

House Bill 3033

Sponsored by Representative NEARMAN; Representative OLSON (at the request of Stephen Mannenbach)

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 **as introduced**.

Authorizes affiants and claiming successors to execute instruments or documents of conveyance of real or personal property that is part of small estate under particular circumstances.

A BILL FOR AN ACT

1
2 Relating to small estates; amending ORS 114.545.

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

4 **SECTION 1.** ORS 114.545 is amended to read:

5 114.545. (1) The affiant:

6 (a) Shall take control of the property of the estate coming into the possession of the affiant.

7 (b) Within 30 days after filing the affidavit shall mail, deliver or cause to be recorded each in-
8 strument which the affidavit states will be mailed, delivered or recorded.

9 (c) From and to the extent of the property of the estate, shall pay or reimburse any person who
10 has paid:

11 (A) Expenses described in ORS 115.125 (1)(b) and (c) and listed in the affidavit;

12 (B) Claims listed in the affidavit as undisputed;

13 (C) Allowed claims presented to the affiant within the time permitted by ORS 114.540; and

14 (D) Claims which the probate court directs the affiant to pay.

15 (d) Shall pay claims and expenses under paragraph (c) of this subsection in the order of priority
16 prescribed by ORS 115.125.

17 (e) May transfer or sell any vehicle that is part of the estate before the completion of the period
18 established under ORS 114.555 if the affiant complies with the requirements established by the De-
19 partment of Transportation for such purposes under ORS 803.094.

20 (f) May convey any real or personal property that is part of the estate, **and execute any in-**
21 **struments or documents of conveyance of real or personal property that is part of the estate,**
22 before the completion of the period established under ORS 114.555, provided that each heir or
23 devisee succeeding to the interest conveyed joins in the conveyance and that any proceeds of sale,
24 net of the reasonable expenses of sale and any debt secured as of the date of the decedent's death
25 by a duly perfected lien on the property, shall become a part of the estate subject to ORS 114.505
26 to 114.560. If the property is a manufactured structure as defined in ORS 446.561, the affiant must
27 assign interest in the structure as provided in ORS 446.616. Any conveyance to a purchaser in good
28 faith and for a valuable consideration made by the affiant and the heir or devisee succeeding to the
29 interest conveyed, or made by the heir or devisee succeeding to the interest conveyed after com-
30 pletion of the period established under ORS 114.555, conveys the interest stated in the conveyance
31 free of any interest of the claiming successors, and the purchaser has no duty with respect to ap-

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 plication of the consideration paid for the conveyance.

2 (2)(a) Any claiming successor to whom payment, delivery or transfer is made under ORS 114.505
3 to 114.560 as a person entitled thereto as disclosed in the affidavit is personally answerable and
4 accountable:

5 [(a)] (A) To the extent of the value of the property received, to creditors of the estate to the
6 extent such creditors are entitled to payment under subsection (1) of this section; and

7 [(b)] (B) To any personal representative of the estate of the decedent thereafter appointed.

8 (b) **A claiming successor may execute an instrument or document of conveyance that**
9 **conveys any real or personal property that is part of the estate after completion of the pe-**
10 **riod established under ORS 114.555, provided the claiming successor is an heir or devisee**
11 **succeeding to the interest stated in the conveyance.**

12 (3) The affiant shall cause to be recorded in the deed records of any county in which real
13 property belonging to the decedent is situated an affiant or claiming successor's deed executed in
14 the manner required by ORS chapter 93.

15 (4) For a manufactured structure as defined in ORS 446.561 belonging to a decedent and assessed
16 as personal property, the affiant shall file with the Department of Consumer and Business Services
17 the necessary information for recording the successor's interest in the manufactured structure on
18 an ownership document.

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