

INSTRUCTIONS **FOR SMALL ESTATE AFFIDAVIT**

TALK TO A LAWYER IF YOU DO NOT UNDERSTAND YOUR DUTIES OR ANY PART OF THESE INSTRUCTIONS!

If you make a mistake, you may have to personally pay the cost of the mistakes and loss to the estate. The Affidavit will be filed with the court and has legal consequences.

These instructions are not a complete statement of the law. You are responsible for following all Oregon laws, even those not explained here.

Contact the Oregon State Bar Lawyer Referral Service if you need help finding a lawyer or have questions about the Bar's Modest Means Program.

Oregon State Bar Lawyer Referral Service - www.oregonstatebar.org
Phone: 503.684.3763 or toll-free in Oregon at 800.452.7636

BEFORE YOU START

- Make sure there are no other probate cases filed on this estate. Go to www.courts.oregon.gov to search online case records or call your local court for help searching.
- DO NOT SIGN THE AFFIDAVIT YET! Your signature must be notarized by a court clerk or notary public. You will need photo identification. Sign the Affidavit in the presence of the notary or clerk.
- **Parties**
 - You are the **Affiant** (the person completing the Affidavit). Affiants have specific legal duties under [ORS 114.505 to 114.560](#).
 - The person who died is the **Decedent**
- You will need the death certificate and the will (if any)
 - You need a certified copy of the **death certificate**. You can get the death certificate from the funeral home or the [Office of Vital Statistics](#).
 - If Decedent died outside Oregon, the death record may not be called a "death certificate." Anywhere these forms use 'death certificate' it means the official record of death.
 - If Decedent left a will, you need the **original will** and an affidavit of attesting witness or affidavit of genuine signature (often attached to the will). [ORS 113.055\(1\)](#) has more information. You may be able to provide other evidence that the signature is Decedent's. Talk to a lawyer about filing a regular probate case if you don't have the will and supporting documents.
 - If the will was submitted for probate in another state, you will need a certified copy. A non-certified photocopy is not enough. Contact the court where the will was submitted.
 - If you only have a copy of the will, you cannot use this form. Talk to a lawyer about filing a regular probate case, which may accept a copy of the will.

- Decedent must have died at least **30 days** before you file the Affidavit (60 days if you are a creditor)
- The “**estate**” means all of Decedent’s assets that are subject to administration by a court in Oregon
 - “Subject to administration” means the asset is in Decedent’s name alone and generally requires the asset to be located in Oregon. Talk to a lawyer if the estate includes assets in another state.
 - The estate does not include assets that transfer automatically to others following death, for example:
 - Assets owned jointly with right of survivorship (like vehicles and bank or investment accounts)
 - Assets that transfer by beneficiary designation (like life insurance and retirement accounts), unless Decedent’s estate is designated as a beneficiary
 - Accounts that are designated payable on death or transfer on death
- Court staff can answer questions about filing your forms, but cannot give you legal advice, including what to put on the form
- Oregon laws are found in the Oregon Revised Statutes (ORS) here: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx. Where you see “ORS” and a number, the first 3 numbers are the chapter and the last 3 numbers are the section. For example, ORS 114.505 means chapter 114 and section 505. Small estates are governed by [Oregon Revised Statutes \(ORS\) 114.505-114.535¹](#). Other laws and rules apply to court filings generally and to probate (estate) law.

QUALIFIED FILERS AND ELIGIBLE ESTATES

FILER / AFFIANT

You can file a *Small Estate Affidavit* if you are any of the following:

- An **heir**. An heir is someone who would inherit from an estate if there is no will. Heirs are defined by [ORS 112.015 – 112.115](#).
- A **devisee**. A devisee is someone named in the will to receive part of the estate. A devisee may be a person, trustee, charity, or other organization.
- A **personal representative**. A will may name a personal representative (also called ‘executor’) to handle the estate.
- A **creditor** of the estate. A creditor is a person or organization who has a claim (debts, for example) against the estate. If you are filing as a creditor, you must mark the appropriate box on the form. If the decedent did not leave a will and has no heirs, you must get written authorization to file the Affidavit from the Department of State Lands.

You can only file the Affidavit if all the statements in Section 2 of the Affidavit are true. Talk to a lawyer if you are not sure you are qualified.

ESTATE

You can only file a *Small Estate Affidavit* if the total value of the estate is under **\$275,000 and:**

- No more than \$75,000 of the fair market value of the estate is from personal property *and*
- No more than \$200,000 of the fair market value of the estate is from real property

The dollar limits are based on the fair market value of the assets. Do not reduce any asset’s value

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

by debts or liens. Do not include any asset that transfers automatically. See the next section for more information about assets. Talk to a lawyer if the estate values are higher than the limits above.

