

## HOUSE AMENDMENTS TO HOUSE BILL 3124

By COMMITTEE ON JUDICIARY

May 27

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and lines 3  
2 through 6 and insert “creating new provisions; amending ORS 18.910, 20.190, 21.010, 21.040, 21.110,  
3 21.111, 21.114, 21.270, 21.275, 21.310, 21.325, 34.340, 36.520, 36.615, 46.570, 51.020, 105.130, 107.434,  
4 108.130, 112.820, 114.515, 135.921, 138.560, 419B.555 and 813.240 and sections 76, 79, 82 and 84,  
5 chapter 737, Oregon Laws 2003; repealing sections 4, 7, 11, 15, 18, 22, 25, 28, 31, 34, 40d, 43, 46, 49,  
6 52, 55, 58, 61, 64, 67, 70 and 73, chapter 737, Oregon Laws 2003; and declaring an emergency.”.

7 Delete lines 8 through 31 and delete pages 2 through 29 and insert:  
8

### 9 “CIVIL ACTION SURCHARGES AND OTHER CIVIL FEES

10  
11 “**SECTION 1.** ORS 21.010 is amended to read:

12 “21.010. (1) Except as provided in subsection (2) of this section, the appellant in an appeal or  
13 the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing  
14 fee of \$140 in the manner prescribed by ORS 19.265. The respondent in such case and any other  
15 person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall  
16 pay to the State Court Administrator the sum of [~~\$84~~] **\$105**. The party entitled to costs and dis-  
17 bursements on such appeal shall recover from the opponent the amount so paid.

18 “(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings  
19 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
20 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or  
21 allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psy-  
22 chiatric Security Review Board under ORS 161.385 (8) or orders of the State Board of Parole and  
23 Post-Prison Supervision.

24 “(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court  
25 from a justice court or municipal court in an action alleging commission of a state offense desig-  
26 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an  
27 action alleging commission of a state crime.

28 “(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding  
29 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

30 “(5) In addition to the fees provided for in subsection (1) of this section, for the period com-  
31 mencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, the appellant in an  
32 appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay  
33 a surcharge of \$42 in the manner prescribed by ORS 19.265. The respondent in the case, upon en-  
34 tering first appearance or filing first brief in the court, shall pay to the State Court Administrator  
35 a surcharge of \$25.

1       “**SECTION 2.** ORS 21.010, as amended by section 3, chapter 737, Oregon Laws 2003, is amended  
2 to read:

3       “21.010. (1) Except as provided in subsection (2) of this section, the appellant in an appeal or  
4 the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing  
5 fee of [~~\$154~~] **\$140** in the manner prescribed by ORS 19.265. The respondent in such case and any  
6 other person appearing in the appeal, upon entering first appearance or filing first brief in the court,  
7 shall pay to the State Court Administrator the sum of [~~\$92~~] **\$105**. The party entitled to costs and  
8 disbursements on such appeal shall recover from the opponent the amount so paid.

9       “(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings  
10 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
11 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or  
12 allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psy-  
13 chiatric Security Review Board under ORS 161.385 (8) or orders of the State Board of Parole and  
14 Post-Prison Supervision.

15       “(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court  
16 from a justice court or municipal court in an action alleging commission of a state offense desig-  
17 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an  
18 action alleging commission of a state crime.

19       “(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding  
20 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

21       “**(5) In addition to the fees provided for in subsection (1) of this section, for the period**  
22 **commencing September 1, 2003, and ending December 31, 2006, the appellant in an appeal or**  
23 **the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a**  
24 **surcharge of \$42 in the manner prescribed by ORS 19.265. The respondent in the case, upon**  
25 **entering first appearance or filing first brief in the court, shall pay to the State Court Ad-**  
26 **ministrator a surcharge of \$25.**

27       “**SECTION 3.** ORS 21.010, as amended by section 3, chapter 737, Oregon Laws 2003, and section  
28 2 of this 2005 Act, is amended to read:

29       “21.010. (1) Except as provided in subsection (2) of this section, the appellant in an appeal or  
30 the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing  
31 fee of [~~\$140~~] **\$154** in the manner prescribed by ORS 19.265. The respondent in such case and any  
32 other person appearing in the appeal, upon entering first appearance or filing first brief in the court,  
33 shall pay to the State Court Administrator the sum of \$105. The party entitled to costs and dis-  
34 bursements on such appeal shall recover from the opponent the amount so paid.

35       “(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings  
36 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
37 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or  
38 allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psy-  
39 chiatric Security Review Board under ORS 161.385 (8) or orders of the State Board of Parole and  
40 Post-Prison Supervision.

41       “(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court  
42 from a justice court or municipal court in an action alleging commission of a state offense desig-  
43 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an  
44 action alleging commission of a state crime.

45       “(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding

1 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

2 “[(5) In addition to the fees provided for in subsection (1) of this section, for the period commencing  
3 September 1, 2003, and ending December 31, 2006, the appellant in an appeal or the petitioner in a  
4 judicial review in the Supreme Court or the Court of Appeals shall pay a surcharge of \$42 in the  
5 manner prescribed by ORS 19.265. The respondent in the case, upon entering first appearance or filing  
6 first brief in the court, shall pay to the State Court Administrator a surcharge of \$25.]

7 “**SECTION 4. The amendments to ORS 21.010 by section 3 of this 2005 Act become oper-**  
8 **ative December 31, 2006.**

9 “**SECTION 5.** ORS 21.040 is amended to read:

10 “21.040. (1) In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party  
11 shall pay \$35 and the defendant or respondent shall pay \$20 on the filing of their first paper.

12 “(2) In addition to the fees provided for in subsection (1) of this section, for the period com-  
13 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, in cases of original ju-  
14 risdiction in the Supreme Court, the plaintiff or moving party shall pay a surcharge of \$11 and the  
15 defendant or respondent shall pay a surcharge of \$6 on the filing of their first paper.

16 “**SECTION 6.** ORS 21.040, as amended by section 6, chapter 737, Oregon Laws 2003, is amended  
17 to read:

18 “21.040. (1) In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party  
19 shall pay [~~\$39~~] **\$35** and the defendant or respondent shall pay [~~\$22~~] **\$20** on the filing of their first  
20 paper.

21 “(2) **In addition to the fees provided for in subsection (1) of this section, for the period**  
22 **commencing September 1, 2003, and ending December 31, 2006, in cases of original jurisdic-**  
23 **tion in the Supreme Court, the plaintiff or moving party shall pay a surcharge of \$11 and the**  
24 **defendant or respondent shall pay a surcharge of \$6 on the filing of their first paper.**

25 “**SECTION 7.** ORS 21.040, as amended by section 6, chapter 737, Oregon Laws 2003, and section  
26 6 of this 2005 Act, is amended to read:

27 “21.040. [(1)] In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party  
28 shall pay [~~\$35~~] **\$39** and the defendant or respondent shall pay [~~\$20~~] **\$22** on the filing of their first  
29 paper.

30 “[2) In addition to the fees provided for in subsection (1) of this section, for the period commencing  
31 September 1, 2003, and ending December 31, 2006, in cases of original jurisdiction in the Supreme  
32 Court, the plaintiff or moving party shall pay a surcharge of \$11 and the defendant or respondent shall  
33 pay a surcharge of \$6 on the filing of their first paper.]

34 “**SECTION 8. The amendments to ORS 21.040 by section 7 of this 2005 Act become oper-**  
35 **ative December 31, 2006.**

36 “**SECTION 9.** ORS 21.110 is amended to read:

37 “21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court  
38 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect  
39 from the plaintiff, appellant or moving party the sum of \$97 as a flat and uniform filing fee. In ad-  
40 dition, at the time of filing any appearance in any such action, suit or proceeding by any defendant  
41 or respondent appearing separately, or upon the part of defendants or respondents appearing jointly,  
42 the clerk shall collect from the party or parties the sum of [~~\$73~~] **\$83** as a flat and uniform filing fee.

43 “(2) In the following actions, the clerk of the circuit court shall collect the sum of \$62 as a flat  
44 and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed,  
45 and shall collect the sum of [~~\$46~~] **\$53** as a flat and uniform filing fee from any defendant or re-

1 spondent appearing separately, or upon the part of defendants or respondents appearing jointly, at  
2 the time of filing any appearance in the action:

3 “(a) Actions for the recovery of money or damages only when the amount claimed does not ex-  
4 ceed \$10,000.

5 “(b) Actions for the recovery of specific personal property when the value of the property  
6 claimed and the damages for the detention do not exceed \$10,000.

7 “(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising  
8 out of contract, not exceeding \$10,000.

9 “(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount  
10 claimed for such liens does not exceed \$10,000.

11 “(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the  
12 value of the property involved does not exceed \$10,000.

13 “(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed  
14 does not exceed \$10,000.

15 “(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the  
16 petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees  
17 collected under this subsection shall be deposited into the Judicial Department Operating Account  
18 established in ORS 1.009.

19 “(4) For purposes of subsection (2) of this section, the amount claimed, value of property, dam-  
20 ages or any amount in controversy does not include any amount claimed as costs and disbursements  
21 or attorney fees as defined by ORCP 68 A.

22 “(5) A paper or pleading shall be filed by the clerk only if the fee required under this section  
23 is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is  
24 granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee  
25 shall cover all services to be performed by the court or clerk in any such action, suit or proceeding,  
26 except where additional fees are specially authorized by law.

27 “(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-  
28 pearance that is subject to the filing fees established under subsection (2) of this section must in-  
29 clude in the caption of the pleading the following words: ‘Claim of not more than \$10,000.’

30 “(7) The fees imposed by this section do not apply to:

31 “(a) Protective proceedings under ORS chapter 125;

32 “(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

33 “(c) Filiation proceedings under ORS 109.124 to 109.230;

34 “(d) Proceedings to determine custody or support of a child under ORS 109.103;

35 “(e) Probate, adoption or change of name proceedings;

36 “(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee  
37 is provided by ORS 105.130; or

38 “(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the  
39 action or proceeding.

40 “(8) The fees described in this section shall not be charged to a district attorney or to the Di-  
41 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
42 stipulated order, process or other document relating to the provision of support enforcement ser-  
43 vices as described in ORS 25.080.

44 “(9)(a) In addition to the fees provided for in subsection (1) of this section, for the period com-  
45 mencing September 1, 2003, and ending [June 30, 2005.] **December 31, 2006**, at the time of filing in

1 the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit  
2 court shall collect from the plaintiff, appellant or moving party a surcharge of \$29. The clerk shall  
3 also, at the time of filing any appearance in any such action, suit or proceeding upon the part of  
4 any defendant or respondent appearing separately, or upon the part of defendants or respondents  
5 appearing jointly, collect from such party or parties a surcharge of \$22.

6 “(b) In addition to the fees provided for in subsection (2) of this section, for the period com-  
7 mencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, the clerk of the circuit  
8 court shall collect a surcharge of \$19 from the plaintiff, appellant or moving party, and shall collect  
9 a surcharge of \$14 from any defendant or respondent appearing separately, or upon the part of de-  
10 fendants or respondents appearing jointly, in the actions described in subsection (2) of this section.

11 “**SECTION 10.** ORS 21.110, as amended by section 10a, chapter 737, Oregon Laws 2003, is  
12 amended to read:

13 “21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court  
14 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect  
15 from the plaintiff, appellant or moving party the sum of [*\$107*] **\$97** as a flat and uniform filing fee.  
16 In addition, at the time of filing any appearance in any such action, suit or proceeding by any de-  
17 fendant or respondent appearing separately, or upon the part of defendants or respondents appearing  
18 jointly, the clerk shall collect from the party or parties the sum of [*\$80*] **\$83** as a flat and uniform  
19 filing fee.

20 “(2) In the following actions, the clerk of the circuit court shall collect the sum of [*\$68*] **\$62** as  
21 a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is  
22 filed, and shall collect the sum of [*\$51*] **\$53** as a flat and uniform filing fee from any defendant or  
23 respondent appearing separately, or upon the part of defendants or respondents appearing jointly,  
24 at the time of filing any appearance in the action:

25 “(a) Actions for the recovery of money or damages only when the amount claimed does not ex-  
26 ceed \$10,000.

27 “(b) Actions for the recovery of specific personal property when the value of the property  
28 claimed and the damages for the detention do not exceed \$10,000.

29 “(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising  
30 out of contract, not exceeding \$10,000.

31 “(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount  
32 claimed for such liens does not exceed \$10,000.

33 “(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the  
34 value of the property involved does not exceed \$10,000.

35 “(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed  
36 does not exceed \$10,000.

37 “(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the  
38 petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees  
39 collected under this subsection shall be deposited into the Judicial Department Operating Account  
40 established in ORS 1.009.

41 “(4) For purposes of subsection (2) of this section, the amount claimed, value of property, dam-  
42 ages or any amount in controversy does not include any amount claimed as costs and disbursements  
43 or attorney fees as defined by ORCP 68 A.

44 “(5) A paper or pleading shall be filed by the clerk only if the fee required under this section  
45 is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is

1 granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee  
2 shall cover all services to be performed by the court or clerk in any such action, suit or proceeding,  
3 except where additional fees are specially authorized by law.

4 “(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-  
5 pearance that is subject to the filing fees established under subsection (2) of this section must in-  
6 clude in the caption of the pleading the following words: ‘Claim of not more than \$10,000.’

7 “(7) The fees imposed by this section do not apply to:

8 “(a) Protective proceedings under ORS chapter 125;

9 “(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

10 “(c) Filiation proceedings under ORS 109.124 to 109.230;

11 “(d) Proceedings to determine custody or support of a child under ORS 109.103;

12 “(e) Probate, adoption or change of name proceedings;

13 “(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee  
14 is provided by ORS 105.130; or

15 “(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the  
16 action or proceeding.

17 “(8) The fees described in this section shall not be charged to a district attorney or to the Di-  
18 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
19 stipulated order, process or other document relating to the provision of support enforcement ser-  
20 vices as described in ORS 25.080.

21 “(9)(a) **In addition to the fees provided for in subsection (1) of this section, for the period**  
22 **commencing September 1, 2003, and ending December 31, 2006, at the time of filing in the**  
23 **circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit**  
24 **court shall collect from the plaintiff, appellant or moving party a surcharge of \$29. The clerk**  
25 **shall also, at the time of filing any appearance in any such action, suit or proceeding upon**  
26 **the part of any defendant or respondent appearing separately, or upon the part of defendants**  
27 **or respondents appearing jointly, collect from such party or parties a surcharge of \$22.**

28 “(b) **In addition to the fees provided for in subsection (2) of this section, for the period**  
29 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court**  
30 **shall collect a surcharge of \$19 from the plaintiff, appellant or moving party, and shall collect**  
31 **a surcharge of \$14 from any defendant or respondent appearing separately, or upon the part**  
32 **of defendants or respondents appearing jointly, in the actions described in subsection (2) of**  
33 **this section.**

34 “**SECTION 11.** ORS 21.110, as amended by section 10a, chapter 737, Oregon Laws 2003, and  
35 section 10 of this 2005 Act, is amended to read:

36 “21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court  
37 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect  
38 from the plaintiff, appellant or moving party the sum of [~~\$97~~] **\$107** as a flat and uniform filing fee.  
39 In addition, at the time of filing any appearance in any such action, suit or proceeding by any de-  
40 fendant or respondent appearing separately, or upon the part of defendants or respondents appearing  
41 jointly, the clerk shall collect from the party or parties the sum of \$83 as a flat and uniform filing  
42 fee.

43 “(2) In the following actions, the clerk of the circuit court shall collect the sum of [~~\$62~~] **\$68** as  
44 a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is  
45 filed, and shall collect the sum of \$53 as a flat and uniform filing fee from any defendant or re-

1 spondent appearing separately, or upon the part of defendants or respondents appearing jointly, at  
2 the time of filing any appearance in the action:

3 “(a) Actions for the recovery of money or damages only when the amount claimed does not ex-  
4 ceed \$10,000.

5 “(b) Actions for the recovery of specific personal property when the value of the property  
6 claimed and the damages for the detention do not exceed \$10,000.

7 “(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising  
8 out of contract, not exceeding \$10,000.

9 “(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount  
10 claimed for such liens does not exceed \$10,000.

11 “(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the  
12 value of the property involved does not exceed \$10,000.

13 “(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed  
14 does not exceed \$10,000.

15 “(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the  
16 petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees  
17 collected under this subsection shall be deposited into the Judicial Department Operating Account  
18 established in ORS 1.009.

19 “(4) For purposes of subsection (2) of this section, the amount claimed, value of property, dam-  
20 ages or any amount in controversy does not include any amount claimed as costs and disbursements  
21 or attorney fees as defined by ORCP 68 A.

22 “(5) A paper or pleading shall be filed by the clerk only if the fee required under this section  
23 is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is  
24 granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee  
25 shall cover all services to be performed by the court or clerk in any such action, suit or proceeding,  
26 except where additional fees are specially authorized by law.

27 “(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-  
28 pearance that is subject to the filing fees established under subsection (2) of this section must in-  
29 clude in the caption of the pleading the following words: ‘Claim of not more than \$10,000.’

30 “(7) The fees imposed by this section do not apply to:

31 “(a) Protective proceedings under ORS chapter 125;

32 “(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

33 “(c) Filiation proceedings under ORS 109.124 to 109.230;

34 “(d) Proceedings to determine custody or support of a child under ORS 109.103;

35 “(e) Probate, adoption or change of name proceedings;

36 “(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee  
37 is provided by ORS 105.130; or

38 “(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the  
39 action or proceeding.

40 “(8) The fees described in this section shall not be charged to a district attorney or to the Di-  
41 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
42 stipulated order, process or other document relating to the provision of support enforcement ser-  
43 vices as described in ORS 25.080.

