

**HB 2509 A STAFF MEASURE SUMMARY****Carrier:** Rep. Owens**House Committee On Judiciary****Action Date:** 03/21/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 9-0-1-0**Yeas:** 9 - Andersen, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan**Exc:** 1 - Bynum**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Patricia Pascone, LPRO Analyst**Meeting Dates:** 2/28, 3/21**WHAT THE MEASURE DOES:**

Permits the transfer of a recorded livestock brand if an interested person makes a request to the Oregon Department of Agriculture (ODA) within six months of the owner's death and submits certified copies of certain probate documents, a small estate affidavit, or the affidavit currently authorized when the owner has died intestate. Defines interested person to include a personal representative of an estate, an affiant of a small estate affidavit, or a person entitled to the brand under the laws of descent and distribution if no probate or small estate proceeding has been initiated.

**ISSUES DISCUSSED:**

- Brands are used to identify owners of cattle at large or at market
- Sentimental value of brands
- Expense of opening a probate proceeding
- Limits of agency authority under current law

**EFFECT OF AMENDMENT:**

Replaces the measure.

**BACKGROUND:**

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 directs how and when a recorded brand can be transferred upon death. 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 in a residuary clause. A residuary clause in a will is insufficient to transfer a recorded brand to the devisee. Instead, the will must specifically list the recorded brand and to whom it will be transferred; there is otherwise a presumption that multiple heirs to the estate have an ownership interest in the brand, but a brand can only be transferred to one person. Additionally, ODA can only transfer a brand upon presentation of a probate court order or an ODA affidavit attesting that the owner died intestate and the affiant is entitled to the brand. An estate where there is a will but little of value and which qualifies as a "small estate" under Oregon law fits neither category. It may require a potentially costly probate matter to have a court issue an order of transfer.

House Bill 2509 A permits a recorded livestock brand to be transferred after death of an owner when an interested person, including a small estate affiant, submits a transfer request along with certain documents to the Oregon Department of Agriculture within six months of the owner's death.