

B-Engrossed Senate Bill 1000

Ordered by the House July 21
Including Senate Amendments dated July 6 and House Amendments
dated July 21

Sponsored by Senators BROWN, WESTLUND, MORSE, BATES (at the request of Governor Theodore R. Kulongoski)

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.

[Prohibits discrimination against persons in specified areas of law based on sexual orientation. Defines "sexual orientation." Authorizes enforcement of prohibition through civil action for actual and punitive damages. Authorizes attorney fees in civil proceedings for unlawful discrimination. Requires state agencies to eliminate discrimination against persons based on sexual orientation.]

[Establishes requirements and procedures for entering into civil union contract. Applies only to civil unions between persons of same sex. Provides that partners in civil unions have substantially equivalent privileges, immunities, rights, benefits and responsibilities under state law as are granted to or imposed on persons who are or were married.]

[Takes effect on 91st day following adjournment sine die.]

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. Extends certain legal rights and obligations to reciprocal beneficiaries. Provides for termination of agreement.

A BILL FOR AN ACT

Relating to human rights; creating new provisions; and amending ORS 93.180, 97.130, 111.005, 112.025, 112.035, 112.045, 113.085, 114.005, 127.635, 146.035, 311.670, 311.681, 311.688, 311.690, 311.721, 311.722, 311.723, 432.121, 708A.430, 708A.655, 722.262, 722.660, 723.466 and 723.844.

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

SECTION 1. As used in sections 1 to 7 of this 2005 Act:

(1) "Reciprocal beneficiaries" means two adults who are parties to a valid reciprocal beneficiary agreement, who meet the requirements for a valid reciprocal beneficiary agreement under section 4 of this 2005 Act and who have been issued a certified copy of their reciprocal beneficiary agreement by the Director of Human Services under section 5 of this 2005 Act.

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

SECTION 2. The purpose of sections 1 to 7 of this 2005 Act is to extend certain rights and obligations to two adults who have entered into a reciprocal beneficiary agreement and who are legally prohibited from marrying each other under ORS chapter 106.

SECTION 3. (1) The Legislative Assembly finds that the people of Oregon have chosen to preserve the tradition of marriage as a unique social institution between one man and one woman. As such, marriages are subject to restrictions, such as the prohibition of a marriage

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 under ORS 106.020 between parties who are first cousins or any nearer of kin to each other.

2 (2) However, the Legislative Assembly acknowledges that many individuals have signif-
3 ican personal, emotional and economic relationships with other individuals, but are prohib-
4 ited by law from marrying each other. Examples of such individuals include two individuals
5 who are related to each other, such as a widowed mother and her unmarried son, or two
6 unrelated adults of the same gender.

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

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

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

12 (2) Each party may not be married or a party to another reciprocal beneficiary agree-
13 ment;

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

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

17 (5) Each party must sign, have notarized and file a reciprocal beneficiary agreement as
18 provided in section 5 of this 2005 Act.

19 **SECTION 5.** (1) Two individuals who meet the requirements of section 4 (1) to (4) of this
20 2005 Act may enter into a reciprocal beneficiary agreement and register their reciprocal
21 beneficiary agreement by filing a signed, notarized reciprocal beneficiary agreement form
22 with the Director of Human Services.

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

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

30 **SECTION 6.** (1) Upon issuance of a certified copy of the reciprocal beneficiary agreement,
31 as provided in section 5 of this 2005 Act, the rights and obligations extended by law to re-
32 ciprocal beneficiaries are extended to the parties named in the agreement. Unless otherwise
33 expressly provided by law, reciprocal beneficiaries do not have the same rights and obli-
34 gations under law that are extended through marriage under ORS chapter 106.

35 (2) Nothing in sections 1 to 7 of this 2005 Act may be construed to entitle one reciprocal
36 beneficiary, as a result of being a reciprocal beneficiary, to receive life, health, retirement
37 or any other benefits that result from the employment of the other reciprocal beneficiary.

38 **SECTION 7.** (1) A party to a reciprocal beneficiary agreement may terminate the agree-
39 ment by filing a signed, notarized declaration of termination of reciprocal beneficiary agree-
40 ment with the Director of Human Services.

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

44 (3) Upon receipt of a signed, notarized declaration of termination and the filing fee, the
45 director shall register the declaration of termination and provide a certified copy of the

1 **declaration of termination to each party named on the declaration. The director shall**
 2 **maintain a record of each declaration of termination filed with the director.**

3 **(4) When a marriage license is issued under ORS 106.077 to a party to a reciprocal ben-**
 4 **eficiary agreement, or when a party to a reciprocal beneficiary agreement enters into a legal**
 5 **marriage contract, the reciprocal beneficiary agreement is terminated and the rights and**
 6 **obligations extended to reciprocal beneficiaries are no longer extended to the parties of the**
 7 **agreement.**

8 **SECTION 8.** ORS 93.180 is amended to read:

9 93.180. Every conveyance or devise of lands, or interest therein, made to two or more persons,
 10 other than to a husband and wife, as such, **to reciprocal beneficiaries as defined in section 1 of**
 11 **this 2005 Act, as such,** or to executors or trustees, as such, creates a tenancy in common unless
 12 it is in some manner clearly and expressly declared in the conveyance or devise that the grantees
 13 or devisees take the lands with right of survivorship. Such a declaration of a right to survivorship
 14 shall create a tenancy in common in the life estate with cross-contingent remainders in the fee
 15 simple. Joint tenancy is abolished and the use in a conveyance or devise of the words "joint
 16 tenants" or similar words without any other indication of an intent to create a right of survivorship
 17 shall create a tenancy in common.

18 **SECTION 9.** ORS 97.130 is amended to read:

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

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

31 (a) The spouse of the decedent.

32 **(b) The reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the decedent.**

33 [(b)] **(c)** A son or daughter of the decedent 18 years of age or older.

34 [(c)] **(d)** Either parent of the decedent.

35 [(d)] **(e)** A brother or sister of the decedent 18 years of age or older.

36 [(e)] **(f)** A guardian of the decedent at the time of death.

37 [(f)] **(g)** A person in the next degree of kindred to the decedent.

38 [(g)] **(h)** The personal representative of the estate of the decedent.

39 [(h)] **(i)** The person nominated as the personal representative of the decedent in the decedent's
 40 last will.

41 [(i)] **(j)** A public health officer.

42 (3) The decedent or any person authorized in subsection (2) of this section to direct the manner
 43 of disposition of the decedent's remains may delegate such authority to any person 18 years of age
 44 or older. Such delegation shall be made by completion of the written instrument described in sub-
 45 section (7) of this section. The person to whom the authority is delegated shall have the same au-

thority under subsection (2) of this section as the person delegating the authority.

