



# Ohio Judicial Conference

The Voice of Ohio Judges

Ohio Senate

Judiciary Committee

House Bill 223, 132<sup>nd</sup> General Assembly

September 19, 2017

Chairman Bacon and Members of the Senate Judiciary Committee:

During the 123<sup>rd</sup> General Assembly, the legislature passed Senate Bill 260 to establish a procedure to require approval by a court of the transfer of payment rights of a payee under a structured settlement. The bill was designed to provide consumers with protections that would help them make informed decisions about whether and how to transfer structured settlements. The legislation thus enacted sections 2323.58 to 2323.587 of the Revised Code to require, among other things, probate court approval of the transfer of structured settlement rights, based on a standard of the best interests of the transferor.

Am. H.B. 223, introduced by Representative Dever, is a straightforward bill that modernizes sections 2323.58 through 2323.587 of the Revised Code by adopting the 2016 National Conference of Insurance Legislators (NCOIL) Model Structured Settlement Protection Act. The changes proposed to structured settlement law are not drastic, but they do address some of the concerns Ohio's probate judges have expressed over difficulty in determining what is in the best interests of the transferor.

Under H.B. 223, if a structured settlement transfer is filed in Ohio and the original structured settlement was approved in Ohio, the transfer must be filed in the originating court, as long as it is a state (not federal) court. In those instances, the originating court does not have to be a probate court. If a structured settlement transfer is filed in Ohio and the original structured settlement was not approved in Ohio, the transfer can be filed in the probate court in the county of residence for the person who wants to transfer. The change, while not controversial, is significant because it takes into account and balances some competing interests: (1) the statute currently requires dual court approval for a transfer (meaning both originating court and transfer court), which is a considerable burden on a transferor when the originating court is outside of Ohio and the transferring court is in Ohio; and (2) if the originating court is an Ohio court, that court is in the best position to determine the best interests of the potential transferor.

The changes in H.B. 223 are a common sense response to practical problems experienced by Ohio probate judges. This issue is a legislative platform item for the Ohio Judicial Conference and the OJC appreciates the opportunity to provide input on the bill.