

**PROPOSED AMENDMENTS TO
SENATE BILL 54**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and line 3 and insert “and declaring an emergency.”.

3 Delete lines 5 through 29 and delete pages 2 through 10 and insert:

4 **“SECTION 1. (1) As used in this section:**

5 **“(a) ‘Digital asset’ means text, images, multimedia information or**
6 **other property stored in a digital format, whether stored on a server,**
7 **computer or other physical device or in an electronic medium and in-**
8 **cludes words, characters, codes, passwords or contractual rights nec-**
9 **essary to access the digital assets.**

10 **“(b) ‘Electronic communication’ has the meaning given that term**
11 **in 18 U.S.C. 2510, as in effect on the effective date of this 2013 Act.**

12 **“(c) ‘Electronic service provider’ means a person that furnishes or**
13 **delivers Internet access services to a subscriber or customer that in-**
14 **clude, but are not limited to, services that allow the subscriber or**
15 **customer to establish digital assets and send or receive electronic**
16 **communications.**

17 **“(d) ‘Estate’ means property of a decedent, protected person, prin-**
18 **cipal under a power of attorney or settlor that is subject to adminis-**
19 **tration in Oregon.**

20 **“(e) ‘Fiduciary’ means a person acting as a conservator or a**
21 **guardian as those terms are defined in ORS 125.005, a personal repre-**
22 **sentative, a trustee, an executor, an administrator, an affiant under**

1 **ORS 114.505 to 114.560, a special administrator, an agent acting under**
2 **a power of attorney, a custodian of property of the decedent or a suc-**
3 **cessor to, or another person authorized to perform substantially simi-**
4 **lar functions as, persons serving in the aforementioned capacities.**

5 **“(f) ‘Log’ means a record of transactional information about an**
6 **electronic communication, such as the electronic addresses of parties**
7 **with whom a decedent communicated, but does not include the con-**
8 **tents of an electronic communication protected under 18 U.S.C. 2702,**
9 **as in effect on the effective date of this 2013 Act.**

10 **“(g) ‘Person’ means any individual, partnership, limited liability**
11 **company, association, joint stock company, corporation, government,**
12 **political subdivision, governmental agency or local governmental**
13 **agency.**

14 **“(h) ‘Protected person’ has the meaning given that term in ORS**
15 **125.005.**

16 **“(2) Notwithstanding contrary provisions of state law, a fiduciary**
17 **that is legally responsible for the administration, execution, settle-**
18 **ment, distribution or closing of an estate:**

19 **“(a) May access, to the extent reasonably possible and for the ben-**
20 **efit of the estate, decedent, protected person, principal or settlor, dig-**
21 **ital assets and electronic communications of a decedent, protected**
22 **person, principal or settlor subject to ORS 18 U.S.C. 2702. Access under**
23 **this paragraph is subject to the same licenses, restrictions and legal**
24 **obligations as those of the decedent, protected person, principal or**
25 **settlor.**

26 **“(b) Is not civilly or criminally liable for accessing digital assets or**
27 **electronic communications of a decedent, protected person, principal**
28 **or settlor.**

29 **“(3) Notwithstanding contrary provisions of state law, an electronic**
30 **service provider who provides access to digital assets or electronic**

1 **communications of a decedent, protected person, principal or settlor**
2 **to a fiduciary is not civilly or criminally liable for providing such ac-**
3 **cess.**

4 **“(4) An electronic service provider shall provide to a fiduciary, upon**
5 **request, a log of electronic communications that are carried, stored**
6 **or maintained by the provider on behalf of a decedent, protected per-**
7 **son, principal or settlor to the extent the provision of the log is con-**
8 **sistent with 18 U.S.C. 2702 and with the electronic service provider’s**
9 **terms of service agreement with the decedent, protected person, prin-**
10 **cipal or settlor and the provider’s privacy policies.**

11 **“SECTION 2. Section 1 of this 2013 Act applies to estates that be-**
12 **come subject to administration or a power of attorney on or after the**
13 **effective date of this 2013 Act.**

14 **“SECTION 3. This 2013 Act being necessary for the immediate**
15 **preservation of the public peace, health and safety, an emergency is**
16 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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