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New Year, New Laws

Updates to Oregon Revised Statutes Effective 2026

by Susan B. Bock, Partner, Buchalter



The Oregon Legislature in 2025 refined provisions of the Oregon Probate Code addressing intestate succession, substantial compliance with will execution, simple estates, and the natural resource property election and also updated court procedures. The applicable bills included Senate Bills 15 and 168 and House Bill 3630. Unless otherwise noted, the changes are effective as of January 1, 2026.

Under revised ORS 112.105(2) (Succession; Unmarried Parents), a claimant may establish parentage either under ORS 109.065 (Method of Establishing Parentage) during the lifetime of the child OR the parent must have acknowledged being the parent of

the child in writing, signed by the parent during the lifetime of the child. The claimant need not establish both.

ORS 111.200 (Probate Proceedings) adds ORCP 45 (Requests for Admission) to the list of rules that apply to contested issues in probate proceedings. This change applies to contested issues first raised in a probate proceeding on or after January 1, 2026.

Under the substantial compliance provisions of ORS 112.238 (Admission of Noncompliant Will), a writing alleged to be a will but not executed in compliance

“New Year, New Laws” continued on page 2

“New Year, New Laws”

Continued from previous page

with ORS 112.235 must actually have been signed by the decedent or by another person at the direction of the decedent, in which case the signer must sign both the decedent's and the signer's names. This change is effective for writings executed before, on, or after January 1, 2026, for decedents dying after January 1, 2026. ORS 112.235 (Execution of a Will) now clarifies that the definition of a “writing” under ORS 112.238 excludes an electronic record, document or image.

ORS 114.510 (Value Limitations for Simple Estate) addresses the situation where a decedent's pour-over will specifically devises property other than to the trustee of an inter vivos trust executed by the decedent (a “revocable trust”), for example, to specific individuals rather than as a part of a specific or residuary devise to the revocable trust. ORS 114.510 clarifies that a simple estate affidavit may be filed if:

- Not more than \$75,000 of the fair market value of the estate is attributable to personal property specifically devised to devisees other than the trustee of the decedent's revocable trust;
- Not more than \$200,000 of the fair market value of the estate is attributable to real property specifically devised to devisees other than the trustee of the decedent's revocable trust; and
- The balance of the fair market value of the estate is attributable to property devised to the trustee of the decedent's revocable trust.

ORS 114.510 has also been amended to provide that the value of a manufactured home is to be considered part of the real property of the estate rather than as part of the personal property of the estate for purposes of determining compliance with the valuation limitation for a simple estate.

Finally, ORS 118.145 (Taxation of Interest in Natural Resource Property) has been extensively amended, effective for decedents dying on or after July 1, 2025, to clarify a number of provisions of the natural resource exemption enacted in 2023. Under the 2025 legislation, (i) transfers of natural resource property to entities or trusts may qualify for the exemption; (ii) the holding period of an eligible entity shall be tacked on to a family member transferor's ownership; (iii) if the natural resource property is replaced in a like-kind exchange, the replacement property will be deemed to have been owned by the transferor for the period of time the transferred property was held by the transferor; (iv) replacement of natural resource property will not be considered a disposition subject to additional tax if the replacement property is used in the operation of a farm, forestry, or fishing business, but real property may only be replaced with real property that would otherwise qualify as natural resource property and time limits apply; and (v) if the natural resource property becomes disqualified, the additional tax liability is the responsibility of the owner of the property at the time of the disposition or disqualifying event. The governing legislation – House Bill 3630 – also amended ORS 118.010 (Imposition and Amount of Tax in General) to provide clarity on calculating the

“New Year, New Laws”

Continued from previous page

calculating the credit for out-of-state property when applying the natural resource property exemption.

An additional exemption from the Oregon estate tax applies to decedents who owned at least 10 but no more than 5,000 acres for at least five years prior to death. Family members of these “small forestland owners” who hold the forestland for at least five consecutive years after death and who actively manage the property will qualify for the exemption. This exemption applies to the estate of decedents dying after January 1, 2026.

About The Author

Susan Bock is a Partner at Buchalter’s Portland office and a member of the Corporate practice group. Ms. Bock’s practice includes advising clients in the areas of income, estate, and gift taxes, counseling trustees and beneficiaries, charitable planning, international estate planning and trust administration, and working with families and closely held businesses to achieve business succession planning and the creation of small family businesses.

Ms. Bock has successfully represented numerous clients before the IRS and United States Tax Court regarding the valuation of closely held business interests. She also represents tax-exempt organizations, including the Oregon Recovery High School Initiative and Harmony Academy, the first high school in Oregon for students in recovery from alcohol and drug addiction disorder.

