

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of:

Case No: _____

**SMALL ESTATE
AFFIDAVIT**

Amended

Decedent
(print legal name of the deceased)

Filing Fee at ORS 21.145(4)

NOTICE OF DUTY TO PAY DEBT OR TURN OVER PROPERTY

To any person who receives a copy of this affidavit:

Under ORS 114.535¹, 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.

I swear that the following statements are true to the best of my knowledge. I understand that this affidavit has legal consequences and that I can talk to a lawyer. The legal fees can be paid by Decedent's estate if listed in this affidavit. I understand that I may have to personally pay for mistakes, omissions, or failure to perform a duty or obligation.

THIS AFFIDAVIT IS BEING FILED BY A CREDITOR OF THE ESTATE BECAUSE DECEDENT DIED INTTESTATE AND WITHOUT HEIRS. WRITTEN AUTHORIZATION FOR THIS FILING FROM THE STATE TREASURER IS ATTACHED.

Thirty (30) or more days have passed since Decedent died

No probate or small estate exists. No personal representative for the decedent's estate has been appointed in Oregon, no petition is pending for appointment of a personal representative of the estate in Oregon, and no other small estate affidavit has been filed in Oregon.

This Affidavit is filed in this court because:

- Decedent died in this county
- At death, Decedent lived in or owned property in this county
- Decedent's estate currently owns property located in this county

¹ https://www.oregonlegislature.gov/bills_laws/ors/ors114.html

AFFIANT'S INFORMATION (person completing this Affidavit)

Name: _____
Mailing Address: _____

Phone: _____

1. I have authority to file this affidavit because (check all that apply):

- I am an heir of Decedent and Decedent left no will
- I am a devisee (entitled to receive something) in Decedent's will
- I am named as personal representative in Decedent's will
- I am a creditor of Decedent or the estate and was not paid the full amount owed within 60 days after Decedent's death

and (check one):

- Decedent died without a will (intestate) and without heirs. I have attached authorization from the State Treasurer allowing me to file this affidavit. **or**
- Authorization from the State Treasurer is not required because Decedent died with a will (testate) or left heirs

2. I am qualified to serve as the affiant because all the following are true:

- I am 18 years old or older
- I have not been convicted of a felony in Oregon or another state
- I am not incapacitated or financially incapable (I am able to make health care decisions and manage my business affairs)
- I am not currently suspended or disbarred from the practice of law; I did not resign from the Oregon State Bar while misconduct charges were pending
- I am not a licensed funeral service practitioner unless Decedent was a relative of mine or Decedent was a licensed funeral service practitioner in a business relationship with me

DECEDENT'S INFORMATION

3. A certified copy of Decedent's **death certificate is filed with this affidavit (required)**

Name: _____
As shown on the death certificate

Residence Address: _____

Mailing Address: _____

Social Security # (last 4 digits): _____

Date of Death: _____ Age at Death: _____

Address for Place of Death: _____

ASSETS

4. The **valuation date** for the decedent's estate is:
 Decedent's date of death (*if Affidavit is filed one year or less after Decedent's death*)
 Within 45 days before filing this Affidavit (*if Affidavit is filed more than one year after the date of death*)

5. As far as I know, the following assets are in the decedent's estate and subject to administration in Oregon. My authority as affiant applies only to the assets listed here.

Real Property Maximum total value \$200,000 (see Instructions) <i>List street address. You MUST include or attach a legal description.</i>	Fair Market Value
<input type="checkbox"/> None	-----
Total value of all real property	

Additional page attached titled "Section 5 – Real Property"

Personal Property Maximum total value \$75,000 (see Instructions) <i>(Clearly identify assets according to the Instructions)</i>	Fair Market Value
<input type="checkbox"/> None	-----
Total value of all personal property	

Additional page attached titled "Section 5 – Personal Property"

6. Decedent's **safe deposit box** (*check all that apply*):
No inventory required
 Decedent **did not** rent a safe deposit box, either alone or with others *and* did not own any contents in a box rented by someone else
 Decedent **did** rent a safe deposit box with others, and at least one of the others is still alive and Decedent did not own any contents in the box
or
Inventory required
 Decedent **owned** contents in a safe deposit box rented by someone else
 Decedent **did** rent a safe deposit box alone *or* with other people and none of the others is still alive
and
 I have an inventory of the box from the bank or credit union that has the box (*see ORS 114.537(1)*)
 I have listed all assets in the box that have value, if any, on this Affidavit (*assets have value if they can be sold*)

The safe deposit box assets have no value *or* have value as listed in Section 5

- I have no information about a safe deposit box. **If I later discover** that the decedent **did** rent a safe deposit box, either alone or with others who have all died, **I will:**
 - Get an inventory of the box from the bank or credit union that has the box (*see ORS 114.537(2)*)
 - Add the value of the assets in the box, if any, to the total value of personal property listed in section 5 of this Affidavit (*assets have value if they could be sold*)
 - If Decedent’s total items of personal property are still \$75,000 or less, the bank can give me the contents of the box. If any items in the box have value, I will file an amended *Small Estate Affidavit* (*see ORS 114.515(6)*).
 - If Decedent’s total assets are more than \$75,000 after I add the value of the items in the box, then the bank will keep the contents in the box. I will file a notice with the court that the estate is no longer a small estate. I will deliver or mail a copy of that notice to the bank that has the box.