44 “[9)(a) *In addition to the fees provided for in subsection (1) of this section, for the period com-*  
45 *mencing September 1, 2003, and ending December 31, 2006, at the time of filing in the circuit court of*

1 any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from  
2 the plaintiff, appellant or moving party a surcharge of \$29. The clerk shall also, at the time of filing  
3 any appearance in any such action, suit or proceeding upon the part of any defendant or respondent  
4 appearing separately, or upon the part of defendants or respondents appearing jointly, collect from such  
5 party or parties a surcharge of \$22.]

6 “(b) In addition to the fees provided for in subsection (2) of this section, for the period commencing  
7 September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect a surcharge  
8 of \$19 from the plaintiff, appellant or moving party, and shall collect a surcharge of \$14 from any de-  
9 fendant or respondent appearing separately, or upon the part of defendants or respondents appearing  
10 jointly, in the actions described in subsection (2) of this section.]

11 **“SECTION 12. The amendments to ORS 21.110 by section 11 of this 2005 Act become op-  
12 erative December 31, 2006.**

13 **“SECTION 13.** ORS 21.111 is amended to read:

14 “21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit  
15 court shall collect the sum of \$90 as a flat and uniform filing fee from the petitioner at the time the  
16 petition is filed, and shall collect the sum of \$46 as a flat and uniform filing fee from the respondent  
17 upon the respondent making an appearance.

18 “(2) The filing fee established by subsection (1) of this section shall be collected by the clerk in  
19 the following proceedings:

20 “(a) Proceedings for dissolution of marriage, annulment of marriage or separation.

21 “(b) Filiation proceedings under ORS 109.124 to 109.230.

22 “(c) Proceedings to determine custody or support of a child under ORS 109.103.

23 “(3) In addition to all other fees collected, the clerk of the circuit court shall collect from the  
24 moving party a fee of \$45 at the time of the filing of a motion after entry of a judgment of marital  
25 annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party at the  
26 time a response is filed to the motion. The fee provided for in this subsection does not apply to any  
27 pleading under ORCP 68, 69 or 71.

28 “(4) A paper or pleading shall be filed by the clerk only if the fee required under this section  
29 is paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing  
30 fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the  
31 court or clerk in any of the proceedings, except where additional fees are specially authorized by  
32 law.

33 “(5) Any petitioner or respondent that files a petition or appearance that is subject to the filing  
34 fees established under subsection (1) of this section must include in the caption of the pleading the  
35 following words: ‘Domestic relations case subject to fee under ORS 21.111.’

36 “(6) The fees described in this section shall not be charged to a district attorney or to the Di-  
37 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
38 stipulated order, process or other document relating to the provision of support enforcement ser-  
39 vices as described in ORS 25.080.

40 “(7)(a) In addition to the fees provided for in subsection (1) of this section, for the period com-  
41 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, in the proceedings  
42 specified in subsection (2) of this section the clerk of the circuit court shall collect a surcharge of  
43 \$27 from the petitioner at the time the petition is filed, and shall collect a surcharge of \$14 from the  
44 respondent upon the respondent making an appearance.

45 “(b) In addition to the fees provided for in subsection (3) of this section, for the period com-

1 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the circuit  
2 court shall collect from the moving party a surcharge of \$14 at the time of the filing of a motion for  
3 the modification of a judgment of marital annulment, dissolution or separation, if the motion is filed  
4 more than one year after the entry of the judgment in the register of the court.

5 “**SECTION 14.** ORS 21.111, as amended by section 14c, chapter 737, Oregon Laws 2003, is  
6 amended to read:

7 “21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit  
8 court shall collect the sum of [~~\$99~~] **\$90** as a flat and uniform filing fee from the petitioner at the time  
9 the petition is filed, and shall collect the sum of [~~\$51~~] **\$46** as a flat and uniform filing fee from the  
10 respondent upon the respondent making an appearance.

11 “(2) The filing fee established by subsection (1) of this section shall be collected by the clerk in  
12 the following proceedings:

13 “(a) Proceedings for dissolution of marriage, annulment of marriage or separation.

14 “(b) Filiation proceedings under ORS 109.124 to 109.230.

15 “(c) Proceedings to determine custody or support of a child under ORS 109.103.

16 “(3) In addition to all other fees collected, the clerk of the circuit court shall collect from the  
17 moving party a fee of [~~\$50~~] **\$45** at the time of the filing of a motion after entry of a judgment of  
18 marital annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party  
19 at the time a response is filed to the motion. The fee provided for in this subsection does not apply  
20 to any pleading under ORCP 68, 69 or 71.

21 “(4) A paper or pleading shall be filed by the clerk only if the fee required under this section  
22 is paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing  
23 fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the  
24 court or clerk in any of the proceedings, except where additional fees are specially authorized by  
25 law.

26 “(5) Any petitioner or respondent that files a petition or appearance that is subject to the filing  
27 fees established under subsection (1) of this section must include in the caption of the pleading the  
28 following words: ‘Domestic relations case subject to fee under ORS 21.111.’

29 “(6) The fees described in this section shall not be charged to a district attorney or to the Di-  
30 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
31 stipulated order, process or other document relating to the provision of support enforcement ser-  
32 vices as described in ORS 25.080.

33 “(7)(a) **In addition to the fees provided for in subsection (1) of this section, for the period**  
34 **commencing September 1, 2003, and ending December 31, 2006, in the proceedings specified**  
35 **in subsection (2) of this section the clerk of the circuit court shall collect a surcharge of \$27**  
36 **from the petitioner at the time the petition is filed, and shall collect a surcharge of \$14 from**  
37 **the respondent upon the respondent making an appearance.**

38 “(b) **In addition to the fees provided for in subsection (3) of this section, for the period**  
39 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court**  
40 **shall collect from the moving party a surcharge of \$14 at the time of the filing of a motion**  
41 **for the modification of a judgment of marital annulment, dissolution or separation, if the**  
42 **motion is filed more than one year after the entry of the judgment in the register of the**  
43 **court.**

44 “**SECTION 15.** ORS 21.111, as amended by section 14c, chapter 737, Oregon Laws 2003, and  
45 section 14 of this 2005 Act, is amended to read:

1 “21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit  
2 court shall collect the sum of [~~\$90~~] **\$99** as a flat and uniform filing fee from the petitioner at the time  
3 the petition is filed, and shall collect the sum of [~~\$46~~] **\$51** as a flat and uniform filing fee from the  
4 respondent upon the respondent making an appearance.

5 “(2) The filing fee established by subsection (1) of this section shall be collected by the clerk in  
6 the following proceedings:

7 “(a) Proceedings for dissolution of marriage, annulment of marriage or separation.

8 “(b) Filiation proceedings under ORS 109.124 to 109.230.

9 “(c) Proceedings to determine custody or support of a child under ORS 109.103.

10 “(3) In addition to all other fees collected, the clerk of the circuit court shall collect from the  
11 moving party a fee of [~~\$45~~] **\$50** at the time of the filing of a motion after entry of a judgment of  
12 marital annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party  
13 at the time a response is filed to the motion. The fee provided for in this subsection does not apply  
14 to any pleading under ORCP 68, 69 or 71.

15 “(4) A paper or pleading shall be filed by the clerk only if the fee required under this section  
16 is paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing  
17 fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the  
18 court or clerk in any of the proceedings, except where additional fees are specially authorized by  
19 law.

20 “(5) Any petitioner or respondent that files a petition or appearance that is subject to the filing  
21 fees established under subsection (1) of this section must include in the caption of the pleading the  
22 following words: ‘Domestic relations case subject to fee under ORS 21.111.’

23 “(6) The fees described in this section shall not be charged to a district attorney or to the Di-  
24 vision of Child Support of the Department of Justice for the filing of any case, motion, document,  
25 stipulated order, process or other document relating to the provision of support enforcement ser-  
26 vices as described in ORS 25.080.

27 “[~~(7)(a)~~ *In addition to the fees provided for in subsection (1) of this section, for the period com-*  
28 *mencing September 1, 2003, and ending December 31, 2006, in the proceedings specified in subsection*  
29 *(2) of this section the clerk of the circuit court shall collect a surcharge of \$27 from the petitioner at*  
30 *the time the petition is filed, and shall collect a surcharge of \$14 from the respondent upon the re-*  
31 *spondent making an appearance.]*

32 “[~~(b)~~ *In addition to the fees provided for in subsection (3) of this section, for the period commencing*  
33 *September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect from the*  
34 *moving party a surcharge of \$14 at the time of the filing of a motion for the modification of a judgment*  
35 *of marital annulment, dissolution or separation, if the motion is filed more than one year after the entry*  
36 *of the judgment in the register of the court.]*

37 “**SECTION 16. The amendments to ORS 21.111 by section 15 of this 2005 Act become op-**  
38 **erative December 31, 2006.**

39 “**SECTION 17.** ORS 21.114 is amended to read:

40 “21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

41 “(a) In an adoption proceeding, a first appearance fee of \$35 from the party filing the petition  
42 for adoption, and a first appearance fee of \$21 from an objecting party appearing separately or ob-  
43 jecting parties appearing jointly.

44 “(b) In a change of name proceeding, a first appearance fee of \$35 from the party filing the ap-  
45 plication for change of name, and a first appearance fee of \$21 from an objecting party appearing

1 separately or objecting parties appearing jointly.

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

4 “(3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of  
5 the court shall charge and collect in advance from the party having the affirmative of the issue, at  
6 the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,  
7 a trial or hearing fee of \$35.

8 “(4) In addition to the fees provided for in subsection (1) of this section, for the period com-  
9 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the court  
10 shall charge and collect:

11 “(a) In an adoption proceeding, a surcharge of \$11 from the party filing the petition for adoption,  
12 and a surcharge of \$6 from an objecting party appearing separately or objecting parties appearing  
13 jointly.

14 “(b) In a change of name proceeding, a surcharge of \$11 from the party filing the application for  
15 change of name, and a surcharge of \$6 from an objecting party appearing separately or objecting  
16 parties appearing jointly.

17 “(5) In addition to the fee provided for in subsection (3) of this section, for the period com-  
18 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, in any adoption or  
19 change of name proceeding in a court having jurisdiction, the clerk of the court shall charge and  
20 collect in advance from the party having the affirmative of the issue, at the time the proceeding  
21 comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge of \$11.

22 “**SECTION 18.** ORS 21.114, as amended by section 17, chapter 737, Oregon Laws 2003, is  
23 amended to read:

24 “21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

25 “(a) In an adoption proceeding, a first appearance fee of [~~\$39~~] **\$35** from the party filing the pe-  
26 tition for adoption, and a first appearance fee of [~~\$23~~] **\$21** from an objecting party appearing sepa-  
27 rately or objecting parties appearing jointly.

28 “(b) In a change of name proceeding, a first appearance fee of [~~\$39~~] **\$35** from the party filing the  
29 application for change of name, and a first appearance fee of [~~\$23~~] **\$21** from an objecting party ap-  
30 pearing separately or objecting parties appearing jointly.

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

33 “(3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of  
34 the court shall charge and collect in advance from the party having the affirmative of the issue, at  
35 the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,  
36 a trial or hearing fee of [~~\$39~~] **\$35**.

37 “(4) **In addition to the fees provided for in subsection (1) of this section, for the period**  
38 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall**  
39 **charge and collect:**

40 “(a) **In an adoption proceeding, a surcharge of \$11 from the party filing the petition for**  
41 **adoption, and a surcharge of \$6 from an objecting party appearing separately or objecting**  
42 **parties appearing jointly.**

43 “(b) **In a change of name proceeding, a surcharge of \$11 from the party filing the appli-**  
44 **cation for change of name, and a surcharge of \$6 from an objecting party appearing sepa-**  
45 **rately or objecting parties appearing jointly.**

1       “(5) In addition to the fee provided for in subsection (3) of this section, for the period  
2 commencing September 1, 2003, and ending December 31, 2006, in any adoption or change of  
3 name proceeding in a court having jurisdiction, the clerk of the court shall charge and col-  
4 lect in advance from the party having the affirmative of the issue, at the time the proceeding  
5 comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge  
6 of \$11.

7       “**SECTION 19.** ORS 21.114, as amended by section 17, chapter 737, Oregon Laws 2003, and  
8 section 18 of this 2005 Act, is amended to read:

9       “21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

10       “(a) In an adoption proceeding, a first appearance fee of [~~\$35~~] **\$39** from the party filing the pe-  
11 tition for adoption, and a first appearance fee of [~~\$21~~] **\$23** from an objecting party appearing sepa-  
12 rately or objecting parties appearing jointly.

13       “(b) In a change of name proceeding, a first appearance fee of [~~\$35~~] **\$39** from the party filing the  
14 application for change of name, and a first appearance fee of [~~\$21~~] **\$23** from an objecting party ap-  
15 pearing separately or objecting parties appearing jointly.

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

18       “(3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of  
19 the court shall charge and collect in advance from the party having the affirmative of the issue, at  
20 the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,  
21 a trial or hearing fee of [~~\$35~~] **\$39**.

22       “*[(4) In addition to the fees provided for in subsection (1) of this section, for the period commencing*  
23 *September 1, 2003, and ending December 31, 2006, the clerk of the court shall charge and collect:]*

24       “*[(a) In an adoption proceeding, a surcharge of \$11 from the party filing the petition for adoption,*  
25 *and a surcharge of \$6 from an objecting party appearing separately or objecting parties appearing*  
26 *jointly.]*

27       “*[(b) In a change of name proceeding, a surcharge of \$11 from the party filing the application for*  
28 *change of name, and a surcharge of \$6 from an objecting party appearing separately or objecting par-*  
29 *ties appearing jointly.]*

30       “*[(5) In addition to the fee provided for in subsection (3) of this section, for the period commencing*  
31 *September 1, 2003, and ending December 31, 2006, in any adoption or change of name proceeding in*  
32 *a court having jurisdiction, the clerk of the court shall charge and collect in advance from the party*  
33 *having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the*  
34 *issues of fact or law involved therein, a surcharge of \$11.]*

35       “**SECTION 20. The amendments to ORS 21.114 by section 19 of this 2005 Act become op-**  
36 **erative December 31, 2006.**

37       “**SECTION 21.** ORS 21.270 is amended to read:

38       “21.270. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
39 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, trial fees  
40 shall be collected as provided in this section.

41       “(2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for  
42 a trial on the merits without a jury, a trial fee of \$70 for each full or partial day of the trial. The  
43 amount of the fee for the first day of trial shall be collected in advance and is due and payable when  
44 the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of trial shall  
45 be collected on the day the trial concludes.

1 “(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than  
2 six persons, a jury trial fee of \$175 for each full or partial day of the trial. The clerk shall collect  
3 from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of \$100 for each  
4 full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in  
5 advance and is due and payable when the action, suit or proceeding is set for trial by jury. The  
6 amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

7 “(b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires  
8 a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not  
9 from the plaintiff or appellant.

10 “(c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried  
11 by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee  
12 for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing  
13 party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation  
14 payable to the court, and may be made part of the judgment in the case by the clerk without further  
15 notice to the debtor or further order of the court.

16 “(4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on  
17 which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the  
18 counterclaim, cross-claim or third party claim the trial fee or jury trial fee, whichever is applicable,  
19 for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party as-  
20 serting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the  
21 party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury  
22 trial fee from the defending party and not from the asserting party.

23 “(5) The fees provided for in this section include any reporting of the trial proceedings, but not  
24 the preparation of transcripts of a report.

25 “(6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this  
26 section that are paid by a party shall be considered costs and disbursements and may be taxed and  
27 collected as other costs and disbursements by the prevailing party.

28 “(7) A court shall order that a trial fee paid under the provisions of this section be refunded to  
29 the party that paid the fee if all claims in the action or proceeding are decided without the com-  
30 mencement of a trial and the party that paid the fee files a motion and affidavit requesting refund  
31 of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

32 “(8)(a) In addition to the trial fee provided for in subsection (2) of this section, for the period  
33 commencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the  
34 circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits  
35 without a jury, a surcharge on the trial fee of \$21 for each full or partial day of the trial.

36 “(b) In addition to the jury trial fee provided for in subsection (3) of this section, for the period  
37 commencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk shall  
38 collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge  
39 on the jury trial fee of \$53 for each full or partial day of the trial. The clerk shall collect from the  
40 plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$30 for  
41 each full or partial day of the trial.

42 “**SECTION 22.** ORS 21.270, as amended by section 21, chapter 737, Oregon Laws 2003, is  
43 amended to read:

44 “21.270. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
45 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, trial fees

1 shall be collected as provided in this section.

2 “(2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for  
3 a trial on the merits without a jury, a trial fee of [\$77] **\$70** for each full or partial day of the trial.  
4 The amount of the fee for the first day of trial shall be collected in advance and is due and payable  
5 when the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of  
6 trial shall be collected on the day the trial concludes.

7 “(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than  
8 six persons, a jury trial fee of [\$193] **\$175** for each full or partial day of the trial. The clerk shall  
9 collect from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of [\$110]  
10 **\$100** for each full or partial day of the trial. The amount of the fee for the first day of trial shall  
11 be collected in advance and is due and payable when the action, suit or proceeding is set for trial  
12 by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial  
13 concludes.

14 “(b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires  
15 a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not  
16 from the plaintiff or appellant.

17 “(c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried  
18 by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee  
19 for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing  
20 party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation  
21 payable to the court, and may be made part of the judgment in the case by the clerk without further  
22 notice to the debtor or further order of the court.

23 “(4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on  
24 which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the  
25 counterclaim, cross-claim or third party claim the trial fee or jury trial fee, whichever is applicable,  
26 for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party as-  
27 serting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the  
28 party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury  
29 trial fee from the defending party and not from the asserting party.

30 “(5) The fees provided for in this section include any reporting of the trial proceedings, but not  
31 the preparation of transcripts of a report.

32 “(6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this  
33 section that are paid by a party shall be considered costs and disbursements and may be taxed and  
34 collected as other costs and disbursements by the prevailing party.

