77th OREGON LEGISLATIVE ASSEMBLY – 2013 Regular Session **MEASURE: HB 2536 B**
STAFF MEASURE SUMMARY **CARRIER: Sen Prozanski**
Senate Committee on Judiciary

REVENUE: No revenue impact
FISCAL: Minimal fiscal impact, no statement issued

Action:		Do Pass with Amendments to the A-Engrossed Measure. (Printed B-Engrossed)
Vote:		4 - 1 - 0
	Yeas:	Close, Dingfelder, Roblan, Prozanski
	Nays:	Kruse
	Exc.:	0
Prepared By:		Anna Braun, Counsel
Meeting Dates:		5/16, 5/30

WHAT THE MEASURE DOES: Adds criteria for court to consider for finding that selling structured settlement is in payee's best interest**.** Adds questions to be answered in petition including payee declaration under oath whether payee depends on structured settlement funds for household expenses, relies on governmental assistance or needs to funds for medical expenses related to the structured settlement. If so, requires two quotes in petition and adds requirement of a written finding by judge that it is in payee's best interest to sell structured settlement. Removes personal information from petition. Defines "independent professional advice." Requires disclosure statement notice to be sent 14 days before hearing. States that payee signs transfer agreement at hearing and allows three days after hearing to cancel agreement. Makes other specified changes.

ISSUES DISCUSSED:

- Best interest of payee finding required in current law
- Protecting private information in petition
- Balancing guidance to judge and judicial discretion
- Attorneys involved represent company obtaining transfer
- Vulnerability of some payees
- Individuals with multiple transfers

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: Structured settlements are agreements for periodic payment of damages stemming from a tort or workers' compensation claim. In 2005, Oregon allowed for the sale of structured settlement agreements in exchange for a lump sum payment. Because many structured settlements are created to establish a long term payment plan for vulnerable individuals, there is concern that the existing statute does not provide appropriate safeguards.

Existing Oregon law governing the transfer of structured settlement rights requires a judge or responsible administrative authority to approve a transfer after finding the following to be true: 1) the transfer is in the best interest of the payee and their dependents, 2) the payee has been advised to seek professional advice and done so or waived the advice, and 3) the transfer does not conflict with any applicable law or court or governmental order. Federal law places a 40 percent excise tax on transfers of settlement rights that are not approved by a court.