Chapter 126

2007 EDITION

Property Held for the Benefit of Minors; Uniform Transfers to Minors Act

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126.150 [Repealed by 1961 c.344 §109]

126.151 [1961 c.344 §14; 1969 c.591 §230; repealed by 1973 c.823 §154]

126.155 [Amended by 1953 c.578 §2; repealed by 1961 c.344 §109]

126.156 [1961 c.344 §15; repealed by 1973 c.823 §154]

126.157 [1973 c.823 §28; 1979 c.744 §2; repealed by 1995 c.664 §105]

126.160 [Repealed by 1961 c.344 §109]

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126.166 [1961 c.344 §17; 1969 c.591 §231; repealed by 1973 c.823 §154]

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126.170 [Repealed by 1961 c.344 §109]

126.171 [1961 c.344 §18; repealed by 1973 c.823 §154]

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126.174 [1969 c.591 §233; repealed by 1973 c.823 §154]

126.175 [Repealed by 1961 c.344 §109]

126.176 [1961 c.344 §9; repealed by 1969 c.591 §305]

126.177 [1973 c.823 §32; repealed by 1995 c.664 §105]

126.180 [Repealed by 1961 c.344 §109]

126.181 [1961 c.344 §20; repealed by 1973 c.823 §154]

126.183 [1973 c.823 §33; 1991 c.895 §5; repealed by 1995 c.664 §105]

126.185 [Repealed by 1961 c.344 §109]

126.186 [1961 c.344 §21; 1969 c.591 §234; repealed by 1973 c.823 §154]

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126.190 [Repealed by 1961 c.344 §109]

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126.195 [Repealed by 1961 c.344 §109]

126.197 [1973 c.823 §36; 1979 c.744 §3; repealed by 1995 c.664 §105]

126.200 [Repealed by 1961 c.344 §109]

126.203 [1973 c.823 §37; repealed by 1995 c.664 §105]

126.205 [1961 c.344 §22; repealed by 1973 c.823 §154]

126.207 [1973 c.823 §38; repealed by 1995 c.664 §105]

126.210 [1961 c.344 §23; repealed by 1973 c.823 §154]

126.213 [1973 c.823 §39; repealed by 1995 c.664 §105]

126.215 [1961 c.344 §24; repealed by 1973 c.823 §154]

126.217 [1973 c.823 §40; repealed by 1995 c.664 §105]

126.220 [1961 c.344 §25; repealed by 1973 c.823 §154]

126.223 [1973 c.823 §41; repealed by 1995 c.664 §105]

126.225 [1961 c.344 §26; repealed by 1973 c.823 §154]

126.227 [1973 c.823 §42; repealed by 1995 c.664 §105]

126.229 [1989 c.230 §8; repealed by 1995 c.664 §105]

126.230 [1961 c.344 §27; 1969 c.591 §235; repealed by 1973 c.823 §154]

126.233 [1973 c.823 §43; repealed by 1995 c.664 §105]

126.235 [1961 c.344 §28; repealed by 1973 c.823 §154]

126.237 [1973 c.823 §44; repealed by 1995 c.664 §105]

126.240 [1961 c.344 §29; repealed by 1973 c.823 §154]

126.243 [1973 c.823 §45; repealed by 1995 c.664 §105]

126.245 [1961 c.344 §30; 1969 c.591 §236; 1971 c.743 §315; repealed by 1973 c.823 §154]

126.247 [1973 c.823 §46; repealed by 1995 c.664 §105]

126.250 [1961 c.344 §31; 1963 c.438 §1; 1965 c.402 §1; repealed by 1973 c.823 §154]

126.253 [1973 c.823 §47; repealed by 1995 c.664 §105]

126.255 [1961 c.344 §32; repealed by 1973 c.823 §154]

126.257 [1973 c.823 §55; repealed by 1995 c.664 §105]

126.260 [1961 c.344 §33; repealed by 1973 c.823 §154]

126.263 [1973 c.823 §48; 1989 c.230 §4; repealed by 1995 c.664 §105]

126.265 [1961 c.344 §34; 1969 c.591 §237; repealed by 1973 c.823 §154]

126.267 [1973 c.823 §49; repealed by 1995 c.664 §105]

126.270 [1961 c.344 §35; repealed by 1973 c.823 §154]

126.273 [1973 c.823 §50; repealed by 1995 c.664 §105]

126.275 [1961 c.344 §36; repealed by 1973 c.823 §154]

126.277 [1973 c.823 §§51,52; 1987 c.586 §29; repealed by 1995 c.664 §105]

126.280 [1961 c.344 §37; repealed by 1973 c.823 §154]

126.283 [1973 c.823 §53; 1987 c.728 §1; 1989 c.230 §5; repealed by 1995 c.664 §105]

126.285 [1961 c.344 §38; repealed by 1973 c.823 §154]

126.287 [1973 c.823 §54; repealed by 1995 c.664 §105]