35 “(7) A court shall order that a trial fee paid under the provisions of this section be refunded to  
36 the party that paid the fee if all claims in the action or proceeding are decided without the com-  
37 mencement of a trial and the party that paid the fee files a motion and affidavit requesting refund  
38 of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

39 “(8)(a) **In addition to the trial fee provided for in subsection (2) of this section, for the**  
40 **period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit**  
41 **court shall collect from the plaintiff, appellant or moving party, for a trial on the merits**  
42 **without a jury, a surcharge on the trial fee of \$21 for each full or partial day of the trial.**

43 “(b) **In addition to the jury trial fee provided for in subsection (3) of this section, for the**  
44 **period commencing September 1, 2003, and ending December 31, 2006, the clerk shall collect**  
45 **from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge**

1 **on the jury trial fee of \$53 for each full or partial day of the trial. The clerk shall collect from**  
2 **the plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial**  
3 **fee of \$30 for each full or partial day of the trial.**

4 “**SECTION 23.** ORS 21.270, as amended by section 21, chapter 737, Oregon Laws 2003, and  
5 section 22 of this 2005 Act, is amended to read:

6 “21.270. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
7 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, trial fees  
8 shall be collected as provided in this section.

9 “(2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for  
10 a trial on the merits without a jury, a trial fee of [~~\$70~~] **\$77** for each full or partial day of the trial.  
11 The amount of the fee for the first day of trial shall be collected in advance and is due and payable  
12 when the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of  
13 trial shall be collected on the day the trial concludes.

14 “(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than  
15 six persons, a jury trial fee of [~~\$175~~] **\$193** for each full or partial day of the trial. The clerk shall  
16 collect from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of [~~\$100~~]  
17 **\$110** for each full or partial day of the trial. The amount of the fee for the first day of trial shall  
18 be collected in advance and is due and payable when the action, suit or proceeding is set for trial  
19 by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial  
20 concludes.

21 “(b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires  
22 a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not  
23 from the plaintiff or appellant.

24 “(c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried  
25 by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee  
26 for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing  
27 party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation  
28 payable to the court, and may be made part of the judgment in the case by the clerk without further  
29 notice to the debtor or further order of the court.

30 “(4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on  
31 which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the  
32 counterclaim, cross-claim or third party claim the trial fee or jury trial fee, whichever is applicable,  
33 for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party as-  
34serting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the  
35 party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury  
36 trial fee from the defending party and not from the asserting party.

37 “(5) The fees provided for in this section include any reporting of the trial proceedings, but not  
38 the preparation of transcripts of a report.

39 “(6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this  
40 section that are paid by a party shall be considered costs and disbursements and may be taxed and  
41 collected as other costs and disbursements by the prevailing party.

42 “(7) A court shall order that a trial fee paid under the provisions of this section be refunded to  
43 the party that paid the fee if all claims in the action or proceeding are decided without the com-  
44mencement of a trial and the party that paid the fee files a motion and affidavit requesting refund  
45 of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

1       “(8)(a) In addition to the trial fee provided for in subsection (2) of this section, for the period  
2 commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall col-  
3 lect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a surcharge  
4 on the trial fee of \$21 for each full or partial day of the trial.]

5       “(b) In addition to the jury trial fee provided for in subsection (3) of this section, for the period  
6 commencing September 1, 2003, and ending December 31, 2006, the clerk shall collect from the plaintiff  
7 or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee of \$53 for  
8 each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial  
9 by a jury of six persons, a surcharge on the jury trial fee of \$30 for each full or partial day of the  
10 trial.]

11       “**SECTION 24. The amendments to ORS 21.270 by section 23 of this 2005 Act become op-**  
12 **erative December 31, 2006.**

13       “**SECTION 25.** ORS 21.275 is amended to read:

14       “21.275. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
15 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, hearing  
16 fees for reported hearings shall be collected as provided in this section. There is no hearing fee  
17 under this section for a hearing not reported.

18       “(2) As used in this section:

19       “(a) ‘Hearing’ means an actual appearance of one or more parties before the court for an ex-  
20 amination by the court without a jury, other than a trial or during a trial for which a trial fee is  
21 required, of issues of fact or law arising from a motion, application, petition or other paper filed  
22 with the court by a moving party, but does not include a conference solely for the purpose of case  
23 settlement or case scheduling.

24       “(b) ‘Moving party’ means a party who files with the court a motion, application, petition or  
25 other paper referred to in paragraph (a) of this subsection.

26       “(c) ‘Nonmoving party’ means a party other than a moving party.

27       “(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing  
28 is \$30 if the hearing period is not more than three hours or \$70 if the hearing period is more than  
29 three hours. The fee does not include the preparation of transcripts of a report.

30       “(4) If a hearing in respect to the paper filed by the moving party is required by statute or rule,  
31 the paper shall indicate whether the moving party requests that the hearing be reported, and if re-  
32 porting is requested, shall contain an estimate of the hearing period. If the moving party requests  
33 reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the  
34 hearing period, when the paper is filed. If the moving party does not request reporting and a non-  
35 moving party files a request for reporting with the court, the request shall contain an estimate of  
36 the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the  
37 estimate of the hearing period, when the request is filed.

38       “(5) If a hearing in respect to the paper filed by the moving party is not required by statute or  
39 rule, the paper shall indicate whether the moving party requests a hearing. The paper also shall  
40 indicate whether the moving party requests that the hearing be reported, and if reporting is re-  
41 quested, shall contain an estimate of the hearing period. If the moving party requests reporting, the  
42 moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period,  
43 when the paper is filed. If the moving party does not request reporting and a nonmoving party files  
44 a request for reporting with the court, the request shall contain an estimate of the hearing period,  
45 and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hear-

1 ing period, when the request is filed.

2 “(6) If a hearing in respect to the paper filed by the moving party is not required by statute or  
3 rule or requested by the moving party and a nonmoving party files a request for hearing with the  
4 court, the request also shall indicate whether the nonmoving party requests that the hearing be  
5 reported, and if reporting is requested, shall contain an estimate of the hearing period. If the non-  
6 moving party requests reporting the nonmoving party shall pay the applicable hearing fee, based  
7 upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not  
8 request reporting and the moving party files a request for reporting with the court, the request shall  
9 contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee,  
10 based upon the estimate of the hearing period, when the request is filed.

11 “(7) If a hearing in respect to the paper filed by the moving party is not required by statute or  
12 rule or requested by a party, but the court on its own motion orders a hearing and a party files a  
13 request that the hearing be reported with the court, the request shall contain an estimate of the  
14 hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the  
15 hearing period, when the request is filed. If the court on its own motion orders a hearing, no party  
16 requests reporting and the court on its own motion orders that the hearing be reported, the court  
17 order shall contain an estimate of the hearing period, and each party shall pay an equal propor-  
18 tionate share of the applicable hearing fee, based upon the estimate of the hearing period, before the  
19 hearing is held.

20 “(8) No paper containing a request for reporting or other request for reporting referred to in  
21 subsections (4) to (7) of this section shall be deemed filed unless the fee required by those sub-  
22 sections of the filing party is paid by the party.

23 “(9) The fees provided for in this section that are paid by a party shall be considered costs and  
24 disbursements and may be taxed and collected as other costs and disbursements by the prevailing  
25 party.

26 “(10) In addition to the hearing fee provided for in subsection (3) of this section, for the period  
27 commencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, the clerk of the  
28 circuit court shall collect a surcharge on the hearing fee of \$9 if the hearing period is not more than  
29 three hours or \$21 if the hearing period is more than three hours.

30 “**SECTION 26.** ORS 21.275, as amended by section 24, chapter 737, Oregon Laws 2003, is  
31 amended to read:

32 “21.275. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
33 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, hearing  
34 fees for reported hearings shall be collected as provided in this section. There is no hearing fee  
35 under this section for a hearing not reported.

36 “(2) As used in this section:

37 “(a) ‘Hearing’ means an actual appearance of one or more parties before the court for an ex-  
38 amination by the court without a jury, other than a trial or during a trial for which a trial fee is  
39 required, of issues of fact or law arising from a motion, application, petition or other paper filed  
40 with the court by a moving party, but does not include a conference solely for the purpose of case  
41 settlement or case scheduling.

42 “(b) ‘Moving party’ means a party who files with the court a motion, application, petition or  
43 other paper referred to in paragraph (a) of this subsection.

44 “(c) ‘Nonmoving party’ means a party other than a moving party.

45 “(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing

1 is [§33] **\$30** if the hearing period is not more than three hours or [§77] **\$70** if the hearing period is  
2 more than three hours. The fee does not include the preparation of transcripts of a report.

3 “(4) If a hearing in respect to the paper filed by the moving party is required by statute or rule,  
4 the paper shall indicate whether the moving party requests that the hearing be reported, and if re-  
5 porting is requested, shall contain an estimate of the hearing period. If the moving party requests  
6 reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the  
7 hearing period, when the paper is filed. If the moving party does not request reporting and a non-  
8 moving party files a request for reporting with the court, the request shall contain an estimate of  
9 the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the  
10 estimate of the hearing period, when the request is filed.

11 “(5) If a hearing in respect to the paper filed by the moving party is not required by statute or  
12 rule, the paper shall indicate whether the moving party requests a hearing. The paper also shall  
13 indicate whether the moving party requests that the hearing be reported, and if reporting is re-  
14 quested, shall contain an estimate of the hearing period. If the moving party requests reporting, the  
15 moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period,  
16 when the paper is filed. If the moving party does not request reporting and a nonmoving party files  
17 a request for reporting with the court, the request shall contain an estimate of the hearing period,  
18 and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hear-  
19 ing period, when the request is filed.

20 “(6) If a hearing in respect to the paper filed by the moving party is not required by statute or  
21 rule or requested by the moving party and a nonmoving party files a request for hearing with the  
22 court, the request also shall indicate whether the nonmoving party requests that the hearing be  
23 reported, and if reporting is requested, shall contain an estimate of the hearing period. If the non-  
24 moving party requests reporting the nonmoving party shall pay the applicable hearing fee, based  
25 upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not  
26 request reporting and the moving party files a request for reporting with the court, the request shall  
27 contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee,  
28 based upon the estimate of the hearing period, when the request is filed.

29 “(7) If a hearing in respect to the paper filed by the moving party is not required by statute or  
30 rule or requested by a party, but the court on its own motion orders a hearing and a party files a  
31 request that the hearing be reported with the court, the request shall contain an estimate of the  
32 hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the  
33 hearing period, when the request is filed. If the court on its own motion orders a hearing, no party  
34 requests reporting and the court on its own motion orders that the hearing be reported, the court  
35 order shall contain an estimate of the hearing period, and each party shall pay an equal propor-  
36 tionate share of the applicable hearing fee, based upon the estimate of the hearing period, before the  
37 hearing is held.

38 “(8) No paper containing a request for reporting or other request for reporting referred to in  
39 subsections (4) to (7) of this section shall be deemed filed unless the fee required by those sub-  
40 subsections of the filing party is paid by the party.

41 “(9) The fees provided for in this section that are paid by a party shall be considered costs and  
42 disbursements and may be taxed and collected as other costs and disbursements by the prevailing  
43 party.

44 “(10) **In addition to the hearing fee provided for in subsection (3) of this section, for the**  
45 **period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit**

1 **court shall collect a surcharge on the hearing fee of \$9 if the hearing period is not more than**  
2 **three hours or \$21 if the hearing period is more than three hours.**

3 **“SECTION 27.** ORS 21.275, as amended by section 24, chapter 737, Oregon Laws 2003, and  
4 section 26 of this 2005 Act, is amended to read:

5 “21.275. (1) In any civil action, suit or proceeding in the circuit court, other than a protective  
6 proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, hearing  
7 fees for reported hearings shall be collected as provided in this section. There is no hearing fee  
8 under this section for a hearing not reported.

9 “(2) As used in this section:

10 “(a) ‘Hearing’ means an actual appearance of one or more parties before the court for an ex-  
11 amination by the court without a jury, other than a trial or during a trial for which a trial fee is  
12 required, of issues of fact or law arising from a motion, application, petition or other paper filed  
13 with the court by a moving party, but does not include a conference solely for the purpose of case  
14 settlement or case scheduling.

15 “(b) ‘Moving party’ means a party who files with the court a motion, application, petition or  
16 other paper referred to in paragraph (a) of this subsection.

17 “(c) ‘Nonmoving party’ means a party other than a moving party.

18 “(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing  
19 is [~~\$30~~] **\$33** if the hearing period is not more than three hours or [~~\$70~~] **\$77** if the hearing period is  
20 more than three hours. The fee does not include the preparation of transcripts of a report.

21 “(4) If a hearing in respect to the paper filed by the moving party is required by statute or rule,  
22 the paper shall indicate whether the moving party requests that the hearing be reported, and if re-  
23 porting is requested, shall contain an estimate of the hearing period. If the moving party requests  
24 reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the  
25 hearing period, when the paper is filed. If the moving party does not request reporting and a non-  
26 moving party files a request for reporting with the court, the request shall contain an estimate of  
27 the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the  
28 estimate of the hearing period, when the request is filed.

29 “(5) If a hearing in respect to the paper filed by the moving party is not required by statute or  
30 rule, the paper shall indicate whether the moving party requests a hearing. The paper also shall  
31 indicate whether the moving party requests that the hearing be reported, and if reporting is re-  
32 quested, shall contain an estimate of the hearing period. If the moving party requests reporting, the  
33 moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period,  
34 when the paper is filed. If the moving party does not request reporting and a nonmoving party files  
35 a request for reporting with the court, the request shall contain an estimate of the hearing period,  
36 and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hear-  
37 ing period, when the request is filed.

38 “(6) If a hearing in respect to the paper filed by the moving party is not required by statute or  
39 rule or requested by the moving party and a nonmoving party files a request for hearing with the  
40 court, the request also shall indicate whether the nonmoving party requests that the hearing be  
41 reported, and if reporting is requested, shall contain an estimate of the hearing period. If the non-  
42 moving party requests reporting the nonmoving party shall pay the applicable hearing fee, based  
43 upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not  
44 request reporting and the moving party files a request for reporting with the court, the request shall  
45 contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee,

1 based upon the estimate of the hearing period, when the request is filed.

2 “(7) If a hearing in respect to the paper filed by the moving party is not required by statute or  
3 rule or requested by a party, but the court on its own motion orders a hearing and a party files a  
4 request that the hearing be reported with the court, the request shall contain an estimate of the  
5 hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the  
6 hearing period, when the request is filed. If the court on its own motion orders a hearing, no party  
7 requests reporting and the court on its own motion orders that the hearing be reported, the court  
8 order shall contain an estimate of the hearing period, and each party shall pay an equal propor-  
9 tionate share of the applicable hearing fee, based upon the estimate of the hearing period, before the  
10 hearing is held.

11 “(8) No paper containing a request for reporting or other request for reporting referred to in  
12 subsections (4) to (7) of this section shall be deemed filed unless the fee required by those sub-  
13 sections of the filing party is paid by the party.

14 “(9) The fees provided for in this section that are paid by a party shall be considered costs and  
15 disbursements and may be taxed and collected as other costs and disbursements by the prevailing  
16 party.

17 “[*(10) In addition to the hearing fee provided for in subsection (3) of this section, for the period*  
18 *commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall col-*  
19 *lect a surcharge on the hearing fee of \$9 if the hearing period is not more than three hours or \$21 if*  
20 *the hearing period is more than three hours.*]

21 “**SECTION 28. The amendments to ORS 21.275 by section 27 of this 2005 Act become op-**  
22 **erative December 31, 2006.**

23 “**SECTION 29.** ORS 21.310 is amended to read:

24 “21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk  
25 of the court shall charge and collect the following fees for the filing of the initial papers in any  
26 probate proceeding, including petitions for the appointment of personal representatives, probate of  
27 wills and contest of wills, or in any conservatorship proceeding:

28 “ \_\_\_\_\_

29  
30 Where the amount of the estate is:

- 31 1. Not more than \$10,000-a fee of \$21.
- 32 2. More than \$10,000 and not more than \$25,000-a fee of \$70.
- 33 3. More than \$25,000 and not more than \$50,000-a fee of \$140.
- 34 4. More than \$50,000 and not more than \$100,000-a fee of \$210.
- 35 5. More than \$100,000 and not more than \$500,000-a fee of \$280.
- 36 6. More than \$500,000 and not more than \$1,000,000-a fee of \$350.
- 37 7. More than \$1,000,000-a fee of \$420.

38 “ \_\_\_\_\_

39  
40 “(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount  
41 of a settlement in a wrongful death action brought for the benefit of the decedent’s surviving spouse  
42 or dependents is not part of the estate.

43 “(3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$21 for  
44 the filing of the initial papers in any guardianship proceeding.

45 “(4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$7 at the

1 time of filing a will without a petition for probate.

2 “(5) At the time of filing any answer, motion or objection in a probate proceeding or protective  
3 proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee  
4 of \$17 to the clerk.

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

7 “(7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court hav-  
8 ing probate jurisdiction, the clerk shall charge and collect in advance from the party having the  
9 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues  
10 of fact or law involved therein, a trial or hearing fee of \$35.

11 “(8)(a) In addition to the fees provided for in subsection (1) of this section, for the period com-  
12 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
13 **December 31, 2006**, the clerk of [*the*] **a circuit** court shall charge and collect the following sur-  
14 charges for the filing of the initial papers in any probate proceeding, including petitions for the  
15 appointment of personal representatives, probate of wills and contest of wills, or in any conserva-  
16 torship proceeding:

17 “

---

18 Where the amount of the estate is:

- 19 1. Not more than \$10,000-\$6.
- 20 2. More than \$10,000 and not more than \$25,000-\$21.
- 21 3. More than \$25,000 and not more than \$50,000-\$42.
- 22 4. More than \$50,000 and not more than \$100,000-\$63.
- 23 5. More than \$100,000 and not more than \$500,000-\$84.
- 24 6. More than \$500,000 and not more than \$1,000,000-\$105.
- 25 7. More than \$1,000,000-\$126.

26 “

---

27  
28  
29 “(b) In addition to the fee provided for in subsection (3) of this section, for the period com-  
30 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
31 **December 31, 2006**, the clerk **of a circuit court** shall charge and collect a surcharge of \$6 for the  
32 filing of the initial papers in any guardianship proceeding.

