

## SENATE AMENDMENTS TO SENATE BILL 308

By COMMITTEE ON JUDICIARY

February 8

1 On page 1 of the printed bill, line 2, delete “112.105.”

2 Delete lines 8 through 19 and insert:

3 “**NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.”

4 On page 3, after line 15, insert:

5 “**SECTION 3a.** ORS 114.525 is amended to read:

6 “114.525. (1) A [*small*] **simple** estate affidavit must:

7 “(a) Contain a notice in substantially the following form, printed in at least 14-point bold type  
8 immediately below the caption on the first page of the [*small*] **simple** estate affidavit:

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NOTICE OF DUTY TO PAY DEBT OR  
TURN OVER PROPERTY

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To: Any person to whom a copy of this [*small*] **simple** estate affidavit is mailed or delivered.

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Under ORS 114.535, if you owe a debt to the decedent or have personal property of the decedent,  
you must pay the debt or turn over the property to the affiant. If you refuse, the affiant may ask  
the court to compel you to pay the debt or turn over the property and you could be responsible for  
the affiant’s attorney fees.

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“(b) State the name and post-office address of the affiant.

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“(c) State the authority under which the affiant is filing the [*small*] **simple** estate affidavit, as  
provided in ORS 114.515.

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“(d) State that the [*small*] **simple** estate affidavit is made under ORS 114.505 to 114.560.

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“(e) State the name, age, domicile and post-office address and last four digits of the Social Se-  
curity number of the decedent.

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“(f) State the date and place of the decedent’s death.

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“(g) Describe and state the fair market value of all property in the estate, valued as provided  
in ORS 114.510, including a legal description of any real property.

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“(h) State that no personal representative of the estate has been appointed in Oregon, that there  
is no pending petition for appointment of a personal representative of the estate in Oregon and that  
the estate is not currently being administered in Oregon.

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“(i) State whether the decedent died testate or intestate.

“(j) List the heirs of the decedent and the last address of each heir as known to the affiant, and  
state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent

1 died testate, will be delivered to each heir or mailed to the heir at the last-known address.

2 “(k) If the decedent died testate, list the devisees of the decedent and the last address of each  
3 devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing  
4 the date of filing will be delivered to each devisee or mailed to the devisee at the last-known ad-  
5 dress.

6 “(L) State the interest in the property described in the affidavit to which each heir or devisee  
7 is entitled and the interest, if any, that will escheat.

8 “(m) State that reasonable efforts have been made to ascertain creditors of the estate.

9 “(n) List the claims against the estate that are undisputed by the affiant and that remain unpaid  
10 or on account of which the affiant or any other person is entitled to reimbursement from the estate,  
11 including the known or estimated amounts of the claims and the names and addresses of the credi-  
12 tors as known to the affiant, and state that a copy of the affidavit showing the date of filing will  
13 be delivered to each creditor who has not been paid in full or mailed to the creditor at the last-  
14 known address.

15 “(o) Separately list the name and address of each person known to the affiant to assert a claim  
16 against the estate that the affiant disputes and the known or estimated amount of the claims dis-  
17 puted by the affiant and state that a copy of the affidavit showing the date of filing will be delivered  
18 to each such person or mailed to the person at the last-known address.

19 “(p)(A) State the mailing address for presentment of claims; and

20 “(B) If the affiant wishes to authorize creditors to present claims by electronic mail or facsimile  
21 communication, state the electronic mail address or facsimile number for presentment of claims.

22 “(q) List anticipated administrative expenses and attorney fees, if any.

23 “(r) State that the affiant is not disqualified from acting as an affiant under ORS 114.515 (2).

24 “(s) State that a copy of the affidavit showing the date of filing and a copy of the death record  
25 will be mailed or delivered to the Department of Human Services or to the Oregon Health Authority,  
26 as prescribed by rule by the department or authority.

27 “(t) State, to the best of the affiant’s knowledge, whether the decedent was incarcerated in a  
28 correctional facility in this state at any time in the 15 years before the decedent’s death and, if the  
29 decedent was incarcerated in a correctional facility in this state at any time in the 15 years before  
30 the decedent’s death, state that a copy of the affidavit showing the date of filing and a copy of the  
31 death record will be mailed or delivered to the Department of Corrections.

32 “(u) State that undisputed claims against the estate will be paid as provided in ORS 114.545.

33 “(v) State that claims against the estate not listed in the affidavit or in amounts larger than  
34 those listed in the affidavit may be barred unless:

35 “(A) A claim is presented to the affiant within four months of the filing of the affidavit or  
36 amended affidavit at the address, electronic mail address or facsimile number stated in the affidavit  
37 for presentation of claims; or

38 “(B) A petition for appointment of a personal representative of the estate is filed within the time  
39 allowed under ORS 114.555.

40 “(w) If the affidavit lists one or more claims that the affiant disputes, state that any such claim  
41 may be barred unless:

42 “(A) A petition for summary determination is filed within four months of the filing of the affi-  
43 davit; or

44 “(B) A petition for appointment of a personal representative of the estate is filed within the time  
45 allowed under ORS 114.555.

1           “(2) The affiant shall file a certified copy of the death record of the decedent as a confidential  
2 document.

3           “(3) If the decedent died testate, the affiant shall file simultaneously with the [small] **simple**  
4 estate affidavit:

5           “(a)(A) The original will; or

6           “(B) If the original will is filed in an estate proceeding in another jurisdiction, a certified copy  
7 of the original will; and

8           “(b) Proof of the will meeting the requirements of ORS 113.055.

9           **“(4) If the simple estate affidavit is filed under ORS 114.510 (1)(b), the affiant shall also**  
10 **file simultaneously with the simple estate affidavit a copy of the trust instrument or a cer-**  
11 **tification of the trust under ORS 130.860.”.**

12           On page 8, delete lines 16 through 45 and delete page 9.

13           On page 10, delete lines 1 through 9 and insert:

14           **“NOTE:** Section 12 was deleted by amendment. Subsequent sections were not renumbered.”.

15           On page 21, line 20, after the period delete the rest of the line and delete line 21.

16           In line 22, delete “(2)”.

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