



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1268

Introduced 2/17/2015, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 153/15
215 ILCS 153/20
215 ILCS 153/25
215 ILCS 153/30
215 ILCS 153/35

Amends the Structured Settlement Protection Act. Provides that the structured settlement obligor and the annuity issuer shall be discharged from any and all liability by complying with a court order approving a transfer of structured settlement payment rights, and shall not have or incur any liability to the payee, transferee, or assignee as a result of the failure of the court order, transfer agreement, disclosure statement, or the transfer proceeding to comply with the Act, another applicable State or federal statute relating to structured settlement transfers, or any other law. Provides that an application for approval of a structured settlement transfer shall be brought in the circuit court of the county in which the payee is domiciled at the time the transfer agreement was signed or, if the payee is not domiciled in this State or in any other state that has enacted a statute that requires court approval of a transfer of structured settlement payment rights, then the application may be brought in the county in which the structured settlement obligor or annuity issuer is domiciled or has its principal place of business in this State. Provides what information is necessary to make an application to the court under the Act. Provides that a court may review all applications for transfer filed, and may approve or deny a transfer despite the existence of terms in the underlying settlement agreement, qualified assignment, related annuity, or in any other relevant document that purports to restrict or preclude the payee's right or power to assign or transfer structured settlement payment rights. Makes other changes.

LRB099 07155 MLM 27243 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Structured Settlement Protection Act is
5 amended by changing Sections 15, 20, 25, 30, and 35 as follows:

6 (215 ILCS 153/15)

7 Sec. 15. Approval of transfers of structured settlement
8 payment rights. No direct or indirect transfer of structured
9 settlement payment rights shall be effective and no structured
10 settlement obligor or annuity issuer shall be required to make
11 any payment directly or indirectly to any transferee of
12 structured settlement payment rights unless the transfer has
13 been approved in advance in a final court order or order of a
14 responsible administrative authority based on express findings
15 by such court or responsible administrative authority that:

16 (1) the transfer is in the best interest of the payee,
17 taking into account the welfare and support of the payee's
18 dependents;

19 (2) the payee has been advised in writing by the
20 transferee to seek independent professional advice
21 regarding the transfer and has either received such advice
22 or knowingly waived the opportunity to seek and receive
23 such advice in writing; and

1 (3) the transfer does not contravene any applicable
2 statute or the order of any court or other government
3 authority.

4 (Source: P.A. 93-502, eff. 1-1-04.)

5 (215 ILCS 153/20)

6 Sec. 20. Effects of transfer of structured settlement
7 payment rights. Following the issuance of a court order
8 approving a transfer of structured settlement payment rights
9 under this Act:

10 (1) the structured settlement obligor and the annuity
11 issuer shall, as to all parties except the transferee or an
12 assignee designated by the transferee, be discharged and
13 released from any and all liability for complying with the
14 court order and from any and all liability to the payee for
15 the transferred payments, and the structured settlement
16 obligor and the annuity issuer shall comply with the court
17 order and shall not have or incur any liability to the
18 payee, transferee, or assignee as a result of the failure
19 of the court order, transfer agreement, disclosure
20 statement, or the transfer proceeding to comply with this
21 Act or another applicable State or federal statute relating
22 to structured settlement transfers or any other law;

23 (2) the transferee shall be liable to the structured
24 settlement obligor and the annuity issuer:

25 (A) if the transfer contravenes the terms of the

1 structured settlement agreement, for any taxes
2 incurred by the ~~parties~~ structured settlement
3 obligor's or annuity issuer as a consequence of the
4 transfer being approved; and

5 (B) for any other liabilities or costs, including
6 reasonable costs and attorneys' fees, arising from
7 structured settlement obligor's or annuity issuer's
8 compliance ~~by the parties~~ with the order of the court
9 or responsible administrative authority or arising as
10 a consequence of the transferee's failure to comply
11 with this Act;

12 (3) neither the annuity issuer nor the structured
13 settlement obligor may be required to divide any periodic
14 payment between the payee and any transferee or assignee or
15 between 2 or more transferees or assignees; and

16 (4) any further transfer of structured settlement
17 payment rights by the payee may be made only after
18 compliance with all of the requirements of this Act.

19 (Source: P.A. 93-502, eff. 1-1-04.)

20 (215 ILCS 153/25)

21 Sec. 25. Procedure for approval of transfers.

22 (a) No annuity issuer or structured settlement obligor may
23 make payments on a structured settlement to anyone other than
24 the payee or beneficiary of the payee without prior approval of
25 the circuit court or responsible administrative authority. No

1 payee or beneficiary of a payee of a structured settlement may
2 assign in any manner the structured settlement payment rights
3 without the prior approval of the circuit court or responsible
4 administrative authority.

5 (b) An application under this Act for approval of a
6 transfer of structured settlement payment rights shall be made
7 by the transferee and shall be brought in the circuit court of
8 the county in which the payee is domiciled at the time the
9 transfer agreement was signed or, if the payee is not domiciled
10 in this State or in any other state that has enacted a statute
11 that requires court approval of a transfer of structured
12 settlement payment rights, then the application may be brought
13 in the county in which the structured settlement obligor or
14 annuity issuer is domiciled or has its principal place of
15 business in this State ~~an action was or could have been~~
16 ~~maintained or before any responsible administrative authority~~
17 ~~that approved the structured settlement agreement.~~

18 (c) The payee shall attend the hearing on the application
19 in person, unless the court determines that good cause exists
20 to excuse the payee from attending.