126.290 [1961 c.344 §39; repealed by 1973 c.823 §154]

126.293 [1973 c.823 §56; repealed by 1995 c.664 §105]

126.295 [1961 c.344 §40; 1969 c.591 §238; repealed by 1973 c.823 §154]

126.297 [1973 c.823 §57; repealed by 1995 c.664 §105]

126.300 [1961 c.344 §41; repealed by 1969 c.591 §305]

126.303 [1973 c.823 §58; 1981 c.906 §1; repealed by 1995 c.664 §105]

126.305 [Repealed by 1961 c.344 §109]

126.306 [1961 c.344 §42; repealed by 1973 c.823 §154]

126.307 [1973 c.823 §59; repealed by 1995 c.664 §105]

126.310 [Repealed by 1961 c.344 §109]

126.311 [1961 c.344 §43; repealed by 1973 c.823 §154]

126.313 [1973 c.823 §60; 1975 c.226 §1; 1977 c.211 §2; 1989 c.230 §6; repealed by 1995 c.664 §105]

126.315 [Repealed by 1961 c.344 §109]

126.316 [1961 c.344 §44; repealed by 1973 c.823 §154]

126.317 [1973 c.823 §61; repealed by 1995 c.664 §105]

126.320 [Amended by 1957 c.237 §1; repealed by 1961 c.344 §109]

126.321 [1961 c.344 §45; repealed by 1973 c.823 §154]

126.323 [1973 c.823 §62; repealed by 1995 c.664 §105]

126.325 [Amended by 1953 c.102 §2; 1957 c.662 §2; repealed by 1961 c.344 §109]

126.326 [1961 c.344 §46; repealed by 1973 c.823 §154]

126.327 [1973 c.823 §63; repealed by 1995 c.664 §105]

126.330 [Repealed by 1961 c.344 §109]

126.331 [1961 c.344 §47; repealed by 1973 c.823 §154]

126.333 [1973 c.823 §64; repealed by 1995 c.664 §105]

126.335 [Repealed by 1961 c.344 §109]

126.336 [1961 c.344 §48; 1965 c.402 §2; 1969 c.384 §1; repealed by 1973 c.823 §154]

126.337 [1973 c.823 §65; 1975 c.245 §2; repealed by 1995 c.664 §105]

126.338 [1965 c.402 §4; 1969 c.591 §239; 1969 c.597 §§16,277; repealed by 1973 c.823 §154]

126.340 [Repealed by 1961 c.344 §109]

126.341 [1961 c.344 §49; repealed by 1973 c.823 §154]

126.343 [1973 c.823 §66; repealed by 1995 c.664 §105]

126.345 [Repealed by 1961 c.344 §109]

126.346 [1961 c.344 §50; 1965 c.402 §5; repealed by 1973 c.823 §154]

126.347 [1973 c.823 §67; repealed by 1995 c.664 §105]

126.350 [Repealed by 1961 c.344 §109]

126.351 [1961 c.344 §51; repealed by 1973 c.823 §154]

126.353 [1973 c.823 §§68,69,72; repealed by 1995 c.664 §105]

126.355 [Repealed by 1961 c.344 §109]

126.357 [1973 c.823 §§70,71; repealed by 1995 c.664 §105]

126.360 [Repealed by 1961 c.344 §109]

126.363 [1973 c.823 §73; repealed by 1995 c.664 §105]

126.365 [Repealed by 1961 c.344 §109]

126.367 [1973 c.823 §74; repealed by 1995 c.664 §105]

126.370 [Repealed by 1961 c.344 §109]

126.373 [1973 c.823 §75; repealed by 1995 c.664 §105]

126.377 [1973 c.823 §76; repealed by 1995 c.664 §105]

126.383 [1973 c.823 §77; repealed by 1995 c.664 §105]

126.387 [1973 c.823 §78; repealed by 1995 c.664 §105]

126.393 [1973 c.823 §79; 1981 c.175 §2; repealed by 1995 c.664 §105]

126.397 [1973 c.823 §80; repealed by 1995 c.664 §105]

126.403 [1973 c.823 §81; 1989 c.230 §9; 1991 c.67 §24; repealed by 1995 c.664 §105]

126.405 [Amended by 1957 c.237 §2; repealed by 1961 c.344 §109]

126.406 [1961 c.344 §52; 1969 c.591 §240; repealed by 1973 c.823 §154]

126.407 [1973 c.823 §82; renumbered 127.005 in 1989]

126.410 [Repealed by 1961 c.344 §109]

126.411 [1961 c.344 §53; 1969 c.591 §241; repealed by 1973 c.823 §154]

126.413 [1973 c.823 §83; renumbered 127.015 in 1989]

126.415 [Amended by 1957 c.237 §3; repealed by 1961 c.344 §109]

126.416 [1961 c.344 §54; 1969 c.591 §242; repealed by 1973 c.823 §154]

