

House Bill 2290

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Oregon State Bar Elder Law Section)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends time for filing accountings by personal representative and conservator from 30 to 60 days after specified events.

A BILL FOR AN ACT

1
2 Relating to accountings; creating new provisions; and amending ORS 116.083 and 125.475.

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

4 **SECTION 1.** ORS 116.083 is amended to read:

5 116.083. (1) A personal representative shall make and file in the estate proceeding a verified
6 account of the personal representative's administration:

7 (a) Unless the court orders otherwise, annually within [30] **60** days after the anniversary date
8 of the personal representative's appointment.

9 (b) Within [30] **60** days after the date of the personal representative's removal or resignation or
10 the revocation of the personal representative's letters.

11 (c) When the estate is ready for final settlement and distribution.

12 (d) At such other times as the court may order.

13 (2) Each account [*shall*] **must** include the following information:

14 (a) The period of time covered by the account.

15 (b) The total value of the property with which the personal representative is chargeable ac-
16 cording to the inventory, or, if there was a prior account, the amount of the balance of the prior
17 account.

18 (c) All money and property received during the period covered by the account.

19 (d) All disbursements made during the period covered by the account. Vouchers for disburse-
20 ments [*shall*] **must** accompany the account, unless otherwise provided by order or rule of the court,
21 or unless the personal representative is a trust company that has complied with ORS 709.030, but
22 that personal representative shall:

23 (A) Maintain the vouchers for a period of not less than one year following the date on which
24 the order approving the final account is entered;

25 (B) Permit interested persons to inspect the vouchers and receive copies thereof at their own
26 expense at the place of business of the personal representative during the personal representative's
27 normal business hours at any time prior to the end of the one-year period following the date on
28 which the order approving the final account is entered; and

29 (C) Include in each annual account and in the final account a statement that the vouchers are
30 not filed with the account but are maintained by the personal representative and may be inspected
31 and copied as provided in subparagraph (B) of this paragraph.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) The money and property of the estate on hand.

2 (f) Such other information as the personal representative considers necessary to show the con-
3 dition of the affairs of the estate or as the court may require.

4 (3) When the estate is ready for final settlement and distribution, the account *[shall]* **must** also
5 include:

6 (a) A statement that all Oregon income, inheritance and personal property taxes, if any, have
7 been paid, or if not so paid, that payment of those taxes has been secured by bond, deposit or oth-
8 erwise, and that all required tax returns have been filed.

9 (b) A petition for a judgment authorizing the personal representative to distribute the estate to
10 the persons and in the portions specified therein.

11 (4) If the distributees consent thereto in writing and all creditors of the estate have been paid
12 in full, the personal representative, in lieu of the final account otherwise required by this section,
13 may file a verified statement that includes the following:

14 (a) The period of time covered by the statement.

15 (b) A statement that all creditors have been paid in full.

16 (c) The statement and petition referred to in subsection (3) of this section.

17
18 Notice of time for filing objections to the verified statement is not required.

19 (5) The Chief Justice of the Supreme Court may by rule specify the form and contents of ac-
20 counts that must be filed by a personal representative.

21 **SECTION 2.** ORS 125.475 is amended to read:

22 125.475. (1) Unless the court by order provides otherwise, a conservator shall account to the
23 court for the administration of the protected estate within *[30]* **60** days after each anniversary of
24 appointment. In addition, a conservator *[must]* **shall** account to the court for the administration of
25 the protected estate within *[30]* **60** days after:

26 (a) The death of the protected person;

27 (b) A minor protected person attains majority;

28 (c) An adult protected person becomes able to manage the protected person's financial re-
29 sources;

30 (d) Removal of the conservator; and

31 (e) Termination of the conservator's authority under ORS 125.410 (7).

32 (2) Each accounting *[shall]* **must** include the following information:

33 (a) The period of time covered by the accounting.

34 (b) The total value of the property with which the conservator is chargeable according to the
35 inventory, or, if there was a prior accounting, the amount of the balance of the prior accounting.

36 (c) All money and property received during the period covered by the accounting.

37 (d) All disbursements made during the period covered by the accounting.

38 (e) The amount of bond posted by the conservator during the period covered by the accounting.

39 (f) Such other information as the conservator considers necessary, or that the court might re-
40 quire, for the purpose of disclosing the condition of the estate.

41 (3) Vouchers for disbursements must accompany the accounting unless otherwise provided by
42 order or rule of the court or unless the conservator is a trust company that has complied with ORS
43 709.030. If vouchers are not required, the conservator shall:

44 (a) Maintain the vouchers for a period of not less than one year following the date on which the
45 order approving the final accounting is entered;

1 (b) Permit interested persons to inspect the vouchers and receive copies of the vouchers at their
2 own expense at the place of business of the conservator during the conservator's normal business
3 hours at any time before the end of one year following the date on which the order approving the
4 final accounting is entered; and

5 (c) Include in each annual accounting and the final accounting a statement that the vouchers
6 are not filed with the accounting but are maintained by the conservator and may be inspected and
7 copied as provided in this subsection.

8 (4) The court may waive a final accounting if:

9 (a) The conservator was appointed because the protected person was a minor, and the protected
10 person has attained the age of majority, or the conservator was appointed because the protected
11 person was financially incapable, and the protected person is no longer financially incapable;

12 (b) The protected person gives a receipt to the conservator for the property delivered to the
13 protected person; and

14 (c) The conservator files with the court a copy of the receipt issued by the protected person to
15 the conservator.

16 (5) Copies of accountings must be served on all persons listed in ORS 125.060 (3). The court may
17 waive service on the protected person if service of the copy would not assist the protected person
18 in understanding the proceedings.

19 (6) The court may require a conservator to submit to a physical check of the estate in the
20 control of the conservator at any time and in any manner the court may specify.

21 (7) The Chief Justice of the Supreme Court may by rule specify the form and contents of ac-
22 counts that must be filed by a conservator.

23 **SECTION 3. The amendments to ORS 116.083 and 125.475 by sections 1 and 2 of this 2005**
24 **Act:**

25 (1) **Do not apply to any account or accounting that is due before the effective date of this**
26 **2005 Act under the provisions of ORS 116.083 and 125.475 as in effect on the day immediately**
27 **preceding the effective date of this 2005 Act.**

28 (2) **Do apply to an account or accounting that is due on or after the effective date of this**
29 **2005 Act under the provisions of ORS 116.083 and 125.475 as in effect on the day immediately**
30 **preceding the effective date of this 2005 Act.**

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