

## **SB 15 -3 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

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**Meeting Dates:** 1/27, 2/24

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#### **WHAT THE MEASURE DOES:**

The measure increases the limits on the fair market value of a deceased person's assets for purpose of qualifying for a simple estate affidavit process. It also requires the State Court Administrator to annually calculate and apply cost of living adjustments to the limits.

#### Detailed Summary

- Increases limits to assets' fair market values, below which a simple estate affidavit process may be used, as follows:
  - For personal property, raising the limit from \$75,000 to \$250,000.
  - For real estate property, raising the limit from \$200,000 to \$750,000.
- Requires the State Court Administrator to annually calculate the cost of living increases or decreases and administratively adjust the limits by July 1 each year, for simple estate affidavits filed on or after July 1 of the following year.
- Applies changes in value limits to simple estate affidavits filed on after the measure's effective date (Jan. 1, 2026).

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

-3 The amendment replaces the measure and establishes new estate value limits for the purpose of qualifying for a simple estate affidavit process, and it requires the State Court Administrator to annually calculate and apply cost of living adjustments to the limits.

#### Detailed Summary

- Clarifies that the existing limitation in ORS 114.510 -- that fair market value (FMV) not exceed \$75,000 attributable to personal property and \$200,00 attributable real property, -- applies to estates of decedents who died testate (with a will) or intestate (without a will) and the total estate FMV is \$275,000 or less.
- Clarifies that the total FMV limit attributable to real and personal property is also \$275,000 for a decedent who created a trust during their lifetime, died testate, and in the will devised all property over the FMV limit to the trustee of the trust.
- Adds the ability to use a simple estate affidavit when:
  - the decedent died testate;
  - the estate FMV is greater than \$275,000 but less than \$1 million, of which not more than \$250,000 is attributable to personal property and not more than \$750,000 is attributable to real property; and
  - the estate would distribute all assets to one distributee (recipient) who is the sole devisee named in the will.
- Requires the State Court Administrator to annually calculate the cost of living increases or decreases and administratively adjust the limits by July 1 each year for the following calendar year, and apply it to simple estate affidavits filed after July 1 of year in which an adjustment is made.
- Makes conforming amendments to laws that reference ORS 114.510 subsections renumbered by the measure.
- Applies changes in value limits to estates of decedents dying after the the measure's effective date (Jan. 1, 2026).

**BACKGROUND:**

A full probate is the most common form of estate administration. Probate is a court-supervised process that may take from four months to a year or longer and it frequently involves the cost of hiring of legal counsel. The simple estate affidavit is a streamlined option for transferring personal and real property of a deceased person, if below a specified value. The person who submits the affidavit (the affiant) has duties and powers similar to a personal representative and has a fiduciary's duty of care. Creditors have rights to present claims to the affiant within four months of an original, amended, or supplemental affidavit filing, and can request a summary determination from the court. A creditor can itself initiate the simple estate affidavit process as a "claiming successor" to the estate, if not fully paid within 60 days of the person's death, so long as the simple estate affidavit criteria are met, and after notice to and authorization from the State Treasurer.