21 (d) In addition to other requirements of this Act, the
22 application should include:

23 (1) the payee's name, age, and county of domicile;

24 (2) a copy of the transfer agreement and disclosure
25 statement as an attachment to the application;

26 (3) a general description of the reasons why the payee

1 seeks to complete the proposed transfer;

2 (4) a description of the structured settlement
3 payments that the payee has not previously transferred and
4 will have remaining if the proposed transfer is approved,
5 to the extent that the transferee has actual knowledge of
6 prior transfers by the payee because the transferee was a
7 party to the prior transfer or such prior transfer was
8 disclosed to the transferee in writing; and

9 (5) A summary of:

10 (i) any prior transfers completed by the payee with
11 the transferee within 3 years from the date of the
12 current transfer agreement and any prior attempted
13 transfers to the transferee by the payee which were
14 denied within one year from the date of the current
15 transfer agreement;

16 (ii) any prior transfers completed by the payee
17 with any person or entity other than the transferee
18 within 3 years from the date of the current transfer
19 agreement and any prior attempted transfers by the
20 payee to any person or entity other than the transferee
21 which was denied within one year from the date of the
22 current transfer agreement, to the extent that said
23 transfers or attempted transfers are actually known by
24 the transferee or are disclosed to the transferee by
25 the payee in writing.

26 (Source: P.A. 93-502, eff. 1-1-04.)

1 (215 ILCS 153/30)

2 Sec. 30. General provisions; construction.

3 (a) The provisions of this Act may not be waived by any
4 payee.

5 (b) Any transfer agreement entered into on or after the
6 effective date of this Act by a payee who resides in this State
7 shall provide that disputes under the transfer agreement,
8 including any claim that the payee has breached the agreement,
9 shall be determined in and under the laws of this State. No
10 such transfer agreement shall authorize the transferee or any
11 other party to confess judgment or consent to entry of judgment
12 against the payee.

13 (c) No transfer of structured settlement payment rights
14 shall extend to any payments that are life-contingent unless,
15 prior to the date on which the payee signs the transfer
16 agreement, the transferee has established and has agreed to
17 maintain procedures reasonably satisfactory to the annuity
18 issuer and the structured settlement obligor for (1)
19 periodically confirming the payee's survival, and (2) giving
20 the annuity issuer and the structured settlement obligor prompt
21 written notice in the event of the payee's death.

22 (d) No payee who proposes to make a transfer of structured
23 settlement payment rights shall incur any penalty, forfeit any
24 application fee or other payment, or otherwise incur any
25 liability to the proposed transferee or any assignee based on

1 any failure of the transfer to satisfy the conditions of this
2 Act.

3 (e) Nothing contained in this Act shall be construed to
4 authorize any transfer of structured settlement payment rights
5 in contravention of any ~~law or to imply that any transfer under~~
6 ~~a transfer agreement entered into prior to the effective date~~
7 ~~of this Act is valid or invalid~~ statute. The court has
8 jurisdiction to review all applications for transfer filed
9 pursuant to this Act, and may approve or deny a transfer
10 despite the existence of terms in the underlying settlement
11 agreement, qualified assignment, related annuity, or in any
12 other relevant document that purports to restrict or preclude
13 the payee's right or power to assign or transfer structured
14 settlement payment rights.

15 (f) Compliance with the requirements set forth in Section
16 10 of this Act and fulfillment of the conditions set forth in
17 Section 15 of this Act shall be solely the responsibility of
18 the transferee in any transfer of structured settlement payment
19 rights, and neither the structured settlement obligor nor the
20 annuity issuer shall bear any responsibility for, or any
21 liability arising from, non-compliance with those requirements
22 or failure to fulfill those conditions. The structured
23 settlement obligor and annuity issuer may rely on a court order
24 issued by a court in accordance with this Act in making any
25 structured settlement payments that come due after the receipt
26 of the court order by the parties and the structured settlement

1 obligor and annuity issuer are relieved of any liability to the
2 payee, transferee, assignee, or any other party for making the
3 structured settlement payments as directed in the court order.

4 (g) The changes made to this Section by this amendatory Act
5 of the 99th General Assembly are declarative of existing law.

6 (Source: P.A. 93-502, eff. 1-1-04.)

7 (215 ILCS 153/35)

8 Sec. 35. Applicability. This Act shall apply to any
9 transfer of structured settlement payment rights under a
10 transfer agreement entered into on or after the 30th day after
11 the effective date of this Act, including any transfer of
12 structured settlement payment rights where the structured
13 settlement agreement, qualified assignment agreement, or
14 annuity issued to fund the structured settlement contains or
15 includes language or provisions that purport to preclude or
16 restrict the transfer, assignment, or encumbrance of
17 structured settlement payments. The changes made in this
18 Section by this amendatory Act of the 99th General Assembly are
19 declarative of existing law; provided, however, that nothing
20 contained herein shall imply that any transfer under a transfer
21 agreement reached prior to that date is either effective or
22 ineffective.

23 (Source: P.A. 93-502, eff. 1-1-04.)