33 “(c) In addition to the fee provided for in subsection (4) of this section, for the period com-  
34 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
35 **December 31, 2006**, the clerk **of a circuit court** shall charge and collect a surcharge of \$2 at the  
36 time of filing a will without a petition for probate.

37 “(d) In addition to the fee provided for in subsection (5) of this section, for the period com-  
38 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
39 **December 31, 2006**, at the time of filing **in circuit court** any answer, motion or objection in a  
40 probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer,  
41 motion or objection shall pay a surcharge of \$5 to the clerk.

42 “(e) In addition to the fee provided for in subsection (7) of this section, for the period com-  
43 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
44 **December 31, 2006**, the clerk **of a circuit court** shall charge and collect in advance from the party  
45 having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon

1 the issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$11.

2 **“SECTION 30.** ORS 21.310, as amended by section 27, chapter 737, Oregon Laws 2003, is  
3 amended to read:

4 “21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk  
5 of the court shall charge and collect the following fees for the filing of the initial papers in any  
6 probate proceeding, including petitions for the appointment of personal representatives, probate of  
7 wills and contest of wills, or in any conservatorship proceeding:

8 “

9  
10 Where the amount of the estate is:

- 11 1. Not more than \$10,000-a fee of [~~\$23~~] **\$21.**
- 12 2. More than \$10,000 and not more than \$25,000-a fee of [~~\$77~~] **\$70.**
- 13 3. More than \$25,000 and not more than \$50,000-a fee of [~~\$154~~] **\$140.**
- 14 4. More than \$50,000 and not more than \$100,000-a fee of [~~\$231~~] **\$210.**
- 15 5. More than \$100,000 and not more than \$500,000-a fee of [~~\$308~~] **\$280.**
- 16 6. More than \$500,000 and not more than \$1,000,000-a fee of [~~\$385~~] **\$350.**
- 17 7. More than \$1,000,000-a fee of [~~\$462~~] **\$420.**

18 “

19  
20 “(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount  
21 of a settlement in a wrongful death action brought for the benefit of the decedent’s surviving spouse  
22 or dependents is not part of the estate.

23 “(3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of [~~\$23~~] **\$21**  
24 for the filing of the initial papers in any guardianship proceeding.

25 “(4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of [~~\$8~~] **\$7**  
26 at the time of filing a will without a petition for probate.

27 “(5) At the time of filing any answer, motion or objection in a probate proceeding or protective  
28 proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee  
29 of [~~\$19~~] **\$17** to the clerk.

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

32 “(7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court hav-  
33 ing probate jurisdiction, the clerk shall charge and collect in advance from the party having the  
34 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues  
35 of fact or law involved therein, a trial or hearing fee of [~~\$39~~] **\$35.**

36 **“(8)(a) In addition to the fees provided for in subsection (1) of this section, for the period**  
37 **commencing on the effective date of this 2005 Act and ending December 31, 2006, the clerk**  
38 **of a circuit court shall charge and collect the following surcharges for the filing of the initial**  
39 **papers in any probate proceeding, including petitions for the appointment of personal repre-**  
40 **sentatives, probate of wills and contest of wills, or in any conservatorship proceeding:**

41 “

42  
43 Where the amount of the estate is:

- 44 1. Not more than \$10,000-**\$6.**
- 45 2. More than \$10,000 and not more than \$25,000-**\$21.**

- 1       **3. More than \$25,000 and not more than \$50,000-\$42.**
- 2       **4. More than \$50,000 and not more than \$100,000-\$63.**
- 3       **5. More than \$100,000 and not more than \$500,000-\$84.**
- 4       **6. More than \$500,000 and not more than \$1,000,000-\$105.**
- 5       **7. More than \$1,000,000-\$126.**

6       “

7  
8       “(b) In addition to the fee provided for in subsection (3) of this section, for the period  
9 commencing on the effective date of this 2005 Act and ending December 31, 2006, the clerk  
10 of a circuit court shall charge and collect a surcharge of \$6 for the filing of the initial papers  
11 in any guardianship proceeding.

12       “(c) In addition to the fee provided for in subsection (4) of this section, for the period  
13 commencing on the effective date of this 2005 Act and ending December 31, 2006, the clerk  
14 of a circuit court shall charge and collect a surcharge of \$2 at the time of filing a will with-  
15 out a petition for probate.

16       “(d) In addition to the fee provided for in subsection (5) of this section, for the period  
17 commencing on the effective date of this 2005 Act and ending December 31, 2006, at the time  
18 of filing in circuit court any answer, motion or objection in a probate proceeding or protec-  
19 tive proceeding under ORS chapter 125, the party filing the answer, motion or objection shall  
20 pay a surcharge of \$5 to the clerk.

21       “(e) In addition to the fee provided for in subsection (7) of this section, for the period  
22 commencing on the effective date of this 2005 Act and ending December 31, 2006, the clerk  
23 of a circuit court shall charge and collect in advance from the party having the affirmative  
24 of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact  
25 or law involved therein, a surcharge on the trial or hearing fee of \$11.

26       “**SECTION 31.** ORS 21.310, as amended by section 27, chapter 737, Oregon Laws 2003, and  
27 section 30 of this 2005 Act, is amended to read:

28       “21.310. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk  
29 of the court shall charge and collect the following fees for the filing of the initial papers in any  
30 probate proceeding, including petitions for the appointment of personal representatives, probate of  
31 wills and contest of wills, or in any conservatorship proceeding:

32       “

33  
34       Where the amount of the estate is:

- 35       1. Not more than \$10,000-a fee of [~~\$21~~] **\$23.**
- 36       2. More than \$10,000 and not more than \$25,000-a fee of [~~\$70~~] **\$77.**
- 37       3. More than \$25,000 and not more than \$50,000-a fee of [~~\$140~~] **\$154.**
- 38       4. More than \$50,000 and not more than \$100,000-a fee of [~~\$210~~] **\$231.**
- 39       5. More than \$100,000 and not more than \$500,000-a fee of [~~\$280~~] **\$308.**
- 40       6. More than \$500,000 and not more than \$1,000,000-a fee of [~~\$350~~] **\$385.**
- 41       7. More than \$1,000,000-a fee of [~~\$420~~] **\$462.**

42       “

43  
44       “(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount  
45 of a settlement in a wrongful death action brought for the benefit of the decedent’s surviving spouse

1 or dependents is not part of the estate.

2 “(3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of [~~\$21~~] **\$23**  
3 for the filing of the initial papers in any guardianship proceeding.

4 “(4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of [~~\$7~~] **\$8**  
5 at the time of filing a will without a petition for probate.

6 “(5) At the time of filing any answer, motion or objection in a probate proceeding or protective  
7 proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee  
8 of [~~\$17~~] **\$19** to the clerk.

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

11 “(7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court hav-  
12 ing probate jurisdiction, the clerk shall charge and collect in advance from the party having the  
13 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues  
14 of fact or law involved therein, a trial or hearing fee of [~~\$35~~] **\$39**.

15 “[~~(8)(a) In addition to the fees provided for in subsection (1) of this section, for the period com-~~  
16 ~~mencing on the effective date of this 2005 Act and ending December 31, 2006, the clerk of a circuit court~~  
17 ~~shall charge and collect the following surcharges for the filing of the initial papers in any probate~~  
18 ~~proceeding, including petitions for the appointment of personal representatives, probate of wills and~~  
19 ~~contest of wills, or in any conservatorship proceeding:]~~

20 “[ \_\_\_\_\_ ]

21  
22 *Where the amount of the estate is:*

- 23 1. *Not more than \$10,000-\$6.*
- 24 2. *More than \$10,000 and not more than \$25,000-\$21.*
- 25 3. *More than \$25,000 and not more than \$50,000-\$42.*
- 26 4. *More than \$50,000 and not more than \$100,000-\$63.*
- 27 5. *More than \$100,000 and not more than \$500,000-\$84.*
- 28 6. *More than \$500,000 and not more than \$1,000,000-\$105.*
- 29 7. *More than \$1,000,000-\$126.*

30 “[ \_\_\_\_\_ ]

31  
32 “[~~(b) In addition to the fee provided for in subsection (3) of this section, for the period commencing~~  
33 ~~on the effective date of this 2005 Act and ending December 31, 2006, the clerk of a circuit court shall~~  
34 ~~charge and collect a surcharge of \$6 for the filing of the initial papers in any guardianship~~  
35 ~~proceeding.]~~

36 “[~~(c) In addition to the fee provided for in subsection (4) of this section, for the period commencing~~  
37 ~~on the effective date of this 2005 Act and ending December 31, 2006, the clerk of a circuit court shall~~  
38 ~~charge and collect a surcharge of \$2 at the time of filing a will without a petition for probate.]~~

39 “[~~(d) In addition to the fee provided for in subsection (5) of this section, for the period commencing~~  
40 ~~on the effective date of this 2005 Act and ending December 31, 2006, at the time of filing in circuit court~~  
41 ~~any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter~~  
42 ~~125, the party filing the answer, motion or objection shall pay a surcharge of \$5 to the clerk.]~~

43 “[~~(e) In addition to the fee provided for in subsection (7) of this section, for the period commencing~~  
44 ~~on the effective date of this 2005 Act and ending December 31, 2006, the clerk of a circuit court shall~~  
45 ~~charge and collect in advance from the party having the affirmative of the issue, at the time the pro-~~

1 ceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge on  
2 the trial or hearing fee of \$11.]

3 **“SECTION 32. The amendments to ORS 21.310 by section 31 of this 2005 Act become op-**  
4 **erative December 31, 2006.**

5 **“SECTION 33.** ORS 21.325 is amended to read:

6 “21.325. (1) In the circuit court there shall be charged and collected in advance by the clerk of  
7 the court the following fees for the following purposes and services:

8 “(a) Making transcription of a judgment entered in the register, \$6.

9 “(b) Filing and entering transcript of judgment, \$6.

10 “(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
11 copy of child custody determination of another state filed as provided in ORS 109.787, \$35.

12 “(d) Issuing writs of execution or writs of garnishment, [~~\$4~~] **\$7** for each writ.

13 “(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$5.

14 “(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order  
15 is issued by any court other than the court in which the original judgment was entered, \$4.

16 “(g) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

17 “(h) For any service the clerk may be required or authorized to perform and for which no fee  
18 is provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize,  
19 except that a fee may not be charged for location or inspection of court records.

20 “(2) In addition to the fees provided for in subsection (1) of this section, for the period com-  
21 mencing September 1, 2003, and ending [~~June 30, 2005,~~] **December 31, 2006**, the clerk of the court  
22 shall charge and collect the following surcharges on the following services:

23 “(a) Making transcription of a judgment entered in the register, \$2.

24 “(b) Filing and entering transcript of judgment, \$2.

25 “(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
26 copy of child custody determination of another state filed as provided in ORS 109.787, \$11.

27 “(d) Issuing writs of execution or writs of garnishment, \$1 for each writ.

28 “(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$2.

29 “(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order  
30 is issued by any court other than the court in which the original judgment was entered, \$1.

31 “(g) Issuing notices of restitution as provided in ORS 105.151, \$1 for each notice.

32 **“SECTION 34.** ORS 21.325, as amended by section 30c, chapter 737, Oregon Laws 2003, is  
33 amended to read:

34 “21.325. (1) In the circuit court there shall be charged and collected in advance by the clerk  
35 of the court the following fees for the following purposes and services:

36 “[~~1~~] (a) Making transcription of a judgment entered in the register, [~~\$7~~] **\$6**.

37 “[~~2~~] (b) Filing and entering transcript of judgment, [~~\$7~~] **\$6**.

38 “[~~3~~] (c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125  
39 or copy of child custody determination of another state filed as provided in ORS 109.787, [~~\$39~~] **\$35**.

40 “[~~4~~] (d) Issuing writs of execution or writs of garnishment, [~~\$4~~] **\$7** for each writ.

41 “[~~5~~] (e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), [~~\$6~~] **\$5**.

42 “[~~6~~] (f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the  
43 order is issued by any court other than the court in which the original judgment was entered, \$4.

44 “[~~7~~] (g) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

45 “[~~8~~] (h) For any service the clerk may be required or authorized to perform and for which no

1 fee is provided by law, such fees as the Chief Justice of the Supreme Court may establish or au-  
2 thorize, except that a fee may not be charged for location or inspection of court records.

3 **“(2) In addition to the fees provided for in subsection (1) of this section, for the period**  
4 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall**  
5 **charge and collect the following surcharges on the following services:**

6 **“(a) Making transcription of a judgment entered in the register, \$2.**

7 **“(b) Filing and entering transcript of judgment, \$2.**

8 **“(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and**  
9 **24.125 or copy of child custody determination of another state filed as provided in ORS**  
10 **109.787, \$11.**

11 **“(d) Issuing writs of execution or writs of garnishment, \$1 for each writ.**

12 **“(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$2.**

13 **“(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the**  
14 **order is issued by any court other than the court in which the original judgment was en-**  
15 **tered, \$1.**

16 **“(g) Issuing notices of restitution as provided in ORS 105.151, \$1 for each notice.**

17 **“SECTION 34a. The increase in fees for issuance of writs of execution and writs of**  
18 **garnishment under the amendments to ORS 21.325 by sections 33 and 34 of this 2005 Act**  
19 **applies only to writs of execution and writs of garnishment issued on or after the effective**  
20 **date of this 2005 Act.**

21 **“SECTION 35. ORS 21.325, as amended by section 30c, chapter 737, Oregon Laws 2003, and**  
22 **section 34 of this 2005 Act, is amended to read:**

23 **“21.325. [(1)] In the circuit court there shall be charged and collected in advance by the clerk**  
24 **of the court the following fees for the following purposes and services:**

25 **“[(a)] (1) Making transcription of a judgment entered in the register, [\$6] \$7.**

26 **“[(b)] (2) Filing and entering transcript of judgment, [\$6] \$7.**

27 **“[(c)] (3) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125**  
28 **or copy of child custody determination of another state filed as provided in ORS 109.787, [\$35] \$39.**

29 **“[(d)] (4) Issuing writs of execution or writs of garnishment, \$7 for each writ.**

30 **“[(e)] (5) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), [\$5] \$6.**

31 **“[(f)] (6) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the**  
32 **order is issued by any court other than the court in which the original judgment was entered, \$4.**

33 **“[(g)] (7) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.**

34 **“[(h)] (8) For any service the clerk may be required or authorized to perform and for which no**  
35 **fee is provided by law, such fees as the Chief Justice of the Supreme Court may establish or au-**  
36 **thorize, except that a fee may not be charged for location or inspection of court records.**

37 **“[(2) In addition to the fees provided for in subsection (1) of this section, for the period commencing**  
38 **September 1, 2003, and ending December 31, 2006, the clerk of the court shall charge and collect the**  
39 **following surcharges on the following services:]**

40 **“[(a) Making transcription of a judgment entered in the register, \$2.]**

41 **“[(b) Filing and entering transcript of judgment, \$2.]**

42 **“[(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or**  
43 **copy of child custody determination of another state filed as provided in ORS 109.787, \$11.]**

44 **“[(d) Issuing writs of execution or writs of garnishment, \$1 for each writ.]**

45 **“[(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$2.]**

1       “(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is  
2 issued by any court other than the court in which the original judgment was entered, \$1.]

3       “(g) Issuing notices of restitution as provided in ORS 105.151, \$1 for each notice.]

4       “**SECTION 36. The amendments to ORS 21.325 by section 35 of this 2005 Act become op-**  
5 **erative December 31, 2006.**

6       “**SECTION 37.** ORS 34.340 is amended to read:

7       “34.340. (1) The writ shall be allowed by the court or judge thereof upon the petition of the  
8 party for whose relief it is intended, or of some other person in behalf of the party, signed and  
9 verified by the oath of the plaintiff, to the effect that the plaintiff believes it to be true. The petition  
10 must be accompanied by a filing fee of \$25.

11       “(2) In addition to the fee provided for in subsection (1) of this section, for the period com-  
12 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the court  
13 shall collect a surcharge of \$8 upon the filing of a petition for a writ of habeas corpus.

14       “**SECTION 38.** ORS 34.340, as amended by section 33, chapter 737, Oregon Laws 2003, is  
15 amended to read:

16       “34.340. (1) The writ shall be allowed by the court or judge thereof upon the petition of the  
17 party for whose relief it is intended, or of some other person in behalf of the party, signed and  
18 verified by the oath of the plaintiff, to the effect that the plaintiff believes it to be true. The petition  
19 must be accompanied by a filing fee of [28] **\$25**.

20       “**(2) In addition to the fee provided for in subsection (1) of this section, for the period**  
21 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall**  
22 **collect a surcharge of \$8 upon the filing of a petition for a writ of habeas corpus.**

23       “**SECTION 39.** ORS 34.340, as amended by section 33, chapter 737, Oregon Laws 2003, and  
24 section 38 of this 2005 Act, is amended to read:

25       “34.340. [(1)] The writ shall be allowed by the court or judge thereof upon the petition of the  
26 party for whose relief it is intended, or of some other person in behalf of the party, signed and  
27 verified by the oath of the plaintiff, to the effect that the plaintiff believes it to be true. The petition  
28 must be accompanied by a filing fee of [25] **\$28**.

29       “[(2) In addition to the fee provided for in subsection (1) of this section, for the period commencing  
30 September 1, 2003, and ending December 31, 2006, the clerk of the court shall collect a surcharge of  
31 \$8 upon the filing of a petition for a writ of habeas corpus.]

32       “**SECTION 40. The amendments to ORS 34.340 by section 39 of this 2005 Act become op-**  
33 **erative December 31, 2006.**

34       “**SECTION 41.** ORS 36.520 is amended to read:

35       “36.520. (1) Recourse to a court against an arbitral award may only be by an application for  
36 setting aside in accordance with subsections (2) and (3) of this section.

