

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
B-ENGROSSED SENATE BILL 454**

1 On page 1 of the printed B-engrossed bill, line 10, delete the first “and”
2 and after “2018” insert “, and section 6, chapter 166, Oregon Laws 2019 (En-
3 rolled House Bill 3008)”.

4 On page 17, after line 15, insert:

5 **“SECTION 41a. If House Bill 3007 becomes law, section 41 of this**
6 **2019 Act (amending ORS 114.520) is repealed and ORS 114.520, as**
7 **amended by section 6, chapter 165, Oregon Laws 2019 (Enrolled House**
8 **Bill 3007), is amended to read:**

9 “114.520. (1) If a decedent dies intestate and without heirs, a creditor of
10 an estate who is a claiming successor may not file a small estate affidavit
11 unless the creditor has received written authorization from the [*Department*
12 *of State Lands*] **State Treasurer**. Except as provided by rule adopted by the
13 [*Director of the Department of State Lands*] **State Treasurer**, the
14 [*department*] **State Treasurer** shall consent to the filing of a small estate
15 affidavit by a creditor only if it appears after investigation that the estate
16 is insolvent.

17 “(2) A creditor of an estate who is subject to subsection (1) of this section
18 may give written notice to the [*Department of State Lands*] **State Treasurer**
19 informing the [*department*] **State Treasurer** that the creditor intends to file
20 a small estate affidavit. Upon receiving the notice permitted by this sub-
21 section, the [*department*] **State Treasurer** shall investigate the assets and

1 liabilities of the estate. Within 30 days after receiving the notice required
2 by this subsection, the [*department*] **State Treasurer** shall either:

3 “(a) Give written authorization to the creditor for the filing of a small
4 estate affidavit by the creditor; or

5 “(b) Inform the creditor that the [*Department of State Lands*] **State**
6 **Treasurer** will file a small estate affidavit as claiming successor.

7 “(3) If a decedent dies intestate and without heirs, a creditor of an estate
8 who is a claiming successor and who files a small estate affidavit must no-
9 tate at the top of the affidavit that the affidavit is being filed by a creditor
10 of the estate. If the affidavit contains the notation required by this sub-
11 section, the clerk of the probate court may not accept the affidavit for filing
12 unless there is attached to the affidavit written authorization for the filing
13 of the affidavit by the creditor from the [*Department of State Lands*] **State**
14 **Treasurer**. The written authorization may be a copy of a memorandum of
15 an interagency agreement between the [*Department of State Lands*] **State**
16 **Treasurer** and another state agency.

17 “**SECTION 41b.** Section 6, chapter 166, Oregon Laws 2019 (Enrolled
18 House Bill 3008), is amended to read:

19 “**Sec. 6.** (1) A personal representative appointed under section 5, **chapter**
20 **166, Oregon Laws 2019 (Enrolled House Bill 3008)**, [*of this 2019 Act*] shall
21 deliver or mail to the beneficiaries at their last-known address information
22 that must include:

23 “(a) The title of the court in which the estate proceeding is pending and
24 the case number;

25 “(b) The name of the decedent and the place and date of the death of the
26 decedent;

27 “(c) The name and address of the personal representative, the attorney
28 representing the personal representative in the wrongful death action and
29 the attorney representing the personal representative in the probate pro-
30 ceeding;

1 “(d) The date of the appointment of the personal representative; and

2 “(e) A statement advising the beneficiaries that the rights of the benefi-
3 ciaries may be affected by the proceeding and that additional information
4 may be obtained from the records of the court, the personal representative
5 or the attorney for the personal representative.

6 “(2) If the personal representative is a beneficiary named in the petition,
7 the personal representative is not required to deliver or mail the information
8 under this section to the personal representative.

9 “(3) Within 30 days after the date of appointment the personal represen-
10 tative shall cause to be filed in the estate proceeding proof of the delivery
11 or mailing required by this section or a waiver of notice as provided under
12 ORS 111.225. The proof must include a copy of the information delivered or
13 mailed and the names of the persons to whom it was delivered or mailed.

14 “(4) If before the filing of the motion to close the estate under section
15 **8, chapter 166, Oregon Laws 2019 (Enrolled House Bill 3008)**, [*of this 2019*
16 *Act*] the personal representative has actual knowledge that the petition did
17 not include the name and address of any beneficiary, the personal represen-
18 tative shall:

19 “(a) Make reasonable efforts under the circumstances to ascertain the
20 names and addresses of the beneficiaries that were not included;

21 “(b) Promptly deliver or mail information specified in subsection (1) of
22 this section to each beneficiary located after the filing of the petition and
23 before the filing of the motion to close the estate under section 8, **chapter**
24 **166, Oregon Laws 2019 (Enrolled House Bill 3008)**, [*of this 2019 Act*] and
25 to the [*Department of State Lands*] **State Treasurer**; and

26 “(c) File in the estate proceeding, on or before filing the motion to close
27 the estate under section 8, **chapter 166, Oregon Laws 2019 (Enrolled**
28 **House Bill 3008)** [*of this 2019 Act*], proof of compliance with this subsection
29 or a waiver of notice as provided under ORS 111.225.

30 “(5) Within 30 days after the appointment of the personal representative,

1 the personal representative must mail or deliver the following information
2 to the Department of Human Services and the Oregon Health Authority:

3 “(a) The title of the court in which the estate proceeding is pending and
4 the case number;

5 “(b) The name of the decedent and the place and date of the death of the
6 decedent;

7 “(c) The name and address of the personal representative, the attorney
8 representing the personal representative in the wrongful death action and
9 the attorney representing the personal representative in the probate pro-
10 ceeding;

11 “(d) The date of the appointment of the personal representative; and

12 “(e) Any other information required by rule of the department or the au-
13 thority.”.

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