FILL OUT THE FORM

Be sure your entries and descriptions are clear and specific to avoid confusion. If your entries are not clear, you may have to file an amended Affidavit.

YOU MAY HAVE TO PERSONALLY PAY THE COST OF MISTAKES IF YOU DO NOT DISTRIBUTE ASSETS CORRECTLY! Talk to a lawyer if you are not sure how to distribute the estate.

ASSETS (Assets include both real and personal property)

- **Valuation Date** means the date the asset's value is established.
 - If Decedent died within a year of filing the Affidavit, use the value as of the date of death. If it has been more than a year, the valuation date must be no more than 45 days before filing the Affidavit.
 - Example: Decedent died two years before the Affidavit is filed. Asset A was worth \$10,000 when Decedent died. Asset A is worth \$12,000 three weeks before the filing date. Use the \$12,000 value for Asset A.

- **Value to use**
 - Use the fair market value as of the valuation date
 - Do not reduce any values by the amount owed on debts or liens (like mortgages or loans)

- **Real Property** means land or interests in land. This may include a house, rental property, or easement. Mineral rights and timber that was not harvested by the date of death are considered real property. You must use a legal description of the property in addition to the street address.
 - The **legal description** can be found on the deed or by calling the county recorder's office

- **Personal Property** means any asset that is not real property, including intellectual property and money. The following details will help identify assets:
 - Vehicles - year, make, model, VIN, and license number
 - Bank and Investment Accounts - the name of the bank, type of account (checking, savings, IRA, 402(k), brokerage, etc.), and last 4 digits of the account number
 - Stocks and bonds - the name of company, number of shares or type of bond, and any identifying numbers (a CUSIP number is good)
 - Manufactured home - year, make and serial number
 - Promissory notes (such as for real property sold and secured by a trust deed) - the name of the borrower, the date of the note, and the original amount of the note
 - Life insurance (payable to the estate or without a designated beneficiary) - the name of the insurance company and the policy number

DEVISEES

If Decedent left a valid will, “devisees” are those named in the will to receive any part of the estate. The same person may be both a devisee and an heir. If so, they should be listed on the Affidavit in both sections.

Divorce and marriage may affect the terms or validity of a will. Talk to a lawyer.

Check to see if the will requires a devisee to survive Decedent by a certain amount of time or until an event occurs. Such conditions may be called survivorship provisions. Note any conditions on the Affidavit with the asset to be distributed.

HEIRS

An heir is anyone entitled to inherit part of an estate under Oregon law. You must figure out who the heirs are.

Read [ORS 112.015 – 112.115](#) for Oregon’s laws about heirs (“intestate succession”). Read the law carefully!

Other Oregon laws may affect who is an heir. If you have questions, talk to a lawyer.

Notes about heirs and devisees

- Adopted children are treated as natural-born children under the law
- If there are no heirs or devisees, the estate is inherited by (“escheats to”) the Department of State Lands under [ORS 112.055](#)
- Even if you cannot locate an heir or devisee, that person remains entitled to their portion of the estate. You must tell the court the names of any heirs you cannot locate. All heirs must be listed, even if Decedent did not know of them or have any contact with them.

Any asset not covered by the will must be distributed to heirs as though the will did not exist. See the “Heirs” section above for how to handle assets not awarded to a devisee. If you have questions, talk to a lawyer.

Notes about Wills

- Many wills break the estate down into “tangible personal property” and “residue.” Often the same people will receive the same shares of those assets. If not, list those categories separately.
 - Residue means any asset not specifically identified in the will
 - If the will directs that the residue goes to “my children” and the decedent had a deceased child, read the will carefully. Depending on what the will says, the deceased child’s share could go to their children, or the siblings of the deceased child could receive a larger share of the residue.
 - If the will does not include directions about how to distribute residue, the residue must be distributed among the heirs according to [ORS 112.015 – 112.115](#).
- You can enter the specific asset to be distributed to a recipient, or the portion of the estate each recipient will get

Claims, Creditors, and Estate Expenses

- Claims are liabilities of Decedent. Claims can include bills, debts, etc. Any person, business, or institution with a claim is a “creditor.”
 - You can use estimates for claims. If you don’t know the amount of a claim and can’t get a reasonable estimate, enter “unknown.”
 - See [ORS 114.545](#) for information about paying **undisputed claims** like funeral expenses, utility bills, credit cards, mortgages, caregiver costs, etc.

