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## Written Testimony of Julie Weis

### Before the House Consumer Protection and Government Efficiency Committee

April 2, 2013

### In Opposition to HB 2536, As Introduced

Chair Holvey and Members of the Committee:

My name is Julie Weis, and I am a partner in the Portland, Oregon law firm of Haglund Kelley Jones & Wilder LLP (Haglund Kelley), a firm founded in 1988 that currently counts among its members Oregon State Bar President Mike Haglund. Among other areas of the law, I handle structured settlement transfers brought pursuant to ORS § 33.850-.875 (the Oregon Act). I offer this written testimony in opposition to HB 2536, as introduced.

By way of background, much of my law practice involves natural resource matters and federal court practice. For that reason, when I had the opportunity in 2008 to begin handling transfers under the Oregon Act, I jumped at the chance to spend more time in Oregon state court. Since 2008, I have handled several hundred transfers in Circuit Courts throughout Oregon depending on the place of residence of the annuitant, known as the "payee" under the Oregon Act.

Based on my interactions with our state's judiciary and with court staff in our often-underfunded counties, I have profound respect for the Oregon Circuit Courts and all they do to help Oregonians. My experiences have shown that Oregon Circuit Court judges are bright and dedicated women and men who are deserving of our respect for the hard work that they do so very well. Although many payees are surprised they are required to appear before a judge in order to complete a structured settlement transfer under the Oregon Act, I regularly inform payees that the Oregon Act is there for their benefit and that the judges hearing their cases have their best interests at heart. I believe many payees leave the courtroom with an increased respect for the judiciary, which ultimately benefits us all. As a personal collateral benefit, handling transfer matters in Oregon allows me to meet people from throughout the state and hear their interesting life stories.

Handling transfers throughout the state has convinced me that Oregon judges are fully capable of asking the "right" questions and eliciting the needed information to determine whether a structured settlement transfer "is in the best interest of the payee, taking into account the welfare and support of all persons for whom the payee is legally obligated to provide support." ORS § 33.865(1). For that reason, I was particularly surprised to see that Section 7(2) of HB 2536, as introduced, would shackle a judge hearing a transfer case to a laundry list of considerations that she or he "shall" consider, regardless of the relevance of such information to the particular circumstances of the payee's situation. Although Oregon judges currently inquire into many of the items listed in Section 7(2)(a)-(p) where appropriate and relevant, I believe they know how to do their jobs without being unnecessarily micromanaged by statute.

I have reviewed the letter in opposition to HB 2536, as introduced, from my colleague Roger Dunaway. I agree with attorney Dunaway that to the extent the Committee views payees as generally unsophisticated, that view is unfounded. To be sure, one occasionally encounters a young payee who, immediately upon reaching the age of majority, seeks to complete a transfer under the Oregon Act to purchase a car or to purchase new "duds." (More than one Oregon judge faced with such a situation has encouraged the payee to get a job instead.) More often, however, payees are informed individuals who have weighed the pros and cons of a transfer as compared with other alternatives before opting to proceed under the Oregon Act. Consider the payee, for example, who was a college student and the beneficiary of an annuity contract due to a parent's untimely death. This business-savvy payee used the Oregon Act to generate funds to start a business at a time when lenders were reluctant to fund small start-ups. The business succeeded and was purchased by an internet-based company looking for a brick and mortar presence. Or consider the payee, also an annuitant due to a parent's death, whose ability to apply to law school was hindered by unpaid college debts that prevented the release of the payee's college transcripts. These are just examples – the fact patterns for proposed transfers under the Oregon Act are diverse, just as Oregonians and their economic needs are diverse. Common themes under the Oregon Act involve payees seeking to purchase homes or reduce the burden of overwhelming debts, goals that are both reasonable and readily understandable.

Based on my experiences over the last five or so years handling transfer cases under the Oregon Act, I urge you to oppose HB 2536, as introduced. The Oregon Act is working, and Oregon's judiciary is fully capable under the Act of discerning whether a transfer is in a payee's best interest. Still, I would be happy to meet with Committee members to discuss any concerns you might have about the Oregon Act. Like you, I want to ensure that the Oregon Act is sufficiently protective of Oregonians while still respecting the freedom of individual payees.

