

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2509
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

June 5

1 On page 2 of the printed A-engrossed bill, after line 31, insert:

2 **“SECTION 1a. If Senate Bill 308 becomes law, section 1 of this 2023 Act (amending ORS**
3 **114.535) is repealed and ORS 114.535, as amended by section 13, chapter 17, Oregon Laws 2023**
4 **(Enrolled Senate Bill 308), is amended to read:**

5 “114.535. (1) The affiant may deliver a certified copy of a simple estate affidavit to any person
6 who has possession of personal property belonging to the estate or who was indebted to the
7 decedent. Except as provided in this section, upon receipt of the certified copy, the person shall pay
8 the debt or transfer, deliver, provide access to and allow possession of the personal property to the
9 affiant.

10 “(2) Subject to ORS 114.537, if a certified copy of a simple estate affidavit is delivered under
11 subsection (1) of this section to a person that controls access to personal property belonging to the
12 estate of the decedent, including personal property held in a safe deposit box for which the decedent
13 was the sole lessee or the last surviving lessee, the person shall:

14 “(a) Provide the affiant with access to the decedent’s personal property; and

15 “(b) Allow the affiant to take possession of the personal property.

16 “(3) Subject to ORS 114.537, if a certified copy of a simple estate affidavit is delivered under
17 subsection (1) of this section to a person who owes a debt to the decedent or has received property
18 of the decedent under ORS 446.616, 708A.430, 723.466 or 803.094, or a similar statute providing for
19 the transfer of property of an estate that is not being probated, the person shall pay the debt or
20 transfer, deliver, provide access to or allow possession of the property to the affiant if the person
21 would be required to pay the debt or transfer, deliver, provide access to or allow possession of the
22 property to a personal representative of the estate.

23 “(4) Any person that pays a debt owing to the decedent or transfers, delivers, provides access
24 to or allows possession of property of a decedent in the manner provided by this section is dis-
25 charged and released from any liability or responsibility for the debt or property in the same manner
26 and with the same effect as if the debt had been paid or the property had been transferred or de-
27 livered to a personal representative of the estate of the decedent.

28 “(5) The affiant may deliver a certified copy of a simple estate affidavit to a transfer agent of
29 any corporate security registered in the name of the decedent. The transfer agent shall change the
30 registered ownership on the books of the corporation to the affiant or the person named in the af-
31 fidavit entitled to it, as directed by the affiant.

32 **“(6) If the decedent was a holder of a recorded brand, the affiant may deliver a certified**
33 **copy of a simple estate affidavit to the State Department of Agriculture. Subject to the re-**
34 **quirements under ORS 604.041, the department shall change the registered ownership of the**

1 **recorded brand to the affiant or the person named in the affidavit entitled to it, as directed**
2 **by the affiant.**

3 “[*(6)(a)*] **(7)(a)** If a person to whom a certified copy of a simple estate affidavit is delivered under
4 this section refuses to pay a debt or deliver, transfer, provide access to or allow possession of per-
5 sonal property as required by this section, the affiant may serve a written demand by certified mail
6 on the person to pay the debt or deliver, transfer, provide access to or allow possession of the per-
7 sonal property. The demand must state that, if the person fails to pay the debt or deliver, transfer,
8 provide access to or allow possession of the personal property, the affiant may file a motion to
9 compel payment of the debt or delivery of, transfer of or access to the personal property.

10 “(b) If the person fails to pay the debt or deliver, transfer, provide access to or allow possession
11 of the personal property within 30 days after service of a demand under paragraph (a) of this sub-
12 section, the affiant may file a motion to compel payment of the debt or delivery of, transfer of or
13 access to the personal property. The court may enter a judgment awarding reasonable attorney fees
14 to the prevailing party if the court finds that the affiant filed the motion without an objectively
15 reasonable basis or the person refused to pay the debt or deliver, transfer, provide access to or al-
16 low possession of any personal property without an objectively reasonable basis.

