

**Enrolled**  
**Senate Bill 773**

Sponsored by COMMITTEE ON RULES

CHAPTER .....

AN ACT

Relating to legal expense trust funds; creating new provisions; amending ORS 244.205, 244.209 and 244.211; and declaring an emergency.

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

**SECTION 1.** ORS 244.205 is amended to read:

244.205. (1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

- (a) The issuance of a court’s stalking protective order under ORS 30.866 or 163.738;
- (b) The issuance of a citation under ORS 163.735;
- (c) A criminal prosecution under ORS 163.732;
- (d) A civil action under ORS 30.866; or
- (e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

*[(5) A public official who establishes a legal expense trust fund may not solicit, receive or handle any contributions to the fund.]*

*[(6)] (5)* The provisions of ORS chapter 130 do not apply to a trust fund established under ORS 244.205 to 244.221.

**SECTION 2.** ORS 244.211 is amended to read:

244.211. (1) The trustee of a legal expense trust fund is responsible for:

- (a) The receipt and deposit of contributions to the trust fund;
- (b) The authorization of expenditures and disbursements from the trust fund;
- (c) The filing of quarterly statements required under ORS 244.217; and
- (d) The performance of other tasks incident to the administration of the trust fund.

*[(2) The trustee may not:]*

*[(a) Be a public official who serves the same public body as the public official who establishes the trust fund;]*

*[(b) Be a relative of the public official who establishes the trust fund;]*

*[(c) Be an attorney for the public official in the legal proceeding for which the trust fund is established, or a member, partner, associate or employee of the firm employing the attorney; or]*

*[(d) Have a business or employment relationship with the public official who establishes the trust fund.]*

**(2) The public official who establishes the trust fund may either serve as the public official's own trustee or may appoint and certify to the Oregon Government Ethics Commission the name and address of a trustee. Any default or violation by the trustee shall be conclusively considered a default or violation by the public official.**

**SECTION 3.** ORS 244.209 is amended to read:

244.209. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
- (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
- (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and
- (b) A designation of a trustee *[who meets the requirements of]* **under** ORS 244.211.

(3) The affidavit of the public official must state:

- (a) The nature of the legal proceeding that requires establishment of the trust fund;
- (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and
- (c) That the public official is responsible for the proper administration of the trust fund, *[even though a trustee of the fund has been designated]*.

(4) The affidavit of the trustee must state that the trustee:

- (a) Has read and understands ORS 244.205 to 244.221; and
- (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221.

**SECTION 4. The amendments to ORS 244.205, 244.209 and 244.211 by sections 1, 2 and 3 of this 2009 Act apply to legal expense trust funds established on or after the effective date of this 2009 Act.**

**SECTION 5. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.**

**Passed by Senate May 21, 2009**

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Secretary of Senate

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President of Senate

**Passed by House June 10, 2009**

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Speaker of House

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State