

ESTATE ADMINISTRATION, ELDER LAW, AND TRUST LAW

UNIFORM TRUST CODE REVISIONS

ORS 130.010 TO 130.735

2013 OR LAWS CH 529 (SB 592)

Senate Bill 592 modifies Oregon's Uniform Trust Code. The bill is intended to clarify and modernize the law, make the law more relevant and effective, as well as coordinate trust matters with the probate code. Among other changes, SB 592 provides two new definitions of beneficiary; changes notice requirements to remote beneficiaries; clarifies who can enter into a non-judicial settlement agreement and the effect of filing the agreement in court; decreases the time period for filing objections from 120 to 60 days; clarifies charitable trust distribution; allows modification of irrevocable trusts; applies abatement rules to trusts; and makes other specified changes to trust administration.

Effective date: June 26, 2013. The bill's provisions apply to trust proceedings commenced on or after the effective date.

OREGON DEPARTMENT OF VETERANS AFFAIRS CLAIMS

ORS 87.533, 115.125, 406.110

2013 OR LAWS CH 190 (HB 2046)

Under current law, the Oregon Department of Veterans Affairs (ODVA) is allowed to recoup costs from the estates of veterans who were served by the ODVA Conservatorship Program. However, the ODVA generally waives claims against the estates of destitute veterans or if the claim would deplete the estates.

House Bill 2046 allows the ODVA to

retract such a waiver if it finds that the claim would not, in fact, pose a hardship or deplete the estate. The bill also addresses the priority the ODVA claim should receive if estate assets are insufficient to pay all expenses. HB 2046 also tolls the statute of limitations applicable to the claim for the period of time from the date of the waiver to the date of the retraction.

Effective date: January 1, 2014.

ATTORNEY FEES IN PROTECTIVE PROCEEDINGS

ORS 125.095

2013 OR LAWS CH 99 (HB 2570)

House Bill 2570 makes two major changes regarding the awards of attorney fees in protective proceedings. First, the bill clarifies that ORCP 68 does not apply to protective proceedings. Many attorneys and courts have proceeded as though Rule 68 does not apply all along, but by its terms it appears to. HB 2570 corrects this inconsistency.

Second, the bill designates several criteria for the court to consider when making a determination of whether attorney fees will be allowed and designates additional criteria for determining the amount of attorney fees to be awarded. This latter provision is intended to create more consistency in the awards of attorney fees around the state by providing the court with additional guidance in making these determinations.

Effective date: January 1, 2014.

DISCLAIMER

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