

**Testimony before the House Judiciary Committee
In support of HB 2328
On behalf of the Oregon State Bar
February 4, 2015**

Chair Barker, members of the committee:

My name is Helen Hirschbiel. I am the General Counsel for the Oregon State Bar. I'm here today on behalf of the Oregon State Bar Board of Governors, to speak in favor of HB 2328.

The Problem

HB 2328 clarifies an ambiguity between ORS 9.320 and several state court opinions regarding the requirement for businesses to appear through counsel.

Currently ORS 9.320 states that persons are permitted to appear in court without an attorney, with the exception that "the state or a corporation" must appear through an attorney in all cases. However, the courts have generally held that LLCs, partnerships, trusts, and other business entities must also appear through an attorney, and that it is only individuals who may represent themselves in court. *See Oregon Peaceworks Green, PAC v. Secretary of State*, 311 Or 267, 270–72, 810 P2d 836 (1991) (holding that the combined effect of ORS 9.160 and ORS 9.320 is to provide that persons may appear pro se, but entities must be represented by an lawyer); *Marguerite E. Wright Trust v. Dep't of Revenue*, 297 Or 533, 536, 685 P2d 418 (1984) (non-lawyer trustee of the plaintiff trust may not represent a business trust); and *Hansen v. Bennett*, 162 Or App 380, 383 n 4, 986 P2d 633 (1999) (noting that court dismissed an appeal filed on behalf of a corporation and a trust on the ground that an lawyer had not filed the notice of appeal for those entities).

Because this statute is unclear, the bar is concerned that members of the public may read ORS 9.320 and believe that they can lawfully appear in court on behalf of businesses or other organizations with which they are affiliated. In so doing, they may unwittingly be engaged in the unlawful practice of law. Meanwhile, entities that should have the benefit of counsel may instead find themselves represented by non-lawyer representatives.

HB 2328 corrects this problem by amending the statute to provide that parties that are not "a natural person" must appear through an attorney.

Thank you for your time, and I'd be happy to answer any questions you might have.