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

(5) A donation of anatomical gifts under ORS 97.952 or 97.954 shall take priority over directions for the disposition of a decedent's remains under this section only if the person making the donation is of a priority under subsection (1) or (2) of this section the same as or higher than the priority of the person directing the disposition of the remains.

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

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

APPOINTMENT OF PERSON
TO MAKE DECISIONS
CONCERNING DISPOSITION
OF REMAINS

I, _____, appoint _____, whose address is _____ and whose telephone number is (____) _____, as the person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation. In the event _____ is unable to act, I appoint _____, whose address is _____ and whose telephone number is (____) _____, as my alternate person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation.

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

DATED this ____ day of _____, _____.

(Signature)

DECLARATION OF WITNESSES

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

Witnessed By:

_____ Date: _____

1 Witnessed By:

2 _____ Date: _____
3 _____
4 _____

5 (8) Subject to the provisions of ORS 97.950 to 97.964, if disposition of the remains of a decedent
6 has not been directed and authorized under this section within 10 days after the date of the death
7 of the decedent, a public health officer may direct and authorize disposition of the remains.

8 **SECTION 10.** ORS 111.005 is amended to read:

9 111.005. As used in ORS chapters 111, 112, 113, 114, 115, 116 and 117, unless the context requires
10 otherwise:

11 (1) "Abate" means to reduce a devise on account of the insufficiency of the estate to pay all
12 claims, expenses and devises in full.

13 (2) "Action" includes suits and legal proceedings.

14 (3) "Administration" means any proceeding relating to the estate of a decedent, whether the
15 decedent died testate, intestate or partially intestate.

16 (4) "Advancement" means a gift by a decedent to an heir to enable the donee to anticipate the
17 inheritance to the extent of the gift.

18 (5) "All purposes of intestate succession" means succession by, through or from a person, both
19 lineal and collateral.

20 (6) "Assets" includes real, personal and intangible property.

21 (7) "Claim" includes liabilities of a decedent, whether arising in contract, in tort or otherwise.

22 (8) "Court" or "probate court" means the court in which jurisdiction of probate matters, causes
23 and proceedings is vested as provided in ORS 111.075.

24 (9) "Decedent" means a person who has died leaving property that is subject to administration.

25 (10) "Devise," when used as a noun, means property disposed of by a will, and includes
26 "legacy" and "bequest."

27 (11) "Devise," when used as a verb, means to dispose of property by a will, and includes
28 "bequeath."

29 (12) "Devisee" includes "legatee" and "beneficiary."

30 (13) "Distributee" means a person entitled to any property of a decedent under the will of the
31 decedent or under intestate succession.

32 (14) "Domicile" means the place of abode of a person, where the person intends to remain and
33 to which, if absent, the person intends to return.

34 (15) "Estate" means the real and personal property of a decedent, as from time to time changed
35 in form by sale, reinvestment or otherwise, and augmented by any accretions or additions thereto
36 and substitutions therefor or diminished by any decreases and distributions therefrom.

37 (16) "Funeral" includes burial or other disposition of the remains of a decedent, including the
38 plot or tomb and other necessary incidents to the disposition of the remains.

39 (17) "General devise" means a devise chargeable generally on the estate of a testator and not
40 distinguishable from other parts thereof or not so given as to amount to a specific devise.

41 (18) "Heir" means any person, including the surviving spouse **or surviving reciprocal benefi-**
42 **ciary, as defined in section 1 of this 2005 Act**, who is entitled under intestate succession to the
43 property of a decedent who died wholly or partially intestate.

44 (19) "Interested person" includes heirs, devisees, children, spouses, **reciprocal beneficiaries,**
45 **as defined in section 1 of this 2005 Act**, creditors and any others having a property right or claim

against the estate of a decedent that may be affected by the proceeding. It also includes fiduciaries representing interested persons.

(20) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all the estate.

(21) "Intestate succession" means succession to property of a decedent who dies intestate or partially intestate.

(22) "Issue" includes adopted children and their issue and, when used to refer to persons who take by intestate succession, includes all lineal descendants, except those who are the lineal descendants of living lineal descendants.

(23) "Net estate" means the real and personal property of a decedent, except property used for the support of the surviving spouse, **or the surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act**, and children and for the payment of expenses of administration, funeral expenses, claims and taxes.

(24) "Net intestate estate" means any part of the net estate of a decedent not effectively disposed of by the will.

(25) "Personal property" includes all property other than real property.

(26) "Personal representative" includes executor, administrator, administrator with will annexed and administrator de bonis non, but does not include special administrator.

(27) "Property" includes both real and personal property.

(28) "Real property" includes all legal and equitable interests in land, in fee and for life.

(29) "Settlement" includes, as to the estate of a decedent, the full process of administration, distribution and closing.

(30) "Specific devise" means a devise of a specific thing or specified part of the estate of a testator that is so described as to be capable of identification. It is a gift of a part of the estate identified and differentiated from all other parts.

(31) "Will" includes codicil; it also includes a testamentary instrument that merely appoints an executor or that merely revokes or revives another will.

SECTION 11. ORS 112.025 is amended to read:

112.025. (1) If the decedent leaves a surviving spouse and **surviving** issue, the intestate share of the surviving spouse is:

[(1)] (a) If there are surviving issue of the decedent all of whom are issue of the surviving spouse also, the entire net intestate estate.

[(2)] (b) If there are surviving issue of the decedent one or more of whom are not issue of the surviving spouse, one-half of the net intestate estate.

(2) If the decedent leaves a surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, and surviving issue, the intestate share of the surviving reciprocal beneficiary is:

(a) If there are surviving issue of the decedent all of whom are issue of the surviving reciprocal beneficiary also, the entire net intestate estate.

(b) If there are surviving issue of the decedent one or more of whom are not issue of the surviving reciprocal beneficiary, one-half of the net intestate estate.

SECTION 12. ORS 112.035 is amended to read:

112.035. (1) If the decedent leaves a surviving spouse and no issue, the surviving spouse shall have all of the net intestate estate.

(2) If the decedent leaves a surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, and no issue, the surviving reciprocal beneficiary shall have all of the net intestate

1 **estate.**

2 **SECTION 13.** ORS 112.045 is amended to read:

3 112.045. The part of the net intestate estate not passing to the surviving spouse **or surviving**
4 **reciprocal beneficiary, as defined in section 1 of this 2005 Act,** shall pass:

5 (1) To the issue of the decedent. If the issue are all of the same degree of kinship to the
6 decedent, they shall take equally, but if of unequal degree, then those of more remote degrees take
7 by representation.

8 (2) If there is no surviving issue, to the surviving parents of the decedent.

9 (3) If there is no surviving issue or parent, to the brothers and sisters of the decedent and the
10 issue of any deceased brother or sister of the decedent by representation. If there is no surviving
11 brother or sister, the issue of brothers and sisters take equally if they are all of the same degree
12 of kinship to the decedent, but if of unequal degree, then those of more remote degrees take by
13 representation.