- You must file any required tax returns and pay any taxes owed from estate assets. This includes the decedent's final personal income tax returns. This could also require fiduciary income tax returns if the decedent's assets after death earned enough income before you distribute the estate. You may want to talk to a tax advisor.
 - [Click here](#) to go to the IRS for more information about federal taxes
 - [Click here](#) to go to the Oregon Department of Revenue website for information about state taxes
- If the estate does not have enough money or assets to pay all claims and expenses, you must pay claims and expenses in the order of priority in [ORS 115.125](#). You could be personally liable if the estate does not have enough money and you pay the claims in the wrong order.
- If Decedent received any government assistance such as Medicaid, the Oregon Health Plan, food stamps, or welfare benefits, a state agency may have a claim against the estate
- Administrative expenses are usually expenses that arise after the decedent's death. Examples include the filing fee for this Affidavit, lawyer fees, cost of preparing tax returns and buying death certificates, costs to maintain or prepare assets for sale, etc.

Disputed Claims

- If you believe a claim is not valid, you must deny it in writing. Enter it as a 'disputed claim'. For example, a claim for services you believe were not rendered to Decedent, claims you believe were already paid, or claims for more than Decedent agreed to pay.
- You cannot enter a claim as 'disputed' just because the estate does not have enough assets to pay it.
- You must deny in writing claims that are not presented on time. See [ORS 114.540\(1\)\(a\)](#) for the time deadlines, usually within four months of the date of filing the Affidavit or amended Affidavit.

How to Deny Claims

- You must give notice of denial of claim within 60 days after the claim is presented to you. If you don't, the claim is considered allowed. If you allow a claim that is invalid, you could be personally liable.
- Mail or deliver notice that you are denying the claim to the person who filed the claim and their lawyer, if any. You can deny all or part of the claim. The notice must state the reason for denial and include other information required by [ORS 114.540\(2\)](#).

A creditor can ask the court for a "summary determination" of a claim. The court will hold a hearing unless you and the creditor reach an agreement about the claim. See [ORS 114.540](#).

Before distributing the estate assets, you must wait until

- (1) 4 months have passed after the date the Affidavit, or the latest-filed amended Affidavit, was filed
- AND
- (2) all claims, expenses, and taxes have been paid

Any creditor or beneficiary of the estate who has not been paid what they are entitled to receive from the estate can file a petition for summary review of administration. This must be done within two years of the filing date of the most recent Affidavit. See [ORS 114.550](#). A court will hold a hearing unless you and the person who filed the petition reach an agreement about the payment.

FILE THE FORMS

File in the appropriate circuit court the:

- Small Estate Affidavit
- Certified death certificate
- Original will (if any)
 - with supporting affidavit or other supporting evidence confirming the signature of Decedent on the will

The Affidavit has the information you need to find the proper court. Go to www.courts.oregon.gov to find the court's address. NOTE: In some counties you may need to file in a different court like a municipal or justice court. You can check with your circuit court to see if they accept small estate filings and get information about where to file.

You have to pay the filing fees when you file your papers. Go to www.courts.oregon.gov for the filing fee.

- If you are low income, you may ask the court to defer (postpone) or waive your filing fee. You must complete an [Application and Declaration for Deferral or Waiver of Fees and an Order Regarding Deferral or Waiver of Fees](#) and file them with your papers. If the fee is deferred, you will have to pay the fee later. If the fee is waived, you do not have to pay it.

Copies – Make copies of ALL documents for your records!

After you file, ask the court for certified copies of the Affidavit. You may need these for banks and other institutions. Certified copies cost \$5.00 plus 25 cents per page. Certified copies will include copies of all documents filed with the Affidavit except the death certificate.

The filing fee and copy charges can be included in the Affidavit as estate expenses. You do not need certified copies to send with your required notices, regular photocopies are fine.

REQUIRED NOTICES

The Affidavit includes notice you are required to make. Read the “Required Notices” section carefully.

You must mail or deliver a copy of the Affidavit (and the will, if any) to each recipient within 30 days of filing the Affidavit

AMENDED AFFIDAVITS

You must file an amended Affidavit if you discover:

- a material error or omission in a prior Affidavit
- additional assets not included in a prior Affidavit

If the new estate values are higher than the limits for a small estate, your authority to administer the estate ends. You must promptly notify the court and any party entitled to a required notice.

- A regular probate case must be started. You must turn over estate assets to the personal representative of the estate.

Note that filing an amended Affidavit resets the time limits to file claims against the estate for all unpaid creditors, not just new ones

Amended Affidavits must include all prior information in addition to new information. Review the instructions above and do not change any information from the original Affidavit unless the original entry was in error.

Send copies of the amended Affidavit to any party entitled to a required notice, even if you sent the original Affidavit. See the “Required Notices” section of the original Affidavit.

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 DEPARTMENT OF STATE LANDS 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 Department of State Lands allowing me to file this affidavit. **or**
- Authorization from the Department of State Lands 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 (see ORS 112.015 – 112.115)		

Additional page attached titled “Section 8 - Heirs”

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:

Oregon Department of State Lands
775 Summer St NE # 100
Salem, OR 97301

➤ **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)*