
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 818 Session of
1999

INTRODUCED BY HOLL, GREENLEAF AND CORMAN, APRIL 16, 1999

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 8, 1999

AN ACT

1 Regulating certain transfers of structured settlement payments.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Structured
6 Settlement Protection Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Annuity issuer." An insurer, or subsidiary or affiliate
12 thereof, that has issued an insurance contract used to fund
13 periodic payments under a structured settlement.

14 "Applicable law." The laws of the United States, the laws of
15 this Commonwealth and the laws of any other jurisdiction under
16 whose laws a structured settlement agreement was approved by a
17 court or responsible administrative authority or whose law is

1 designated in any "choice of law" provision in the structured
2 settlement agreement.

3 "Dependents." Include a payee's spouse and minor children
4 and all other family members and other persons for whom the
5 payee is legally obligated to provide support, including
6 alimony.

7 "Discounted present value." The fair present value of future
8 payments, as determined by discounting such payments to the
9 present using the most recently published applicable Federal
10 rate for determining the present value of an annuity, as issued
11 by the United States Internal Revenue Service.

12 "Favorable tax determination." With respect to a proposed
13 transfer of structured settlement payment rights, any of the
14 following authorities that is binding on the parties to such
15 transfer and on the parties to the structured settlement
16 agreement and any qualified assignment agreement and that
17 definitively establishes that the Federal income tax treatment
18 of the structured settlement for the parties to the structured
19 settlement agreement and any qualified assignment agreement,
20 other than the payee, will not be affected by such transfer:

21 (1) a United States Treasury regulation;

22 (2) a published ruling by the United States Internal
23 Revenue Service;

24 (3) a private letter ruling by the United States
25 Internal Revenue Service with respect to such transfer; or

26 (4) other controlling legal authority that is binding on
27 the United States Internal Revenue Service.

28 "Financial hardship." The standard applicable to transfers
29 of structured settlement payment rights based on judicial
30 findings regarding the payees' and his or her dependents' needs,

1 as required by section 3(3), provided, however, that if at the
2 time the payee and the transferee enter into the transfer
3 agreement, a hardship standard is contained in the United States
4 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1
5 et seq.), or in a United States Treasury regulation adopted
6 pursuant thereto then such standard shall control.

7 "Payee." A person domiciled in this Commonwealth who is
8 receiving tax-free payments under a structured settlement and
9 proposes to make a transfer of payment rights thereunder.

10 "Periodic payments." Payments made pursuant to a structured
11 settlement agreement, including scheduled future lump sum
12 payments.

13 "Qualified assignment agreement." An agreement providing for
14 a qualified assignment within the meaning of section 130 of the
15 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1
16 et seq.).

17 "Settled claim." The original personal injury or sickness
18 claim or workers' compensation claim resolved by a structured
19 settlement.

20 "Structured settlement." An arrangement for periodic payment
21 of damages established by settlement ~~or judgment~~, JUDGMENT OR <—
22 DECREE in resolution of a settled claim.

23 "Structured settlement agreement." The agreement, judgment,
24 DECREE, stipulation or release embodying the terms of a <—
25 structured settlement, including the rights of the payee to
26 receive periodic payments.

27 "Structured settlement obligor." With respect to any
28 structured settlement, the party that has the continuing
29 obligation to provide periodic payments to the payee under a
30 structured settlement agreement or a qualified assignment

1 agreement.

2 "Structured settlement payment rights." Rights to receive
3 periodic payments under a structured settlement, whether from
4 the settlement obligor or the annuity issuer, where the payee is
5 domiciled in this Commonwealth.

6 "Terms of the structured settlement." Include, with respect
7 to any structured settlement, the terms of the structured
8 settlement agreement, the annuity contract, any qualified
9 assignment agreement and any order, DECREE or approval of any <—
10 court, administrative agency or other governmental authority
11 authorizing or approving such structured settlement.

12 "Transfer." Any direct or indirect sale, assignment, pledge,
13 hypothecation or other form of alienation, redirection or
14 encumbrance made by a payee for consideration, PROVIDED, <—
15 HOWEVER, THAT THIS SHALL NOT APPLY TO A BLANKET SECURITY
16 AGREEMENT USED TO SECURE A LOAN ORIGINATING FROM A FEDERAL OR
17 STATE-CHARTERED LENDING INSTITUTION. ANY TRANSFER MADE OR AGREED
18 TO UNDER THIS ACT SHALL BE CONSIDERED TO BE A CONSUMER
19 TRANSACTION.

20 "Transfer agreement." The agreement providing for transfer
21 of structured settlement payment rights from a payee to a
22 transferee.

23 "Transferee." The party acquiring or proposing to acquire
24 structured settlement payment rights through a transfer.

25 Section 3. Conditions to transfers of structured settlement
26 payment rights.

27 (A) PETITION.--No transfer of structured settlement payment <—
28 rights shall be effective and no structured settlement obligor
29 or annuity issuer shall be required to make any payment to any
30 transferee of structured settlement payment rights unless the

1 payee has filed ~~an application for the transfer and the~~ <—
2 ~~application has been authorized in advance in a final order of a~~
3 ~~court of competent jurisdiction, based on such court's express~~
4 ~~written findings~~ A PETITION REQUESTING SUCH TRANSFER AND THE <—
5 PETITION HAS BEEN GRANTED BY FINAL ORDER OR DECREE OF A COURT OF
6 COMPETENT JURISDICTION BASED ON SUCH COURT'S EXPRESS WRITTEN
7 FINDINGS that:

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

10 (2) Not less than ten days prior to the date on which
11 the payee first incurred any obligation with respect to the
12 transfer, the transferee has provided to the payee a
13 disclosure statement setting forth all of the following:

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

16 (ii) The aggregate amount of such payments.