37       “(2) An arbitral award may be set aside by the circuit court only if:

38       “(a) The party making application furnishes proof that:

39       “(A) A party to the arbitration agreement referred to in ORS 36.466 was under some incapacity  
40 or that the agreement is not valid under the law to which the parties have subjected it or, failing  
41 any indication thereon, under the laws of the State of Oregon or the United States;

42       “(B) The party making the application was not given proper notice of the appointment of an  
43 arbitrator or of the arbitral proceedings or was otherwise unable to present the party’s case;

44       “(C) The award deals with a dispute not contemplated by or not falling within the terms of the  
45 submission to arbitration or contains decisions on matters beyond the scope of the submission to

1 arbitration, provided that, if the decisions on matters not submitted to arbitration can be separated  
2 from those not so submitted, only that part of the award which contains decisions on matters not  
3 submitted to arbitration may be set aside; or

4 “(D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance  
5 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS  
6 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-  
7 cordance with ORS 36.450 to 36.558; or

8 “(b) The circuit court finds that:

9 “(A) The subject matter of the dispute is not capable of settlement by arbitration under the laws  
10 of the State of Oregon or of the United States; or

11 “(B) The award is in conflict with the public policy of the State of Oregon or of the United  
12 States.

13 “(3) An application for setting aside may not be made after three months have elapsed from the  
14 date on which the party making that application had received the award or, if a request had been  
15 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral  
16 tribunal.

17 “(4) The circuit court, when asked to set aside an arbitral award, may, where appropriate and  
18 so requested by a party, suspend the setting aside proceedings for a period of time determined by  
19 it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take  
20 such other action as in the arbitral tribunal’s opinion will eliminate the grounds for setting aside.

21 “(5) The clerk of the circuit court shall collect from the party making application for setting  
22 aside under subsection (1) of this section a filing fee of \$35 and from a party filing an appearance  
23 in opposition to the application a filing fee of \$21. However, if the application relates to an arbitral  
24 award made following an application or request to a circuit court under any section of ORS 36.450  
25 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing fees shall not  
26 be collected under this subsection. An application for setting aside or an appearance in opposition  
27 thereto shall not be deemed filed unless the fee required by this subsection is paid by the filing  
28 party.

29 “(6) In addition to the fees provided for in subsection (5) of this section, for the period com-  
30 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the circuit  
31 court shall collect from the party making application for setting aside under subsection (1) of this  
32 section a surcharge of \$11 and from a party filing an appearance in opposition to the application a  
33 surcharge of \$6.

34 “**SECTION 42.** ORS 36.520, as amended by section 42, chapter 737, Oregon Laws 2003, is  
35 amended to read:

36 “36.520. (1) Recourse to a court against an arbitral award may only be by an application for  
37 setting aside in accordance with subsections (2) and (3) of this section.

38 “(2) An arbitral award may be set aside by the circuit court only if:

39 “(a) The party making application furnishes proof that:

40 “(A) A party to the arbitration agreement referred to in ORS 36.466 was under some incapacity  
41 or that the agreement is not valid under the law to which the parties have subjected it or, failing  
42 any indication thereon, under the laws of the State of Oregon or the United States;

43 “(B) The party making the application was not given proper notice of the appointment of an  
44 arbitrator or of the arbitral proceedings or was otherwise unable to present the party’s case;

45 “(C) The award deals with a dispute not contemplated by or not falling within the terms of the

1 submission to arbitration or contains decisions on matters beyond the scope of the submission to  
2 arbitration, provided that, if the decisions on matters not submitted to arbitration can be separated  
3 from those not so submitted, only that part of the award which contains decisions on matters not  
4 submitted to arbitration may be set aside; or

5 “(D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance  
6 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS  
7 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-  
8 cordance with ORS 36.450 to 36.558; or

9 “(b) The circuit court finds that:

10 “(A) The subject matter of the dispute is not capable of settlement by arbitration under the laws  
11 of the State of Oregon or of the United States; or

12 “(B) The award is in conflict with the public policy of the State of Oregon or of the United  
13 States.

14 “(3) An application for setting aside may not be made after three months have elapsed from the  
15 date on which the party making that application had received the award or, if a request had been  
16 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral  
17 tribunal.

18 “(4) The circuit court, when asked to set aside an arbitral award, may, where appropriate and  
19 so requested by a party, suspend the setting aside proceedings for a period of time determined by  
20 it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take  
21 such other action as in the arbitral tribunal’s opinion will eliminate the grounds for setting aside.

22 “(5) The clerk of the circuit court shall collect from the party making application for setting  
23 aside under subsection (1) of this section a filing fee of [~~\$39~~] **\$35** and from a party filing an ap-  
24 pearance in opposition to the application a filing fee of [~~\$23~~] **\$21**. However, if the application relates  
25 to an arbitral award made following an application or request to a circuit court under any section  
26 of ORS 36.450 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing  
27 fees shall not be collected under this subsection. An application for setting aside or an appearance  
28 in opposition thereto shall not be deemed filed unless the fee required by this subsection is paid by  
29 the filing party.

30 “**(6) In addition to the fees provided for in subsection (5) of this section, for the period**  
31 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court**  
32 **shall collect from the party making application for setting aside under subsection (1) of this**  
33 **section a surcharge of \$11 and from a party filing an appearance in opposition to the appli-**  
34 **cation a surcharge of \$6.**

35 “**SECTION 43.** ORS 36.520, as amended by section 42, chapter 737, Oregon Laws 2003, and  
36 section 42 of this 2005 Act, is amended to read:

37 “36.520. (1) Recourse to a court against an arbitral award may only be by an application for  
38 setting aside in accordance with subsections (2) and (3) of this section.

39 “(2) An arbitral award may be set aside by the circuit court only if:

40 “(a) The party making application furnishes proof that:

41 “(A) A party to the arbitration agreement referred to in ORS 36.466 was under some incapacity  
42 or that the agreement is not valid under the law to which the parties have subjected it or, failing  
43 any indication thereon, under the laws of the State of Oregon or the United States;

44 “(B) The party making the application was not given proper notice of the appointment of an  
45 arbitrator or of the arbitral proceedings or was otherwise unable to present the party’s case;

1 “(C) The award deals with a dispute not contemplated by or not falling within the terms of the  
2 submission to arbitration or contains decisions on matters beyond the scope of the submission to  
3 arbitration, provided that, if the decisions on matters not submitted to arbitration can be separated  
4 from those not so submitted, only that part of the award which contains decisions on matters not  
5 submitted to arbitration may be set aside; or

6 “(D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance  
7 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS  
8 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-  
9 cordance with ORS 36.450 to 36.558; or

10 “(b) The circuit court finds that:

11 “(A) The subject matter of the dispute is not capable of settlement by arbitration under the laws  
12 of the State of Oregon or of the United States; or

13 “(B) The award is in conflict with the public policy of the State of Oregon or of the United  
14 States.

15 “(3) An application for setting aside may not be made after three months have elapsed from the  
16 date on which the party making that application had received the award or, if a request had been  
17 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral  
18 tribunal.

19 “(4) The circuit court, when asked to set aside an arbitral award, may, where appropriate and  
20 so requested by a party, suspend the setting aside proceedings for a period of time determined by  
21 it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take  
22 such other action as in the arbitral tribunal’s opinion will eliminate the grounds for setting aside.

23 “(5) The clerk of the circuit court shall collect from the party making application for setting  
24 aside under subsection (1) of this section a filing fee of [~~\$35~~] **\$39** and from a party filing an ap-  
25 pearance in opposition to the application a filing fee of [~~\$21~~] **\$23**. However, if the application relates  
26 to an arbitral award made following an application or request to a circuit court under any section  
27 of ORS 36.450 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing  
28 fees shall not be collected under this subsection. An application for setting aside or an appearance  
29 in opposition thereto shall not be deemed filed unless the fee required by this subsection is paid by  
30 the filing party.

31 “[~~(6) In addition to the fees provided for in subsection (5) of this section, for the period commencing~~  
32 *September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect from the*  
33 *party making application for setting aside under subsection (1) of this section a surcharge of \$11 and*  
34 *from a party filing an appearance in opposition to the application a surcharge of \$6.]*

35 “**SECTION 44. The amendments to ORS 36.520 by section 43 of this 2005 Act become op-**  
36 **erative December 31, 2006.**

37 “**SECTION 45.** ORS 36.615 is amended to read:

38 “36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief un-  
39 der ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this  
40 subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an  
41 arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons  
42 responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If sub-  
43 sequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no  
44 additional filing fees shall be required of the parties.

45 “(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation,

1 vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person fil-  
2 ing the petition must pay a fee of \$35, and a person filing an appearance in opposition to the petition  
3 must pay a filing fee of \$21.

4 “(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration,  
5 and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this  
6 subsection for the filing of any petition under ORS 36.600 to 36.740.

7 “(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first peti-  
8 tion to the court under ORS 36.600 to 36.740 must be served in the manner provided by ORCP 7  
9 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

10 “(3) In addition to the fees provided for in subsection (1)(b) of this section, for the period com-  
11 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the court  
12 shall collect a surcharge of \$11 from the party filing a petition under subsection (1) of this section,  
13 and a surcharge of \$6 from a party filing an appearance in opposition to the petition.

14 “**SECTION 46.** ORS 36.615, as amended by section 40c, chapter 737, Oregon Laws 2003, is  
15 amended to read:

16 “36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief un-  
17 der ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this  
18 subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an  
19 arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons  
20 responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If sub-  
21 sequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no  
22 additional filing fees shall be required of the parties.

23 “(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation,  
24 vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person fil-  
25 ing the petition must pay a fee of [~~\$39~~] **\$35**, and a person filing an appearance in opposition to the  
26 petition must pay a filing fee of [~~\$23~~] **\$21**.

27 “(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration,  
28 and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this  
29 subsection for the filing of any petition under ORS 36.600 to 36.740.

30 “(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first peti-  
31 tion to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7  
32 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

33 “**(3) In addition to the fees provided for in subsection (1)(b) of this section, for the period**  
34 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall**  
35 **collect a surcharge of \$11 from the party filing a petition under subsection (1) of this section,**  
36 **and a surcharge of \$6 from a party filing an appearance in opposition to the petition.**

37 “**SECTION 47.** ORS 36.615, as amended by section 40c, chapter 737, Oregon Laws 2003, and  
38 section 46 of this 2005 Act, is amended to read:

39 “36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief un-  
40 der ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this  
41 subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an  
42 arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons  
43 responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If sub-  
44 sequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no  
45 additional filing fees shall be required of the parties.

1 “(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation,  
2 vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person fil-  
3 ing the petition must pay a fee of [§35] **\$39**, and a person filing an appearance in opposition to the  
4 petition must pay a filing fee of [§21] **\$23**.

5 “(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration,  
6 and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this  
7 subsection for the filing of any petition under ORS 36.600 to 36.740.

8 “(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first peti-  
9 tion to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7  
10 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

11 “[*3*] *In addition to the fees provided for in subsection (1)(b) of this section, for the period com-*  
12 *mencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall collect a sur-*  
13 *charge of \$11 from the party filing a petition under subsection (1) of this section, and a surcharge of*  
14 *\$6 from a party filing an appearance in opposition to the petition.*]

15 “**SECTION 48. The amendments to ORS 36.615 by section 47 of this 2005 Act become op-**  
16 **erative December 31, 2006.**

17 “**SECTION 49.** ORS 46.570 is amended to read:

18 “46.570. (1) In the small claims department of circuit court there shall be charged and collected  
19 in civil cases by the clerk of the court the following fees for the following purposes and services:

20 “(a)(A) Plaintiff filing a claim, \$24 when the amount or value claimed does not exceed \$1,500,  
21 and \$50 when the amount or value claimed exceeds \$1,500; and

22 “(B) Defendant demanding a hearing, [§17] **\$21** when the amount or value claimed by plaintiff  
23 does not exceed \$1,500, and [§37] **\$43** when the amount or value claimed by plaintiff exceeds \$1,500.

24 “(b) Transcription of judgment from small claims department, \$6.

25 “(c) Transfer of cause to circuit court on counterclaim, \$11.

26 “(2) Except as otherwise provided in subsection (1) of this section, fees provided for in this  
27 section shall be collected in advance. A paper or pleading shall be filed by the clerk only if the re-  
28 quired fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided  
29 for in this section may not be refunded.

30 “(3) In addition to the fees provided for in subsection (1) of this section, for the period com-  
31 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, in the small claims de-  
32 partment of a circuit court the clerk of the court shall charge and collect the following surcharges:

33 “(a)(A) Plaintiff filing a claim, \$7 when the amount or value claimed does not exceed \$1,500, and  
34 \$15 when the amount or value claimed exceeds \$1,500; and

35 “(B) Defendant demanding a hearing, \$5 when the amount or value claimed by plaintiff does not  
36 exceed \$1,500, and \$11 when the amount or value claimed by plaintiff exceeds \$1,500.

37 “(b) Transcription of judgment from small claims department, \$2.

38 “(c) Transfer of cause to circuit court on counterclaim, \$3.

39 “**SECTION 50.** ORS 46.570, as amended by section 45c, chapter 737, Oregon Laws 2003, is  
40 amended to read:

41 “46.570. (1) In the small claims department of circuit court there shall be charged and collected  
42 in civil cases by the clerk of the court the following fees for the following purposes and services:

43 “(a)(A) Plaintiff filing a claim, [§26] **\$24** when the amount or value claimed does not exceed  
44 \$1,500, and [§55] **\$50** when the amount or value claimed exceeds \$1,500; and

45 “(B) Defendant demanding a hearing, [§19] **\$21** when the amount or value claimed by plaintiff

1 does not exceed \$1,500, and [~~\$41~~] **\$43** when the amount or value claimed by plaintiff exceeds \$1,500.

2 “(b) Transcription of judgment from small claims department, [~~\$7~~] **\$6**.

3 “(c) Transfer of cause to circuit court on counterclaim, [~~\$12~~] **\$11**.

4 “(2) Except as otherwise provided in subsection (1) of this section, fees provided for in this  
5 section shall be collected in advance. A paper or pleading shall be filed by the clerk only if the re-  
6 quired fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided  
7 for in this section may not be refunded.

8 “**(3) In addition to the fees provided for in subsection (1) of this section, for the period**  
9 **commencing September 1, 2003, and ending December 31, 2006, in the small claims depart-**  
10 **ment of a circuit court the clerk of the court shall charge and collect the following sur-**  
11 **charges:**

12 “(a)(A) Plaintiff filing a claim, **\$7** when the amount or value claimed does not exceed  
13 **\$1,500, and \$15** when the amount or value claimed exceeds **\$1,500; and**

14 “(B) Defendant demanding a hearing, **\$5** when the amount or value claimed by plaintiff  
15 **does not exceed \$1,500, and \$11** when the amount or value claimed by plaintiff exceeds **\$1,500.**

16 “(b) Transcription of judgment from small claims department, **\$2**.

17 “(c) Transfer of cause to circuit court on counterclaim, **\$3**.

18 “**SECTION 51.** ORS 46.570, as amended by section 45c, chapter 737, Oregon Laws 2003, and  
19 section 50 of this 2005 Act, is amended to read:

20 “46.570. (1) In the small claims department of circuit court there shall be charged and collected  
21 in civil cases by the clerk of the court the following fees for the following purposes and services:

22 “(a)(A) Plaintiff filing a claim, [~~\$24~~] **\$26** when the amount or value claimed does not exceed  
23 **\$1,500, and [~~\$50~~] \$55** when the amount or value claimed exceeds **\$1,500; and**

24 “(B) Defendant demanding a hearing, **\$21** when the amount or value claimed by plaintiff does  
25 not exceed **\$1,500, and \$43** when the amount or value claimed by plaintiff exceeds **\$1,500.**

26 “(b) Transcription of judgment from small claims department, [~~\$6~~] **\$7**.

27 “(c) Transfer of cause to circuit court on counterclaim, [~~\$11~~] **\$12**.

28 “(2) Except as otherwise provided in subsection (1) of this section, fees provided for in this  
29 section shall be collected in advance. A paper or pleading shall be filed by the clerk only if the re-  
30 quired fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided  
31 for in this section may not be refunded.

32 “[~~(3) In addition to the fees provided for in subsection (1) of this section, for the period commencing~~  
33 ~~September 1, 2003, and ending December 31, 2006, in the small claims department of a circuit court the~~  
34 ~~clerk of the court shall charge and collect the following surcharges:]~~

35 “(a)(A) Plaintiff filing a claim, **\$7** when the amount or value claimed does not exceed **\$1,500, and**  
36 **\$15** when the amount or value claimed exceeds **\$1,500; and]**

37 “(B) Defendant demanding a hearing, **\$5** when the amount or value claimed by plaintiff does not  
38 **exceed \$1,500, and \$11** when the amount or value claimed by plaintiff exceeds **\$1,500.]**

39 “[~~(b) Transcription of judgment from small claims department, \$2.]~~

40 “[~~(c) Transfer of cause to circuit court on counterclaim, \$3.]~~

41 “**SECTION 52. The amendments to ORS 46.570 by section 51 of this 2005 Act become op-**  
42 **erative December 31, 2006.**

43 “**SECTION 53.** ORS 105.130 is amended to read:

44 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,  
45 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of

1 this state.

2 “(2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the  
3 clerk shall:

4 “(a) Collect a filing fee of \$12;

5 “(b) Collect any other fee authorized by law or ordinance; and

6 “(c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable  
7 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons  
8 and complaint for service.

9 “(3) After a complaint is filed under subsection (2) of this section, if the defendant demands a  
10 trial, the plaintiff shall pay an additional filing fee of \$26 and the defendant shall pay a filing fee  
11 of [~~\$26~~] **\$33**.

12 “(4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to  
13 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to  
14 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent  
15 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

16 “(5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an  
17 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

18 “(a) The Attorney General consents to the representation of the agency by an officer or em-  
19 ployee in the particular action or in the class of actions that includes the particular action; and

20 “(b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the par-  
21 ticular type of action being conducted.

