

**OREGON STATE BAR**  
**Legislative Proposal**  
**Part I – Legislative Summary**

**RE:** SB 371 Technical Corrections to the Oregon Uniform Trust Code

**Submitted by:** Oregon State Bar, Estate Planning and Administration Section  
Executive Committee

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**1. Does this amend current law or program? Yes.**

130.010(3); 130.010(15); 130.110; 130.150(2)(b); 130.200(6)(a), (7)(c), (7)(c)(A) & (7)(c)(B); 130.210(2); 130.240; 130.240(7); 130.510(1); and new ORS 130.776.

**2. PROBLEM PRESENTED** (including level of severity):

The Uniform Trust Code was adopted by the Oregon Legislature and signed into law in 2005. It incorporated most but not all of the provisions of the Uniform Trust Code as drafted by the National Conference of Commissioners on Uniform State Laws. It also retained several significant provisions of prior Oregon law of trusts.

While this legislative change was a very helpful one in most instances, it represented a very significant change to current law and, as a result, was worked on by many different experts in various areas of law. As a result, several errors were inadvertently made in adopting the new law. For example, in one case, a single word (“not”) was inadvertently left out, which of course completely changed the result of the statute. In another case, the law regarding termination and modification of trusts was actually made more restrictive, when the point was to make it less so. Further, several other changes, while not technical corrections, needed to be made so that the law could work more smoothly. For example, the current law requires a trustee to provide a full report of activities to a beneficiary, even if that beneficiary is only entitled to a small cash gift, and that gift is satisfied soon after the beneficiary is entitled to it. This new legislation would eliminate that requirement if the gift is satisfied within six months.

In addition to the technical corrections, an additional change would be beneficial. A trustee in Oregon of a trust cannot, under current law, divest himself or herself of responsibility for trustee investments. While Oregon law allows delegation of investment authority, the trustee remains responsible for the actions of the agent to whom the authority is delegated. This can create problems when the grantor of a trust wants a certain person or entity to oversee the administration of the trust (including making discretionary distribution decisions), but wants another person or institution to oversee investments without being second-guessed. Other states, most notably Delaware, allow an adviser to be appointed, who can be given sole trust investment authority.

**3. SOLUTION:**

The solution to these problems is to enact a series of (in most cases small) changes to existing Oregon law.

**4. PUBLIC POLICY IMPLICATION** of this proposed legislative change:

As these changes simply serve to correct existing problems in the current legislation, there are no public policy implications of these proposed changes.

**5. Could the problem be addressed through a NON-LEGISLATIVE SOLUTION, such as administrative rule or education?**

Unfortunately, no non-legislative solutions are available to cure these problems; as noted in the examples above, current legislation directly contradicts in several places the intent of the drafters.

**6. COULD ANOTHER SECTION OR GROUP MORE APPROPRIATELY INTRODUCE THE BILL?** If so, have you suggested it to the section or group?

The Estate Planning and Administration Section of the Oregon State Bar is the most appropriate group to introduce this legislation. The other group that would be equally appropriate to introduce it is the Oregon Banker's Association, and that group has been informed of and received this proposal. The Elder Law section of the Oregon State Bar also could introduce the Bill, but because the Estate Planning and Administration Section originally sponsored the Oregon Uniform Trust Code, this group is best suited to introduce the bill.

**7. IDENTIFY THE GROUP OR CONSTITUENCIES THAT WOULD BE MOST IMPACTED** or interested in this change. Who would support it and who would oppose it?

The estate planning and elder law attorneys and corporate fiduciaries in the state of Oregon are the groups that would be most impacted by these changes. Representatives of these groups have reviewed and commented on this legislation.

**8. Has this been introduced in a prior session?** No.