

Enrolled
Senate Bill 522

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CHAPTER

AN ACT

Relating to recovery against life insurance proceeds required in certain family law judgments.

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

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 107.

SECTION 2. (1) If an obligor is subject to a judgment that requires the obligor to maintain an existing, or obtain a new, insurance policy on the obligor's life under ORS 107.820 and owns an insurance policy at the time of the obligor's death but has named a third party who is not the court-ordered beneficiary designated in the judgment, the court may grant equitable relief in a proceeding brought by the court-ordered beneficiary against the third-party beneficiary as follows:

(a) The court-ordered beneficiary may file a separate civil action against the third-party beneficiary to recover the proceeds of the insurance policy to the extent specified in the judgment, or as otherwise determined by the court under paragraph (c) of this subsection, regardless of whether the third party had actual knowledge of the judgment provision that required the obligor to obtain life insurance in favor of the court-ordered beneficiary. For purposes of this section, the entry of a judgment requiring an obligor to obtain a life insurance policy naming the court-ordered beneficiary as the beneficiary under ORS 107.820 is prima facie evidence of the court-ordered beneficiary's entitlement to the life insurance proceeds in the amount specified in the judgment. Entry of the judgment in accordance with ORS chapter 18 constitutes constructive notice to any named third-party beneficiary of the judgment provision regarding life insurance under ORS 107.820.

(b) The court-ordered beneficiary may recover from the third-party beneficiary no more than the deficiency in life insurance proceeds, if any, after taking into account life insurance proceeds received by the court-ordered beneficiary under life insurance policies maintained or obtained by the obligor other than the life insurance policy that is the subject of the action brought pursuant to this section.

(c) If there was a current spousal or child support obligation at the time of the obligor's death, the court-ordered beneficiary shall recover the amount of life insurance proceeds ordered in the judgment or, if the amount is not specified in the judgment, the court may grant equitable relief taking into account the amount of the last support order, the amount of life insurance previously ordered and the ages and circumstances of the court-ordered beneficiary or persons otherwise entitled to receive the spousal or child support that is ensured by the court-ordered life insurance provision.

(d) If there is no current support obligation at the time of the obligor's death but support arrears are owing, the court-ordered beneficiary shall recover the amount of life insurance proceeds sufficient to pay the arrears plus interest.

(2) The civil action authorized by this section must be filed in a separate proceeding from the family law proceeding in which the judgment containing the life insurance provision was entered.

(3) It is an affirmative defense to a civil action filed under this section that the third-party beneficiary was the purchaser of the life insurance policy against which a claim is made by a court-ordered beneficiary.

(4) Temporary or injunctive relief is available to the court-ordered beneficiary under ORCP 79.

(5) The court-ordered beneficiary shall serve notice of an action filed under this section on all parties in the family law proceeding in which the judgment containing the life insurance policy requirement under ORS 107.820 was entered, the life insurance company that issued the policy and any other interested parties.

SECTION 3. Section 2 of this 2017 Act applies to judgments entered on or after the effective date of this 2017 Act.

Passed by Senate March 7, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 24, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State