

**PROPOSED AMENDMENTS TO
SENATE BILL 592**

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
3 beneficial interest in the trust, at the time the determination of interest is
4 made, is contingent upon the successive terminations of both the interest of
5 a qualified beneficiary and the interest of a secondary beneficiary whose in-
6 terests precede the interest of the remote interest beneficiary.”.

7 Delete lines 22 through 24 and insert:

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

13 On page 18, line 37, delete the first “and” and insert a comma and after
14 “25” insert “and 26”.

15 On page 19, after line 36, insert:

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

20 **“(2) If the trust instrument expresses an order of abatement, or if**
21 **the plan of distribution or the express or implied purpose of the dis-**
22 **tribution from the trust would be defeated by the order of abatement**

1 stated in subsection (3) of this section, the shares of the distributees
2 abate as may be found necessary to give effect to the intention of the
3 settlor.

4 “(3) Except as provided in ORS 130.555 as to the shares of
5 pretermitted children, and in ORS 114.600 to 114.725 relating to the
6 elective share of the surviving spouse, shares of distributees abate
7 without any preference or priority as between real and personal prop-
8 erty in the following order:

9 “(a) Property of the trust not disposed of by the terms of the trust
10 instrument.

11 “(b) Residuary gifts, which are gifts paid from the trust after all
12 claims and expenses are paid and all general gifts and specific gifts are
13 distributed under the terms of the trust instrument.

14 “(c) General gifts, which are gifts chargeable generally on the trust
15 corpus and which are not distinguishable from other parts of the trust
16 corpus and are not given under the terms of the trust instrument as
17 a gift of a specific thing or of a specified part of the trust corpus.

18 “(d) Specific gifts, which are gifts of a specific thing or of a speci-
19 fied part of the trust corpus as described under the terms of the trust
20 instrument and that are capable of identification.

21 “(4) A general gift charged on any specific property or fund is con-
22 sidered, for purposes of abatement, to be property specifically given
23 to the extent of the value of the property or fund on which the general
24 gift is charged. Upon the failure or insufficiency of the property or
25 fund on which the general gift is charged, the gift is considered a
26 general gift to the extent of the failure or insufficiency.

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

1 **“(6) Persons to whom the trust instrument gives tangible personal**
2 **property not used in trade, agriculture or other business are not re-**
3 **quired to contribute from that property unless the property forms a**
4 **substantial amount of the total estate and the court specifically orders**
5 **contribution because of the gift.**

6 **“(7) When the subject matter of a preferred gift is sold or used in-**
7 **cident to administration, abatement shall be achieved by appropriate**
8 **adjustments in, or contribution from, other interests in the remaining**
9 **assets.”.**

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

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

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