126.420 [Amended by 1959 c.325 §1; repealed by 1961 c.344 §109]

126.421 [1961 c.344 §55; repealed by 1973 c.823 §154]

126.425 [Amended by 1959 c.325 §2; repealed by 1961 c.344 §109]

126.426 [1961 c.344 §56; 1969 c.591 §243; repealed by 1973 c.823 §154]

126.430 [Repealed by 1961 c.344 §109]

126.431 [1961 c.344 §57; 1969 c.591 §244; repealed by 1973 c.823 §154]

126.435 [Repealed by 1961 c.344 §109]

126.436 [1961 c.344 §58; 1963 c.417 §1; 1969 c.591 §245; repealed by 1973 c.823 §154]

126.440 [Repealed by 1961 c.344 §109]

126.441 [1961 c.344 §59; 1969 c.591 §246; repealed by 1973 c.823 §154]

126.445 [Repealed by 1959 c.325 §4]

126.446 [1961 c.344 §60; repealed by 1969 c.591 §305]

126.450 [Repealed by 1961 c.344 §109]

126.451 [1961 c.344 §61; repealed by 1973 c.823 §154]

126.455 [Repealed by 1961 c.344 §109]

126.456 [1961 c.344 §62; 1969 c.591 §247; repealed by 1973 c.823 §154]

126.460 [Repealed by 1961 c.344 §109]

126.461 [1961 c.344 §63; 1969 c.591 §248; repealed by 1973 c.823 §154]

126.465 [Repealed by 1961 c.344 §109]

126.466 [1961 c.344 §64; repealed by 1973 c.823 §154]

126.470 [Repealed by 1961 c.344 §109]

126.471 [1961 c.344 §65; 1969 c.591 §249; repealed by 1973 c.823 §154]

126.475 [Repealed by 1961 c.344 §109]

126.476 [1961 c.344 §66; 1969 c.591 §250; repealed by 1973 c.823 §154]

126.480 [Repealed by 1961 c.344 §109]

126.481 [1961 c.344 §67; repealed by 1973 c.823 §154]

126.485 [1961 c.344 §68; repealed by 1973 c.823 §154]

126.490 [1961 c.344 §69; 1963 c.417 §2; 1969 c.591 §251; repealed by 1973 c.823 §154]

126.495 [1961 c.344 §70; 1969 c.591 §252; repealed by 1973 c.823 §154]

126.505 [Repealed by 1961 c.344 §109]

126.506 [1961 c.344 §71; repealed by 1973 c.823 §154]

126.510 [Repealed by 1961 c.344 §109]

126.511 [1961 c.344 §72; repealed by 1973 c.823 §154]

126.515 [Repealed by 1961 c.344 §109]

126.516 [1961 c.344 §73; 1965 c.402 §6; repealed by 1973 c.823 §154]

126.520 [1961 c.344 §74; repealed by 1973 c.823 §154]

126.525 [1961 c.344 §75; 1965 c.402 §7; repealed by 1973 c.823 §154]

126.527 [1965 c.402 §9; repealed by 1973 c.823 §154]

126.530 [1961 c.344 §76; 1965 c.402 §10; repealed by 1973 c.823 §154]

126.535 [1961 c.344 §77; repealed by 1973 c.823 §154]

126.540 [1961 c.344 §78; 1969 c.591 §253; repealed by 1973 c.823 §154]

126.545 [1961 c.344 §79; repealed by 1973 c.823 §154]

126.555 [1961 c.344 §80; 1965 c.402 §11; 1969 c.591 §256; repealed by 1973 c.823 §154]

126.557 [1969 c.591 §255; repealed by 1973 c.823 §154]

126.560 [1961 c.344 §81; repealed by 1973 c.823 §154]

126.565 [1961 c.344 §82; repealed by 1973 c.823 §154]

126.570 [1969 c.591 §257; repealed by 1973 c.823 §154]

126.605 [Amended by 1953 c.687 §5; repealed by 1961 c.344 §109]

126.606 [1961 c.344 §83; repealed by 1973 c.823 §154]

126.610 [Amended by 1953 c.687 §5; repealed by 1961 c.344 §109]

126.611 [1961 c.344 §84; repealed by 1969 c.591 §305]

126.615 [Repealed by 1961 c.344 §109]

126.616 [1961 c.344 §85; repealed by 1973 c.823 §154]

126.617 [1953 c.687 §5; repealed by 1961 c.344 §109]

126.620 [Amended by 1953 c.687 §5; repealed by 1961 c.344 §109]

126.621 [1961 c.344 §86; repealed by 1973 c.823 §154]

126.625 [Repealed by 1961 c.344 §109]

126.626 [1961 c.344 §87; repealed by 1973 c.823 §154]

126.630 [Repealed by 1961 c.344 §109]

126.631 [1961 c.344 §88; repealed by 1973 c.823 §154]

126.635 [Repealed by 1961 c.344 §109]

126.636 [1961 c.344 §89; repealed by 1973 c.823 §154]