14 (4) If there is no surviving issue, parent or issue of a parent, to the grandparents of the decedent
15 and the issue of any deceased grandparent of the decedent by representation. If there is no surviving
16 grandparent, the issue of grandparents take equally if they are all of the same degree of kinship to
17 the decedent, but if of unequal degree, then those of more remote degrees take by representation.

18 (5) If, at the time of taking, surviving parents or grandparents of the decedent are married to
19 each other, they shall take real property as tenants by the entirety and personal property as joint
20 owners with the right of survivorship.

21 **SECTION 14.** ORS 113.085 is amended to read:

22 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
23 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person
24 it finds suitable as personal representative, giving preference in the following order:

25 (a) To the executor named in the will.

26 (b) To the surviving spouse of the decedent or the nominee of the surviving spouse of the
27 decedent.

28 **(c) To the surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the**
29 **decedent or the nominee of the surviving reciprocal beneficiary of the decedent.**

30 [(c)] **(d)** To the nearest of kin of the decedent or the nominee of the nearest of kin of the
31 decedent.

32 [(d)] **(e)** To the Director of Human Services or a designee, if it appears the decedent received
33 public assistance pursuant to ORS chapter 411, 412, 413 or 414 and that such assistance is a claim
34 against the estate.

35 [(e)] **(f)** To the Director of Veterans' Affairs, if the decedent was a protected person under ORS
36 406.050 (7), and the director has joined in the petition for such appointment.

37 [(f)] **(g)** To any other person.

38 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
39 of State Lands as personal representative if it appears that the decedent died wholly intestate and
40 without known heirs. The Attorney General shall represent the Department of State Lands in the
41 administration of the estate. Any funds received by the Department of State Lands in the capacity
42 of personal representative may be deposited in accounts, separate and distinct from the General
43 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
44 account.

45 (3) The court may appoint a person other than the Department of State Lands to administer the

estate of a decedent who died wholly intestate and without known heirs if the person filing a petition under ORS 113.035 attaches written authorization from an estate administrator of the Department of State Lands appointed under ORS 113.235 approving the filing of the petition by the person. Except as provided by rule adopted by the Director of the Department of State Lands, an estate administrator may consent to the appointment of another person to act as personal representative only if it appears after investigation that the estate is insolvent.

SECTION 15. ORS 114.005 is amended to read:

114.005. The spouse **or reciprocal beneficiary, as defined in section 1 of this 2005 Act,** and **the** dependent children of a decedent, or any of them, may continue to occupy the principal place of abode of the decedent until one year after the death of the decedent or, if the estate therein is an estate of leasehold or an estate for the lifetime of another, until one year after the death of the decedent or the earlier termination of the estate. During that occupancy:

(1) The occupants shall not commit or permit waste to the abode, or cause or permit mechanic's or *[materialman's or]* other liens to attach thereto.

(2) The occupants shall keep the abode insured, to the extent of the fair market value of the improvements, against fire and other hazards within the extended coverage provided by fire insurance policies. In the event of loss or damage from those hazards, to the extent of the proceeds of the insurance, they shall restore the abode to its former condition.

(3) The occupants shall pay taxes and improvement liens on the abode as payment thereof becomes due.

(4) The abode is exempt from execution to the extent that it was exempt when the decedent was living.

SECTION 16. A reciprocal beneficiary, as defined in section 1 of this 2005 Act, has the same visitation privileges in a health care facility, as defined in ORS 442.015, as the visitation privileges enjoyed by a member of the patient's immediate family.

SECTION 17. ORS 127.635 is amended to read:

127.635. (1) Life-sustaining procedures as defined in ORS 127.505 which would otherwise be applied to an incapable principal who does not have an appointed health care representative or applicable valid advance directive may be withheld or withdrawn in accordance with subsections (2) and (3) of this section if the principal has been medically confirmed to be in one of the following conditions:

(a) A terminal condition;

(b) Permanently unconscious;

(c) A condition in which administration of life-sustaining procedures would not benefit the principal's medical condition and would cause permanent and severe pain; or

(d) The person has a progressive illness that will be fatal and is in an advanced stage, the person is consistently and permanently unable to communicate by any means, swallow food and water safely, care for the person's self and recognize the person's family and other people, and it is very unlikely that the person's condition will substantially improve.

(2) If a principal's condition has been determined to meet one of the conditions set forth in subsection (1) of this section, and the principal does not have an appointed health care representative or applicable advance directive, the principal's health care representative shall be the first of the following, in the following order, who can be located upon reasonable effort by the health care facility and who is willing to serve as the health care representative:

(a) A guardian of the principal who is authorized to make health care decisions, if any;

(b) The principal's spouse;

(c) **The principal's reciprocal beneficiary, as defined in section 1 of this 2005 Act;**

[(c)] (d) An adult designated by the others listed in this subsection who can be so located, if no person listed in this subsection objects to the designation;

[(d)] (e) A majority of the adult children of the principal who can be so located;

[(e)] (f) Either parent of the principal;

[(f)] (g) A majority of the adult siblings of the principal who can be located with reasonable effort; or

[(g)] (h) Any adult relative or adult friend.

(3) If none of the persons described in subsection (2) of this section is available, then life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician.

(4) Life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician at the request of a person designated the health care representative under subsections (2) and (3) of this section only after the person has consulted with concerned family and close friends, and if the principal has a case manager, as defined by rules adopted by the Department of Human Services, after giving notice to the principal's case manager.

SECTION 18. ORS 146.035 is amended to read:

146.035. (1) There shall be established within the Department of State Police the State Medical Examiner's office for the purpose of directing and supporting the state death investigation program.

(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or discharge other personnel of the State Medical Examiner's office.

(4) The State Medical Examiner's office shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Any parent, spouse, **reciprocal beneficiary, as defined in section 1 of this 2005 Act**, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117. The system designated to protect and advocate the rights of individuals with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the rights of individuals with mental illness under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.) shall have access to reports described in this subsection pursuant to ORS 192.517.

SECTION 19. ORS 311.670 is amended to read:

311.670. In order to qualify for tax deferral under ORS 311.666 to 311.701, the property must meet all of the following requirements when the claim is filed and thereafter so long as the payment of taxes by the taxpayer is deferred:

(1) The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health.

