

**HB 2509 STAFF MEASURE SUMMARY**

**House Committee On Judiciary**

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**Prepared By:** Patricia Pascone, LPRO Analyst

**Meeting Dates:** 2/28

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**WHAT THE MEASURE DOES:**

Specifies that a residuary clause in a will is sufficient to transfer a recorded livestock brand upon death of the brand owner.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

When someone creates a will (a "testator"), they may designate that certain property be given to certain people ("devisees") when the testator dies. The testator may also say what they want done with any remaining property not specifically devised in the will -- the "residue" of the estate -- in a residuary clause.

A "brand" is a "distinctive design, mark or other means of identification applied to a designated location of the hide, wool or skin of livestock," and it is "recorded" when it is registered with the Oregon Department of Agriculture (ODA), as specified by ORS 604.027 and ODA rules. ORS 604.041 specifies how and when a recorded brand can be transferred upon death.

The ODA does not recognize the residuary clause in a will as being sufficient to transfer a recorded brand to the devisee of the residuary clause. Instead, the will must specifically list the recorded brand and to whom it will be transferred. Without that, there is a presumption that all heirs to the estate have an equal ownership of the brand, as if there had been no will. This may require the devisee to obtain the consent of the other heirs and submit an affidavit of transfer, or open a probate matter to have a court issue an order of transfer.

HB 2509 would permit a recorded livestock brand to be transferred by a residuary clause in a will.