

# Senate Bill 843

Sponsored by Senator THATCHER; Senator FAGAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases value of estate for which small estate affidavit may be filed. Provides that total fair market value of estate may not be greater than \$650,000, of which not more than \$150,000 may be personal property and not more than \$500,000 may be real property. Subtracts value of unclaimed property from fair market value of estate for purposes of determining eligibility to file small estate affidavit.

## A BILL FOR AN ACT

1  
2 Relating to small estates; amending ORS 114.515.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 114.515 is amended to read:

5 114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section,  
6 any of the following persons may file an affidavit with the clerk of the probate court in any county  
7 where there is venue for a proceeding seeking the appointment of a personal representative for the  
8 estate:

9 (a) One or more of the claiming successors of the decedent.

10 (b) If the decedent died testate, any person named as personal representative in the decedent's  
11 will.

12 (c) The Director of Human Services, the Director of the Oregon Health Authority or an attorney  
13 approved under ORS 114.517, if the decedent received public assistance as defined in ORS 411.010,  
14 received medical assistance as defined in ORS 414.025 or received care at an institution as defined  
15 in ORS 179.010, and it appears that the assistance or the cost of care may be recovered from the  
16 estate of the decedent.

17 (2) An affidavit under this section may be filed only if:

18 (a) The fair market value of the estate is [*\$275,000*] **\$650,000** or less;

19 (b) Not more than [*\$75,000*] **\$150,000** of the fair market value of the estate is attributable to  
20 personal property; and

21 (c) Not more than [*\$200,000*] **\$500,000** of the fair market value of the estate is attributable to  
22 real property.

23 (3) An affidavit under this section may not be filed until 30 days after the death of the decedent.

24 (4) An affidavit filed under the provisions of this section must contain the information required  
25 in ORS 114.525 and shall be made a part of the probate records. If the affiant is an attorney ap-  
26 proved by the Director of Human Services or the Director of the Oregon Health Authority, a copy  
27 of the document approving the attorney must be attached to the affidavit.

28 (5) In determining fair market value under this section, the fair market value of the entire in-  
29 terest in the property included in the estate shall:

30 (a) Be used without reduction for liens or other debts.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **(b) Be reduced by the value of the decedent's unclaimed property reported to the De-**  
2 **partment of State Lands for which a claim must be filed under ORS 98.392.**

3       (6) The clerk of the probate court shall charge and collect the fee established under ORS 21.145  
4 for the filing of any affidavit under this section.

5       (7) Any error or omission in an affidavit filed under this section may be corrected by filing an  
6 amended affidavit within four months after the filing of the affidavit.

7       (8) One or more supplemental affidavits may be filed at any time after the filing of an affidavit  
8 under this section for the purpose of including property not described in the original affidavit.  
9 Copies of all previously filed affidavits must be attached to the supplemental affidavit and all infor-  
10 mation required in ORS 114.525 must be reflected in the supplemental affidavit. A supplemental af-  
11 fidavit may not be filed if by reason of the additional property described in the supplemental  
12 affidavit any limitation imposed by subsection (2) of this section is exceeded.

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