(2)(a) The person claiming the deferral must, by himself or herself or together with his or her spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale[, or];

(b) **The person claiming the deferral must, by himself or herself or together with his or her reciprocal beneficiary, as defined in section 1 of this 2005 Act, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale; or**

(c) Two or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

(3) There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

SECTION 20. ORS 311.681 is amended to read:

311.681. (1) Notwithstanding ORS 311.668, if an individual (or two or more individuals jointly) who has elected to defer homestead property taxes in a prior tax year has not filed a timely claim for deferral for one or more tax years succeeding the year in which property taxes were initially deferred under ORS 311.666 to 311.701, then the individual may request that the Director of the Department of Revenue grant a retroactive deferral of property taxes on the property. A spouse who is eligible to make the election under ORS 311.688 may also request a grant of retroactive deferral under this section. **A reciprocal beneficiary, as defined in section 1 of this 2005 Act, who is eligible to make the election under ORS 311.688 may also request a grant of retroactive deferral under this section.**

(2) The director may, in the discretion of the director, grant or deny the retroactive deferral of property taxes. No appeal from a decision of the director under this section may be made.

(3) The director shall not grant a retroactive deferral of property taxes if, in any intervening year between the year in which deferral was last granted to the property and the last year for which retroactive deferral is being requested, the property would not have been eligible for deferral had the claim for deferral been timely filed.

(4) If the director grants a retroactive deferral of property taxes under this section, the department shall pay to the county tax collector an amount equal to the deferred taxes for each year, less three percent. Interest shall accrue on the actual amount of taxes advanced to the county.

(5) The department shall have a lien against the tax-deferred property for amounts deferred under this section as provided in ORS 311.673. The lien shall attach as of July 1 of the tax year for which the payment relates. In the case of a payment representing more than one year's property taxes, the department shall have a lien in the amount of that portion of a payment related to a particular tax year, which shall attach as of July 1 of that tax year.

SECTION 21. ORS 311.688 is amended to read:

311.688. (1) Notwithstanding ORS 311.684, when one of the circumstances listed in ORS 311.684 (1) to (3) occurs, the spouse **or reciprocal beneficiary, as defined in section 1 of this 2005 Act,** who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under ORS 311.668 if:

(a) The spouse **or reciprocal beneficiary** of the taxpayer is or will be 60 years of age or older not later than six months from the day the circumstance listed in ORS 311.684 (1) to (3) occurs; and

(b) The property is the homestead of the spouse **or reciprocal beneficiary** of the taxpayer and

1 meets the requirements of ORS 311.670 (2).

2 (2) A spouse **or reciprocal beneficiary** who does not meet the age requirements of subsection
3 (1)(a) of this section but is otherwise qualified to continue the property in its tax-deferred status
4 under subsection (1) of this section may continue the deferral of property taxes deferred for previous
5 years by filing a claim within the time and in the manner provided under ORS 311.668. If a spouse
6 **or reciprocal beneficiary** eligible for and continuing the deferral of taxes previously deferred under
7 this subsection becomes 62 years of age prior to April 15 of any year, the spouse **or reciprocal**
8 **beneficiary** may elect to continue the deferral of previous years' taxes deferred under this sub-
9 section and may elect to defer the current assessment year's taxes on the homestead by filing a
10 claim within the time and in the manner provided under ORS 311.668. Thereafter, payment of the
11 taxes levied on the homestead and deferred under this subsection and payment of taxes levied on
12 the homestead in the current assessment year and in future years may be deferred in the manner
13 provided in and subject to ORS 311.666 to 311.701.

14 (3) Notwithstanding that ORS 311.668 requires that a claim be filed no later than April 15, if the
15 Department of Revenue determines that good and sufficient cause exists for the failure of a spouse
16 **or reciprocal beneficiary** to file a claim under this section on or before April 15, the claim may
17 be filed within 180 days after notice of taxes due and payable under ORS 311.686 is mailed or de-
18 livered by the department to the taxpayer, [or] spouse **or reciprocal beneficiary**.

19 **SECTION 22.** ORS 311.690 is amended to read:

20 311.690. (1) All payments of deferred taxes shall be made to the Department of Revenue.

21 (2) Subject to subsection (3) of this section, all or part of the deferred taxes and accrued interest
22 may at any time be paid to the department by:

23 (a) The taxpayer [or].

24 (b) The spouse of the taxpayer.

25 (c) **The reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the taxpayer.**

26 [(b)] (d) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or
27 any person having or claiming a legal or equitable interest in the property.

28 (3) A person listed in subsection [(2)(b)] (2)(d) of this section may make such payments only if
29 no objection is made by the taxpayer within 30 days after the department deposits in the mail notice
30 to the taxpayer of the fact that such payment has been tendered.

31 (4) Any payment made under this section shall be applied first against accrued interest and any
32 remainder against the deferred taxes. Such payment does not affect the deferred tax status of the
33 property. Unless otherwise provided by law, such payment does not give the person paying the taxes
34 any interest in the property or any claim against the estate, in the absence of a valid agreement to
35 the contrary.

36 (5) When the deferred taxes and accrued interest are paid in full and the property is no longer
37 subject to deferral, the department shall prepare and record in the county in which the property is
38 located a satisfaction of deferred property tax lien.

39 **SECTION 23.** ORS 311.721 is amended to read:

40 311.721. (1) Notwithstanding ORS 311.716 and 311.718, when one of the circumstances listed in
41 ORS 311.716 occurs, the spouse **or reciprocal beneficiary, as defined in section 1 of this 2005**
42 **Act,** of the taxpayer who claimed the deferral may elect to continue the homestead in its deferred
43 status if:

44 (a) The spouse **or reciprocal beneficiary** of the taxpayer is or will be 60 years of age or older
45 not later than six months from the day the circumstances listed in ORS 311.716 occur; and

(b) The homestead is the homestead of the spouse **or reciprocal beneficiary** of the taxpayer and meets the requirements of ORS 311.706.

(2) The election under subsection (1) of this section to continue the property in its deferred status by the spouse **or reciprocal beneficiary** shall be filed in the same manner as a claim for deferral is filed under ORS 311.704, not later than August 15 of the year following the calendar year in which the circumstances listed in ORS 311.716 occur. Thereupon, the homestead with respect to which the deferral is claimed shall continue to be subject to special assessment deferral and the appropriate local officials shall cancel all actions taken under ORS 311.718 and make any necessary correcting entries in their records. Subject to ORS 311.729, the deferral shall continue until the special assessment for local improvement becomes delinquent under ORS 311.718.

SECTION 24. ORS 311.722 is amended to read:

311.722. (1) If the taxpayer who claimed the deferral of special assessment for local improvement dies, or if a spouse **or reciprocal beneficiary, as defined in section 1 of this 2005 Act**, who continued the deferral under ORS 311.702 to 311.735 dies, the Department of Revenue may extend the time for payment of the special assessment for local improvement and interest accruing with respect to the special assessment for local improvement becoming due and payable under ORS 311.718 if:

(a) The homestead property becomes property of an individual or individuals:

(A) By inheritance or devise; or

(B) If the individual or individuals are heirs or devisees, as defined under ORS 111.005, in the course of settlement of the estate;

(b) The individual or individuals commence occupancy of the property as a principal residence on or before August 15 of the calendar year following the calendar year of death; and

(c) The individual or individuals make application to the department for an extension of time for payment of the deferred special assessment for local improvement and interest prior to August 15 of the calendar year following the calendar year of death.

