

SENATE AMENDMENTS TO SENATE BILL 275

By COMMITTEE ON JUDICIARY

March 31

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “18.618,”.
2 In line 3, after “114.305,” insert “115.335,”.
3 In line 9, after “128.255,” insert “128.308,”.
4 On page 2, after line 17, insert:
5 “(r) A trust fund established for a purchaser who enters into a prearrangement sales contract,
6 as defined in ORS 97.923, or a preconstruction sales contract, as defined in ORS 97.923.”.
7 On page 6, line 39, after “and” insert “to”.
8 In line 40, delete the first “to”.
9 In line 43, before “trust” insert “revocable”.
10 On page 7, after line 41, insert:
11 **“JUDICIAL PROCEEDINGS”**.
12 On page 8, after line 26, insert:
13 **“REPRESENTATION”**.
14 On page 10, line 25, delete the period and insert “, and the”.
15 In line 39, delete “a trustee cannot” and insert “there is no trustee who can”.
16 On page 13, line 1, after the period delete the rest of the line.
17 In line 2, delete the comma.
18 In line 20, delete the hyphen.
19 On page 16, line 32, delete “[Uniform Trust Code Section 418]”.
20 On page 17, line 9, after “limit” insert “the award to”.
21 On page 18, line 3, delete “remains revocable until the death of the settlor” and insert “was
22 revocable at the settlor’s death”.
23 On page 19, line 12, delete “relating” and insert “with respect”.
24 In line 31, delete “remained revocable until” and insert “was revocable at”.
25 On page 23, line 3, delete “if appropriate”.
26 On page 25, line 14, delete “the directions given by the person unless the action” and insert
27 “an exercise of the power unless the exercise”.
28 In line 15, delete “action” and insert “attempted exercise”.
29 On page 26, line 1, delete the third “a” and insert “the”.
30 On page 28, line 7, delete “if appropriate”.
31 On page 29, line 4, delete “disclaim” and insert “disclaiming”.
32 On page 30, line 25, after the second “to” insert “a distribution made pursuant to”.
33 In line 41, delete “[Uniform Trust Code”.
34 In line 42, delete “Section 901”.
35 On page 31, line 3, delete “[Uniform Trust Code Section 902]”.

1 In line 32, delete “administering the trust” and insert “investing and managing trust assets”.

2 In line 33, delete “[Uniform Trust Code Section 903]”.

3 In line 37, delete “[Uniform Trust Code Section 904]”.

4 In line 43, delete “[Uniform Trust]”.

5 In line 44, delete “[Code Section 905]”.

6 On page 32, line 3, delete “[Uniform Trust Code Section 906]”.

7 On page 33, line 19, delete “later” and insert “earlier”.

8 Delete lines 35 through 40 and insert:

9 **“SECTION 89. Event affecting administration or distribution [Uniform Trust Code Sec-**

10 **tion 1007]. A trustee is not liable for failing to determine whether a marriage, a divorce, a**

11 **death, the performance of educational requirements or another event affecting the adminis-**

12 **tration or distribution of a trust has occurred if the trustee has exercised reasonable care**

13 **in attempting to determine whether the event has occurred.”.**

14 On page 34, line 11, delete the third “a” and insert “the”.

15 On page 35, line 14, after “trustee” insert a comma.

16 On page 36, delete lines 40 through 42 and insert:

17 **“SECTION 96. Uniformity of application and construction. In applying and construing**

18 **sections 1 to 95 of this 2005 Act, consideration must be given to the need to promote uni-**

19 **formity of the law with respect to trusts among states that enact the Uniform Trust**

20 **Code.”.**

21 On page 37, delete lines 6 through 10 and insert:

22 “(b) Sections 1 to 95 of this 2005 Act do not apply to judicial, administrative and other pro-

23 ceedings concerning trusts commenced before the effective date of this 2005 Act.”.

24 In line 11, delete “(d)” and insert “(c)”.

25 Delete lines 14 through 17 and insert:

26 “(d) An act done before the effective date of this 2005 Act is not affected by sections 1 to 95

27 of this 2005 Act.”.

28 After line 20, insert:

29 **“SECTION 98a.** ORS 18.618 is amended to read:

30 “18.618. (1) Notwithstanding ORS 18.615, the following are not garnishable property:

31 “(a) Equitable interests, **except to the extent allowed under sections 1 to 95 of this 2005**

32 **Act.**

33 “(b) Property in the custody of the law.

34 “(c) Property in the possession of a conservator.

35 “(d) Property in the possession of a personal representative that constitutes the subject matter

36 of a trust contained in a duly probated will of a decedent.

37 “(2) Notwithstanding any other provision of law, if a voluntary or involuntary bankruptcy peti-

38 tion has been filed by or on behalf of the debtor after a writ of garnishment could be issued under

39 ORS 18.605, the garnishment of any property of the debtor in the garnishee’s possession, control or

40 custody is stayed pursuant to section 362 of the United States Bankruptcy Code (11 U.S.C. 101 to

41 1330).”.

42 In line 22, delete “nontestamentary”.

43 Delete lines 28 through 30 and insert:

44 “(b) The trust came into existence during the settlor’s lifetime and was a revocable trust at any

45 time after the trust was created and before the death of the settlor;”.

1 In line 33, delete “nontestamentary”.

2 In line 37, delete “nontestamentary”.

3 On page 40, delete lines 18 through 20 and insert:

4 **“SECTION 110. ORS 128.370 to 128.397 apply only to a trust, or a portion of a trust, that**

5 **comes into existence during the settlor’s lifetime and is a revocable trust at any time after**

6 **the trust was created and before the death of the settlor.”.**

7 In line 29, after “trust” insert “that are”.

8 On page 41, line 42, after “law” insert “had the property been subject to probate in the settlor’s

9 estate”.

10 On page 42, line 25, after “trust” insert “instrument”.

11 On page 43, line 11, delete “May 24, 2003” and insert “the effective date of this 2005 Act”.

12 In line 12, delete “May”.

13 In line 13, delete “24, 2003” and insert “the effective date of this 2005 Act”.

14 In line 34, delete “May 24, 2003” and insert “the effective date of this 2005 Act”.

15 On page 44, line 2, delete “May 24,”.

16 In line 3, delete “2003” and insert “the effective date of this 2005 Act”.

17 In line 16, delete “May 24, 2003” and insert “the effective date of this 2005 Act”.

18 In line 18, delete “May 24,”.

19 In line 19, delete “2003” and insert “the effective date of this 2005 Act”.

20 On page 47, after line 1, insert:

21 **“SECTION 120a. ORS 115.335 is amended to read:**

22 **“115.335. The provisions of this chapter do not apply to claims against [*nontestamentary*] trusts**

23 **that are subject to the provisions of ORS 128.256 to 128.300.”.**

24 On page 53, line 45, delete “128.308,”.

25 On page 54, line 7, after “128.255,” insert “128.308,”.

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