126.637 [1969 c.591 §259; repealed by 1973 c.823 §154]

126.638 [1969 c.591 §260; repealed by 1973 c.823 §154]

126.639 [1969 c.591 §261; repealed by 1973 c.823 §154]

126.640 [Repealed by 1961 c.344 §109]

126.641 [1961 c.344 §90; repealed by 1973 c.823 §154]

126.645 [Repealed by 1961 c.344 §109]

126.646 [1961 c.344 §91; repealed by 1973 c.823 §154]

126.650 [Amended by 1953 c.687 §5; repealed by 1961 c.344 §109]

126.651 [1961 c.344 §92; repealed by 1973 c.823 §154]

126.655 [Repealed by 1961 c.344 §109]

126.656 [1961 c.344 §93; repealed by 1973 c.823 §154]

126.660 [1961 c.344 §94; 1965 c.402 §12; repealed by 1973 c.823 §154]

126.665 [1965 c.402 §14; repealed by 1973 c.823 §154]

126.670 [1965 c.402 §15; repealed by 1973 c.823 §154]

126.675 [1965 c.402 §16; 1969 c.591 §262; repealed by 1973 c.823 §154]

PAYMENT OR DELIVERY FOR BENEFIT OF MINOR

126.700 Payment or delivery for benefit of minor. (1) A person under a duty to pay or deliver money or personal property to a minor may pay or deliver the money or property, in amounts not exceeding $10,000 per year, to:

(a) A person having the care and custody of the minor with whom the minor resides;

(b) A guardian of the minor; or

(c) A financial institution incident to a deposit in a federally insured savings account in the sole name of the minor and giving notice of the deposit to the minor.

(2) This section does not apply if the person making payment or delivery has actual knowledge that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending.

(3) The persons, except the minor or a financial institution under subsection (1)(c) of this section, receiving money or property for a minor, shall apply the money to the support and education of the minor, and shall not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Excess sums shall be preserved for future support of the minor and the balance not so used and the property received for the

minor shall be turned over to the minor when the minor attains majority.

(4) Persons who pay or deliver money or personal property under this section are not responsible for the proper application of the money or property. [Formerly 126.025]

SETTLEMENT AGREEMENT ON BEHALF OF MINOR

126.725 Settlement agreement on behalf of minor; effect; liability. (1) A person having legal custody of a minor may enter into a settlement agreement with a person against whom the minor has a claim if:

(a) A conservator has not been appointed for a minor;

(b) The total amount of the claim is $25,000 or less;

(c) The moneys paid under the settlement agreement will be deposited directly into a federally insured savings account in the sole name of the minor with notice of the deposit to the minor; and

(d) The person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests that the person has made a reasonable inquiry and that:

(A) To the best of the person's knowledge, the minor will be fully compensated by the settlement; or

(B) There is no practical way to obtain additional amounts from the party entering into the settlement agreement with the minor.

(2) If a settlement agreement is entered into in compliance with subsection (1) of this section, the signature of the person entering into the settlement agreement on behalf of the minor is binding on the minor without the need for further court approval or review and has the same force and effect as if the minor were a competent adult entering into the settlement agreement.

(3) A person acting in good faith on behalf of a minor under this section is not liable to the minor for the moneys paid in settlement or for any other claim arising out of the settlement. [2007 c.874 §1]

GIFTS TO MINORS

126.805 Definitions for ORS 126.805 to 126.886. As used in ORS 126.805 to 126.886, except where the context otherwise requires:

(1) "Adult" means any person who has attained the age of 21 years.

(2) "Beneficiary" means a person for whose benefit a transfer has been made to a custodian.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the account of the person or for others.

(4) "Conservator" means a person appointed or qualified by a court to act as general, limited or temporary guardian of a beneficiary's property or a person legally authorized to perform substantially the same functions.

(5) "Court" means circuit court.

(6) "Custodial property" includes:

(a) Any interest in property transferred to a custodian under ORS 126.805 to 126.886.

(b) The income from that interest in property.

(7) "Custodian" means the person designated as custodian under ORS 126.812 or a successor or substitute custodian designated under ORS 126.862.

(8) "Financial institution" means a financial institution as defined in ORS 706.008 or a trust company as defined in ORS 706.008.

(9) "Legal representative" means the personal representative or conservator.

(10) "Member of the beneficiary's family" means the beneficiary's parent, stepparent, spouse, grandparent, brother, sister, uncle or aunt, whether of the whole blood or the half blood or through legal adoption.

(11) "Minor" means any person who has not attained the age of 21 years.

(12) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(13) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the legislative authority of the United States.

(14) "Transfer" means a transaction that creates custodial property under ORS 126.832.

(15) "Transferor" means a person who makes a transfer under ORS 126.805 to 126.886.

