

## SENATE AMENDMENTS TO SENATE BILL 592

By COMMITTEE ON JUDICIARY

April 18

1 On page 2 of the printed bill, delete lines 15 through 19 and insert:

2 “(15) ‘Remote interest beneficiary’ means a beneficiary of a trust whose beneficial interest in the  
3 trust, at the time the determination of interest is made, is contingent upon the successive termi-  
4 nations of both the interest of a qualified beneficiary and the interest of a secondary beneficiary  
5 whose interests precede the interest of the remote interest beneficiary.”.

6 Delete lines 22 through 24 and insert:

7 “(17) ‘Secondary beneficiary’ means a beneficiary, other than a qualified beneficiary, whose  
8 beneficial interest in the trust, at the time the determination of interest is made, is contingent solely  
9 upon the termination of all qualified beneficiary interests that precede the interest of the secondary  
10 beneficiary.”.

11 On page 18, line 37, delete the first “and” and insert a comma and after “25” insert “and 26”.

12 On page 19, after line 36, insert:

13 **“SECTION 26. (1) As used in this section, ‘abate’ or ‘abatement’ means to reduce or the**  
14 **reduction of a gift from a trust at the settlor’s death on account of the insufficiency of the**  
15 **trust property to pay all claims and expenses and distribute all gifts in full.**

16 **“(2) If the trust instrument expresses an order of abatement, or if the plan of distrib-**  
17 **ution or the express or implied purpose of the distribution from the trust would be defeated**  
18 **by the order of abatement stated in subsection (3) of this section, the shares of the**  
19 **distributees abate as may be found necessary to give effect to the intention of the settlor.**

20 **“(3) Except as provided in ORS 130.555 as to the shares of pretermitted children, and in**  
21 **ORS 114.600 to 114.725 relating to the elective share of the surviving spouse, shares of**  
22 **distributees abate without any preference or priority as between real and personal property**  
23 **in the following order:**

24 **“(a) Property of the trust not disposed of by the terms of the trust instrument.**

25 **“(b) Residuary gifts, which are gifts paid from the trust after all claims and expenses are**  
26 **paid and all general gifts and specific gifts are distributed under the terms of the trust in-**  
27 **strument.**

28 **“(c) General gifts, which are gifts chargeable generally on the trust corpus and which**  
29 **are not distinguishable from other parts of the trust corpus and are not given under the**  
30 **terms of the trust instrument as a gift of a specific thing or of a specified part of the trust**  
31 **corpus.**

32 **“(d) Specific gifts, which are gifts of a specific thing or of a specified part of the trust**  
33 **corpus as described under the terms of the trust instrument and that are capable of iden-**  
34 **tification.**

35 **“(4) A general gift charged on any specific property or fund is considered, for purposes**

1 of abatement, to be property specifically given to the extent of the value of the property or  
2 fund on which the general gift is charged. Upon the failure or insufficiency of the property  
3 or fund on which the general gift is charged, the gift is considered a general gift to the ex-  
4 tent of the failure or insufficiency.

5 “(5) Abatement within each classification is in proportion to the amounts of property  
6 each of the distributees would have received had full distribution of the property been made  
7 in accordance with the terms of the trust instrument.

8 “(6) Persons to whom the trust instrument gives tangible personal property not used in  
9 trade, agriculture or other business are not required to contribute from that property unless  
10 the property forms a substantial amount of the total estate and the court specifically orders  
11 contribution because of the gift.

12 “(7) When the subject matter of a preferred gift is sold or used incident to adminis-  
13 tration, abatement shall be achieved by appropriate adjustments in, or contribution from,  
14 other interests in the remaining assets.”.

15 In line 37, delete “26” and insert “27” and delete the first “and” and insert a comma and after  
16 “25” insert “and 26”.

17 In line 42, delete “27” and insert “28”.