORS chapter 113
35 or a person appointed as a personal representative under ORS chapter 113 has been discharged, the
36 personal representative of a deceased individual shall be the first of the following persons, in the
37 following order, who may be located upon reasonable effort by the covered entity and who is willing
38 to serve as the personal representative:

39 (1) A person appointed as guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
40 authority to make medical and health care decisions at the time of the individual's death.

41 (2) The individual's spouse **or reciprocal beneficiary, as defined in section 1 of this 2007**
42 **Act.**

43 (3) An adult designated in writing by the persons listed in this section, if no person listed in this
44 section objects to the designation.

45 (4) A majority of the adult children of the individual who can be located.

1 (5) Either parent of the individual or an individual acting in loco parentis to the individual.

2 (6) A majority of the adult siblings of the individual who can be located.

3 (7) Any adult relative or adult friend.

4 **SECTION 251.** ORS 756.026 is amended to read:

5 756.026. (1) No member of the Public Utility Commission shall:

6 (a) Hold any other office of profit;

7 (b) Hold any office or position under any political committee or party;

8 (c) Hold any pecuniary interest in any business entity conducting operations which if conducted
9 in this state would be subject to the commission's regulatory jurisdiction; or

10 (d) Hold any pecuniary interest in, have any contract of employment with, or have any sub-
11 stantial voluntary transactions with any business or activity subject to the commission's regulatory
12 jurisdiction.

13 (2) The prohibitions of subsection (1)(c) and (d) of this section apply to the spouse **or reciprocal**
14 **beneficiary, as defined in section 1 of this 2007 Act**, and minor children of each commissioner.

15 (3) If the Governor determines that any commissioner has done any act prohibited by subsection
16 (1) of this section, or that a commissioner's spouse, **reciprocal beneficiary** or [a] minor child has
17 done any act prohibited by subsection (2) of this section, the Governor shall remove the commis-
18 sioner in the manner provided in ORS 756.014 (4).

19 (4) Subsection (3) of this section does not apply to a commissioner if the commissioner or the
20 commissioner's spouse, **reciprocal beneficiary** or [a] minor child acquires any pecuniary interest
21 prohibited by subsection (1) or (2) of this section, advises the Governor of such acquisition, and
22 causes divestiture of such interest within the time specified by the Governor.

23 (5) For purposes of subsection (1) of this section, a business or activity shall not be considered
24 subject to the commission's regulatory jurisdiction solely because the business or activity is a pri-
25 vate carrier as defined by ORS 825.005.

26 **SECTION 252.** ORS 756.028 is amended to read:

27 756.028. Each employee of the Public Utility Commission shall file with the commission a state-
28 ment regarding holdings of the employee and the holdings of the employee's spouse **or reciprocal**
29 **beneficiary, as defined in section 1 of this 2007 Act**, and minor children of any pecuniary interest
30 in any business or activity subject to the commission's regulatory jurisdiction. Supplementary
31 statements shall be filed as such pecuniary interests are acquired or divested. The statements shall
32 be in such form as the commission prescribes. If the commission determines that an employee or
33 spouse, **reciprocal beneficiary** or minor child of the employee holds any such pecuniary interest
34 that may interfere with the impartial discharge of the employee's duties, the commission shall order
35 divestiture of the interest.

36 **SECTION 253.** ORS 805.110 is amended to read:

37 805.110. (1) In the absence of just cause for refusal, the Department of Transportation shall
38 provide for registration of any motor vehicle required to be registered by this state in a manner
39 consistent with this section for persons who qualify as former prisoners of war under this section.
40 The special registration provisions under this section are subject to all of the following:

41 (a) The fee to register or renew registration under this section shall be the regular registration
42 fee for the vehicle.

43 (b) The department shall not register a motor vehicle under this section if another vehicle
44 owned by the applicant or a member of the applicant's household has been registered under this
45 section.

1 (c) The department shall not register any commercial vehicle under this section or any motor
 2 vehicle with a loaded weight in excess of 10,000 pounds.