DISTRIBUTION OF ASSETS

7. Decedent:

- did not** leave a will (intestate) to the best of my knowledge
- did** leave a will (testate) **and**
 - the original will (not a copy) accompanies this Affidavit **and** the will has an affidavit of attesting witness or affidavit regarding a genuine signature (*If this is not true, you may not be able to file a Small Estate Affidavit, see the Instructions or talk to a lawyer.*)
 - or**
 - Decedent’s will has been submitted for probate in another state. A certified copy of the will accompanies this Affidavit.

8. Heirs

Name of heir	Last known address	Relationship to decedent
<input type="checkbox"/> There are no heirs (<i>see ORS 112.015 – 112.115</i>)		

Additional page attached titled “Section 8 - Heirs”

9. Devisees

Name of devisee	Last-known address
<input type="checkbox"/> There are no living devisees or Decedent did not leave a will	

Additional page attached titled “Section 9 – Devisees”

10. Asset Distribution

The following people are entitled to receive the following property from Decedent’s estate:

Name of heir (<i>no will</i>), devisee (<i>will</i>)	Assets to be received <i>(Note any conditions or survivorship provisions here. See Instructions.)</i>

Additional page attached titled “Section 10 – Asset Distribution”

11. Missing heirs or devisees

Decedent died **testate** (left a will) and I can locate all living devisees. None of the devisees are missing without a known address.

Decedent died **intestate** (had no will) and I can locate all living heirs. None of the heirs are missing without a known address.

I cannot locate the following heir or devisee and I do not know if this person has died.
 Person I cannot locate: _____
 Property that person is to receive: _____

Additional page attached titled “Section 11 – Missing Heirs or Devisees”

CLAIMS AGAINST ESTATE

12. I have made reasonable efforts to determine **creditors** of Decedent and the estate. I will continue attempts to determine all creditors of Decedent until distribution is complete.

➤ Creditors should mail claims against the estate to me at (*address*):

(*optional*) Email address*: _____

(*optional*) Fax number*: _____

**Note: Only use email and fax if you will regularly check for communications. If you provide your email address or fax number, the court will assume you receive any communication sent to you that way.*

13. Undisputed Claims

There are no undisputed claims

The following expenses or claims against the estate remain unpaid (including reimbursement owed to someone who paid claims or expenses). I do not dispute these expenses or claims. I will pay undisputed claims as provided in ORS 114.545. (*See Instructions for examples*)

Name and Last Known Address of Creditor	Description of Undisputed Expense or Claim	Amount (<i>known or estimated</i>)

Additional page attached titled "Section 13 – Undisputed Claims"

14. Disputed claims

There are no disputed claims

I dispute the following claims against the estate. I believe these claims may be invalid. (*See Instructions for examples.*)

Name and Last Known Address of Creditor	Description of Disputed Claim	Amount (<i>known or estimated</i>)

Additional page attached titled "Section 14 – Disputed Claims"

15. Estate administration and funeral expenses

I do not expect to have administrative or funeral expenses

I expect to pay the following expenses related to the estate (see Instructions for examples)

Name and Address of Creditor	Description of Expense	Amount <i>(known or estimated)</i>

Additional page attached titled "Section 15 – Estate Expenses"

INFORMATION FOR CREDITORS AND HEIRS AND DEVISEES

Claims may be barred. Some claims against the estate may be barred unless certain things happen.

- (1) Claims against the estate not listed in this Affidavit, or in amounts larger than those listed in this Affidavit, may be barred unless:
 - (i) A claim is presented to the affiant within 4 months of the filing of this Affidavit or an amended Affidavit at the address, email address, or fax number stated in this Affidavit for presenting claims, or
 - (ii) A personal representative of the estate is appointed within the time allowed under ORS 114.555
- (2) If this Affidavit lists one or more claims that the affiant disputes, those claims may be barred unless:
 - (i) A petition for summary determination is filed within 4 months of the filing of this Affidavit or an amended Affidavit, or
 - (ii) A personal representative of the estate is appointed within the time allowed under ORS 114.555

Remedies. If the affiant does not comply with Oregon law and a person is injured because of that, the only ways to take action against the affiant are:

- (1) The summary determination of claims process under ORS 114.540
- (2) The summary review of administration process under ORS 114.550
- (3) The appointment of a personal representative for the estate within the time allowed by ORS 114.555 (usually 4 months from the date the Affidavit was filed)

***Note that **time limits apply** under the statutes

Financial institutions not liable. A financial institution (as defined in ORS 706.008) that opens one or more deposit accounts for an affiant is not liable to any other person for opening the account or accounts or permitting the affiant to withdraw funds from the account or accounts by any means. The financial institution is not required to ensure that the funds of the decedent that are paid out by the affiant are properly applied. See ORS114.545(5).

