

BILL BRADBURY  
SECRETARY OF STATE



JOHN LINDBACK  
DIRECTOR

141 STATE CAPITOL  
SALEM, OREGON 97310-0722

ELECTIONS — (503) 986-1518

July 2, 2004

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#3), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #3 was filed in our office on July 1, 2004, by James L. Wilson and Monica C. Wehby, for the General Election of November 7, 2006.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than July 26, 2004 in order for them to be considered in the review.

BILL BRADBURY  
Secretary of State

BY:

Summer Davis  
Compliance Specialist

## AN ACT

Relating to attorney fees; creating new provisions; amending ORS 20.340.

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

**SECTION 1.** ORS 20.340 is amended to read:

(1) **Except as provided in Section 3 of this 2006 Act, [I]in any civil action arising out of bodily injury, death or property damage, including claims for emotional injury or distress, loss of care, comfort, companionship and society, and loss of consortium, if an attorney for a plaintiff in respect to any civil action enters into an agreement with the plaintiff whereby the attorney receives as a fee a percentage of the amount of any settlement or judgment awarded to the plaintiff:**

(a) The contingent fee agreement shall be written in plain and simple language reasonably believed to be understandable by the plaintiff.

(b) The attorney shall explain the terms and conditions of the agreement in compliance with a model explanation in plain and simple language prepared by the Oregon State Bar a reasonable time before the agreement is signed.

(c) The contingent fee agreements must contain a provision allowing the plaintiff to rescind the agreement within 24 hours after signing upon written notice to the attorney.

(2) Any contingent fee agreement entered into on or after September 26, 1987, that does not comply with the requirements of subsection (1) of this section is voidable.

**SECTION 2.** Section 3 of this 2006 Act is added to and made a part of ORS 20.075 to 20.340.

**SECTION 3.** (1) **Except as provided in subsection (2) of this Section, in any civil action arising out of bodily injury or death, including claims for emotional injury or distress, loss of care, comfort, companionship and society, and loss of consortium, the attorney fees charged to the plaintiff, the plaintiff's legal representative or the plaintiff's estate by one or more attorney(s), whether based on a contingency fee or an hourly rate, shall not exceed a total of \$100,000, exclusive of actual expenses and costs reasonably incurred, whether received by judgment, settlement, or otherwise, and regardless of the number of plaintiff's attorneys or defendants. Notwithstanding the above, in cases covered by this subsection, attorney(s) and client may**

negotiate attorney fees, whether based on a contingency fee or an hourly rate, in an amount not to exceed \$100,000.

(2) The attorney fees limit set forth in subsection (1) of this Section shall not apply to attorney fees charged to a member of a class in any class action maintained by order of the court in accordance with ORCP 32.

**SECTION 4.** The amendment to ORS 20.340 by Section 1 of this 2006 Act and the new provisions set forth in Section 3 of this 2006 Act apply to all attorney fee agreements that are entered into on or after January 1, 2007.

RECEIVED  
04 JUL 1 PM 3 39  
BILL BRADBURY  
SECRETARY OF STATE