

Written Testimony in Support of HB 2598
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House Bill 2598 presents an exciting opportunity for Oregon to be at the forefront in supporting mission-driven businesses. We have been fortunate to work with our client, Organically Grown Company, in restructuring its ownership model so that it will be owned in perpetuity by a noncharitable purpose trust-- also called a “stewardship trust.”

A stewardship trust provides for an ownership structure that protects “purpose” over profits as a priority in guiding long-term strategic decisions for the future of a company. It creates a structure that protects the good of a company and its constituents (customers, vendors, community) over the profits that would be paid for the benefit of individual owners if the company were sold and moved from Oregon. The beauty of the stewardship trust model is that it provides for a flexible structure that can be built into a business owner’s existing estate plan, and it can be utilized as a corporate restructure to provide a liquidity event for altruistically minded business owners to allow for the purpose and mission of a company to be locked in as the primary objective in operating the business going forward.

In creating the stewardship trust structure, we analyzed Oregon trust law, and became aware of certain limitations under the existing Oregon Uniform Trust Code (ORS Chapter 130). With the assistance of our client and many other talented individuals, we drafted new statutory provisions to facilitate the use of stewardship trusts by Oregon businesses.

The proposed legislation adds a specific provision to ORS Chapter 130 to facilitate the use of stewardship trusts to promote mission-driven for-profit enterprises. The existing noncharitable purpose trust statute (ORS 130.190) allows for the creation of a trust in furtherance of a defined purpose without ascertainable beneficiaries, but it contains limitations that, while appropriate in some situations, make the utilization of a noncharitable purpose trust for a business purpose cumbersome. In particular, ORS 130.190 (while appropriate for more limited noncharitable purpose trusts such as a trust for the care of a gravesite) places limitations upon the operation of the trust that do not make sense in the context of an active mission-driven business.

House Bill 2598 sanctions a new kind of noncharitable purpose trust by codifying the concept of the stewardship trust with potentially perpetual existence (aligned with other business organization forms and charitable trusts). House Bill 2598 also removes limitations in the general noncharitable purpose trust statute that are inappropriate in the stewardship trust model. In addition, the proposed statutory language includes provisions that ensure checks and balances in the governance of stewardship trusts by providing for the division of fiduciary management of a stewardship trust among a traditional trustee, a separate trust stewardship committee, and a trust enforcer (to fill some of the traditional roles of a beneficiary and ensure the trust is administered in accordance with the purpose). Integration of the stewardship trust statute into the existing provisions of the Oregon Uniform Trust Code codified under Chapter 130 will allow for efficient and appropriate procedural operation of stewardship trusts, granting powers to each group of fiduciaries to ensure that the stewardship trust is administered appropriately in

furtherance of its purpose. The stewardship trust will be subject to existing notice and reporting duties, trustee succession provisions, and limitations and safeguards upon modifications and settlements in accordance with the Oregon Uniform Trust Code, including appropriate modifications to facilitate participation by the trust stewardship committee and the trust enforcer.

Thank you for your consideration and support of House Bill 2598. We believe these amendments to ORS Chapter 130 will facilitate the growth and utilization of stewardship trusts in Oregon. This in turn will support the development and continuation of mission-driven businesses in Oregon that seek to apply altruistic goals to a traditional profits-driven business model.