Before joining Buchalter, Ms. Bock was an associate and counsel with several law firms in Eugene, Oregon; Cincinnati, Ohio; Charlotte, North Carolina; and Philadelphia, Pennsylvania. (Bio courtesy of the Buchalter website)

Upcoming CLE Schedule

Wednesday, March 11th, 2026

Death, Data & Digital Dollars: A Practical Guide to Digital Assets in Oregon

Sponsored by the Oregon State Bar Estate Planning & Administration Section

[Click Here To Register](#)

Wednesday, April 8th, 2026

Planning Estates Holding Business Interests

Sponsored by the Oregon State Bar Estate Planning & Administration Section

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Wednesday, April 8th, 2026

Administering Estates Holding Business Interests

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Advanced Estate Planning CLE

Key takeaways from the Advanced Estate Planning CLE

By Ashley M. Sundar, Esq, Sundar Law



On November 14, 2025, members of the Estate Planning and Administration Section gathered for the annual Advanced Estate Planning CLE. The program offered a full day of practical and engaging presentations, with topics designed to resonate with both experienced estate planning attorneys and those looking to further develop their planning and administration skills. The following recap shares a few highlights from the day's discussions for the benefit of newsletter readers; a more detailed analysis of each topic is available in the CLE materials.

Susan Bock opened the day with a practical overview of planning opportunities for multi-jurisdictional clients in Solutions for Out of State Real Property.

Bock walked through key differences between the Oregon and Washington estate tax systems for both residents and non-residents, and discussed creative strategies that may allow non-residents to minimize or avoid state-level estate tax exposure. John Draneas, Heather Gilmore, and Barbara Smith followed with the Oregon Natural Resource Property Exclusion.

The speakers compared the Natural Resource Exemption and the Natural Resource Credit, while also addressing areas of uncertainty that remain for owners of natural resource property and that continue to be addressed by the legislature. They emphasized that careful analysis of these options can lead to significant Oregon estate tax savings, and that it is critical for practitioners to understand both how families qualify and how benefits can be preserved after



L-R: Paul Lee, Susan Bock, John Draneas, John Hawkins, Heather Gilmore, Barbara Smith. Photo courtesy of Ashley Sundar.



L-R: Paul Lee, Heather Gilmore, Barbara Smith. Photo courtesy of Ashley Sundar.

the death of the natural resource owner. Nationally recognized speaker Paul Lee then presented Estate Planning after the One Big Beautiful Bill Act – jokingly referred to by Lee as “O-BuBBA.” His sharp overview of the Act included a discussion of key income tax and estate tax changes, as well as gifting strategies tailored to clients ranging from wealthy to ultra-wealthy.

In Planning for Conflicts Between Federal and State Law, John Hawkins provided a clear and practical explanation of how Oregon estate and income taxes interact with the federal tax system. He also walked through several illustrations focused on marital deduction planning for clients with varying estate values.

The day concluded with the Ask the Experts panel, during which attendees were able to pose questions to all of the day’s speakers on a wide range of estate planning topics. A thoughtful discussion on the risks of pecuniary funding and more flexible alternatives complemented earlier presentations addressing marital deduction planning.

Other topics of interest included the IRS perspective on QTIP trust terminations, which may present unexpected gift tax consequences. Overall, the Advanced Estate Planning CLE delivered timely and practical guidance on several evolving areas of estate planning and administration. From navigating multi-jurisdictional issues and natural resource property planning to understanding recent federal tax changes and their interaction with Oregon law, the program underscored the importance of staying current in a rapidly changing legal landscape.

About The Author

Ashley Sundar is an attorney and the founder of Sundar Law in Portland, Oregon. She serves on the Oregon State Bar Estate Planning & Administration Section Newsletter Committee, and helps oversee the Section’s Diversity Committee.

FinCEN's Residential Real Estate Rule and Its Impact on Estate Planning



by Taylor K. Gersch, Attorney, Gleaves Swearingen LLP

Starting March 1, 2026, the Financial Crimes Enforcement Network (FinCEN) will enforce a new nationwide reporting requirement aimed at helping government agencies prevent illicit actors from anonymously laundering money through residential real estate transactions. This requirement, issued by the US Department of Treasury, is set forth in the final rule 89 Fed. Reg. 70258 (Final Rule) published on August 29, 2024 (Final Rule).

The Final Rule requires a reporting person to file a real estate report with FinCEN when a real estate transaction involves a nonfinanced transfer of an ownership interest of residential real property to a transferee entity or transferee trust. The Final Rule curtails the ability of illicit actors to evade the scrutiny of financial institutions that have Anti-Money Laundering (AML) programs, Countering the Financing of Terrorism (CFT) programs, and Suspicious Activity Report (SAR) requirements.

The information disclosed in the real estate report includes information on the reporting person, the transferor, transferee entity or trust, real property, and payment.

This article was adapted from a previous publication I wrote for the *Oregon Business Lawyer* newsletter.

You can [read the article here](#).

Let's walk through the Final Rule in an estate planning context.

What is residential real property?

Residential real property is real property located in the U.S. that meets one of the following requirements:

- (i) Contains a structure designed principally for occupancy by one to four families (includes single-family houses, townhouses, and entire apartment buildings)
- (ii) Is land (vacant or unimproved) on which the transferee intends to build a structure designed principally for occupancy by one to four families
- (iii) Is a unit designed principally for occupancy by one to four families within a structure (e.g., a condominium)
- (iv) Are shares in a cooperative housing corporation

Additionally, the transfer of mixed-use property may be reportable if a portion is considered residential real estate (e.g., a single-family residence located above a commercial enterprise).

