

**SB 308 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Morgan

**House Committee On Judiciary**

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**Action Date:** 03/13/23

**Action:** Do Pass the A-Eng bill.

**Vote:** 10-0-0-0

**Yeas:** 10 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Lucy Ohlsen, LPRO Analyst

**Meeting Dates:** 3/9, 3/13

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**WHAT THE MEASURE DOES:**

Modifies small estate affidavit procedure to allow the procedure to be used in circumstances where a decedent created a trust before death but did not fully fund the trust.

**ISSUES DISCUSSED:**

- Ability to avoid full probate when unnecessary
- Estate planning attorney malpractice
- Monetary limits for small estate under current law

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

Senate Bill 308 A is brought by the Oregon State Bar Estate Planning and Administration Section. Oregon's probate code provides a streamlined procedure for transferring the personal and real property of a deceased person when the value of that property falls within specified monetary limits. This avoids the necessity of going through the full probate process, which requires, among other things, the appointment of a personal representative. To initiate the streamlined procedure, a person who claims a right to the property files a "small estate affidavit," pursuant to ORS 114.515, with the probate clerk. Currently, this process often cannot be used when a decedent had created a trust prior to their death but did not fund or fully fund the trust. A probate is frequently required to transfer ownership of the decedent's assets to the trust.

Senate Bill 308 A would modify the small estate affidavit procedure to allow the procedure to be used to transfer assets from a decedent's name to a trust created by the decedent and would change the name of the procedure from "small estate affidavit" to "simple estate affidavit."