

SB 15 -3, -4, -5 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 1/27, 2/24, 3/19

WHAT THE MEASURE DOES:

The measure increases the limits on the fair market value of a deceased person's assets for purpose of qualifying for a simple estate affidavit process. It also requires the State Court Administrator to annually calculate and apply cost of living adjustments to the limits.

Detailed Summary

- Increases limits to assets' fair market values, below which a simple estate affidavit process may be used, as follows:
 - For personal property, raising the limit from \$75,000 to \$250,000.
 - For real estate property, raising the limit from \$200,000 to \$750,000.
- Requires the State Court Administrator to annually calculate the cost of living increases or decreases and administratively adjust the limits by July 1 each year, for simple estate affidavits filed on or after July 1 of the following year.
- Applies changes in value limits to simple estate affidavits filed on after the measure's effective date (Jan. 1, 2026)

FISCAL: Has minimal fiscal impact

REVENUE: No revenue impact

ISSUES DISCUSSED:

- Rate of real estate value increase outpaces general economy inflation
- How mobile homes are categorized in simple estate affidavit proceedings
- Impact of additional simple estate affidavits that may be filed
- Consumer protections

EFFECT OF AMENDMENT:

-3 The amendment replaces the measure and establishes new estate value limits for the purpose of qualifying for a simple estate affidavit process, and it requires the State Court Administrator to annually calculate and apply cost of living adjustments to the limits.

Detailed Summary

- Clarifies that the existing limitation in ORS 114.510 (1)(a) -- that fair market value (FMV) not exceed \$75,000 attributable to personal property and \$200,00 attributable real property, -- applies to estates of decedents who died testate (with a will) or intestate (without a will) and the total estate FMV is \$275,000 or less.
- Clarifies that the total FMV limit attributable to real and personal property is also \$275,000 for a decedent who created a trust during their lifetime, died testate, and in the will devised all property over the FMV limit to the trustee of the trust.
- Adds the ability to use a simple estate affidavit when:
 - the decedent died testate;
 - the estate FMV is greater than \$275,000 but less than \$1 million, of which not more than \$250,000 is attributable to personal property and not more than \$750,000 is attributable to real property; and
 - the estate would distribute all assets to one distributee (recipient) who is the sole devisee named in the will.

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- Requires the State Court Administrator to annually calculate the cost of living increases or decreases and administratively adjust the limits by July 1 each year for the following calendar year, and apply it to simple estate affidavits filed after July 1 of year in which an adjustment is made.
- Makes conforming amendments to laws that reference ORS 114.510 subsections renumbered by the measure.
- Applies changes in value limits to estates of decedents dying after the measure's effective date (Jan. 1, 2026).

-4 The amendment incorporates the -3 amendment, defines manufactured homes, and modifies the existing limitation in ORS 114.510 (1)(a) by excluding manufactured homes from the \$75,000 value limit for personal property, and adding manufactured homes to the \$200,000 limit so that it includes the combined value of real property and manufactured homes.

-5 The amendment incorporates the -4 amendment and specifies the filing fee statutes applicable to simple estate affidavits filed within each estate value limitation category.

Detailed Summary

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- Clarifies that the total FMV limit attributable to real and personal property is also \$275,000 for a decedent who created a trust during their lifetime, died testate, and in the will devised all property over the FMV limit to the trustee of the trust.
- Adds the ability to use a simple estate affidavit when:
 - the decedent died testate;
 - the estate FMV is greater than \$275,000 but less than \$1 million, of which not more than \$250,000 is attributable to personal property and not more than \$750,000 is attributable to real property; and
 - the estate would distribute all assets to one distributee (recipient) who is the sole devisee named in the will.
- Excludes manufactured homes from the FMV of personal property and includes it in the FMV of real property. Defines 'manufactured home'.
- Continues filing fee of \$145, under ORS 21.145, for simple estate affidavits filed under current limitations.
- Applies the filing fees for regular probate cases under ORS 21.170 to simple estate affidavits filed for estates with FMV over \$250,000 but less than \$1 million.
- Requires the State Court Administrator to annually calculate the cost of living increases or decreases and administratively adjust the limits by July 1 each year for the following calendar year, and apply it to simple estate affidavits filed after July 1 of year in which an adjustment is made.
- Makes conforming amendments to applicable laws.
- Applies changes in value limits to estates of decedents dying after the measure's effective date (Jan. 1, 2026).

BACKGROUND:

A full probate is the most common form of estate administration. Probate is a court-supervised process that may take from four months to a year or longer and it frequently involves the cost of hiring of legal counsel. The simple estate affidavit is a streamlined option for transferring personal and real property of a deceased person, if below a specified value. The person who submits the affidavit (the affiant) has duties and powers similar to a personal representative and has a fiduciary's duty of care. Creditors have rights to present claims to the affiant within four months of an original, amended, or supplemental affidavit filing, and can request a summary determination from the court. A creditor can itself initiate the simple estate affidavit process as a "claiming successor" to the estate, if not fully paid within 60 days of the person's death, so long as the simple estate affidavit criteria are met, and after notice to and authorization from the State Treasurer.