(2)(a) Subject to paragraph (b) of this subsection, an extension granted under this section shall be for a period not to exceed five years after August 15 of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the department and the individual or individuals.

(b) An extension granted under this section shall terminate immediately if:

(A) The homestead property is sold or otherwise transferred by any party to the extension agreement;

(B) All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

(C) The homestead property, a manufactured structure or floating home, is moved out of the state.

(3) If the department has reason to believe that the homestead property is not sufficient security for the deferred special assessment for local improvement and interest the department may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms of the extension. The bond shall not exceed in amount double the special assessment for local improvement with respect to which extension is granted.

(4) During the period of extension, and until paid the deferred special assessment for local improvement shall continue to accrue interest in the same manner and at the same rate as provided under ORS 311.674 (3). No interest shall accrue upon interest.

SECTION 25. ORS 311.723 is amended to read:

311.723. (1) Subject to subsection (2) of this section, all or part of the amounts of deferred special assessment for local improvement, and accrued interest, may at any time be paid to the Department of Revenue by:

(a) The taxpayer who filed the claim for deferral *[or the taxpayer's spouse]*.

(b) The spouse of the taxpayer who filed the claim for deferral.

(c) The reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the taxpayer who filed the claim for deferral.

~~[(b)]~~ (d) The next of kin of the taxpayer who filed the claim for deferral, the taxpayer's heir at law, the taxpayer's child or any person having or claiming a legal or equitable interest in the property.

(2) A person referred to in subsection ~~[(1)(b)]~~ **(1)(d)** of this section may make the payments only if no objection is made by the taxpayer who filed the claim for deferral within 30 days after the department deposits in the mail notice to the taxpayer who filed the claim that the payment has been tendered.

(3) Any payments made under this section shall be applied first against accrued interest and any remainder against the deferred special assessment for local improvement. A payment made pursuant to this section does not affect the deferred status of the homestead. Unless otherwise provided by law, the payment does not give the person paying the deferred special assessment any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

SECTION 26. ORS 432.121 is amended to read:

432.121. (1) To protect the integrity of vital records and vital reports, to ensure their proper use and to ensure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information from vital records or vital reports in the custody of the State Registrar of the Center for Health Statistics, county registrar or local registrar or to copy or issue a copy of all or part of any such record or report unless authorized by this chapter and by rules adopted pursuant thereto or by order of a court of competent jurisdiction. Rules adopted under this section shall provide for adequate standards of security and confidentiality of vital records and vital reports. The state registrar shall adopt rules to ensure that, for records of dissolution of marriage issued in proceedings under ORS 107.085 or 107.485, Social Security numbers of the parties are kept confidential and exempt from public inspection.

(2) The State Registrar of the Center for Health Statistics shall authorize the inspection, disclosure and copying of the information referred to in subsection (1) of this section as follows:

(a) To the subject of the record; spouse, **reciprocal beneficiary, as defined in section 1 of this 2005 Act**, child, parent, sibling or legal guardian of the subject of the record; an authorized representative of the subject of the record, spouse, **reciprocal beneficiary**, child, parent, sibling or legal guardian of the subject of the record; and, in the case of death, marriage or divorce records, to other next of kin.

(b) When a person demonstrates that a death, marriage or divorce record is needed for the determination or protection of a personal or property right.

(c) When 100 years have elapsed after the date of birth or 50 years have elapsed after the date of death, marriage or divorce.

(d) When the person requesting the information demonstrates that the person intends to use the information solely for research purposes. In order to receive the information, the person must submit a written request to the state registrar requesting a research agreement. The state registrar shall issue a research agreement if the person demonstrates that the information will be used only for

1 research and will be held confidential. The research agreement shall prohibit the release by the
2 person of any information other than that authorized by the agreement that might identify any
3 person or institution.

4 (e) To the federal agency responsible for national vital statistics, upon request. The copies or
5 data may be used solely for the conduct of official duties. Before furnishing the records, reports or
6 data, the state registrar shall enter into an agreement with the federal agency indicating the sta-
7 tistical or research purposes for which the records, reports or data may be used. The agreement
8 shall also set forth the support to be provided by the federal agency for the collection, processing
9 and transmission of the records, reports or data. Upon written request of the federal agency, the
10 state registrar may approve, in writing, additional statistical or research uses of the records, reports
11 or data supplied under the agreement.

12 (f) To federal, state and local governmental agencies, upon request. The copies or data may be
13 used solely for the conduct of official duties of the requesting governmental agency.

14 (g) To offices of vital statistics outside this state when such records or other reports relate to
15 residents of those jurisdictions or persons born in those jurisdictions. Before furnishing the records,
16 reports or data, the state registrar shall enter into an agreement with the office of vital statistics.
17 The agreement shall specify the statistical and administrative purposes for which the records, re-
18 ports or data may be used and the agreement shall further provide instructions for the proper re-
19 tention and disposition of the copies. Copies received by the Center for Health Statistics from offices
20 of vital statistics in other states shall be handled in the same manner as prescribed in this section.

21 (h) To an investigator licensed under ORS 703.430, upon request.

22 (3) The state registrar, upon request of a family member or legal representative, shall issue a
23 certified copy or other copy of a death certificate containing the cause of death information as
24 provided in subsection (2) of this section or as follows:

25 (a) When a person has demonstrated through documented evidence a need for the cause of death
26 to establish a legal right or claim.

27 (b) When the request for the copy is made by or on behalf of an organization that provides
28 benefits to the decedent's survivors or beneficiaries.

29 (4) Nothing in this section prohibits the release of information or data that would not identify
30 any person or institution named in a vital record or a vital report.

31 (5) Nothing in this section shall prohibit a health care provider from disclosing information
32 contained in the provider's records as otherwise allowed by law.

33 (6) Nothing in this section shall be construed to permit disclosure of information contained in
34 the "Information for Medical and Health Use Only" section of the birth certificate, fetal death re-
35 port or the "Information for Statistical Purposes Only" section of the certificate of marriage or
36 certificate of divorce, unless specifically authorized by the state registrar for statistical or research
37 purposes. The data shall not be subject to subpoena or court order and shall not be admissible be-
38 fore any court, tribunal or judicial body.

39 (7) All forms and procedures used in the issuance of certified copies of vital records and vital
40 reports shall be uniform and provided by or approved by the state registrar. All certified copies is-
41 sued shall have security features that safeguard the document against alteration, counterfeiting,
42 duplication or simulation without ready detection.