17 “[*(7)*] **(8)** If a simple estate affidavit was signed by the Director of Human Services, the Director
18 of the Oregon Health Authority or an attorney approved under ORS 114.517, the Director of Human
19 Services, the Director of the Oregon Health Authority or the attorney may certify a copy of the
20 affidavit for the purposes described in this section.

21 “[*(8)*] **(9)** Notwithstanding ORS chapters 270, 273 and 274, an estate administrator of the State
22 Treasurer appointed under ORS 113.235 or the Director of Human Services or Director of the
23 Oregon Health Authority serving as an affiant may deal with property of the estate as an affiant
24 under this section.”.

25 On page 3, after line 35, insert:

26 “**SECTION 2a.** If Senate Bill 308 becomes law, ORS 604.041, as amended by section 2 of this
27 2023 Act, is amended to read:

28 “604.041. (1) Except as provided in subsection (2) of this section, in order to transfer a recorded
29 brand by sale, assignment or otherwise, the transferor shall submit a written, signed and witnessed
30 document of transfer to the State Department of Agriculture, accompanied by an application of the
31 transferee as prescribed in ORS 604.027 (1), accompanied by a brand transfer fee, not to exceed \$50.
32 Upon determining that the brand transfer documents are in order, the department shall issue its
33 certificate of recordation to the transferee.

34 “(2)(a) As used in this subsection, ‘interested person’ means any of the following:

35 “(A) The person who has been appointed by a court to serve as personal representative of the
36 decedent’s estate;

37 “(B) The affiant under a [*small*] **simple** estate affidavit described in ORS 114.515; or

38 “(C) If no probate or [*small*] **simple** estate proceeding has been initiated for the administration
39 of the decedent’s estate, a person entitled by the laws of descent and distribution to have the brand
40 recorded to the person.

41 “(b) In the event of the death of a holder of a recorded brand, the department may transfer the
42 recorded brand as provided in this subsection.

43 “(c) No later than six months following date of death of a holder of a recorded brand, an inter-
44 ested person may request the transfer of the recorded brand by submitting to the department an
45 application prescribed in ORS 604.027 (1), the brand transfer fee prescribed in subsection (1) of this

1 section and:

2 “(A) If the interested person is the personal representative of the decedent’s estate, a certified
3 copy of the letters testamentary or letters of administration;

4 “(B) If the interested person is an affiant of a [*small*] **simple** estate affidavit filed under ORS
5 114.515, a certified copy of the affidavit; or

6 “(C) If the interested person is a person entitled by the laws of descent and distribution to have
7 the brand recorded to the person, the affidavit described in paragraph (d) of this subsection.

8 “(d) The affidavit required under paragraph (c)(C) of this subsection must include:

9 “(A) The name and address of the decedent and the date and place of death;

10 “(B) The name and address of the affiant, and if the intended transferee is another person, the
11 name and address of such person with a statement of intent to transfer to the person;

12 “(C) A description of the recorded brand as prescribed in ORS 604.027 (1);

13 “(D) A statement that no probate or [*small*] **simple** estate proceeding has been initiated for the
14 administration of the decedent’s estate; and

15 “(E) A statement that the affiant is entitled to have the described brand transferred to the
16 affiant or to the other named person, and that the affiant agrees to the termination of the brand
17 recordation should the affidavit be found false in any material respect.

18 “(3) If the transfer documents prescribed in subsection (2) of this section are not submitted
19 within six months after the death of the holder of the recorded brand, the brand recordation shall
20 terminate and thereafter be available for recording by any person.”.

21 After line 38, insert:

22 “**SECTION 3a.** If Senate Bill 308 becomes law, section 3 of this 2023 Act is amended to read:

23 “**Sec. 3.** The amendments to ORS 114.535 and 604.041 by sections [*1 and 2*] **1a to 2a** of this 2023
24 Act apply to transfers of recorded brands occurring on or after the effective date of this 2023
25 Act.”.

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