22 “(6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect  
23 a surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees es-  
24 tablished by subsection (2) of this section and from a defendant at the time a defendant demands a  
25 trial in the action. The surcharge shall be deposited by the State Court Administrator into the State  
26 Treasury to the credit of the Housing and Community Services Department Low Income Rental  
27 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

28 “(7) Fees and surcharges provided for in this section may not be refunded.

29 “(8)(a) In addition to the fees provided for in subsection (2) of this section, for the period com-  
30 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
31 **December 31, 2006**, upon filing a complaint in the case of a dwelling unit to which ORS chapter  
32 90 applies, the clerk **of a circuit court** shall collect a surcharge of \$4.

33 “(b) In addition to the fees provided for in subsection (3) of this section, for the period com-  
34 mencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*]  
35 **December 31, 2006**, if the defendant demands a trial after a complaint is filed **in circuit court**  
36 under subsection (2) of this section, the plaintiff shall pay a surcharge of \$8 and the defendant shall  
37 pay a surcharge of \$8.

38 “**SECTION 54.** ORS 105.130, as amended by section 48, chapter 737, Oregon Laws 2003, is  
39 amended to read:

40 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,  
41 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of  
42 this state.

43 “(2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the  
44 clerk shall:

45 “(a) Collect a filing fee of [~~\$13~~] **\$12**;

1 “(b) Collect any other fee authorized by law or ordinance; and

2 “(c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable  
3 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons  
4 and complaint for service.

5 “(3) After a complaint is filed under subsection (2) of this section, if the defendant demands a  
6 trial, the plaintiff shall pay an additional filing fee of [~~\$29~~] **\$26** and the defendant shall pay a filing  
7 fee of [~~\$29~~] **\$33**.

8 “(4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to  
9 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to  
10 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent  
11 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

12 “(5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an  
13 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

14 “(a) The Attorney General consents to the representation of the agency by an officer or em-  
15 ployee in the particular action or in the class of actions that includes the particular action; and

16 “(b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the par-  
17 ticular type of action being conducted.

18 “(6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect  
19 a surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees es-  
20 tablished by subsection (2) of this section and from a defendant at the time a defendant demands a  
21 trial in the action. The surcharge shall be deposited by the State Court Administrator into the State  
22 Treasury to the credit of the Housing and Community Services Department Low Income Rental  
23 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

24 “(7) Fees and surcharges provided for in this section may not be refunded.

25 “**(8)(a) In addition to the fees provided for in subsection (2) of this section, for the period**  
26 **commencing on the effective date of this 2005 Act and ending December 31, 2006, upon filing**  
27 **a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the clerk of a**  
28 **circuit court shall collect a surcharge of \$4.**

29 “**(b) In addition to the fees provided for in subsection (3) of this section, for the period**  
30 **commencing on the effective date of this 2005 Act and ending December 31, 2006, if the de-**  
31 **fendant demands a trial after a complaint is filed in circuit court under subsection (2) of this**  
32 **section, the plaintiff shall pay a surcharge of \$8 and the defendant shall pay a surcharge of**  
33 **\$8.**

34 “**SECTION 55.** ORS 105.130, as amended by section 48, chapter 737, Oregon Laws 2003, and  
35 section 54 of this 2005 Act, is amended to read:

36 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,  
37 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of  
38 this state.

39 “(2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the  
40 clerk shall:

41 “(a) Collect a filing fee of [~~\$12~~] **\$13**;

42 “(b) Collect any other fee authorized by law or ordinance; and

43 “(c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable  
44 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons  
45 and complaint for service.

1 “(3) After a complaint is filed under subsection (2) of this section, if the defendant demands a  
2 trial, the plaintiff shall pay an additional filing fee of [~~\$26~~] **\$29** and the defendant shall pay a filing  
3 fee of \$33.

4 “(4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to  
5 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to  
6 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent  
7 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

8 “(5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an  
9 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

10 “(a) The Attorney General consents to the representation of the agency by an officer or em-  
11 ployee in the particular action or in the class of actions that includes the particular action; and

12 “(b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the par-  
13 ticular type of action being conducted.

14 “(6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect  
15 a surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees es-  
16 tablished by subsection (2) of this section and from a defendant at the time a defendant demands a  
17 trial in the action. The surcharge shall be deposited by the State Court Administrator into the State  
18 Treasury to the credit of the Housing and Community Services Department Low Income Rental  
19 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

20 “(7) Fees and surcharges provided for in this section may not be refunded.

21 “[~~(8)(a)~~ *In addition to the fees provided for in subsection (2) of this section, for the period com-*  
22 *mencing on the effective date of this 2005 Act and ending December 31, 2006, upon filing a complaint*  
23 *in the case of a dwelling unit to which ORS chapter 90 applies, the clerk of a circuit court shall collect*  
24 *a surcharge of \$4.]*

25 “[~~(b)~~ *In addition to the fees provided for in subsection (3) of this section, for the period commencing*  
26 *on the effective date of this 2005 Act and ending December 31, 2006, if the defendant demands a trial*  
27 *after a complaint is filed in circuit court under subsection (2) of this section, the plaintiff shall pay a*  
28 *surcharge of \$8 and the defendant shall pay a surcharge of \$8.]*

29 “**SECTION 56. The amendments to ORS 105.130 by section 55 of this 2005 Act become**  
30 **operative December 31, 2006.**

31 “**SECTION 57.** ORS 107.434 is amended to read:

32 “107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting  
33 time enforcement procedure that may or may not include a requirement for mediation. The proce-  
34 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall  
35 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-  
36 enting time order. The court shall charge a filing fee of \$45, subject to ORS 21.605. The court shall  
37 provide forms for:

38 “(a) A motion filed by either party alleging a violation of parenting time or substantial vio-  
39 lations of the parenting plan. When a person files this form, the person must include a copy of the  
40 order establishing the parenting time.

41 “(b) An order requiring the parties to appear and show cause why parenting time should not  
42 be enforced in a specified manner. The party filing the motion shall serve a copy of the motion and  
43 the order on the other party. The order must include:

44 “(A) A notice of the remedies imposable under subsection (2) of this section and the availability  
45 of a waiver of any mediation requirement; and

1 “(B) A notice in substantially the following form:

2 “  
3  
4 When pleaded and shown in a separate legal action, violation of court orders, including  
5 visitation and parenting time orders, may also result in a finding of contempt, which can lead to  
6 fines, imprisonment or other penalties, including compulsory community service.  
7 “

8  
9 “(c) A motion, affidavit and order that may be filed by either party and providing for waiver of  
10 any mediation requirement on a showing of good cause.

11 “(2) In addition to any other remedy the court may impose to enforce the provisions of a judg-  
12 ment relating to the parenting plan, the court may:

13 “(a) Modify the provisions relating to the parenting plan by:

14 “(A) Specifying a detailed parenting time schedule;

15 “(B) Imposing additional terms and conditions on the existing parenting time schedule; or

16 “(C) Ordering additional parenting time, in the best interests of the child, to compensate for  
17 wrongful deprivation of parenting time;

18 “(b) Order the party who is violating the parenting plan provisions to post bond or security;

19 “(c) Order either or both parties to attend counseling or educational sessions that focus on the  
20 impact of violation of the parenting plan on children;

21 “(d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees  
22 and court costs, incurred in enforcing the party’s parenting plan;

23 “(e) Terminate, suspend or modify spousal support;

24 “(f) Terminate, suspend or modify child support as provided in ORS 107.431; or

25 “(g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

26 “(3) In addition to the fee provided for in subsection (1) of this section, for the period com-  
27 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the court shall charge  
28 a surcharge of \$14 upon the filing of a motion seeking enforcement of a parenting time order.

29 “**SECTION 58.** ORS 107.434, as amended by section 51, chapter 737, Oregon Laws 2003, is  
30 amended to read:

31 “107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting  
32 time enforcement procedure that may or may not include a requirement for mediation. The proce-  
33 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall  
34 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-  
35 enting time order. The court shall charge a filing fee of [~~\$50~~] **\$45**, subject to ORS 21.605. The court  
36 shall provide forms for:

37 “(a) A motion filed by either party alleging a violation of parenting time or substantial vio-  
38 lations of the parenting plan. When a person files this form, the person must include a copy of the  
39 order establishing the parenting time.

40 “(b) An order requiring the parties to appear and show cause why parenting time should not  
41 be enforced in a specified manner. The party filing the motion shall serve a copy of the motion and  
42 the order on the other party. The order must include:

43 “(A) A notice of the remedies imposable under subsection (2) of this section and the availability  
44 of a waiver of any mediation requirement; and

45 “(B) A notice in substantially the following form:

1 “  
2  
3 When pleaded and shown in a separate legal action, violation of court orders, including  
4 visitation and parenting time orders, may also result in a finding of contempt, which can lead to  
5 fines, imprisonment or other penalties, including compulsory community service.  
6 “

7  
8 “(c) A motion, affidavit and order that may be filed by either party and providing for waiver of  
9 any mediation requirement on a showing of good cause.

10 “(2) In addition to any other remedy the court may impose to enforce the provisions of a judg-  
11 ment relating to the parenting plan, the court may:

12 “(a) Modify the provisions relating to the parenting plan by:

13 “(A) Specifying a detailed parenting time schedule;

14 “(B) Imposing additional terms and conditions on the existing parenting time schedule; or

15 “(C) Ordering additional parenting time, in the best interests of the child, to compensate for  
16 wrongful deprivation of parenting time;

17 “(b) Order the party who is violating the parenting plan provisions to post bond or security;

18 “(c) Order either or both parties to attend counseling or educational sessions that focus on the  
19 impact of violation of the parenting plan on children;

20 “(d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees  
21 and court costs, incurred in enforcing the party’s parenting plan;

22 “(e) Terminate, suspend or modify spousal support;

23 “(f) Terminate, suspend or modify child support as provided in ORS 107.431; or

24 “(g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

25 “(3) **In addition to the fee provided for in subsection (1) of this section, for the period**  
26 **commencing September 1, 2003, and ending December 31, 2006, the court shall charge a sur-**  
27 **charge of \$14 upon the filing of a motion seeking enforcement of a parenting time order.**

28 “**SECTION 59.** ORS 107.434, as amended by section 51, chapter 737, Oregon Laws 2003, and  
29 section 58 of this 2005 Act, is amended to read:

30 “107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting  
31 time enforcement procedure that may or may not include a requirement for mediation. The proce-  
32 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall  
33 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-  
34 enting time order. The court shall charge a filing fee of [~~\$45~~] **\$50**, subject to ORS 21.605. The court  
35 shall provide forms for:

36 “(a) A motion filed by either party alleging a violation of parenting time or substantial vio-  
37 lations of the parenting plan. When a person files this form, the person must include a copy of the  
38 order establishing the parenting time.

39 “(b) An order requiring the parties to appear and show cause why parenting time should not  
40 be enforced in a specified manner. The party filing the motion shall serve a copy of the motion and  
41 the order on the other party. The order must include:

42 “(A) A notice of the remedies imposable under subsection (2) of this section and the availability  
43 of a waiver of any mediation requirement; and

44 “(B) A notice in substantially the following form:  
45 “

1  
2 When pleaded and shown in a separate legal action, violation of court orders, including  
3 visitation and parenting time orders, may also result in a finding of contempt, which can lead to  
4 fines, imprisonment or other penalties, including compulsory community service.

5 “  
6  
7 “(c) A motion, affidavit and order that may be filed by either party and providing for waiver of  
8 any mediation requirement on a showing of good cause.

9 “(2) In addition to any other remedy the court may impose to enforce the provisions of a judg-  
10 ment relating to the parenting plan, the court may:

11 “(a) Modify the provisions relating to the parenting plan by:

12 “(A) Specifying a detailed parenting time schedule;

13 “(B) Imposing additional terms and conditions on the existing parenting time schedule; or

14 “(C) Ordering additional parenting time, in the best interests of the child, to compensate for  
15 wrongful deprivation of parenting time;

16 “(b) Order the party who is violating the parenting plan provisions to post bond or security;

17 “(c) Order either or both parties to attend counseling or educational sessions that focus on the  
18 impact of violation of the parenting plan on children;

19 “(d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees  
20 and court costs, incurred in enforcing the party’s parenting plan;

21 “(e) Terminate, suspend or modify spousal support;

22 “(f) Terminate, suspend or modify child support as provided in ORS 107.431; or

23 “(g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

24 “[3] *In addition to the fee provided for in subsection (1) of this section, for the period commencing*  
25 *September 1, 2003, and ending December 31, 2006, the court shall charge a surcharge of \$14 upon the*  
26 *filing of a motion seeking enforcement of a parenting time order.]*

27 “**SECTION 60. The amendments to ORS 107.434 by section 59 of this 2005 Act become**  
28 **operative December 31, 2006.**

29 “**SECTION 61.** ORS 108.130 is amended to read:

30 “108.130. (1) At the time of filing the petition for an order of support, the petitioner shall pay  
31 to the clerk of the court a fee of \$5, which shall cover all charges incident to the filing of papers  
32 necessary to a complete determination of the matter and no part of which shall be applied toward  
33 the library fund of the county. Payment of the fee is subject to the provisions of ORS 21.605 appli-  
34 cable to waiver, deferral and payment of fees.

35 “(2) In addition to the fee provided for in subsection (1) of this section, for the period com-  
36 mencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, at the time of filing the  
37 petition for an order of support, the petitioner shall pay to the clerk of the court a surcharge of \$2.

38 “**SECTION 62.** ORS 108.130, as amended by section 54, chapter 737, Oregon Laws 2003, is  
39 amended to read:

40 “108.130. (1) At the time of filing the petition for an order of support, the petitioner shall pay  
41 to the clerk of the court a fee of [~~\$6~~] **\$5**, which shall cover all charges incident to the filing of pa-  
42 pers necessary to a complete determination of the matter and no part of which shall be applied to-  
43 ward the library fund of the county. Payment of the fee is subject to the provisions of ORS 21.605  
44 applicable to waiver, deferral and payment of fees.

45 “(2) **In addition to the fee provided for in subsection (1) of this section, for the period**

1 **commencing September 1, 2003, and ending December 31, 2006, at the time of filing the peti-**  
2 **tion for an order of support, the petitioner shall pay to the clerk of the court a surcharge**  
3 **of \$2.**

4 “**SECTION 63.** ORS 108.130, as amended by section 54, chapter 737, Oregon Laws 2003, and  
5 section 62 of this 2005 Act, is amended to read:

6 “108.130. [(1)] At the time of filing the petition for an order of support, the petitioner shall pay  
7 to the clerk of the court a fee of [\$5] **\$6**, which shall cover all charges incident to the filing of pa-  
8 pers necessary to a complete determination of the matter and no part of which shall be applied to-  
9 ward the library fund of the county. Payment of the fee is subject to the provisions of ORS 21.605  
10 applicable to waiver, deferral and payment of fees.

11 “[2] *In addition to the fee provided for in subsection (1) of this section, for the period commencing*  
12 *September 1, 2003, and ending December 31, 2006, at the time of filing the petition for an order of*  
13 *support, the petitioner shall pay to the clerk of the court a surcharge of \$2.]*

14 “**SECTION 64. The amendments to ORS 108.130 by section 63 of this 2005 Act become**  
15 **operative December 31, 2006.**

16 “**SECTION 65.** ORS 112.820 is amended to read:

17 “112.820. (1) An attorney authorized to destroy a will under ORS 112.815 may proceed as follows:

18 “(a) The attorney shall first publish a notice in a newspaper of general circulation in the county  
19 of the last-known address of the testator, if any, otherwise in the county of the principal place of  
20 business of the attorney. The notice shall state the name of the testator, the date of the will and the  
21 intent of the attorney to destroy the will if the testator does not contact the attorney within 90 days  
22 after the date of the notice.

23 “(b) If the testator fails to contact the attorney within 90 days after the date of the notice, the  
24 attorney may destroy the will.

25 “(c) Within 30 days after destruction of the will, the attorney shall file with the probate court  
26 in the county where the notice was published an affidavit stating the name of the testator, the name  
27 and relationship of each person named in the will whom the testator identified as related to the  
28 testator by blood, adoption or marriage, the date of the will, proof of the publication and the date  
29 of destruction.

30 “(d) The clerk of the probate court shall charge and collect a fee of \$15 for filing of the affidavit.

31 “(2) If a will has not been admitted to probate within 40 years following the death of the  
32 testator, an attorney having custody of the will may destroy the will without notice to any person  
33 or court.

34 “(3) In addition to the fee provided for in subsection (1)(d) of this section, for the period com-  
35 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, the clerk of the probate  
36 court shall charge and collect a surcharge of \$5 for filing of an affidavit under subsection (1) of this  
37 section.

38 “**SECTION 66.** ORS 112.820, as amended by section 57, chapter 737, Oregon Laws 2003, is  
39 amended to read:

40 “112.820. (1) An attorney authorized to destroy a will under ORS 112.815 may proceed as follows:

41 “(a) The attorney shall first publish a notice in a newspaper of general circulation in the county  
42 of the last-known address of the testator, if any, otherwise in the county of the principal place of  
43 business of the attorney. The notice shall state the name of the testator, the date of the will and the  
44 intent of the attorney to destroy the will if the testator does not contact the attorney within 90 days  
45 after the date of the notice.

1 “(b) If the testator fails to contact the attorney within 90 days after the date of the notice, the  
2 attorney may destroy the will.

3 “(c) Within 30 days after destruction of the will, the attorney shall file with the probate court  
4 in the county where the notice was published an affidavit stating the name of the testator, the name  
5 and relationship of each person named in the will whom the testator identified as related to the  
6 testator by blood, adoption or marriage, the date of the will, proof of the publication and the date  
7 of destruction.

8 “(d) The clerk of the probate court shall charge and collect a fee of [\$17] **\$15** for filing of the  
9 affidavit.

10 “(2) If a will has not been admitted to probate within 40 years following the death of the  
11 testator, an attorney having custody of the will may destroy the will without notice to any person  
12 or court.