3 (2) A person is a former prisoner of war who qualifies for registration of a vehicle under this
 4 section if the person, while serving in the active military, naval or air service of the United States
 5 or any of its Allies, was forcibly detained or interned in line of duty:

6 (a) By an enemy government or its agents, or a hostile force, during a period of war; or

7 (b) By a foreign government or its agents, or a hostile force during a period other than a period
 8 of war in which such person was held under circumstances which the department finds to have been
 9 comparable to the circumstances under which persons have generally been forcibly detained or
 10 interned by enemy governments during periods of war.

11 (3) The surviving spouse **or surviving reciprocal beneficiary, as defined in section 1 of this**
 12 **2007 Act**, of a former prisoner of war who was issued registration under this section may, upon the
 13 death of the former prisoner of war, continue to use the registration plates on a motor vehicle or
 14 may keep the plates as a memento.

15 (4) The department may suspend or revoke any registration issued under this section if the de-
 16 partment determines that the vehicle is owned by a person not qualified for registration under this
 17 section or the vehicle is a kind not qualified for registration under this section.

18 **SECTION 254.** ORS 805.208 is amended to read:

19 805.208. The surviving spouse **or surviving reciprocal beneficiary, as defined in section 1**
 20 **of this 2007 Act**, of a veteran who was issued registration plates under ORS 805.205 may, upon the
 21 death of the veteran, continue to use the plates on a motor vehicle or may keep the plates as a
 22 memento.

23 **SECTION 255.** ORS 807.020 is amended to read:

24 807.020. A person who is granted a driving privilege by this section may exercise the driving
 25 privilege described without violation of the requirements under ORS 807.010. A grant of driving
 26 privileges to operate a motor vehicle under this section is subject to suspension and revocation the
 27 same as other driving privileges granted under the vehicle code. This section is in addition to any
 28 exemptions from the vehicle code under ORS 801.026. The following persons are granted the de-
 29 scribed driving privileges:

30 (1) A person who is not a resident of this state may operate a motor vehicle without an Oregon
 31 license or driver permit if the person holds a current out-of-state license issued to the person by the
 32 person's home jurisdiction. To qualify under this subsection, the person must have the out-of-state
 33 license or driver permit in the person's possession. A person is not granted driving privileges under
 34 this subsection:

35 (a) If the person is under the minimum age required to be eligible for driving privileges under
 36 ORS 807.060;

37 (b) During a period of suspension or revocation by this state or any other jurisdiction of driving
 38 privileges or of the right to apply for a license or driver permit issued by this state or any other
 39 jurisdiction; or

40 (c) That exceed the driving privileges granted to the person by the home jurisdiction of the
 41 person.

42 (2) A person in the Armed Forces of the United States may operate a motor vehicle without an
 43 Oregon license or driver permit if the person:

44 (a) Has a current out-of-state license or driver permit issued by the Armed Forces; and

45 (b) Is operating an official motor vehicle in the course of the person's duties in the Armed

1 Forces.

2 (3) A person without a license or driver permit may operate a road roller or road machinery
3 that is not required to be registered under the laws of this state.

4 (4) A person without a license or driver permit may temporarily operate, draw, move or propel
5 a farm tractor or implement of husbandry.

6 (5) A person without a license or driver permit may operate a motor vehicle to demonstrate
7 driving ability during the course of an examination administered under ORS 807.070 for the purpose
8 of qualifying for a license or driver permit. This subsection only applies when an authorized exam-
9 iner is in a seat beside the driver of the motor vehicle.

10 (6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.

11 (7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170.

12 (8) Driving privileges for Class III all-terrain vehicles are exclusively as provided in ORS
13 821.172.

14 (9) A person without a license or driver permit may operate a golf cart in accordance with an
15 ordinance adopted under ORS 810.070.