REQUIRED NOTICES (*Photocopies are allowed, you don't need certified copies*)

➤ **Heirs and devisees**

Within **30 days** after filing this Affidavit with the court, I will deliver or mail to each heir and each devisee, if any, at their last known address:

- a copy of this Affidavit showing the date of filing **and**
- a copy of the will, if the decedent died testate

If there are no heirs or devisees, or if there is a missing heir or devisee, I will deliver or mail a copy of this Affidavit within **30 days** after filing with the court to:

Estate Administrator
Oregon State Treasury
775 Summer Street NE, Suite 100
Salem OR 97301-1279

➤ **Creditors**

Within **30 days** after filing this Affidavit with the court, I will deliver or mail a copy of this Affidavit showing the date of filing to the last known address of:

- each undisputed creditor (listed in section 13 above) **and**
- each disputed creditor (listed in section 14 above)

I will deny any claims that are not presented on time under [ORS 114.540\(1\)\(a\)](#)

I will deny any claims presented on time that are not valid

To deny a claim, I will mail or deliver **written notice** to the person who filed the claim and their attorney, if any, stating the reason for denying the claim and the information required by [ORS 114.540\(2\)](#)

I understand that if I allow a claim that is invalid, I may have to personally pay the cost of the claim

➤ **State**

Within **30 days** after filing this Affidavit with the court, I will deliver or mail a copy of this Affidavit showing the date of filing **and** a copy of the death certificate to the Department of Human Services (DHS) and the Oregon Health Authority at:

Department of Human Services
Estate Administration Unit
PO Box 14021
Salem OR 97309-5024

➤ **Department of Corrections**

Decedent **was not** imprisoned in an Oregon prison at any time during the 15 years before death (*note: a county or city jail is not a prison*)

Or

I do not know if Decedent was imprisoned in an Oregon prison during the 15 years before death

Decedent **was** imprisoned in an Oregon prison during the 15 years before death

And

within **30 days** after this Affidavit is filed with the court, I will send a copy of this Affidavit showing the date of filing **and** a copy of the death certificate to:

Department of Corrections
2575 Center St NE
Salem, OR 97301

AFFIANT DUTIES

You must read and check each section below. You may be personally liable for failing to meet your responsibilities.

- If the court appoints a personal representative for the estate within 4 months after this Affidavit is filed, I will give the personal representative all of Decedent's assets and records
- I will not distribute any assets until all claims, expenses, and taxes have been paid **and** 4 months have passed since this Affidavit was filed
- I will distribute the estate according to the will that was filed with the Affidavit. If Decedent did not leave a will, I will distribute the estate according to the laws of intestacy in [ORS 112.017 - 112.115](#).

Amended Affidavits

- If I discover a material error or omission in this Affidavit, I will file an amended Small Estate Affidavit and serve it as required by [ORS 114.515\(6\)](#)
- If I discover assets Decedent owned that are not listed in this Affidavit, I will file an amended Small Estate Affidavit **before** taking control of those assets according to [ORS 114.515\(6\)](#)
 - If any newly-discovered property makes Decedent's total asset values exceed the maximum values for a small estate, I will promptly notify the court and all persons I notified before, as required in [ORS 114.515\(7\)](#).

Property and Income

- I will take control of, and collect income from, the assets of the estate listed in this Affidavit (see [ORS 114.535](#)). I will only sell assets as provided in [ORS 114.547](#). I understand that my authority over Decedent's assets only applies to assets listed in this Affidavit.
- I will administer the estate as promptly and with as little loss of value as I reasonably can under the circumstances. I understand that I may have to pay for loss of value caused by:
 - o my neglect or unreasonable delay in collecting the estate's assets
 - o paying out money or delivering property in a way I should not have
 - o failing to pay taxes as required by law
 - o failing to close the estate in a reasonable time
 - o dealing with the estate in a way that benefits me personally over creditors, heirs, or devisees
 - o any other negligent or intentional bad acts regarding estate assets, or failing to act in a way that causes loss to the estate
- I will not commingle estate property with my own property or the property of any other person ("commingle" means combine)
- I will keep records of my work on the estate at least until the **later of**: 2 years after the filing of this Affidavit **or** the conclusion of any summary review proceeding under [ORS 114.550](#)
- I will pay estate claims and expenses according to [ORS 114.545\(1\)\(f\)](#) and [ORS 114.545\(1\)\(g\)](#) from estate assets. If the estate does not have enough assets to pay all claims and expenses, I will pay them in the order set out in [ORS 115.125](#).

I have read this Affidavit. The statements in this Affidavit are true and correct to the best of my knowledge. I understand that I make this statement under penalty of perjury. This Affidavit is made under ORS 114.505-114.560.

Date

Signature of Affiant
(DO NOT SIGN until you are with a notary or court clerk)

Print Name

Address

City, State, Zip

Phone

State of _____, County of _____

Signed and sworn to (or affirmed) before me on *(date)* _____ by

(name) _____

Signature of notarial officer

My commission expires: _____

Title *(and rank, if military officer)*