43 (8) Each copy issued shall show the date of filing. Copies issued from records marked
44 "Amended" shall be similarly marked and shall show the effective date of the amendment. Copies
45 issued from records marked "Delayed" shall be similarly marked and shall include the date of filing

1 and a description of the evidence used to establish the delayed certificate.

2 (9) Any copy issued of a certificate of foreign birth shall indicate this fact and show the actual
3 place of birth and the fact that the certificate is not proof of United States citizenship for an
4 adoptive child.

5 (10) Appeals from decisions of the state registrar to refuse to disclose information or to permit
6 inspection or copying of records as prescribed by this section and rules adopted pursuant thereto
7 shall be made under ORS chapter 183.

8 (11) The state registrar shall adopt rules to implement this section in accordance with the ap-
9 plicable sections of ORS chapter 183.

10 (12) Indexes of deaths, marriages or divorces that list names, dates of events, county of events
11 or certificate numbers may be disclosed.

12 **SECTION 27.** ORS 708A.430 is amended to read:

13 708A.430. (1) On the death of a depositor of a financial institution, if the deposit is \$25,000 or
14 less, the financial institution may, upon receipt of an affidavit from the person claiming the deposit
15 as provided in subsection (2) of this section, pay the moneys on deposit to the credit of the deceased
16 depositor:

17 (a) To the surviving spouse;

18 **(b) To the surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act;**

19 [(b)] **(c)** If there is no surviving spouse **or surviving reciprocal beneficiary**, to the Department
20 of Human Services, on demand of the department within 60 days from the death of the depositor
21 where there is a preferred claim arising under ORS 411.795, 412.600, 413.200 or 414.105, or if there
22 is no claim by the department, to the surviving children 18 years of age or older;

23 [(c)] **(d)** If the depositor left no surviving spouse, **surviving reciprocal beneficiary**, Department
24 of Human Services claim or surviving children, to the depositor's surviving parents; or

25 [(d)] **(e)** If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Hu-
26 man Services claim, surviving child or surviving parent, to the depositor's surviving brothers and
27 sisters 18 years of age or older.

28 (2) The affidavit shall:

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

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

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

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

37 (3) In the event the decedent died intestate without known heirs, an estate administrator of the
38 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
39 moneys as escheat property.

40 (4) The financial institution shall determine the relationship of the affiant to the deceased
41 depositor, however payment of such moneys in good faith to the affiant or affiants shall discharge
42 and release the transferor from any liability or responsibility for the transfer in the same manner
43 and with the same effect as if the property had been transferred, delivered or paid to a personal
44 representative of the estate of the decedent.

45 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **sur-**

1 **living reciprocal beneficiary**, Department of Human Services claim, surviving child, surviving
 2 parent, surviving brothers and sisters or an estate administrator of the Department of State Lands
 3 to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed
 4 in an estate where a withdrawal of deposits was made under this section, the person withdrawing
 5 the deposits shall account for them to the personal representative.

6 (6) When a financial institution transfers moneys under subsection (1) of this section, the
 7 transferor may require the transferee to furnish the transferor a written indemnity agreement,
 8 indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

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

11 **SECTION 28.** ORS 708A.655 is amended to read:

12 708A.655. (1) This section applies to the safe deposit box of any person who is the sole lessee
 13 or 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 Oregon operating institution, the Oregon operating institution
 16 within which the box is located shall cause or permit the box to be opened and the contents of the
 17 box examined at the 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 [or] **of the decedent;**

29 **(c) The surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the**
 30 **decedent;**

31 **(d) Any heir of the decedent;**

32 [(c)] **(e) A person who was serving as the court-appointed guardian or conservator of the**
 33 **decedent or as trustee for the decedent immediately prior to the decedent's death;**

34 [(d)] **(f) A person named as successor trustee in a purported trust instrument creating a trust**
 35 **of which the decedent was a trustor or a trustee at the time of the decedent's death;**

36 [(e)] **(g) A person designated by the decedent in a writing that is acceptable to the Oregon op-**
 37 **erating institution and is filed with it prior to the decedent's death;**

38 [(f)] **(h) A person who immediately prior to the death of the decedent had the right of access to**
 39 **the box as an agent of the decedent under a durable power of attorney; or**

40 [(g)] **(i) If there are no heirs of the decedent, an estate administrator of the Department of State**
 41 **Lands appointed under ORS 113.235.**

42 (4) If the box is opened for the purpose of conducting a will search, the Oregon operating in-
 43 stitution shall remove any document that appears to be a will, make a true and correct copy of it
 44 and deliver the original will to a person designated in the will to serve as the decedent's personal
 45 representative, or if no such person is designated or the Oregon operating institution cannot, despite

1 reasonable efforts, determine the whereabouts of such person, the Oregon operating institution shall
2 retain the will or deliver it to a court having jurisdiction of the estate of the decedent. A copy of
3 the will shall be retained in the box. At the request of the interested person, a copy of the will,
4 together with copies of any documents pertaining to the disposition of the remains of the decedent,
5 may be given to the interested person.

6 (5) If the box is opened for the purpose of conducting a trust instrument search, the Oregon
7 operating institution shall remove any document that appears to be a trust instrument creating a
8 trust of which the decedent was a trustor or trustee at the time of the decedent's death, make a true
9 and correct copy of it and deliver the original trust instrument to a person designated in the trust
10 instrument to serve as the successor trustee on the death of the decedent. If no such person is
11 designated or the Oregon operating institution cannot, despite reasonable efforts, determine the
12 whereabouts of such person, the Oregon operating institution shall retain the trust instrument. A
13 copy of the trust instrument shall be retained in the box. At the request of any interested person,
14 a copy of the trust instrument may be given to the interested person.

15 (6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of
16 the decedent's remains, the Oregon operating institution shall comply with subsection (4) of this
17 section with respect to any will of the decedent found in the box, and may in its discretion either:

18 (a) Make and retain in the box a copy of any documents pertaining to the disposition of the
19 remains of the decedent and tender the original documents to the interested person; or

20 (b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent
21 to the interested person and retain the original documents in the box.

22 (7) If the box is opened for the purpose of making an inventory of its contents, the Oregon op-
23 erating institution shall comply with subsection (4) or (5) of this section with respect to any will or
24 trust instrument of the decedent that is found in the box, and shall cause the inventory to be made.
25 The inventory shall be attested to by a representative of the Oregon operating institution and may
26 be attested to by the interested person, if the interested person is present when the inventory is
27 made. The Oregon operating institution shall retain the original inventory in the box, and shall
28 furnish a copy of the inventory to the interested person upon request.

