

A-Engrossed
Senate Bill 235

Ordered by the House May 20
Including House Amendments dated May 20

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon State Bar Estate Planning Section)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Increases value of estate for which small estate affidavit may be filed. Provides that total value of estate may not be greater than [*\$350,000*] **\$275,000**, of which not more than [*\$100,000*] **\$75,000** may be personal property and not more than [*\$250,000*] **\$200,000** may be real property.

A BILL FOR AN ACT

Relating to small estates; creating new provisions; and amending ORS 114.515.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 114.515 is amended to read:

114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section, any of the following persons may file an affidavit with the clerk of the probate court in any county where there is venue for a proceeding seeking the appointment of a personal representative for the estate:

(a) One or more of the claiming successors of the decedent.

(b) If the decedent died testate, any person named as personal representative in the decedent's will.

(2) An affidavit under this section may be filed only if:

(a) The fair market value of the estate is [*\$200,000*] **\$275,000** or less;

(b) Not more than [*\$50,000*] **\$75,000** of the fair market value of the estate is attributable to personal property; and

(c) Not more than [*\$150,000*] **\$200,000** of the fair market value of the estate is attributable to real property.

(3) An affidavit under this section may not be filed until 30 days after the death of the decedent.

(4) An affidavit filed under the provisions of this section must contain the information required in ORS 114.525 and shall be made a part of the probate records.

(5) In determining fair market value under this section, the fair market value of the entire interest in the property included in the estate shall be used without reduction for liens or other debts.

(6) The clerk of the probate court shall charge and collect a fee of \$23 for the filing of any affidavit under this section.

(7) Any error or omission in an affidavit filed under this section may be corrected by filing an amended affidavit within four months after the filing of the affidavit.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (8) One or more supplemental affidavits may be filed at any time after the filing of an affidavit
2 under this section for the purpose of including property not described in the original affidavit.
3 Copies of all previously filed affidavits must be attached to the supplemental affidavit and all infor-
4 mation required in ORS 114.525 must be reflected in the supplemental affidavit. A supplemental af-
5 fidavit may not be filed if by reason of the additional property described in the supplemental
6 affidavit any limitation imposed by subsection (2) of this section is exceeded.

7 **SECTION 2. The amendments to ORS 114.515 by section 1 of this 2009 Act apply only to**
8 **decedents who die on or after the effective date of this 2009 Act.**

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