What is a nonfinanced transfer?

A nonfinanced transfer is a transfer that does not involve an extension of credit to the transferee that is:

“FinCEN’s Residential..”*Continued from previous page*

- (i) Secured by the transferred residential real property; and
- (ii) Extended by a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions.

Types of nonfinanced transfers include all-cash transfers and transfers without consideration (i.e. gifts).

Do not equate a nonfinanced transfer with only a cash sale. A nonfinanced transfer can also include private or seller financing since those lenders often do not have an obligation to maintain AMC or CFT programs or have SAR requirements.

What is a transferee trust?

A transferee trust is any legal arrangement created when a grantor or settlor places assets under the control of a trustee for the benefit of one or more beneficiaries or for a specified purpose. A trust is a transferee trust regardless of whether the residential real property is titled in the name of the trust or in the name of the trustee in their capacity as trustee of the trust. However, certain types of trusts are exempted.

A transferee trust does not include:

- (i) A trust that is a securities reporting issuer as defined in 31 CFR 1010.380(c)(2)(i);
- (ii) A trust in which the trustee is a securities reporting issue as defined in 31 CFR

1010.380(c)(2)(i);

- (iii) A statutory trust (this will be treated as a transferee entity instead); or
- (iv) An entity wholly owned by a trust described in the above (i)-(iii).

What are the exceptions to reporting?

A real estate report does not need to be filed in the following scenarios:

- (i) A transfer that is a grant, transfer, or revocation of an easement;
- (ii) **A transfer resulting from the death of an individual, whether pursuant to the terms of a will, the terms of a trust, the operation of law (transfers from intestate succession, surviving joint owners, or transfer on death deeds), or by contractual provision (transfers from beneficiary designation);**
- (iii) A transfer incident to divorce or dissolution of marriage or civil union;
- (iv) A transfer to a bankruptcy estate;
- (v) A transfer supervised by a court in the U.S.;
- (vi) **A transfer for no consideration made by an individual, either alone or with their spouse, to a trust of which that individual, their spouse, or both of them, are the settlor(s) or grantor(s);**

“FinCEN’s Residential..”*Continued from previous page*

- (vii) A transfer to a qualified intermediary for purposes of 1031 exchange; or
- (viii) A transfer for which there is no reporting person.

Estate planning attorneys will be happy to see the two bolded exceptions above. Under the first bolded exception, a real estate report is not required for transfers resulting from probates, trust administrations, or beneficiary designations. Since testamentary trusts are created by wills, they also fall within the exception for transfer occurring as a result of death.

The second bolded exemption is a bit more nuanced based on a reading of the Final Rule. Funding a client’s trust with an already-owned residential property does not necessitate a report. However, a nonfinanced purchase of residential real property by the trust would require a report.

Additionally, nonfinanced purchases or transfers of residential rental property into a limited liability company will trigger a reporting requirement.

Who is a reporting person?

Now the question is who actually files the real estate report. The Final Rule institutes a cascading approach to determine primary filing responsibility, and the lawyer should evaluate the parties involved in the transaction and whether any have the primary filing

responsibility over the lawyer. A good rule of thumb is that if there is no closing or settlement agent involved, the lawyer is likely up next if they filed the deed with the recorder’s office.

Assuming the lawyer is required to file the report with FinCEN, the lawyer must file information about themselves, the transferee, the transferor, the real property, and the payment information. Much of the information required is similar to that collected under FinCEN’s Corporate Transparency Act, particularly regarding beneficial ownership. Like the Corporate Transparency Act, for trusts, this report may require the names and information of grantors, trustees, and certain beneficiaries.

Electronic filing, retention of records, and penalties

After the reporting person compiles all the necessary information, they need to electronically file the real estate report with FinCEN. The report is available on FinCEN’s website. The report must be filed by the later of (1) the final day of the month following the month in which closing occurred or (2) 30 calendar days after the date of closing.

The reporting person must maintain a copy of the certification by the transferee or transferee’s representative as to the identities of the beneficial owner of the transferee for five years. But the reporting person is not required to retain a copy of the real estate report.

“FinCEN’s Residential..”

Continued from previous page

The regulation does not explicitly address potential penalties for failing to file a report. Instead, according to the Federal Register, “FinCEN believes that it is unnecessary to list potential penalties in the regulatory text because the applicable penalties are already set forth by statute,” including those contained in the Bank Secrecy Act. Generally, civil penalties could range from \$1,394 to \$278,937 and criminal fines could add up to \$250,000 with the possibility of imprisonment.

In sum, estate planning lawyers need to be aware of their potential reporting obligations under the cascading approach when designing comprehensive estate plans and be prepared to answer questions about a client’s estate plan if the report is filed by someone else.

About The Author

Taylor is a member of the transactional business and real estate group at Gleaves Swearingen LLP. In addition to her practice, she is active in several professional and community organizations. Taylor serves on the Citizen Review Board through the Oregon Judicial Department in Lane County and is a board member for Head Start of Lane County.

She is also a member of the executive committees of the Oregon State Bar’s New Lawyers Division and the Business Law Section.

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