(16) "Trust company" means a trust company as defined in ORS 706.008. [1959 c.640 §1; 1967 c.300 §1; 1973 c.827 §18; 1981 c.443 §1; 1983 c.457 §1; 1985 c.665 §1; 1997 c.631 §412; 2005 c.349 §1]

126.809 Applicability of ORS 126.805 to 126.886; jurisdiction over custodian. (1) ORS 126.805 to 126.886 apply to a transfer that refers to ORS 126.805 to 126.886 in the designation under ORS 126.832 (1) by which

the transfer is made if at the time of the transfer, the transferor, the beneficiary or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to ORS 126.805 to 126.886 despite a subsequent change in residence of a transferor, the beneficiary or the custodian or the removal of custodial property from this state.

(2) A person designated as custodian under ORS 126.805 to 126.886 is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act or a substantially similar Act, of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the beneficiary or the custodian is a resident of the designated state or the custodial property is located in the designated state. [1985 c.665 §3; 2005 c.349 §2]

126.810 [1959 c.640 §2; 1967 c.300 §2; 1981 c.443 §2; repealed by 1985 c.665 §27]

126.812 Nomination of custodian; effective date of custodianship and transfer of custodial property. (1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "As custodian for _____ (name of beneficiary) under the Oregon Uniform Transfers to Minors Act." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payer, issuer or other obligor of the contractual rights.

(2) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under ORS 126.832 (1).

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under ORS 126.832. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to ORS 126.832. [1985 c.665 §4; 2005 c.349 §3]

126.815 [1959 c.640 §3; 1967 c.300 §3; 1973 c.823 §110; 1981 c.443 §3; repealed by 1985 c.665 §27]

126.816 Irrevocable gifts or exercise of power of appointment. A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a beneficiary pursuant to ORS 126.832. [1985 c.665 §5; 2005 c.349 §4]

126.817 [1983 c.457 §3; repealed by 1985 c.665 §27]

126.819 Irrevocable transfer by personal representative or trustee to custodian. (1) A personal representative or trustee may make an irrevocable transfer pursuant to ORS 126.832 to a custodian for the benefit of a beneficiary as authorized in the governing will or trust.

(2) If the testator or settlor has nominated a custodian under ORS 126.812 to receive the custodial property, the transfer must be made to that person.

(3) If the testator or settlor has not nominated a custodian under ORS 126.812, or all persons so nominated as custodian die before the transfer or are unable, decline or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under ORS 126.832. [1985 c.665 §6; 2005 c.349 §5]

126.820 [1959 c.640 §4; 1983 c.457 §4; repealed by 1985 c.665 §27]

126.822 Transfer to custodian in absence of authorization. (1) Subject to subsection (3) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to ORS 126.832, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(2) Subject to subsection (3) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to ORS 126.832.

(3) A transfer under subsection (1) or (2) of this section may be made only if:

(a) The personal representative, trustee or conservator considers the transfer to be in the best interest of the minor;

(b) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement or other governing instrument; and

(c) The transfer is authorized by the court if it exceeds $30,000 in value. [1985 c.665 §7; 2001 c.244 §3]

126.825 [1959 c.640 §5; 1967 c.300 §4; 1981 c.443 §4; repealed by 1985 c.665 §27]

126.826 Irrevocable transfer by person holding property of or owing liquidated debt to minor. (1) Subject to subsections (2) and (3) of this section, a person not subject to ORS 126.819 or 126.822 who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to ORS 126.832.

(2) If a person having the right to do so under ORS 126.812 has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(3) If no custodian has been nominated under ORS 126.812 or all persons so nominated as custodian die before the transfer or are unable, decline or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds $5,000 in value. [1985 c.665 §8]

126.829 Written acknowledgment of delivery as receipt. A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to ORS 126.805 to 126.886. [1985 c.665 §9]

126.830 [1959 c.640 §6; 1973 c.823 §111; repealed by 1985 c.665 §27]

126.832 Creation and transfer of custodial property; form of instrument. (1) Custodial property is created and a transfer is made if any of the following occur:

(a) An uncertificated security or a certificated security in registered form is either:

(A) Registered in the name of the transferor, in the name of an adult other than the transferor or the beneficiary, or in the name of a trust company, followed in substance by the words specified in subsection (3) of this section; or

(B) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary indorsement to an adult other than the transferor or the beneficiary, or delivered to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (2) of this section.

(b) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, in the name of an adult other than the transferor or the beneficiary, or in the name of a trust company, followed in substance by the words specified in subsection (3) of this section.

(c) The ownership of a life or endowment insurance policy or annuity contract is either:

(A) Registered with the issuer in the name of the transferor, in the name of an adult other than the transferor or the beneficiary, or in the name of a trust company, followed in substance by the words specified in subsection (3) of this section; or

(B) Assigned in a writing delivered to an adult other than the transferor or the beneficiary, or delivered to a trust company, and the name of the assignee is followed in substance by the words specified in subsection (3) of this section.

