

**Enrolled**  
**Senate Bill 402**

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CHAPTER .....

AN ACT

Relating to small estates; amending ORS 114.505 and 114.545.

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

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

114.545. (1) The affiant:

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

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

**(c) May open one or more deposit accounts in a financial institution as defined in ORS 706.008 with funds of the decedent, upon which the affiant may withdraw funds by means of checks, drafts or negotiable orders of withdrawal or otherwise for the payment of claims and expenses described in paragraph (d) of this subsection.**

[(c)] **(d)** From and to the extent of the property of the estate, shall pay or reimburse any person who has paid:

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

(B) Claims listed in the affidavit as undisputed;

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

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

[(d)] **(e)** Shall pay claims and expenses under paragraph [(c)] **(d)** of this subsection in the order of priority prescribed by ORS 115.125.

[(e)] **(f)** May transfer or sell any vehicle that is part of the estate before the completion of the period established under ORS 114.555 if the affiant complies with the requirements established by the Department of Transportation for such purposes under ORS 803.094.

[(f)] **(g)** May convey any real or personal property that is part of the estate before the completion of the period established under ORS 114.555, provided that each heir or devisee succeeding to the interest conveyed joins in the conveyance and that any proceeds of sale, net of the reasonable expenses of sale and any debt secured as of the date of the decedent's death by a duly perfected lien on the property, shall become a part of the estate subject to ORS 114.505 to 114.560. If the property is a manufactured structure as defined in ORS 446.561, the affiant must assign interest in the structure as provided in ORS 446.616. Any conveyance to a purchaser in good faith and for a valuable consideration made by the affiant and the heir or devisee succeeding to the interest conveyed, or made by the heir or devisee succeeding to the interest conveyed after completion of the period established under ORS 114.555, conveys the interest stated in the conveyance free of any interest

of the claiming successors, and the purchaser has no duty with respect to application of the consideration paid for the conveyance.

**(2) Notwithstanding any other provision of this section, when an heir or devisee entitled to succeed to a conveyance fails or refuses to join in the conveyance as required by subsection (1)(g) of this section, an affiant approved under ORS 114.517 may convey any real or personal property that is part of the estate at any time to a third party for a valuable consideration.**

**(3) Property conveyed by an affiant under this section is subject to liens and encumbrances against the decedent or the estate of the decedent but is not subject to rights of creditors of the decedent or liens or encumbrances against the heirs or devisees of the decedent. The filing and allowance of a claim in a proceeding under ORS 114.505 to 114.560 does not make the claimant a secured creditor.**

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

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

(b) To any personal representative of the estate of the decedent thereafter appointed.

[3] (5) **After the expiration of the period established in subsection (1)(b) of this section, the affiant shall cause to be recorded in the deed records of any county in which real property belonging to the decedent is situated an affiant or claiming successor's deed conveying the property to persons entitled to the property, executed in the manner required by ORS chapter 93.**

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

**(7) A financial institution as defined in ORS 706.008 that opens one or more deposit accounts for an affiant pursuant to subsection (1)(c) of this section is not liable to any other person for opening the account or accounts or for permitting the affiant to withdraw funds from the account or accounts by means of checks, drafts, negotiable orders of withdrawal or otherwise. The financial institution is not required to ensure that the funds of the decedent that are paid out by the affiant are properly applied.**

**SECTION 2.** ORS 114.505 is amended to read:

114.505. As used in ORS 114.505 to 114.560:

(1) "Affiant" means the person or persons signing an affidavit filed under ORS 114.515.

(2) "Claiming successors" means:

(a) If the decedent died intestate, the heir or heirs of the decedent, or if there is no heir, an estate administrator of the Department of State Lands appointed under ORS 113.235;

(b) If the decedent died testate, the devisee or devisees of the decedent; and

(c) Any creditor of the estate entitled to payment or reimbursement from the estate under ORS 114.545 [(1)(c)] **(1)(d)** who has not been paid or reimbursed the full amount owed such creditor within 60 days after the date of the decedent's death.

(3) "Estate" means decedent's property subject to administration in Oregon.

**Passed by Senate March 2, 2015**

**Repassed by Senate May 14, 2015**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House May 12, 2015**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State