16 (10) The spouse **or reciprocal beneficiary, as defined in section 1 of this 2007 Act**, of a
17 member of the Armed Forces of the United States on active duty who is accompanying the member
18 on assignment in this state may operate a motor vehicle if the spouse **or reciprocal beneficiary**
19 has a current out-of-state license or driver permit issued to the spouse **or reciprocal beneficiary**
20 by another state in the [*spouse's*] possession **of the spouse or reciprocal beneficiary**.

21 (11) A person who is a member of the Armed Forces of the United States on active duty may
22 operate a motor vehicle if the person has a current out-of-state license or driver permit in the per-
23 son's possession that is issued to the person by the person's state of domicile or by the Armed
24 Forces of the United States in a foreign country. Driving privileges described under this subsection
25 that are granted by the Armed Forces apply only for a period of 45 days from the time the person
26 returns to the United States.

27 (12) A person who does not hold a motorcycle endorsement may operate a motorcycle if the
28 person is:

29 (a) Within an enclosed cab; or

30 (b) Operating a vehicle designed to travel with three wheels in contact with the ground at
31 speeds of less than 15 miles per hour.

32 (13) A person may operate a bicycle that is not an electric assisted bicycle without any grant
33 of driving privileges.

34 (14) A person may operate an electric assisted bicycle without a driver license or driver permit
35 if the person is 16 years of age or older.

36 (15) A person may operate a motor assisted scooter without a driver license or driver permit if
37 the person is 16 years of age or older.

38 (16) A person who is not a resident of this state may operate a motor vehicle without an Oregon
39 license or driver permit if the person is at least 15 years of age and has in the person's possession
40 a current out-of-state equivalent of a Class C instruction driver permit issued to the person by the
41 person's home jurisdiction. A person operating a motor vehicle under authority of this subsection
42 has the same privileges and is subject to the same restrictions as a person operating under the au-
43 thority of a Class C instruction driver permit issued as provided in ORS 807.280.

44 (17) A person may operate an electric personal assistive mobility device without any grant of
45 driving privileges if the person is 16 years of age or older.

1 **SECTION 256.** ORS 823.007 is amended to read:

2 823.007. (1) Each employee of the Department of Transportation who performs functions con-
 3 cerning economic regulation of motor carriers shall file with the department a statement regarding
 4 holdings of the employee and the holdings of the employee’s spouse **or reciprocal beneficiary, as**
 5 **defined in section 1 of this 2007 Act**, and minor children of any pecuniary interest in any business
 6 or activity subject to the department’s economic regulation of motor carriers. Supplementary state-
 7 ments shall be filed as such pecuniary interests are acquired or divested. The statements shall be
 8 in such form as the department prescribes. If the department determines that an employee or
 9 spouse, **reciprocal beneficiary** or minor child of the employee holds any such pecuniary interest
 10 that may interfere with the impartial discharge of the employee’s duties, the department shall order
 11 divestiture of the interest.

12 (2) The department shall determine by rule what constitutes a function concerning economic
 13 regulation of motor carriers for purposes of this section.

14 (3) Nothing in subsections (1) and (2) of this section is intended to authorize any act otherwise
 15 prohibited by law.

16 **SECTION 257.** ORCP 44 A is amended to read:

17 A Order for examination. When the mental or physical condition or the blood relationship of a
 18 party, or of an agent, employee, or person in the custody or under the legal control of a party (in-
 19 cluding the spouse of a party in an action to recover for injury to the spouse **or the reciprocal**
 20 **beneficiary, as defined in section 1 of this 2007 Act, of a party in an action to recover for**
 21 **injury to the reciprocal beneficiary**), is in controversy, the court may order the party to submit
 22 to a physical or mental examination by a physician or a mental examination by a psychologist or
 23 to produce for examination the person in such party’s custody or legal control. The order may be
 24 made only on motion for good cause shown and upon notice to the person to be examined and to
 25 all parties and shall specify the time, place, manner, conditions, and scope of the examination and
 26 the person or persons by whom it is to be made.

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