29 (8) The Oregon operating institution may presume the truth of any statement contained in the
30 affidavit required to be furnished under this section, and when acting in reliance upon such an af-
31 fidavit, the Oregon operating institution is discharged as if it had dealt with the personal represen-
32 tative of the decedent. The Oregon operating institution is not responsible for the adequacy of the
33 description of any property included in an inventory of the contents of a box, or for the conversion
34 of the property in connection with actions performed under this section, except for conversion by
35 intentional acts of the Oregon operating institution or its employees, directors, officers or agents.
36 If the Oregon operating institution is not satisfied that the requirements of this section have been
37 satisfied, the Oregon operating institution may decline to open the box.

38 (9) If the interested person does not furnish the key needed to open the box, and the Oregon
39 operating institution must incur expense in gaining entry to the box, the Oregon operating institu-
40 tion may require that the interested person pay the expense of opening the box.

41 (10) Any examination of the contents of a box under this section shall be conducted in the
42 presence of at least one employee of the Oregon operating institution.

43 **SECTION 29.** ORS 722.262 is amended to read:

44 722.262. (1) On the death of an account holder or a holder of a demand deposit account, if the
45 savings liability of an association or federal association on all savings accounts of the deceased, and

the amounts held in all demand deposit accounts of the deceased, is \$25,000 or less, the association or federal association may, upon receipt of an affidavit from the person claiming the account, pay the withdrawal value of the accounts of the deceased holder:

(a) To the surviving spouse;

(b) To the surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act;

[(b)] (c) If there is no surviving spouse **or surviving reciprocal beneficiary**, to the surviving children 18 years of age or older;

[(c)] (d) If there is no surviving spouse, **surviving reciprocal beneficiary** or surviving children 18 years of age or older, to the surviving parents; or

[(d)] (e) If there is no surviving spouse, **surviving reciprocal beneficiary**, surviving child 18 years of age or older or surviving parent, to the surviving brothers and sisters 18 years of age or older.

(2) If the deceased account holder or holder of a demand deposit account received public assistance pursuant to ORS chapter 411, 412, 413 or 414, the Department of Human Services may claim such withdrawal value by filing an affidavit in the form prescribed by subsection (3) of this section and the Department of Human Services shall be preferred to all other claimants except a surviving spouse **or surviving reciprocal beneficiary**.

(3) The affidavit of the person or the Department of Human Services claiming the account shall:

(a) State where and when the account holder or holder of a demand deposit account died;

(b) State that the total withdrawal value of all savings and demand deposit accounts of the deceased holder in all associations in Oregon, including federal associations, does not exceed \$25,000;

(c) Show the relationship of the affiant or affiants to the deceased holder; and

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

(4) In the event the decedent died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the withdrawal value of the accounts as escheat property.

(5) A savings association or federal association is under no obligation to determine the relationship of the affiant to the deceased. Payment made in good faith to the person or the Department of Human Services or an estate administrator of the Department of State Lands making the affidavit is a full acquittance and release of the association or federal association for the amount so paid.

(6) A probate proceeding is not necessary to establish the right of the surviving spouse, **surviving reciprocal beneficiary**, surviving children, surviving parent or surviving brothers and sisters to withdraw an account as provided by this section. However, if a personal representative is appointed in an estate of a deceased person whose account has been withdrawn under this section, the person or the Department of Human Services withdrawing the account shall account for it to the personal representative.

SECTION 30. ORS 722.660 is amended to read:

722.660. (1) This section applies to the safe deposit box of any person who is the sole lessee or last surviving lessee of the box and who has died.

(2) Upon being furnished with a certified copy of the decedent's death certificate or other evidence of death satisfactory to the savings association, the savings association within which the box

is located shall cause or permit the box to be opened and the contents of the box examined at the request of an individual who furnishes an affidavit stating:

(a) That the individual believes the box may contain the will of the decedent, a trust instrument creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death, documents pertaining to the disposition of the remains of the decedent, documents pertaining to property of the estate of the decedent or property of the estate of the decedent; and

(b) That the individual is an interested person as defined in this section and wishes to open the box to conduct a will search or trust instrument search, obtain documents relating to the disposition of the decedent's remains or inventory the contents of the box.

(3) For the purpose of this section, "interested person" means any of the following:

(a) A person named as personal representative of the decedent in a purported will of the decedent;

(b) The surviving spouse *[or]* **of the decedent;**

(c) The surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the decedent;

(d) Any heir of the decedent;

[(c)] **(e)** A person who was serving as the court-appointed guardian or conservator of the decedent or as trustee for the decedent immediately prior to the decedent's death;

[(d)] **(f)** A person named as successor trustee in a purported trust instrument creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death;

[(e)] **(g)** A person designated by the decedent in a writing that is acceptable to the savings association and is filed with it prior to the decedent's death;

[(f)] **(h)** A person who immediately prior to the death of the decedent had the right of access to the box as an agent of the decedent under a durable power of attorney; or

[(g)] **(i)** If there are no heirs of the decedent, an estate administrator of the Department of State Lands appointed under ORS 113.235.

(4) If the box is opened for the purpose of conducting a will search, the savings association shall remove any document that appears to be a will, make a true and correct copy of it and deliver the original will to a person designated in the will to serve as the decedent's personal representative, or if no such person is designated or the savings association cannot, despite reasonable efforts, determine the whereabouts of such person, the savings association shall retain the will or deliver it to a court having jurisdiction of the estate of the decedent. A copy of the will shall be retained in the box. At the request of the interested person, a copy of the will, together with copies of any documents pertaining to the disposition of the remains of the decedent, may be given to the interested person.

(5) If the box is opened for the purpose of conducting a trust instrument search, the savings association shall remove any document that appears to be a trust instrument creating a trust of which the decedent was a trustor or trustee at the time of the decedent's death, make a true and correct copy of it and deliver the original trust instrument to a person designated in the trust instrument to serve as the successor trustee on the death of the decedent. If no such person is designated or the savings association cannot, despite reasonable efforts, determine the whereabouts of such person, the savings association shall retain the trust instrument. A copy of the trust instrument shall be retained in the box. At the request of any interested person, a copy of the trust instrument may be given to the interested person.

(6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of

the decedent's remains, the savings association shall comply with subsection (4) of this section with respect to any will of the decedent found in the box, and may in its discretion either:

(a) Make and retain in the box a copy of any documents pertaining to the disposition of the remains of the decedent and tender the original documents to the interested person; or

(b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent to the interested person and retain the original documents in the box.

(7) If the box is opened for the purpose of making an inventory of its contents, the savings association shall comply with subsection (4) or (5) of this section with respect to any will or trust instrument of the decedent that is found in the box, and shall cause the inventory to be made. The inventory shall be attested to by a representative of the savings association and may be attested to by the interested person, if the interested person is present when the inventory is made. The savings association shall retain the original inventory in the box, and shall furnish a copy of the inventory to the interested person upon request.