13 “**(3) In addition to the fee provided for in subsection (1)(d) of this section, for the period**  
14 **commencing September 1, 2003, and ending December 31, 2006, the clerk of the probate court**  
15 **shall charge and collect a surcharge of \$5 for filing of an affidavit under subsection (1) of this**  
16 **section.**

17 “**SECTION 67.** ORS 112.820, as amended by section 57, chapter 737, Oregon Laws 2003, and  
18 section 66 of this 2005 Act, is amended to read:

19 “112.820. (1) An attorney authorized to destroy a will under ORS 112.815 may proceed as follows:

20 “(a) The attorney shall first publish a notice in a newspaper of general circulation in the county  
21 of the last-known address of the testator, if any, otherwise in the county of the principal place of  
22 business of the attorney. The notice shall state the name of the testator, the date of the will and the  
23 intent of the attorney to destroy the will if the testator does not contact the attorney within 90 days  
24 after the date of the notice.

25 “(b) If the testator fails to contact the attorney within 90 days after the date of the notice, the  
26 attorney may destroy the will.

27 “(c) Within 30 days after destruction of the will, the attorney shall file with the probate court  
28 in the county where the notice was published an affidavit stating the name of the testator, the name  
29 and relationship of each person named in the will whom the testator identified as related to the  
30 testator by blood, adoption or marriage, the date of the will, proof of the publication and the date  
31 of destruction.

32 “(d) The clerk of the probate court shall charge and collect a fee of [\$15] **\$17** for filing of the  
33 affidavit.

34 “(2) If a will has not been admitted to probate within 40 years following the death of the  
35 testator, an attorney having custody of the will may destroy the will without notice to any person  
36 or court.

37 “[*3) In addition to the fee provided for in subsection (1)(d) of this section, for the period com-*  
38 *mencing September 1, 2003, and ending December 31, 2006, the clerk of the probate court shall charge*  
39 *and collect a surcharge of \$5 for filing of an affidavit under subsection (1) of this section.*]

40 “**SECTION 68.** The amendments to ORS 112.820 by section 67 of this 2005 Act become  
41 operative December 31, 2006.

42 “**SECTION 69.** ORS 114.515 is amended to read:

43 “114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section,  
44 any of the following persons may file an affidavit with the clerk of the probate court in any county  
45 where there is venue for a proceeding seeking the appointment of a personal representative for the

1 estate:

2 “(a) One or more of the claiming successors of the decedent.

3 “(b) If the decedent died testate, any person named as personal representative in the decedent’s  
4 will.

5 “(2) An affidavit under this section may be filed only if:

6 “(a) The fair market value of the estate is \$140,000 or less;

7 “(b) Not more than \$50,000 of the fair market value of the estate is attributable to personal  
8 property; and

9 “(c) Not more than \$90,000 of the fair market value of the estate is attributable to real property.

10 “(3) An affidavit under this section may not be filed until 30 days after the death of the  
11 decedent. An affidavit filed under the provisions of this section must contain the information re-  
12 quired in ORS 114.525 and shall be made a part of the probate records. In determining fair market  
13 value under this section, the fair market value of the entire interest in the property included in the  
14 estate shall be used without reduction for liens or other debts.

15 “(4) The clerk of the probate court shall charge and collect a fee of \$21 for the filing of the  
16 affidavit.

17 “(5) An affidavit filed under this section may be amended by a new affidavit containing the in-  
18 formation required in ORS 114.525 filed by one or more of the claiming successors within four  
19 months after the filing of the prior affidavit.

20 “(6) In addition to the fee provided for in subsection (4) of this section, for the period com-  
21 mencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, the clerk of the probate  
22 court shall charge and collect a surcharge of \$6 upon the filing of an affidavit under this section.

23 “**SECTION 70.** ORS 114.515, as amended by section 60, chapter 737, Oregon Laws 2003, is  
24 amended to read:

25 “114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section,  
26 any of the following persons may file an affidavit with the clerk of the probate court in any county  
27 where there is venue for a proceeding seeking the appointment of a personal representative for the  
28 estate:

29 “(a) One or more of the claiming successors of the decedent.

30 “(b) If the decedent died testate, any person named as personal representative in the decedent’s  
31 will.

32 “(2) An affidavit under this section may be filed only if:

33 “(a) The fair market value of the estate is \$140,000 or less;

34 “(b) Not more than \$50,000 of the fair market value of the estate is attributable to personal  
35 property; and

36 “(c) Not more than \$90,000 of the fair market value of the estate is attributable to real property.

37 “(3) An affidavit under this section may not be filed until 30 days after the death of the  
38 decedent. An affidavit filed under the provisions of this section must contain the information re-  
39 quired in ORS 114.525 and shall be made a part of the probate records. In determining fair market  
40 value under this section, the fair market value of the entire interest in the property included in the  
41 estate shall be used without reduction for liens or other debts.

42 “(4) The clerk of the probate court shall charge and collect a fee of [\$23] **\$21** for the filing of  
43 the affidavit.

44 “(5) An affidavit filed under this section may be amended by a new affidavit containing the in-  
45 formation required in ORS 114.525 filed by one or more of the claiming successors within four

1 months after the filing of the prior affidavit.

2 “(6) In addition to the fee provided for in subsection (4) of this section, for the period  
3 commencing September 1, 2003, and ending December 31, 2006, the clerk of the probate court  
4 shall charge and collect a surcharge of \$6 upon the filing of an affidavit under this section.

5 “**SECTION 71.** ORS 114.515, as amended by section 60, chapter 737, Oregon Laws 2003, and  
6 section 70 of this 2005 Act, is amended to read:

7 “114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section,  
8 any of the following persons may file an affidavit with the clerk of the probate court in any county  
9 where there is venue for a proceeding seeking the appointment of a personal representative for the  
10 estate:

11 “(a) One or more of the claiming successors of the decedent.

12 “(b) If the decedent died testate, any person named as personal representative in the decedent’s  
13 will.

14 “(2) An affidavit under this section may be filed only if:

15 “(a) The fair market value of the estate is \$140,000 or less;

16 “(b) Not more than \$50,000 of the fair market value of the estate is attributable to personal  
17 property; and

18 “(c) Not more than \$90,000 of the fair market value of the estate is attributable to real property.

19 “(3) An affidavit under this section may not be filed until 30 days after the death of the  
20 decedent. An affidavit filed under the provisions of this section must contain the information re-  
21 quired in ORS 114.525 and shall be made a part of the probate records. In determining fair market  
22 value under this section, the fair market value of the entire interest in the property included in the  
23 estate shall be used without reduction for liens or other debts.

24 “(4) The clerk of the probate court shall charge and collect a fee of [~~\$21~~] **\$23** for the filing of  
25 the affidavit.

26 “(5) An affidavit filed under this section may be amended by a new affidavit containing the in-  
27 formation required in ORS 114.525 filed by one or more of the claiming successors within four  
28 months after the filing of the prior affidavit.

29 “[~~(6) In addition to the fee provided for in subsection (4) of this section, for the period commencing~~  
30 *September 1, 2003, and ending December 31, 2006, the clerk of the probate court shall charge and col-*  
31 *lect a surcharge of \$6 upon the filing of an affidavit under this section.*]

32 “**SECTION 72.** The amendments to ORS 114.515 by section 71 of this 2005 Act become  
33 operative December 31, 2006.

34 “**SECTION 73.** ORS 135.921 is amended to read:

35 “135.921. (1) The filing fee paid by a defendant at the time of filing a petition for a possession  
36 of marijuana diversion agreement as provided in ORS 135.909 shall be \$212 and shall be ordered paid  
37 as follows if the petition is allowed:

38 “(a) \$112 to the Department of Revenue for deposit in the Criminal Fine and Assessment Ac-  
39 count; and

40 “(b) \$100 to be distributed as provided for the disposition of costs under ORS 153.630.

41 “(2) If less than the \$212 filing fee is paid to the court by the defendant under subsection (1)  
42 of this section, the money actually received shall be allocated in the amounts provided first to the  
43 State Treasurer and the remainder as provided for the disposition of costs under ORS 153.630.

44 “(3) In addition to the filing fee under subsection (1) of this section, the court shall order the  
45 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

1 “(4) The Chief Justice of the Oregon Supreme Court may require that any or all fees distributed  
2 by circuit courts under this section be distributed through the offices of the State Court Adminis-  
3 trator.

4 “(5) In addition to the filing fee provided for in subsection (1) of this section, for the period  
5 commencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30,*  
6 *2005,*] **December 31, 2006**, if a petition for a possession of marijuana diversion agreement as pro-  
7 vided in ORS 135.909 is allowed **in circuit court** the defendant shall pay a surcharge of \$64.

8 “**SECTION 74.** ORS 135.921, as amended by section 63, chapter 737, Oregon Laws 2003, is  
9 amended to read:

10 “135.921. (1) The filing fee paid by a defendant at the time of filing a petition for a possession  
11 of marijuana diversion agreement as provided in ORS 135.909 shall be [~~\$233~~] **\$212** and shall be or-  
12 dered paid as follows if the petition is allowed:

13 “(a) [~~\$123~~] **\$112** to the Department of Revenue for deposit in the Criminal Fine and Assessment  
14 Account; and

15 “(b) [~~\$110~~] **\$100** to be distributed as provided for the disposition of costs under ORS 153.630.

16 “(2) If less than the [~~\$233~~] **\$212** filing fee is paid to the court by the defendant under subsection  
17 (1) of this section, the money actually received shall be allocated in the amounts provided first to  
18 the State Treasurer and the remainder as provided for the disposition of costs under ORS 153.630.

19 “(3) In addition to the filing fee under subsection (1) of this section, the court shall order the  
20 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

21 “(4) The Chief Justice of the Oregon Supreme Court may require that any or all fees distributed  
22 by circuit courts under this section be distributed through the offices of the State Court Adminis-  
23 trator.

24 “**(5) In addition to the filing fee provided for in subsection (1) of this section, for the pe-**  
25 **riod commencing on the effective date of this 2005 Act and ending December 31, 2006, if a**  
26 **petition for a possession of marijuana diversion agreement as provided in ORS 135.909 is al-**  
27 **lowed in circuit court the defendant shall pay a surcharge of \$64.**

28 “**SECTION 75.** ORS 135.921, as amended by section 63, chapter 737, Oregon Laws 2003, and  
29 section 74 of this 2005 Act, is amended to read:

30 “135.921. (1) The filing fee paid by a defendant at the time of filing a petition for a possession  
31 of marijuana diversion agreement as provided in ORS 135.909 shall be [~~\$212~~] **\$233** and shall be or-  
32 dered paid as follows if the petition is allowed:

33 “(a) [~~\$112~~] **\$123** to the Department of Revenue for deposit in the Criminal Fine and Assessment  
34 Account; and

35 “(b) [~~\$100~~] **\$110** to be distributed as provided for the disposition of costs under ORS 153.630.

36 “(2) If less than the [~~\$212~~] **\$233** filing fee is paid to the court by the defendant under subsection  
37 (1) of this section, the money actually received shall be allocated in the amounts provided first to  
38 the State Treasurer and the remainder as provided for the disposition of costs under ORS 153.630.

39 “(3) In addition to the filing fee under subsection (1) of this section, the court shall order the  
40 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

41 “(4) The Chief Justice of the Oregon Supreme Court may require that any or all fees distributed  
42 by circuit courts under this section be distributed through the offices of the State Court Adminis-  
43 trator.

44 “[*(5) In addition to the filing fee provided for in subsection (1) of this section, for the period com-*  
45 *mencing on the effective date of this 2005 Act and ending December 31, 2006, if a petition for a pos-*

1 session of marijuana diversion agreement as provided in ORS 135.909 is allowed in circuit court the  
2 defendant shall pay a surcharge of \$64.]

3 **“SECTION 76. The amendments to ORS 135.921 by section 75 of this 2005 Act become**  
4 **operative December 31, 2006.**

5 **“SECTION 77.** ORS 138.560 is amended to read:

6 “138.560. (1) A proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680 shall be  
7 commenced by filing a petition and two copies thereof with the clerk of the circuit court for the  
8 county in which the petitioner is imprisoned or, if the petitioner is not imprisoned, with the clerk  
9 of the circuit court for the county in which the petitioner’s conviction and sentence was rendered.  
10 Except as otherwise provided in ORS 138.590, the petitioner shall pay a \$25 filing fee at the time  
11 of filing a petition under this section. If the petitioner prevails, the petitioner shall recover the fee  
12 pursuant to the Oregon Rules of Civil Procedure. The clerk of the court in which the petition is filed  
13 shall enter and file the petition and bring it promptly to the attention of such court. A copy of the  
14 petition need not be served by petitioner on the defendant, but, in lieu thereof, the clerk of the court  
15 in which the petition is filed shall immediately forward a copy of the petition to the Attorney Gen-  
16 eral or other attorney for the defendant named in ORS 138.570.

17 “(2) For the purposes of ORS 138.510 to 138.680, a person released on parole or conditional  
18 pardon shall be deemed to be imprisoned in the institution from which the person is so released.

19 “(3) Except when petitioner’s conviction was for a misdemeanor, the release of the petitioner  
20 from imprisonment during the pendency of proceedings instituted pursuant to ORS 138.510 to 138.680  
21 shall not cause the proceedings to become moot. Such release of petitioner shall not change the  
22 venue of the proceedings out of the circuit court in which they were commenced and shall not affect  
23 the power of such court to transfer the proceedings as provided in subsection (4) of this section.

24 “(4) Whenever the petitioner is imprisoned in a Department of Corrections institution and the  
25 circuit court for the county in which the petitioner is imprisoned finds that the hearing upon the  
26 petition can be more expeditiously conducted in the county in which the petitioner was convicted  
27 and sentenced, the circuit court upon its own motion or the motion of a party may order the  
28 petitioner’s case to be transferred to the circuit court for the county in which petitioner’s conviction  
29 and sentence were rendered. The court’s order is not reviewable by any court of this state.

30 “(5) When a petitioner who is imprisoned in a Department of Corrections institution is trans-  
31 ferred to another Department of Corrections institution, the circuit court in which a post-conviction  
32 relief proceeding is pending may deny a motion for a change of venue to the county where the  
33 petitioner is transferred. The court’s order is not reviewable by any court of this state.

34 “(6) In addition to the fee provided for in subsection (1) of this section, for the period com-  
35 mencing September 1, 2003, and ending [June 30, 2005,] **December 31, 2006**, a petitioner shall pay  
36 a surcharge of \$8 at the time of filing a petition under this section.

37 **“SECTION 78.** ORS 138.560, as amended by section 66, chapter 737, Oregon Laws 2003, is  
38 amended to read:

39 “138.560. (1) A proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680 shall be  
40 commenced by filing a petition and two copies thereof with the clerk of the circuit court for the  
41 county in which the petitioner is imprisoned or, if the petitioner is not imprisoned, with the clerk  
42 of the circuit court for the county in which the petitioner’s conviction and sentence was rendered.  
43 Except as otherwise provided in ORS 138.590, the petitioner shall pay a [~~\$28~~] **\$25** filing fee at the  
44 time of filing a petition under this section. If the petitioner prevails, the petitioner shall recover the  
45 fee pursuant to the Oregon Rules of Civil Procedure. The clerk of the court in which the petition

1 is filed shall enter and file the petition and bring it promptly to the attention of such court. A copy  
2 of the petition need not be served by petitioner on the defendant, but, in lieu thereof, the clerk of  
3 the court in which the petition is filed shall immediately forward a copy of the petition to the At-  
4 torney General or other attorney for the defendant named in ORS 138.570.

5 “(2) For the purposes of ORS 138.510 to 138.680, a person released on parole or conditional  
6 pardon shall be deemed to be imprisoned in the institution from which the person is so released.

7 “(3) Except when petitioner’s conviction was for a misdemeanor, the release of the petitioner  
8 from imprisonment during the pendency of proceedings instituted pursuant to ORS 138.510 to 138.680  
9 shall not cause the proceedings to become moot. Such release of petitioner shall not change the  
10 venue of the proceedings out of the circuit court in which they were commenced and shall not affect  
11 the power of such court to transfer the proceedings as provided in subsection (4) of this section.

12 “(4) Whenever the petitioner is imprisoned in a Department of Corrections institution and the  
13 circuit court for the county in which the petitioner is imprisoned finds that the hearing upon the  
14 petition can be more expeditiously conducted in the county in which the petitioner was convicted  
15 and sentenced, the circuit court upon its own motion or the motion of a party may order the  
16 petitioner’s case to be transferred to the circuit court for the county in which petitioner’s conviction  
17 and sentence were rendered. The court’s order is not reviewable by any court of this state.

18 “(5) When a petitioner who is imprisoned in a Department of Corrections institution is trans-  
19 ferred to another Department of Corrections institution, the circuit court in which a post-conviction  
20 relief proceeding is pending may deny a motion for a change of venue to the county where the  
21 petitioner is transferred. The court’s order is not reviewable by any court of this state.

22 “(6) **In addition to the fee provided for in subsection (1) of this section, for the period**  
23 **commencing September 1, 2003, and ending December 31, 2006, a petitioner shall pay a sur-**  
24 **charge of \$8 at the time of filing a petition under this section.**

25 “**SECTION 79.** ORS 138.560, as amended by section 66, chapter 737, Oregon Laws 2003, and  
26 section 78 of this 2005 Act, is amended to read:

27 “138.560. (1) A proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680 shall be  
28 commenced by filing a petition and two copies thereof with the clerk of the circuit court for the  
29 county in which the petitioner is imprisoned or, if the petitioner is not imprisoned, with the clerk  
30 of the circuit court for the county in which the petitioner’s conviction and sentence was rendered.  
31 Except as otherwise provided in ORS 138.590, the petitioner shall pay a [~~\$25~~] **\$28** filing fee at the  
32 time of filing a petition under this section. If the petitioner prevails, the petitioner shall recover the  
33 fee pursuant to the Oregon Rules of Civil Procedure. The clerk of the court in which the petition  
34 is filed shall enter and file the petition and bring it promptly to the attention of such court. A copy  
35 of the petition need not be served by petitioner on the defendant, but, in lieu thereof, the clerk of  
36 the court in which the petition is filed shall immediately forward a copy of the petition to the At-  
37 torney General or other attorney for the defendant named in ORS 138.570.

