

## SB 899 A STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Action Date:** 03/23/17

**Action:** Do pass with amendments. Refer to General Government and Accountability then to Ways and Means by prior reference. (Printed A-Eng.)

**Vote:** 4-0-1-0

**Yeas:** 4 - Dembrow, Linthicum, Manning Jr, Prozanski

**Exc:** 1 - Thatcher

**Fiscal:** Has minimal fiscal impact

**Revenue:** Has minimal revenue impact

**Prepared By:** Channa Newell, Counsel

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#### WHAT THE MEASURE DOES:

Establishes Oregon Receivership Code. Defines terms. Exempts from Code receiverships commenced in federal court or by state agency under statutory authority. Allows state agencies to elect to pursue receivership under Code. Specifies appointment process and eligibility of person to act as receiver. Requires receiver to disclose conflicts of interest and carry bond or alternative, if required by court. Specifies powers, duties, and limitations of receiver. Outlines process for turnover of real property and collection of debts. Requires receiver to obtain court approval before turning over residential real property. Directs owner to cooperate with receiver, including providing books and records. Sets automatic stay of other property-related proceedings upon appointment of receiver. Exempts domestic relations, child support proceedings, and other specific proceedings from stay. Allows receiver to evaluate and continue or terminate existing contracts. Specifies court process for terminating contracts. Requires assumption of all burden and benefit of continued contracts by receiver. Creates process for use of estate property outside the ordinary course of business. Sets priorities for claims in receivership. Specifies process for removal of receiver and termination of receivership.

#### ISSUES DISCUSSED:

- Oregon Law Commission convened work group in March, 2016 to develop receivership code
- Nearly 250 references to receivership in Oregon Revised Statutes but no consistency in administration
- Use of Uniform Code and Washington statutes to provide framework
- Goal to provide guidance on process for receivership, not to change basis for obtaining receivership
- Excludes existing receivership process for Department of Consumer and Business Services Insurance Division from provisions of measure

#### EFFECT OF AMENDMENT:

Replaces measure.

#### BACKGROUND:

Receivership is the process whereby a court appoints an entity to take charge of the real or personal property of a person or business during a court proceeding or upon judgment. Receivership occurs most frequently in connection with the dissolution or liquidation of a business entity. The court may order the receiver to hold and manage the property or dispose of it. Currently, Oregon law addresses receivership in the Oregon Rules of Civil Procedure, Rule 80-82. Statutory provisions for the administration of receivership are limited. The Oregon Law Commission studied and adopted a Receivership Code in 2016, basing its work on the Uniform Commercial Real Estate Receivership Act of the Uniform Law Commission and Washington state's experiences with and modifications to the Uniform Act.

Senate Bill 899-A establishes the Oregon Receivership Code.

This Summary has not been adopted or officially endorsed by action of the committee.