(d) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payer, issuer or other obligor that the right is transferred to the transferor, transferred to an adult other than the transferor or the beneficiary, or transferred to a trust company, and the name of the transferee is followed in substance by the words specified in subsection (3) of this section.

(e) An interest in real property is recorded in the name of the transferor, in the name of an adult other than the transferor or the beneficiary, or in the name of a trust company, followed in substance by the words specified in subsection (3) of this section.

(f) A certificate of title issued by a department or agency of a state or of the United States that evidences title to tangible personal property is either:

(A) Issued in the name of the transferor, in the name of an adult other than the transferor or the beneficiary, or in the name of a trust company, followed in substance by the words specified in subsection (3) of this section; or

(B) Delivered to an adult other than the transferor or the beneficiary, or delivered to a trust company, and is indorsed to that person followed in substance by the words specified in subsection (3) of this section.

(g) An interest in any property not described in paragraphs (a) to (f) of this subsection is transferred to an adult other than the transferor or the beneficiary, or is transferred to a trust company, by a written instrument in substantially the form set forth in subsection (2) of this section.

(2) An instrument in the following form satisfies the requirements of subsection (1)(a)(B) and (g) of this section:

TRANSFER UNDER THE OREGON UNIFORM TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of beneficiary) under the Oregon Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Delayed Transfer (may be made only if authorized by ORS 126.872): The custodian shall deliver the property to the beneficiary when the beneficiary attains the age of _____ years (not less than 21 nor more than 25).

Dated: _____

_____
(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the beneficiary named above under the Oregon Uniform Transfers to Minors Act.

Dated: _____

_____
(Signature of Custodian)

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(3) For the purposes of subsection (1) of this section, the following words create custodial property:

(a) "As custodian for _____ (name of beneficiary) under the Oregon Uniform Transfers to Minors Act"; or

(b) If the custodial property is subject to delayed transfer under ORS 126.872, "As custodian for _____ (name of beneficiary) under the Oregon Uniform Transfers to Minors Act until the beneficiary attains the age of _____ years."

(4) A transferor shall place the custodian in control of the custodial property as soon as practicable. [1985 c.665 §10; 2001 c.244 §4; 2005 c.349 §6]

126.835 [1959 c.640 §7; 1967 c.300 §5; 1981 c.443 §5; repealed by 1985 c.665 §27]

126.836 Limitations on custodianship; age requirement for transfers. (1) A transfer may be made only for one beneficiary and only one person may be the custodian. All custodial property held under ORS 126.805 to 126.886 by the same custodian for the benefit of the same beneficiary constitutes a single custodianship.

(2) A transfer may be made for the benefit of a beneficiary under ORS 126.805 to 126.886 at any time before the beneficiary attains 25 years of age. [1985 c.665 §11; 2005 c.349 §7]

126.839 Validity of transfer. (1) The validity of a transfer made in a manner prescribed in ORS 126.805 to 126.886 is not affected by:

(a) Failure of the transferor to comply with ORS 126.832 (4) concerning possession and control;

(b) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under ORS 126.832 (1); or

(c) Death or incapacity of a person nominated under ORS 126.812 or designated under ORS 126.832 as custodian or the disclaimer of the office by that person.

(2) A transfer made pursuant to ORS 126.832 is irrevocable, and the custodial property is indefeasibly vested in the beneficiary, but the custodian has all the rights, powers, duties and authority provided in ORS 126.805 to 126.886 and neither the beneficiary nor the beneficiary's legal representative has any right, power, duty or authority with respect to the custodial property except as provided in ORS 126.805 to 126.886.

(3) By making a transfer, the transferor incorporates in the disposition all the provisions of ORS 126.805 to 126.886 and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in ORS 126.805 to 126.886. [1985 c.665 §12; 2001 c.244 §5; 2005 c.349 §8]

126.840 [1959 c.640 §8; repealed by 1985 c.665 §27]

126.842 Duties of custodian; standard of care. (1) A custodian shall:

(a) Take control of custodial property;

(b) Register or record title to custodial property if appropriate; and

(c) Collect, hold, manage, invest and reinvest custodial property.

(2) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent investor dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's discretion and without liability to the beneficiary or the beneficiary's estate, may retain any custodial property received from a transferor.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(a) The life of the beneficiary only if the beneficiary or the beneficiary's estate is the sole beneficiary; or

(b) The life of another person in whom the beneficiary has an insurable interest only to the extent that the beneficiary, the beneficiary's estate or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(4) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the beneficiary. Custodial property consisting of an undivided interest is so identified if the beneficiary's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "As a custodian for _____ (name of beneficiary) under the Oregon Uniform Transfers to Minors Act."

(5) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the beneficiary's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the beneficiary or by the beneficiary if the beneficiary has attained 14 years of age. [1985 c.665 §13; 1995 c.157 §17; 2005 c.349 §9]

126.845 [1959 c.640 §9; 1973 c.823 §112; 1981 c.443 §7; repealed by 1985 c.665 §27]

126.846 Rights, powers and authority of custodian. (1) A custodian, acting in a custodial capacity, has all the rights, powers and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers and authority in that capacity only.

