

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2536**

1 On page 1 of the printed A-engrossed bill, line 11, after the comma insert
2 “financial adviser,”.

3 On page 3, delete lines 14 through 44 and insert:

4 **“SECTION 3. Sections 4 and 5 of this 2013 Act are added to and
5 made a part of ORS 33.850 to 33.875.**

6 **“SECTION 4. (1) Before a payee may transfer payment rights to a
7 transferee under ORS 33.850 to 33.875, the transferee shall file a peti-
8 tion for approval of the transfer in:**

9 **“(a) The circuit court for the county in which the payee resides;**

10 **“(b) The circuit court for the county in which the obligor or the
11 annuity issuer maintains its principal place of business; or**

12 **“(c) The court or responsible administrative authority that ap-
13 proved the structured settlement agreement.**

14 **“(2) A petition under this section must:**

15 **“(a) Include the payee’s name, age and county of residence.**

16 **“(b) Describe the financial terms of the proposed transfer, including
17 the payment rights to be transferred by the payee and the amount to
18 be received by the payee in return for the transfer.**

19 **“(c) Be accompanied by a copy of the transfer agreement and the
20 disclosure statement required under ORS 33.860.**

21 **“(d) Generally describe the reasons why the payee seeks to transfer
22 the payment rights.**

1 **“(3) At the hearing, the court may ask the payee to provide testi-**
2 **mony or other evidence of:**

3 **“(a) The payee’s marital status and, if the payee is married or sep-**
4 **arated, the name of the payee’s spouse.**

5 **“(b) The names, ages and places of residence of any minor children**
6 **or other dependents of the payee.**

7 **“(c) The amounts and sources of the payee’s monthly income and,**
8 **if the payee is married, the amounts and sources of the payee’s**
9 **spouse’s monthly income.**

10 **“(d) If the payee has minor children, whether the payee is currently**
11 **obligated to pay child support under any child support order, whether**
12 **the payee is current or in arrears under any child support order and**
13 **the names, addresses and telephone numbers of any person or agency**
14 **that receives child support from the payee under the order.**

15 **“(e) Whether the payee relies exclusively on the structured settle-**
16 **ment payments that the payee proposes to transfer to the transferee**
17 **for the payee’s necessary living expenses or required medical care or**
18 **treatment.”.**

19 On page 4, line 4, after “beneficiary” insert “irrevocably”.

20 Delete lines 21 through 36.

21 In line 37, delete “7” and insert “6”.

22 On page 5, delete lines 24 through 45 and delete page 6.

23 On page 7, delete lines 1 through 22 and insert:

24 **“(9) A statement that the payee is entitled to, and should, seek inde-**
25 **pendent professional advice regarding the proposed transfer.**

26 **“(10) A statement that the payee should not proceed without first weigh-**
27 **ing and considering other offers and alternate means of obtaining funds**
28 **through borrowing or selling other assets.**

29 **“SECTION 7. ORS 33.865 is amended to read:**

30 **“33.865. (1) A transfer of payment rights under ORS 33.850 to 33.875 is**

1 not effective and an obligor or annuity issuer is not required to make any
2 payments directly or indirectly to a transferee unless the **transferee has**
3 **filed a petition under section 4 of this 2013 Act and the** transfer [*has*
4 *been*] **is** approved [*in advance in a final court order or order of a*] **by the**
5 **court or** responsible administrative authority based on express findings by
6 the court or authority that:

7 “[(1)] **(a)** The transfer is in the best interest of the payee, taking into
8 account the welfare and support of all persons for whom the payee is legally
9 obligated to provide support.

10 “[(2)] **(b)** The payee has been advised in writing by the transferee [*to seek*
11 *advice from an attorney, certified public accountant, actuary or other licensed*
12 *professional adviser*] **that the payee had the right to seek independent**
13 **professional advice** regarding the transfer, and the payee has either re-
14 ceived the advice or knowingly waived **the opportunity to seek and re-**
15 **ceive independent professional** advice in writing.

16 “[(3)] **(c)** The transfer does not contravene any applicable statute or order
17 of any court or other government authority.

