

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 308**

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
4 not renumbered.”.

5 On page 3, after line 15, insert:

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

7 “114.525. (1) A [*small*] **simple** estate affidavit must:

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

11 “

12 **NOTICE OF DUTY TO PAY DEBT OR**
13 **TURN OVER PROPERTY**

14

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

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

- 1 “ _____
- 2 “(b) State the name and post-office address of the affiant.
- 3 “(c) State the authority under which the affiant is filing the [small]
- 4 **simple** estate affidavit, as provided in ORS 114.515.
- 5 “(d) State that the [small] **simple** estate affidavit is made under ORS
- 6 114.505 to 114.560.
- 7 “(e) State the name, age, domicile and post-office address and last four
- 8 digits of the Social Security number of the decedent.
- 9 “(f) State the date and place of the decedent’s death.
- 10 “(g) Describe and state the fair market value of all property in the estate,
- 11 valued as provided in ORS 114.510, including a legal description of any real
- 12 property.
- 13 “(h) State that no personal representative of the estate has been appointed
- 14 in Oregon, that there is no pending petition for appointment of a personal
- 15 representative of the estate in Oregon and that the estate is not currently
- 16 being administered in Oregon.
- 17 “(i) State whether the decedent died testate or intestate.
- 18 “(j) List the heirs of the decedent and the last address of each heir as
- 19 known to the affiant, and state that a copy of the affidavit showing the date
- 20 of filing and a copy of the will, if the decedent died testate, will be delivered
- 21 to each heir or mailed to the heir at the last-known address.
- 22 “(k) If the decedent died testate, list the devisees of the decedent and the
- 23 last address of each devisee as known to the affiant and state that a copy
- 24 of the will and a copy of the affidavit showing the date of filing will be de-
- 25 livered to each devisee or mailed to the devisee at the last-known address.
- 26 “(L) State the interest in the property described in the affidavit to which
- 27 each heir or devisee is entitled and the interest, if any, that will escheat.
- 28 “(m) State that reasonable efforts have been made to ascertain creditors
- 29 of the estate.
- 30 “(n) List the claims against the estate that are undisputed by the affiant

1 and that remain unpaid or on account of which the affiant or any other
2 person is entitled to reimbursement from the estate, including the known or
3 estimated amounts of the claims and the names and addresses of the creditors
4 as known to the affiant, and state that a copy of the affidavit showing the
5 date of filing will be delivered to each creditor who has not been paid in full
6 or mailed to the creditor at the last-known address.

7 “(o) Separately list the name and address of each person known to the
8 affiant to assert a claim against the estate that the affiant disputes and the
9 known or estimated amount of the claims disputed by the affiant and state
10 that a copy of the affidavit showing the date of filing will be delivered to
11 each such person or mailed to the person at the last-known address.

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

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

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

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

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

23 “(t) State, to the best of the affiant’s knowledge, whether the decedent
24 was incarcerated in a correctional facility in this state at any time in the
25 15 years before the decedent’s death and, if the decedent was incarcerated in
26 a correctional facility in this state at any time in the 15 years before the
27 decedent’s death, state that a copy of the affidavit showing the date of filing
28 and a copy of the death record will be mailed or delivered to the Department
29 of Corrections.

30 “(u) State that undisputed claims against the estate will be paid as pro-

1 vided in ORS 114.545.

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

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

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

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

11 “(A) A petition for summary determination is filed within four months
12 of the filing of the affidavit; or

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

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

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

19 “(a)(A) The original will; or

20 “(B) If the original will is filed in an estate proceeding in another juris-
21 diction, a certified copy of the original will; and

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

23 “(4) **If the simple estate affidavit is filed under ORS 114.510 (1)(b),**
24 **the affiant shall also file simultaneously with the simple estate affi-**
25 **davit a copy of the trust instrument or a certification of the trust**
26 **under ORS 130.860.”.**

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

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

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

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

3 In line 22, delete “(2)”.

4