38 “(2) For the purposes of ORS 138.510 to 138.680, a person released on parole or conditional  
39 pardon shall be deemed to be imprisoned in the institution from which the person is so released.

40 “(3) Except when petitioner’s conviction was for a misdemeanor, the release of the petitioner  
41 from imprisonment during the pendency of proceedings instituted pursuant to ORS 138.510 to 138.680  
42 shall not cause the proceedings to become moot. Such release of petitioner shall not change the  
43 venue of the proceedings out of the circuit court in which they were commenced and shall not affect  
44 the power of such court to transfer the proceedings as provided in subsection (4) of this section.

45 “(4) Whenever the petitioner is imprisoned in a Department of Corrections institution and the

1 circuit court for the county in which the petitioner is imprisoned finds that the hearing upon the  
2 petition can be more expeditiously conducted in the county in which the petitioner was convicted  
3 and sentenced, the circuit court upon its own motion or the motion of a party may order the  
4 petitioner's case to be transferred to the circuit court for the county in which petitioner's conviction  
5 and sentence were rendered. The court's order is not reviewable by any court of this state.

6 "(5) When a petitioner who is imprisoned in a Department of Corrections institution is trans-  
7 ferred to another Department of Corrections institution, the circuit court in which a post-conviction  
8 relief proceeding is pending may deny a motion for a change of venue to the county where the  
9 petitioner is transferred. The court's order is not reviewable by any court of this state.

10 "[*(6) In addition to the fee provided for in subsection (1) of this section, for the period commencing*  
11 *September 1, 2003, and ending December 31, 2006, a petitioner shall pay a surcharge of \$8 at the time*  
12 *of filing a petition under this section.*]"

13 "**SECTION 80. The amendments to ORS 138.560 by section 79 of this 2005 Act become**  
14 **operative December 31, 2006.**

15 "**SECTION 81.** ORS 419B.555 is amended to read:

16 "419B.555. (1) The juvenile court shall conduct a preliminary hearing on the minor's application  
17 for emancipation within 10 days of the date on which it is filed or as soon as possible thereafter.  
18 At the time of the preliminary hearing, the court may issue a temporary custody order, stay any  
19 pending proceedings or enter any other temporary order appropriate to the circumstances. No action  
20 of the court pursuant to this subsection may be extended beyond the date set for a final hearing.

21 "(2) The final hearing shall be held no later than 60 days or as soon as possible after the date  
22 on which the application is filed.

23 "(3) Notice to the parent or parents of the applicant shall be made pursuant to ORS 419B.812  
24 to 419B.839.

25 "(4) At the preliminary hearing, the court shall advise the minor of the civil and criminal rights  
26 and civil and criminal liabilities of an emancipated minor. This advice shall be recited in the judg-  
27 ment of emancipation.

28 "(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and  
29 parent or parents.

30 "(6) A uniform filing fee of \$70 shall be charged and collected by the court for each application  
31 for emancipation. In addition, the court shall collect any other fees required by law.

32 "(7) In addition to the fee provided for in subsection (6) of this section, for the period com-  
33 mencing September 1, 2003, and ending [*June 30, 2005,*] **December 31, 2006**, the court shall charge  
34 and collect a surcharge of \$21 for each application for emancipation.

35 "**SECTION 82.** ORS 419B.555, as amended by section 69, chapter 737, Oregon Laws 2003, is  
36 amended to read:

37 "419B.555. (1) The juvenile court shall conduct a preliminary hearing on the minor's application  
38 for emancipation within 10 days of the date on which it is filed or as soon as possible thereafter.  
39 At the time of the preliminary hearing, the court may issue a temporary custody order, stay any  
40 pending proceedings or enter any other temporary order appropriate to the circumstances. No action  
41 of the court pursuant to this subsection may be extended beyond the date set for a final hearing.

42 "(2) The final hearing shall be held no later than 60 days or as soon as possible after the date  
43 on which the application is filed.

44 "(3) Notice to the parent or parents of the applicant shall be made pursuant to ORS 419B.812  
45 to 419B.839.

1 “(4) At the preliminary hearing, the court shall advise the minor of the civil and criminal rights  
2 and civil and criminal liabilities of an emancipated minor. This advice shall be recited in the judg-  
3 ment of emancipation.

4 “(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and  
5 parent or parents.

6 “(6) A uniform filing fee of [\$77] **\$70** shall be charged and collected by the court for each ap-  
7 plication for emancipation. In addition, the court shall collect any other fees required by law.

8 “**(7) In addition to the fee provided for in subsection (6) of this section, for the period**  
9 **commencing September 1, 2003, and ending December 31, 2006, the court shall charge and**  
10 **collect a surcharge of \$21 for each application for emancipation.**

11 “**SECTION 83.** ORS 419B.555, as amended by section 69, chapter 737, Oregon Laws 2003, and  
12 section 82 of this 2005 Act, is amended to read:

13 “419B.555. (1) The juvenile court shall conduct a preliminary hearing on the minor’s application  
14 for emancipation within 10 days of the date on which it is filed or as soon as possible thereafter.  
15 At the time of the preliminary hearing, the court may issue a temporary custody order, stay any  
16 pending proceedings or enter any other temporary order appropriate to the circumstances. No action  
17 of the court pursuant to this subsection may be extended beyond the date set for a final hearing.

18 “(2) The final hearing shall be held no later than 60 days or as soon as possible after the date  
19 on which the application is filed.

20 “(3) Notice to the parent or parents of the applicant shall be made pursuant to ORS 419B.812  
21 to 419B.839.

22 “(4) At the preliminary hearing, the court shall advise the minor of the civil and criminal rights  
23 and civil and criminal liabilities of an emancipated minor. This advice shall be recited in the judg-  
24 ment of emancipation.

25 “(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and  
26 parent or parents.

27 “(6) A uniform filing fee of [\$70] **\$77** shall be charged and collected by the court for each ap-  
28 plication for emancipation. In addition, the court shall collect any other fees required by law.

29 “[*(7) In addition to the fee provided for in subsection (6) of this section, for the period commencing*  
30 *September 1, 2003, and ending December 31, 2006, the court shall charge and collect a surcharge of*  
31 *\$21 for each application for emancipation.*]

32 “**SECTION 84. The amendments to ORS 419B.555 by section 83 of this 2005 Act become**  
33 **operative December 31, 2006.**

34 “**SECTION 85.** ORS 813.240 is amended to read:

35 “813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while  
36 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be \$237 and  
37 shall be ordered paid as follows if the petition is allowed:

38 “(a) \$112 to be credited and distributed under ORS 137.295 as an obligation payable to the state;

39 “(b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

40 “(c) \$25 to be paid to the Director of Human Services for deposit in the Intoxicated Driver  
41 Program Fund created under ORS 813.270, to be used for purposes of the fund.

42 “(2) In addition to the filing fee under subsection (1) of this section, the court shall order the  
43 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

44 “(3) In addition to the filing fee provided for in subsection (1) of this section, for the period  
45 commencing [*September 1, 2003,*] **on the effective date of this 2005 Act** and ending [*June 30, 2005,*

1 *the*] **December 31, 2006, a circuit** court shall collect a surcharge of \$71 upon the filing of a petition  
2 for a driving while under the influence of intoxicants diversion agreement that is allowed.

3 **“SECTION 86.** ORS 813.240, as amended by section 72, chapter 737, Oregon Laws 2003, is  
4 amended to read:

5 “813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while  
6 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be [~~\$261~~  
7 **\$237** and shall be ordered paid as follows if the petition is allowed:

8 “(a) [~~\$136~~] **\$112** to be credited and distributed under ORS 137.295 as an obligation payable to the  
9 state;

10 “(b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

11 “(c) \$25 to be paid to the Director of Human Services for deposit in the Intoxicated Driver  
12 Program Fund created under ORS 813.270, to be used for purposes of the fund.

13 “(2) In addition to the filing fee under subsection (1) of this section, the court shall order the  
14 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

15 **“(3) In addition to the filing fee provided for in subsection (1) of this section, for the pe-**  
16 **riod commencing on the effective date of this 2005 Act and ending December 31, 2006, a cir-**  
17 **cuit court shall collect a surcharge of \$71 upon the filing of a petition for a driving while**  
18 **under the influence of intoxicants diversion agreement that is allowed.**

19 **“SECTION 87.** ORS 813.240, as amended by section 72, chapter 737, Oregon Laws 2003, and  
20 section 86 of this 2005 Act, is amended to read:

21 “813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while  
22 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be [~~\$237~~  
23 **\$261** and shall be ordered paid as follows if the petition is allowed:

24 “(a) [~~\$112~~] **\$136** to be credited and distributed under ORS 137.295 as an obligation payable to the  
25 state;

26 “(b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

27 “(c) \$25 to be paid to the Director of Human Services for deposit in the Intoxicated Driver  
28 Program Fund created under ORS 813.270, to be used for purposes of the fund.

29 “(2) In addition to the filing fee under subsection (1) of this section, the court shall order the  
30 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

31 “[~~(3) In addition to the filing fee provided for in subsection (1) of this section, for the period com-~~  
32 ~~mencing on the effective date of this 2005 Act and ending December 31, 2006, a circuit court shall~~  
33 ~~collect a surcharge of \$71 upon the filing of a petition for a driving while under the influence of~~  
34 ~~intoxicants diversion agreement that is allowed.]~~

35 **“SECTION 88. The amendments to ORS 813.240 by section 87 of this 2005 Act become**  
36 **operative December 31, 2006.**

37 **“SECTION 89.** Section 76, chapter 737, Oregon Laws 2003, is amended to read:

38 **“Sec. 76.** The amendments to ORS 24.190 by section 75, **chapter 737, Oregon Laws 2003,** [*of*  
39 *this 2003 Act*] become operative on [*July 1, 2005*] **December 31, 2006.**

40 **“SECTION 90.** Section 79, chapter 737, Oregon Laws 2003, is amended to read:

41 **“Sec. 79.** The amendments to ORS 46.488 by section 78, **chapter 737, Oregon Laws 2003,** [*of*  
42 *this 2003 Act*] become operative on [*July 1, 2005*] **December 31, 2006.**

43 **“SECTION 91.** Section 82, chapter 737, Oregon Laws 2003, is amended to read:

44 **“Sec. 82.** The amendments to ORS 52.635 by section 81, **chapter 737, Oregon Laws 2003,** [*of*  
45 *this 2003 Act*] become operative on [*July 1, 2005*] **December 31, 2006.**



1 “(c) The extent to which an award of a larger prevailing party fee in the case would deter  
2 others from asserting good faith claims or defenses in similar cases.

3 “(d) The extent to which an award of a larger prevailing party fee in the case would deter  
4 others from asserting meritless claims and defenses.

5 “(e) The objective reasonableness of the parties and the diligence of the parties and their at-  
6 torneys during the proceedings.

7 “(f) The objective reasonableness of the parties and the diligence of the parties in pursuing  
8 settlement of the dispute.

9 “(g) Any award of attorney fees made to the prevailing party as part of the judgment.

10 “(h) Such other factors as the court may consider appropriate under the circumstances of the  
11 case.

12 “(4) Nonprevailing parties are jointly liable for the prevailing party fees provided for in this  
13 section. A court may not award more than one prevailing party fee to a prevailing party under this  
14 section, or more than one prevailing party fee against a nonprevailing party regardless of the num-  
15 ber of parties in the action, and, upon being paid the amount of the award, the prevailing party may  
16 not seek recovery of any additional amounts under the provisions of this section from any other  
17 nonprevailing party.

18 “(5) In any appeal from the award or denial of a prevailing party fee under subsection (2) of this  
19 section, the court reviewing the award may not modify the decision of the court in making or de-  
20 denying an award, or the decision of the court as to the amount of the award, except upon a finding  
21 of an abuse of discretion.

22 “(6) The prevailing party fees provided for in this section may not be awarded in the following  
23 proceedings:

24 “(a) A class action proceeding under ORCP 32.

25 “(b) A condemnation proceeding.

26 “(c) Proceedings under the provisions of ORS chapters 25, 107, 108, 109 and 110.

27 “(7) Mandatory arbitration under ORS 36.400 to 36.425 does not constitute a trial of an issue  
28 of law or fact for the purposes of this section.

29 “**SECTION 94. The amendments to ORS 20.190 by section 93 of this 2005 Act apply only**  
30 **to actions in which judgments are entered on or after the effective date of this 2005 Act.**

31  
32 “**GARNISHMENT FEES**

33  
34 “**SECTION 95.** ORS 18.910 is amended to read:

35 “18.910. This section establishes the right of a plaintiff to recover certain moneys the plaintiff  
36 has expended to recover a debt under ORS 18.900 or to enforce a judgment and establishes proce-  
37 dures for that recovery. The following apply to this section:

38 “(1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff  
39 may proceed as follows:

40 “(a) Before crediting the total amount of moneys received against the judgment or debt, the  
41 plaintiff may recover and keep from the total amount received under the garnishment, attachment  
42 or payment any moneys allowed to be recovered under this section.

43 “(b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff  
44 shall credit the remainder of the moneys received against the judgment or debt as provided by law.

45 “(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys

1 paid on and to be credited against the original judgment or debt sought to be enforced. No addi-  
2 tional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this  
3 section.

4 “(3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those  
5 described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific  
6 judgment or debt that the specific garnishment or attachment was issued to enforce or upon which  
7 the payment was received. Moneys recoverable under subsection (1)(a) of this section remain re-  
8 coverable and, except as provided under subsection (8) of this section, may be recovered from mon-  
9 eys received by the plaintiff under subsequent garnishments, attachments or payments on the same  
10 specific judgment or debt.

11 “(4) This section allows the recovery only of the following:

12 “(a) Statutorily established moneys that meet the requirements under subsection (3) of this sec-  
13 tion, as follows:

14 “(A) Garnishee’s search fees under ORS 18.790.

15 “(B) Fees for delivery of writs of garnishment under ORS 18.652.

16 “(C) Circuit court fees as provided under ORS 21.325.

17 “(D) County court fees as provided under ORS 5.125.

18 “(E) County clerk recording fees as provided in ORS 205.320.

19 “(F) Actual fees or disbursements made under ORS 21.410.

20 “(G) Costs of execution as provided in ORS 105.112.

21 “(H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [~~\$4~~] **\$7** for  
22 each garnishment.

23 “(b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided  
24 for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount  
25 and ending upon recovery of the amount under this section.

26 “(5) The plaintiff shall be responsible for doing all of the following:

27 “(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this sec-  
28 tion and making the accounting available for any proceeding relating to that judgment or debt.

29 “(b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under sub-  
30 section (1)(a) of this section.

31 “(6) Moneys recovered under subsection (1)(a) of this section remain subject to all other pro-  
32 visions of law relating to payments, or garnished or attached moneys including, but not limited to,  
33 those relating to exemption, claim of exemption, overpayment and holding periods.

34 “(7) Nothing in this section limits the right of a plaintiff to recover moneys described in this  
35 section or other moneys in any manner otherwise allowed by law.

36 “(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recov-  
37 erable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced  
38 to a judgment or to a debt enforceable under ORS 18.900.

39 “**SECTION 96. The amendments to ORS 18.910 by section 95 of this 2005 Act apply only**  
40 **to writs of garnishment issued on or after the effective date of this 2005 Act.**

41  
42 “**JUSTICE COURT IN DESCHUTES COUNTY**

43  
44 “**SECTION 97.** ORS 51.020 is amended to read:

45 “51.020. (1) The county court or board of county commissioners of every county may set off and

1 establish, or modify the boundaries of, justice of the peace districts within the county. No more than  
2 six justice of the peace districts shall be set off or established or permitted to remain in existence  
3 within any county. Except in the counties of Baker, **Deschutes**, Gilliam, Grant, Harney, Morrow,  
4 Sherman, Tillamook and Wheeler, a justice of the peace district may not include any portion of the  
5 city that is the county seat for the county or any portion of a city in which a circuit court regularly  
6 holds court.

7 “(2) In the counties of Baker, Gilliam, Grant, Harney, Morrow, Sherman, Tillamook and  
8 Wheeler, a justice of the peace district in existence on January 15, 1998, may include any portion  
9 of the city that is the county seat for the county, or any portion of a city in which a circuit court  
10 regularly holds court, until such time as the justice court ceases to provide judicial services within  
11 the county seat or city. If the justice court ceases to provide judicial services within the county seat  
12 or city, the district that includes portions of the county seat or city shall cease to exist and may  
13 not thereafter be reestablished.

14 “(3) **In the county of Deschutes, a justice of the peace district may include any portion**  
15 **of the city that is the county seat for the county. If a justice court for the district estab-**  
16 **lished under this subsection is located in the city that is the county seat, the justice court**  
17 **may not hold court in the same building where the circuit court for the county holds court**  
18 **and any officers or employees of the justice court may not be located in the same building**  
19 **where any officers or employees of the circuit court are located.**

20 “[2] (4) At the time that the county court or board of county commissioners of a county sets  
21 off and establishes the boundaries of a justice of the peace district, the county court or board of  
22 county commissioners may require as a qualification for the office that a person serving as justice  
23 of the peace in the district be a member of the Oregon State Bar.

24  
25 “REPEALS

26  
27 “**SECTION 98. Sections 4, 7, 11, 15, 18, 22, 25, 28, 31, 34, 40d, 43, 46, 49, 52, 55, 58, 61, 64,**  
28 **67, 70 and 73, chapter 737, Oregon Laws 2003, are repealed.**

29  
30 “UNIT CAPTIONS

31  
32 “**SECTION 99. The unit captions used in this 2005 Act are provided only for the conven-**  
33 **ience of the reader and do not become part of the statutory law of this state or express any**  
34 **legislative intent in the enactment of this 2005 Act.**

35  
36 “EMERGENCY CLAUSE

37  
38 “**SECTION 100. This 2005 Act being necessary for the immediate preservation of the**  
39 **public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes**  
40 **effect on its passage.”**