18 “**(d) The payee understands the transfer agreement, the disclosure**
19 **statement and the financial terms of the transfer.**

20 “**(e) The payee understood that the payee had the right to cancel**
21 **the transfer agreement as set forth in the disclosure statement re-**
22 **quired by ORS 33.860 and the payee knowingly elected not to cancel the**
23 **transfer agreement.**

24 “**(f) The payee confirmed to the court at the hearing that the payee**
25 **wanted the court to approve the proposed transfer and understood that**
26 **the court would not approve the transfer if the payee did not want the**
27 **court to do so.**

28 “**(2) When determining whether the proposed transfer should be**
29 **approved, including whether the transfer agreement is fair, reasonable**
30 **and in the payee’s best interest, the court or responsible administra-**

1 **tive authority may consider all relevant information, including infor-**
2 **mation contained in the petition and any other document that is filed**
3 **with the court and provided at the hearing. Relevant information that**
4 **may be considered under this subsection includes, but is not limited**
5 **to:**

6 **“(a) The reasonable preference and desire of the payee to complete**
7 **the proposed transfer, taking into account the payee’s age and appar-**
8 **ent maturity level and recognizing that the payment rights constitute**
9 **a financial asset and property right of the payee over which the payee**
10 **does and should have control.**

11 **“(b) The purpose of the transfer and the intended use of the pro-**
12 **ceeds by the payee.**

13 **“(c) The payee’s financial situation, including but not limited to the**
14 **following information provided by the payee at the hearing under**
15 **section 4 of this 2013 Act:**

16 **“(A) The amounts and sources of the payee’s monthly income.**

17 **“(B) If the payee is married, the amounts and sources of the payee’s**
18 **spouse’s monthly income.**

19 **“(C) The names, ages and places of residence of any minor children**
20 **or other dependents of the payee.**

21 **“(D) Whether the payee relies exclusively on the structured settle-**
22 **ment payments that the payee proposes to transfer for the payee’s**
23 **necessary living expenses or required medical care and treatment.**

24 **“(d) Whether the payee is employed or employable.**

25 **“(e) The terms of the transfer agreement, including whether the**
26 **payee is transferring monthly or lump sum payments or all or a por-**
27 **tion of the payee’s future payments, the size of the transaction and**
28 **the financial alternatives available to the payee to achieve the payee’s**
29 **stated objectives.**

30 **“(f) Whether the payee has experienced a change in personal, family**

1 or financial circumstances.

2 “(g) Whether the payee has income or support other than the future
3 periodic payments sufficient to meet the payee’s future financial obli-
4 gations for support of the payee’s dependents, including child support
5 obligations. The payee shall disclose to the transferee, and to the court
6 or responsible administrative authority, the payee’s child support ob-
7 ligations.

8 “(h) Whether the terms of the proposed transfer agreement, in-
9 cluding the amount to be paid to the payee and the expenses and costs
10 of the transfer for the payee and the transferee are fair and reason-
11 able.

12 “(i) Whether the payee has completed previous transfers of payment
13 rights with the transferee within the four years preceding the date of
14 the current transfer agreement, a general description of the previous
15 transfers and whether the payee was satisfied with the previous
16 transfers.

17 “(j) Whether the transferee has attempted previous transfers in-
18 volving the payee’s settlement payment rights that were denied, or
19 that were dismissed or withdrawn before a decision on the merits,
20 within the year immediately preceding the date of the current transfer
21 agreement.

22 “(k) Whether, to the best of the transferee’s knowledge after mak-
23 ing inquiry of the payee, the payee has completed previous transfers
24 of payment rights with any other person or entity within the four
25 years preceding the date of the current transfer agreement, or at-
26 tempted previous transfers involving the payee’s payment rights with
27 any other person or entity that were denied, or that were dismissed
28 or withdrawn before a decision on the merits, within the year imme-
29 diately preceding the date of the current transfer agreement.

30 “(L) Whether the payee, or the payee’s family or dependents, may

1 suffer personal, family or financial hardship or may be unable to pur-
2 sue personal, family or financial objectives if the transfer is not ap-
3 proved.

4 “(m) Whether the payee received independent professional advice
5 regarding the transaction.

6 “(3) The court may require fees incurred by the payee in seeking
7 independent professional advice from an attorney, certified public ac-
8 countant, actuary or other licensed professional adviser to be paid out
9 of the amount paid by the transferee to the payee.”.

10 On page 7, line 23, delete “9” and insert “8”.

11 On page 8, line 4, delete “10” and insert “9” and delete “to 6” and insert
12 “and 5”.

13 In line 5, delete “7, 8 and 9” and insert “6, 7 and 8”.

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