(8) The savings association may presume the truth of any statement contained in the affidavit required to be furnished under this section, and when acting in reliance upon such an affidavit, the savings association is discharged as if it had dealt with the personal representative of the decedent. The savings association is not responsible for the adequacy of the description of any property included in an inventory of the contents of a box, or for the conversion of the property in connection with actions performed under this section, except for conversion by intentional acts of the savings association or its employees, directors, officers or agents. If the savings association is not satisfied that the requirements of this section have been satisfied, the savings association may decline to open the box.

(9) If the interested person does not furnish the key needed to open the box, and the savings association must incur expense in gaining entry to the box, the savings association may require that the interested person pay the expense of opening the box.

(10) Any examination of the contents of a box under this section shall be conducted in the presence of at least one employee of the savings association.

SECTION 31. ORS 723.466 is amended to read:

723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the deceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from the person claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit:

(a) To the surviving spouse;

(b) To the surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act;

[(b)] (c) If there is no surviving spouse **or surviving reciprocal beneficiary**, to the Department of Human Services, on demand of the Department of Human Services within 60 days from the death of the member when there is a preferred claim arising under ORS 411.795, 412.600, 413.200 or 414.105, or if there is no claim by the Department of Human Services, to the surviving children 18 years of age or older;

[(c)] (d) If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Human Services claim or surviving children, to the member's surviving parents; or

[(d)] (e) If there is no surviving spouse, **surviving reciprocal beneficiary**, Department of Human Services claim, surviving children or surviving parents, to the member's surviving brothers and sisters 18 years of age or older.

(2) The affidavit shall:

(a) State where and when the member died;

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

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

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

(3) In the event the decedent died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the moneys as escheat property.

(4) The credit union shall determine the relationship of the affiant to the deceased member. However, payment of such moneys in good faith to the affiant or affiants shall discharge and release the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the decedent.

(5) A probate proceeding is not necessary to establish the right of the surviving spouse, **surviving reciprocal beneficiary**, Department of Human Services claim, surviving children, surviving parents, surviving brothers and sisters or an estate administrator of the Department of State Lands to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

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

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

SECTION 32. ORS 723.844 is amended to read:

723.844. (1) This section applies to the safe deposit box of any person who is the sole lessee or last surviving lessee of the box and who has died.

(2) Upon being furnished with a certified copy of the decedent's death certificate or other evidence of death satisfactory to the credit union, the credit union within which the box is located shall cause or permit the box to be opened and the contents of the box examined at the request of an individual who furnishes an affidavit stating:

(a) That the individual believes the box may contain the will of the decedent, a trust instrument creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death, documents pertaining to the disposition of the remains of the decedent, documents pertaining to property of the estate of the decedent or property of the estate of the decedent; and

(b) That the individual is an interested person as defined in this section and wishes to open the box to conduct a will search or trust instrument search, obtain documents relating to the disposition of the decedent's remains or inventory the contents of the box.

(3) For the purpose of this section, "interested person" means any of the following:

(a) A person named as personal representative of the decedent in a purported will of the decedent;

(b) The surviving spouse [or] **of the decedent**;

(c) **The surviving reciprocal beneficiary, as defined in section 1 of this 2005 Act, of the**

1 **decedent;**

2 (d) Any heir of the decedent;

3 [(c)] (e) A person who was serving as the court-appointed guardian or conservator of the
4 decedent or as trustee for the decedent immediately prior to the decedent's death;

5 [(d)] (f) A person named as successor trustee in a purported trust instrument creating a trust
6 of which the decedent was a trustor or a trustee at the time of the decedent's death;

7 [(e)] (g) A person designated by the decedent in a writing that is acceptable to the credit union
8 and is filed with it prior to the decedent's death;

9 [(f)] (h) A person who immediately prior to the death of the decedent had the right of access to
10 the box as an agent of the decedent under a durable power of attorney; or

11 [(g)] (i) 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 credit union shall re-
14 move any document that appears to be a will, make a true and correct copy of it and deliver the
15 original will to a person designated in the will to serve as the decedent's personal representative,
16 or if no such person is designated or the credit union cannot, despite reasonable efforts, determine
17 the whereabouts of such person, the credit union shall retain the will or deliver it to a court having
18 jurisdiction of the estate of the decedent. A copy of the will shall be retained in the box. At the
19 request of the interested person, a copy of the will, together with copies of any documents pertain-
20 ing to the disposition of the remains of the decedent, may be given to the interested person.

21 (5) If the box is opened for the purpose of conducting a trust instrument search, the credit union
22 shall remove any document that appears to be a trust instrument creating a trust of which the
23 decedent was a trustor or trustee at the time of the decedent's death, make a true and correct copy
24 of it and deliver the original trust instrument to a person designated in the trust instrument to serve
25 as the successor trustee on the death of the decedent. If no such person is designated or the credit
26 union cannot, despite reasonable efforts, determine the whereabouts of such person, the credit union
27 shall retain the trust instrument. A copy of the trust instrument shall be retained in the box. At the
28 request of any interested person, a copy of the trust instrument may be given to the interested
29 person.

30 (6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of
31 the decedent's remains, the credit union shall comply with subsection (4) of this section with respect
32 to any will of the decedent found in the box, and may in its discretion either:

33 (a) Make and retain in the box a copy of any documents pertaining to the disposition of the
34 remains of the decedent and tender the original documents to the interested person; or

35 (b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent
36 to the interested person and retain the original documents in the box.

37 (7) If the box is opened for the purpose of making an inventory of its contents, the credit union
38 shall comply with subsection (4) or (5) of this section with respect to any will or trust instrument
39 of the decedent that is found in the box, and shall cause the inventory to be made. The inventory
40 shall be attested to by a representative of the credit union and may be attested to by the interested
41 person, if the interested person is present when the inventory is made. The credit union shall retain
42 the original inventory in the box, and shall furnish a copy of the inventory to the interested person
43 upon request.

44 (8) The credit union may presume the truth of any statement contained in the affidavit required
45 to be furnished under this section, and when acting in reliance upon such an affidavit, the credit

1 union is discharged as if it had dealt with the personal representative of the decedent. The credit
2 union is not responsible for the adequacy of the description of any property included in an inventory
3 of the contents of a box, or for the conversion of the property in connection with actions performed
4 under this section, except for conversion by intentional acts of the credit union or its employees,
5 directors, officers or agents. If the credit union is not satisfied that the requirements of this section
6 have been satisfied, the credit union may decline to open the box.

7 (9) If the interested person does not furnish the key needed to open the box, and the credit union
8 must incur expense in gaining entry to the box, the credit union may require that the interested
9 person pay the expense of opening the box.

10 (10) Any examination of the contents of a box under this section shall be conducted in the
11 presence of at least one employee of the credit union.

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