CHAPTER 34

AN ACT SB 168

Relating to estates; creating new provisions; and amending ORS 111.200, 112.105, 112.235, 112.238 and 114.510.

Be It Enacted by the People of the State of Oregon:

INTESTATE SUCCESSION

SECTION 1. ORS 112.105 is amended to read:

112.105. (1) For all purposes of intestate succession, full effect shall be given to all relationships as described in ORS 109.060, except as otherwise provided by law in case of adoption.

(2) For all purposes of intestate succession and for those purposes only, before the relationship of parent and child and other relationships dependent upon the establishment of parentage shall be given effect under subsection (1) of this section:

(a) The parentage of the child shall have been established under ORS 109.065 during the lifetime of the child; [*and*] **or**

(b) The parent must have acknowledged being the parent of the child in writing, signed by the parent during the lifetime of the child.

SIMPLE ESTATES

SECTION 2. ORS 114.510 is amended to read:

114.510. (1) A person who meets the requirements of ORS 114.515 may file a simple estate affidavit only with regard to an estate in which:

(a)(A) Not more than $75,000 of the fair market value of the estate is attributable to personal property; and

(B) Not more than $200,000 of the fair market value of the estate is attributable to real property; or

(b) The decedent died testate and:

(A) Not more than $75,000 of the fair market value of the estate is attributable to **personal property that is** specifically devised [*personal property*] **to devisees other than the trustee of a trust described in subparagraph (C) of this paragraph**;

(B) Not more than $200,000 of the fair market value of the estate is attributable to **real property that is** specifically devised [*real property*] **to devisees other than the trustee of a trust described in subparagraph (C) of this paragraph**; and

(C) The balance of the fair market value of the estate is attributable to property that is devised to the trustee of a trust of which the decedent was a settlor, as defined in ORS 130.010, and which came into existence prior to the decedent's date of death.

(2)(a) The fair market value of the estate under subsection (1) of this section shall be determined:

(A) As of the date of death; or

(B) If the date of death is more than one year before the date of filing of the affidavit, as of a date within 45 days before the filing of the affidavit.

(b) In determining fair market value under this subsection, the fair market value of the entire interest in the property included in the estate shall be used without reduction for liens or other debts.

WILL EXECUTION FORMALITIES

SECTION 3. ORS 112.235 is amended to read:

112.235. (1) Except as provided in ORS 112.238, a will shall be in writing and shall be executed in accordance with the following formalities:

(a) The testator, in the presence of each of the witnesses, shall:

(A) Sign the will;

(B) Direct one of the witnesses or some other person to sign the name of the testator and the signer's own name on the will; or

(C) Acknowledge the signature previously made on the will by the testator or at the testator's direction.

(b) At least two witnesses shall each:

(A)(i) See the testator sign the will;

(ii) Hear the testator acknowledge the signature on the will; or

(iii) Hear or observe the testator direct some other person to sign the name of the testator; and

(B) Attest the will by signing the witness' name to the will within a reasonable time before the testator's death.

(2) The signature by a witness on an affidavit executed contemporaneously with execution of a will is considered a signature by the witness on the will in compliance with subsection (1)(b)(A)(iii) of this section if necessary to prove the will was duly executed in compliance with this section.

(3) A will executed in compliance with the Uniform International Wills Act shall be deemed to have complied with the formalities of this section.

(4) As used in this section **and ORS 112.238**, "writing" does not include an electronic record, document or image.

SECTION 4. ORS 112.238 is amended to read:

112.238. (1) Although a writing was not executed in compliance with ORS 112.235, the writing may be treated as if it had been executed in compliance with ORS 112.235 if**:**

(a) The writing was executed before the decedent's death;

(b)(A) The decedent signed the writing; or

(B) At the direction of the decedent, another person signed the name of the decedent and the signer's own name on the writing; and

(c) The proponent of the writing establishes by clear and convincing evidence that the decedent intended the writing to constitute:

[*(a)*] **(A)** The decedent's will;

[*(b)*] **(B)** A partial or complete revocation of the decedent's will; or

[*(c)*] **(C)** An addition to or an alteration of the decedent's will.

(2) A writing described in subsection (1) of this section may be filed with the court for administration as the decedent's will pursuant to ORS 113.035. The proponent of the writing shall give notice of the filing of the petition under ORS 113.035 to those persons identified in ORS 113.035 (5), (7), (8) and (9). Persons receiving notice under this subsection shall have 20 days after the notice was given to file written objections to the petition. The court may make a determination regarding the decedent's intent after a hearing or on the basis of affidavits.

