

**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 account’:**

6 **“(A) Means an online account established to enable the exchange
7 of electronic communications between persons; and**

8 **“(B) Includes digital assets such as text, images, multimedia infor-
9 mation or other property stored in a digital format, whether stored
10 on a server, computer or other physical device or in an electronic
11 medium, regardless of the ownership of the physical device or elec-
12 tronic medium in which the digital asset is stored, and also includes
13 words, characters, codes, passwords or contractual rights necessary
14 to access the digital assets.**

15 **“(b) ‘Electronic communication’ has the meaning given that term
16 in ORS 133.721.**

17 **“(c) ‘Electronic service provider’ means a person that furnishes or
18 delivers Internet access services to a subscriber or customer that in-
19 clude, but are not limited to, services that allow the subscriber or
20 customer to establish digital accounts and send or receive electronic
21 communications.**

22 **“(d) ‘Estate’ means property of a decedent, protected person, prin-**

1 **principal under a power of attorney or settlor that is subject to adminis-**
2 **tration in Oregon.**

3 **“(e) ‘Fiduciary’ means a person acting as a conservator or a**
4 **guardian as those terms are defined in ORS 125.005, a personal repre-**
5 **sentative, a trustee, an executor, an administrator, an affiant under**
6 **ORS 114.505 to 114.560, a special administrator, an agent acting under**
7 **a power of attorney, a custodian of property of the decedent or a suc-**
8 **cessor to, or another person authorized to perform substantially simi-**
9 **lar functions as, persons serving in the aforementioned capacities.**

10 **“(f) ‘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 **“(g) ‘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, to the extent reasonably possible and for the benefit of**
20 **the estate, decedent, protected person, principal or settlor, access**
21 **digital accounts and electronic communications of a decedent, pro-**
22 **ected person, principal or settlor; and**

23 **“(b) Is not civilly or criminally liable for accessing a digital account**
24 **or electronic communications of a decedent, protected person, princi-**
25 **pal or settlor.**

26 **“(3) Notwithstanding contrary provisions of state law, an electronic**
27 **service provider who provides access to a digital account or electronic**
28 **communications of a decedent, protected person, principal or settlor**
29 **to a fiduciary is not civilly or criminally liable for providing such ac-**
30 **cess.**

1 “(4) An electronic service provider shall provide to a fiduciary, upon
2 request, a log of electronic communications that are carried, stored
3 or maintained by the provider on behalf of a decedent, protected per-
4 son, principal or settlor.

5 “(5) A fiduciary does not need to demonstrate that the decedent,
6 protected person, principal or settlor authorized or consented to the
7 fiduciary’s access to a digital account or electronic communications
8 in order to obtain access or be exempt from civil or criminal liability
9 as provided in this section, or to request the log from the electronic
10 service provider under subsection (4) of this section.

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.”.

17
