

STRUCTURED SETTLEMENT PROTECTION ACT (EXCERPT)
Act 330 of 2000

***** 691.1193 THIS SECTION IS REPEALED BY ACT 296 OF 2006 EFFECTIVE OCTOBER 1, 2006

691.1193 Structured settlement payment subject to contractual assignment restriction; transfer of right; conditions; responsibilities of transferee before court hearing.

Sec. 3. (1) If a structured settlement payment right is subject to a contractual assignment restriction, a transfer of the structured settlement payment right is not effective and a structured settlement obligor or annuity issuer is not required to make payment directly or indirectly to a transferee of the structured settlement payment right transfer unless all of the following conditions are satisfied:

(a) Subject to section 4, a court of competent jurisdiction approves the transfer in advance in a final order. To approve the transfer, the court must expressly find all of the following:

(i) The transfer complies with the requirements of this act and will not contravene other applicable law.

(ii) Not less than 10 days before the date on which the payee entered into the transfer agreement, the transferee has provided to the payee and each dependent of the payee a disclosure statement in boldfaced type not smaller than 14-point that contains all of the following:

(A) The amounts and due dates of the structured settlement payments to be transferred.

(B) The aggregate amount of the structured settlement payments to be transferred.

(C) The discounted present value of the structured settlement payments to be transferred and the discount rate or rates used in determining the discounted present value.

(D) The gross amount payable to the payee in exchange for the structured settlement payments to be transferred.

(E) An itemized listing of all brokers' commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount payable to the payee in exchange for the structured settlement payments to be transferred.

(F) The net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges described in sub-subparagraph (E).

(G) The quotient, expressed as a percentage, obtained by dividing the net payment amount described in sub-subparagraph (F) by the discounted present value of the payments described in sub-subparagraph (C).

(H) The amount of any penalty and the aggregate amount of any liquidated damages and penalties payable by the payee in the event of any breach of the transfer agreement by the payee.

(iii) The payee has established that the transfer is necessary to enable the payee or the payee's dependents, or both, to avoid imminent financial hardship and the transfer is not expected to subject the payee or the payee's dependents, or both, to undue financial hardship in the future.

(iv) The payee has received independent professional advice regarding the financial and legal effects and consequences of the transfer.

(v) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of the notice with the court.

(vi) The discount rate or rates used in determining the discounted present value of the structured settlement payments to be transferred do not exceed 25% per year.

(b) Each protected party has given all of the following in writing:

(i) The protected party's irrevocable consent to the transfer.

(ii) The protected party's waiver of all rights under each contractual transfer restriction applicable to it.

(iii) The protected party's waiver of all rights with respect to the transferred payments.

(iv) The protected party's release of all claims against other protected parties with respect to the transferred structured settlement payments.

(2) The transferee of the structured settlement payment is responsible for all of the following before the hearing on an application for court approval under subsection (1)(a):

(a) Obtaining all consents, waivers, and releases required under subsection (1)(b).

(b) Filing signed originals of all consents, waivers, and releases required under subsection (1)(b) with the court from which approval of the transfer is sought under subsection (1)(a).

(c) Providing signed originals of all consents, waivers, and releases required under subsection (1)(b) to the annuity issuer and the structured settlement obligor.

(d) Providing copies of all consents, waivers, and releases required under subsection (1)(b) to any protected party that requests copies.

History: 2000, Act 330, Imd. Eff. Dec. 14, 2000.