(2) This section does not relieve a custodian from liability for breach of ORS 126.842. [1985 c.665 §14]

126.849 Payments to and expenditures for beneficiary; effect on duty to support beneficiary. (1) A custodian may deliver or pay to the beneficiary or expend for the beneficiary's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the beneficiary, without court order and without regard to:

(a) The duty or ability of the custodian personally or of any other person to support the beneficiary; or

(b) Any other income or property of the beneficiary that may be applicable or available for that purpose.

(2) On petition of an interested person or the beneficiary if the beneficiary has attained 14 years of age, the court may order the custodian to deliver or pay to the beneficiary or expend for the beneficiary's benefit so much of the custodial property as the court considers advisable for the use and benefit of the beneficiary.

(3) A delivery, payment or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the beneficiary. [1985 c.665 §15; 2005 c.349 §10]

126.850 [1959 c.640 §§10,12; 1967 c.300 §6; 1973 c.823 §113; repealed by 1985 c.665 §27]

126.852 Reimbursement to custodian for reasonable expenses; compensation; bond. (1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(2) Except for one who is a transferor under ORS 126.816, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(3) Except as provided in ORS 126.862 (6), a custodian need not give a bond. [1985 c.665 §16]

126.855 [1959 c.640 §11; repealed by 1967 c.300 §7; (126.856 enacted in lieu of 126.855)]

126.856 [1967 c.300 §8 (enacted in lieu of 126.855); 1973 c.823 §114; 1981 c.443 §6; repealed by 1985 c.665 §27]

126.857 Third person's duties in dealing with custodian. A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under ORS 126.805 to 126.886 for, any act of the purported custodian;

(3) The validity or propriety under ORS 126.805 to 126.886 of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the beneficiary delivered to the purported custodian. [1985 c.665 §17; 2005 c.349 §11]

126.859 Claims against custodial property; liability of custodian and beneficiary. (1) A claim based on a contract entered into by a custodian acting in a custodial capacity, an obligation arising from the ownership or control of custodial property or a tort committed during the custodianship, may be

asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the beneficiary is personally liable therefor.

(2) A custodian is not personally liable:

(a) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

(b) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A beneficiary is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the beneficiary is personally at fault. [1985 c.665 §18; 2005 c.349 §12]

126.860 [1959 c.640 §§13,14; 1967 c.300 §9; 1973 c.823 §115; repealed by 1981 c.443 §8]

126.862 Refusal to serve as custodian; substitute and successor custodians; resignation; removal. (1) A person nominated under ORS 126.812 or designated under ORS 126.832 as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing and eligible to serve was nominated under ORS 126.812, the person who made the nomination may nominate a substitute custodian under ORS 126.812; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under ORS 126.832 (1). The custodian so designated has the rights of a successor custodian.

(2) A custodian at any time may designate a trust company or an adult other than a transferor under ORS 126.816 or the beneficiary as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated or is removed.

(3) A custodian may resign at any time by delivering written notice to the beneficiary if the beneficiary has attained 14 years of age and to the successor custodian and by delivering the custodial property to the successor custodian.

(4) If a custodian is ineligible, dies or becomes incapacitated without having effectively designated a successor and the beneficiary has attained 14 years of age, the beneficiary may designate as successor custodian, in the manner prescribed in subsection (2) of this section, an adult member of the beneficiary's family, a conservator for the beneficiary or a trust company. If the beneficiary has not attained 14 years of age or fails to act within 60 days after the ineligibility, death or incapacity, the conservator for the beneficiary becomes successor custodian. If the beneficiary has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the beneficiary's family or any other interested person may petition the court to designate a successor custodian.

(5) A custodian who declines to serve under subsection (1) of this section or resigns under subsection (3) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(6) A transferor, the legal representative of a transferor, an adult member of the beneficiary's family, a beneficiary's guardian, the conservator for the beneficiary or the beneficiary if the beneficiary has attained 14 years of age may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under ORS 126.816 or to require the custodian to give appropriate bond. [1985 c.665 §19; 2005 c.349 §13]

126.865 [1959 c.640 §15; repealed by 1967 c.300 §11]

126.866 Accounting by custodian; determination of responsibility. (1) A beneficiary who has attained 14 years of age, the beneficiary's guardian or legal representative, an adult member of the beneficiary's family, a transferor or a transferor's legal representative may petition the court:

(a) For an accounting by the custodian or the custodian's legal representative; or

(b) For a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under ORS 126.859 to which the beneficiary or the beneficiary's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) The court, in a proceeding under ORS 126.805 to 126.886 or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(4) If a custodian is removed under ORS 126.862 (6), the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property. [1985 c.665 §20; 2005 c.349 §14]