(3) The proponent of a writing described in subsection (1) of this section may file a petition with the court to establish the decedent's intent that the writing was to be a partial or complete revocation of the decedent's will or an addition to or an alteration of the decedent's will. The proponent shall give notice of the filing to any personal representative appointed by the court, the devisees named in any will admitted to probate and those persons identified in ORS 113.035 (5). Persons receiving notice under this subsection shall have 20 days after the notice was given to file written objections to the petition. The court may make a determination regarding the decedent's intent after a hearing or on the basis of affidavits.

(4)(a) If the court determines that clear and convincing evidence exists showing that a writing described in subsection (1) of this section was intended by the decedent to accomplish one of the purposes set forth in subsection (1) of this section, the court shall:

(A) Prepare written findings of fact in support of the determination; and

(B) Enter a limited judgment that admits the writing for probate as the decedent's will or otherwise acknowledges the validity and intent of the writing.

(b) A determination under this subsection does not preclude the filing of a will contest under ORS 113.075, except that the will may not be contested on the grounds that the will was not executed in compliance with ORS 112.235.

(5) The fee imposed and collected by the court for the filing of a petition under this section shall be in accordance with ORS 21.135.

PROBATE COURT PROCEDURE

SECTION 5. ORS 111.200 is amended to read:

111.200. (1) As used in this section:

(a) "Probate proceeding" means a proceeding under ORS chapter 111, 112, 113, 114, 115, 116 or 117 for the administration of a decedent's estate.

(b) "Probate proceeding" does not include:

(A) A proceeding for summary determination of a claim under ORS 115.145 (1)(b); or

(B) A declaratory judgment action under ORS chapter 28.

(2) Except as otherwise provided in ORS 111.205, 111.218, 112.588, 113.005, 113.105, 114.720, 115.315, 116.083 or 116.253, the Oregon Rules of Civil Procedure and the Oregon Evidence Code do not apply to probate proceedings.

(3) Notwithstanding subsection (2) of this section:

(a) ORCP 12 applies to any probate proceeding.

(b) ORCP 9, 10 A, 16 B, 16 D, 17, 18, 19, 21, 22, 23, 25, 27, 29, 30, 31, 33, 34 A to F, 36 to 43, 44 A, B, D and E, **45,** 46, 47, 53, 55, 62, 64 A and C to G, 65, 67, 68, 71, 72 and 78 apply to a contested issue in a probate proceeding.

(c) The Oregon Evidence Code applies to a contested issue in a probate proceeding.

(4) For the purposes of applying the Oregon Rules of Civil Procedure to a contested issue in a probate proceeding:

(a) "Plaintiff" means any party asserting a claim for relief, whether by way of petition or motion; and

(b) "Defendant" means:

(A) Any party against whom the claim is asserted;

(B) Any party objecting to the petition or motion; or

(C) If the court issues a show cause order, the party subject to the order.

(5)(a) For the purposes of this section, an issue in a probate proceeding is contested if it is or arises from:

(A) A petition or motion for declaratory judgment, including a will contest;

(B) A petition to remove a court-appointed fiduciary;

(C) A petition or motion for affirmative relief of any sort against a person;

(D) A petition or motion to apportion the proceeds of a wrongful death settlement;

(E) If filed by a person other than the personal representative:

(i) A motion to increase the amount of the bond of the personal representative, or to require a new bond;

(ii) A petition to restrict the powers of the personal representative;

(iii) A petition to determine heirship;

(iv) A petition for instructions; or

(v) A petition to appoint a fiduciary other than the fiduciary nominated in the will admitted to probate;

(F) Any other petition or motion to which another person has filed an objection; or

(G) Any other petition, motion or show cause order determined by the court to be a contested issue in a probate proceeding.

(b) Notwithstanding paragraph (a) of this subsection, unless otherwise determined by the court, the following are not contested issues in probate proceedings:

(A) A petition for summary review of administration of a simple estate under ORS 114.550;

(B) A petition or motion for summary determination of a claim as provided in ORS 114.542 or 115.145 (1)(a); or

(C) An application for an order directing payment of a claim under ORS 115.185.

(6) Nothing in this section is intended to affect the burden of proof or standard of proof that is applied in probate proceedings.

APPLICABILITY

SECTION 6. (1) The amendments to ORS 112.105 and 114.510 by sections 1 and 2 of this 2025 Act apply to estates of decedents dying on or after the effective date of this 2025 Act.

(2) Notwithstanding section 36, chapter 387, Oregon Laws 2015, the amendments to ORS 112.235 and 112.238 by sections 3 and 4 of this 2025 Act apply to a writing executed before, on or after the effective date of this 2025 Act, if the writing was executed by or at the direction of a decedent dying on or after the effective date of this 2025 Act.

(3) The amendments to ORS 111.200 by section 5 of this 2025 Act apply to contested issues first raised in a probate proceeding on or after the effective date of this 2025 Act.

CAPTIONS

SECTION 7. The unit captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.

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