

**Testimony before the Senate Judiciary Committee  
in support of SB 309  
On behalf of the Oregon State Bar Estate Planning Section**

January 20, 2023

My Name is June Wiyrick Flores and I am attorney with an estate planning practice in Portland. I testified in support of SB 309 on behalf of the Oregon State Bar's Estate Planning and Administration Section on January 17<sup>th</sup>. I wanted to take this opportunity to respond in writing to a question that was raised about Senate Bill 309.

SB 309 does not alter the time period that a claimant has to file a claim against the decedent's estate or the rights of the heirs and devisees to contest the decedent's will. It merely reduces the number of times that notice must be published in a newspaper.

Oregon statutes currently include protections for claimants who may have not received notice of the probate. The personal representative has a duty to make reasonably diligent efforts to investigate the decedent's financial record and affairs to identify potential creditors. (ORS 115.003(1)) The personal representative is then required to send a separate notice to the potential creditor notifying the creditor that the personal representative has been appointed and the potential creditor has a limited time to file a claim against the estate. (ORS 115.003(2)). If the personal representative breaches this duty, the personal representative may be personally liable for the creditor's claim. (ORS 115.004).

Generally, a creditor or claimant must file a claim in the probate court within the later of the four months from the date of publication or the date that notice has been sent to interested persons. (ORS 115.005). However, a creditor may file the a claim after this four-month timeline if they meet certain requirements: (1) the claim is filed within the applicable statute of limitations; (2) the personal representative has not filed the final accounting; and (3) the claimant did not receive a notice from the personal representative of the time to file a claim. (ORS 115.005(3)). If the claim would have been allowed except for the time it was presented, the personal representative must pay the claim. The claim will be paid from the Estate's assets after all other expenses and timely claims have been paid. (ORS 115.005(4)).

Thank you for the opportunity to add to the record. I am happy to answer any questions or provide any additional information.