126.869 Time of transfer of custodial property to beneficiary or beneficiary's estate. Except as provided in ORS 126.872, the custodian shall transfer in an appropriate manner the custodial property to the beneficiary or to the beneficiary's estate upon the earlier of:

(1) The beneficiary's attainment of 21 years of age with respect to custodial property transferred under ORS 126.816 or 126.819;

(2) The beneficiary's attainment of 18 years of age with respect to custodial property transferred under ORS 126.822 or 126.826; or

(3) The beneficiary's death. [1985 c.665 §21; 2001 c.244 §6; 2005 c.349 §15]

126.870 [1959 c.640 §16; repealed by 1985 c.665 §27]

126.872 Delayed transfer of custodial property to beneficiary. (1) Except as provided in this section, a person making a transfer to a custodian under ORS 126.816 or 126.819 may provide for a delayed transfer of the custodial property to the beneficiary at a specific time after the beneficiary attains the age of 21 years and:

(a) Before the beneficiary attains the age of 25 years; or

(b) The date on which the beneficiary attains the age of 25 years.

(2) If the person making the transfer to the custodian under ORS 126.816 or 126.819 specifies no time for the transfer of the custodial property to the beneficiary, the custodian shall transfer the custodial property to the beneficiary on the date that the beneficiary attains the age of 21 years.

(3) A personal representative or trustee making a transfer to a custodian under ORS 126.819 may provide for a delayed transfer of the custodial property pursuant to this section only if the governing will or trust directs that the custodial property be transferred within the time specified by subsection (1) of this section. The transfer to the custodian must provide that the custodial property be transferred to the beneficiary at the age specified in the governing will or trust.

(4) A transfer to a custodian under ORS 126.816 or 126.819 is not invalid if the transfer provides that the custodial property be transferred to the beneficiary after the beneficiary attains the age of 25 years. If an otherwise valid transfer provides that the custodial property be transferred to the beneficiary after the beneficiary attains the age of 25 years, the custodial property must be transferred to the beneficiary on the date that the beneficiary attains the age of 25 years. [2001 c.244 §2; 2005 c.349 §16]

126.875 Accounting by custodian. The custodian is not required to account to the beneficiary or to any other person for the acts and proceedings of the custodian unless the beneficiary, a parent of the beneficiary, the legal representative of the beneficiary or a successor custodian petitions the circuit court for an accounting no later than two years after the beneficiary becomes an adult or attains a lesser age as provided in ORS 126.805 to 126.886 or dies before becoming an adult or attaining that lesser age. [1959 c.640 §17; 1983 c.457 §5; 1985 c.665 §26; 2005 c.349 §17]

126.877 Applicability of ORS 126.805 to 126.886 to transfers made after January 1, 1986. ORS 126.805 to 126.886 apply to a transfer within the scope of ORS 126.809 made after January 1, 1986, if:

(1) The transfer purports to have been made under the Oregon Uniform Gifts to Minors Act; or

(2) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of ORS 126.805 to 126.886 is necessary to validate the transfer. [1985 c.665 §22]

126.879 Validation of transfer made before January 1, 1986. (1) Any transfer of custodial property made before January 1, 1986, is validated notwithstanding that there was no specific authority in ORS 126.805 to 126.886 prior to January 1, 1986, for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) ORS 126.805 to 126.886 apply to all transfers made before January 1, 1986, in a manner and form prescribed in the Oregon Uniform Gifts to Minors Act, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on January 1, 1986.

(3) ORS 126.805 and 126.869 with respect to the age of a minor for whom custodial property is held under ORS 126.805 to 126.886 do not apply to custodial property

held in a custodianship that terminated because of the minor's attainment of 18 years of age after October 4, 1973, and before January 1, 1986. [1985 c.665 §23]

126.880 [1959 c.640 §18; 1967 c.300 §10; repealed by 1985 c.665 §27]

126.882 Application and construction of ORS 126.805 to 126.886. ORS 126.805 to 126.886 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of ORS 126.805 to 126.886 among states enacting it. [1985 c.665 §24]

126.886 Short title. ORS 126.805 to 126.886 may be cited as the "Oregon Uniform Transfers to Minors Act." [1985 c.665 §25]

126.905 [1969 c.627 §1; 1973 c.823 §116; renumbered 125.700 in 1995]

126.915 [1969 c.627 §2; 1983 c.740 §13; renumbered 125.705 in 1995]

126.925 [1969 c.627 §§3,6; 1973 c.823 §117; 1995 c.664 §86; renumbered 125.710 in 1995]

126.935 [1969 c.627 §4; 1973 c.823 §118; renumbered 125.715 in 1995]

126.945 [1969 c.627 §5; 1973 c.823 §119; 1995 c.664 §87; renumbered 125.720 in 1995]

126.955 [1969 c.627 §7; 1973 c.823 §120; renumbered 125.725 in 1995]

126.965 [1969 c.627 §8; 1973 c.823 §121; 1991 c.790 §10; renumbered 125.730 in 1995]