17 (iii) The discounted present value of such payments,
18 together with the discount rate or rates used in
19 determining such discounted present value.

20 (iv) The gross amount payable to the payee in
21 exchange for such payments.

22 (v) An itemized listing of all brokers' commissions,
23 service charges, application or processing fees, closing
24 costs, filing or administrative charges, legal fees,
25 notary fees and other commissions, fees, costs, expenses
26 and charges payable by the payee or deductible from the
27 gross amount otherwise payable to the payee.

28 (vi) The net amount payable to the payee after
29 deduction of all commissions, fees, costs, expenses and
30 charges described in subclause (v).

1 (vii) The quotient, expressed as a percentage,
2 obtained by dividing the net payment amount by the
3 discounted present value of the payments.

4 (viii) The amount of any penalty and the aggregate
5 amount of any liquidated damages, inclusive of penalties,
6 payable by the payee in the event of any breach of the
7 transfer agreement by the payee.

8 (3) The payee has established that the transfer is
9 necessary to enable the payee to avoid financial hardship
10 based on the extraordinary unanticipated and imminent needs
11 of the payee or his dependents.

12 (4) The payee has received independent legal advice
13 regarding the implications of the transfer, including
14 consideration of the tax ramifications of the transfer.

15 (5) If the transfer would contravene the terms of the
16 structured settlement:

17 (i) the transfer has been expressly approved in
18 writing by:

19 (A) the payee, the structured settlement obligor
20 and the annuity issuer; provided, however, that such
21 approval may not be unreasonably withheld; and
22 further provided that if at the time the payee and
23 the transferee propose to enter into the transfer
24 agreement, a favorable tax result is in effect, then
25 the approval of the annuity issuer and the structured
26 settlement obligor shall not be required; and

27 (B) any court or responsible administrative
28 authority that previously approved the structured
29 settlement; and

30 (ii) signed originals of all approvals required

1 under subparagraph (i) have been filed with the court
2 from which the authorization of the transfer is being
3 sought, and originals or copies have been furnished to
4 the payee, the structured settlement obligor and the
5 annuity issuer.

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

10 (B) NOTICE.--PRIOR TO ENTERING INTO ANY AGREEMENT TO MAKE A <—
11 TRANSFER UNDER THIS ACT, THE PAYEE SHALL BE PROVIDED WITH A
12 WRITTEN NOTICE ON A SEPARATE SHEET THAT CONTAINS THE FOLLOWING,
13 IN BOLD PRINT AND AT LEAST 12-POINT TYPE:

14 IMPORTANT NOTICE: YOU ARE STRONGLY URGED TO CONSULT WITH
15 AN ATTORNEY OR ACCOUNTANT WHO CAN ADVISE YOU OF THE
16 POTENTIAL TAX CONSEQUENCES OF THIS TRANSACTION.

17 Section 4. Jurisdiction; procedure for approval of transfers.

18 The court of common pleas of the judicial district in which
19 the payee is domiciled shall have jurisdiction over any

20 ~~application~~ PETITION as required under section 3 for a transfer <—

21 of structured settlement payment rights. Not less than 20 days

22 prior to the scheduled hearing on any ~~application~~ PETITION for <—

23 authorization of a transfer of structured settlement payment

24 rights under section 3, the payee shall file with the court and

25 serve on the transferee a notice of the proposed transfer and

26 the application for its authorization, including in such notice

27 a copy of the payee's ~~application~~ PETITION to the court, a copy <—

28 of the transfer agreement, a copy of the disclosure statement

29 required under section 3, notification that the transferee, the

30 structured settlement obligor or the annuity issuer is entitled

1 to support, oppose or otherwise respond to the payee's
2 ~~application~~ PETITION, either in person or by counsel, by <—
3 submitting written comments to the court or by participating in
4 the hearing and notification of the time and place of the
5 hearing and notification of the manner in which and the time by
6 which written responses to the ~~application~~ PETITION must be <—
7 filed, which shall be not less than ~~15~~ 20 days after service of <—
8 the payee's notice, in order to be considered by the court.

9 Section 5. Discharge of structured settlement obligor and
10 annuity issuer.

11 Upon an appropriate judicial order approving ~~an application~~ A <—
12 PETITION for a transfer of structured settlement payment rights,
13 the structured settlement obligor and annuity issuer shall be
14 discharged from all liability for the payments and portions
15 thereof transferred as to all parties except the transferee.

16 Section 6. No waiver; no penalties.

17 (a) Waiver.--The provisions of this act may not be waived.

18 (b) Penalties.--No payee who files ~~an application~~ A PETITION <—
19 for the transfer of structured settlement payment rights shall
20 incur any penalty, forfeit any application fee or other payment,
21 or otherwise incur any liability to the proposed transferee
22 based on any failure of such transfer to satisfy the conditions
23 of section 3.

24 SECTION 7. PENALTY. <—

25 A VIOLATION OF THIS ACT SHALL BE DEEMED A VIOLATION OF THE
26 ACT OF DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS THE UNFAIR
27 TRADE PRACTICES AND CONSUMER PROTECTION LAW.

28 Section 7 8. Construction. <—

29 Nothing contained in this act shall be construed to authorize
30 any transfer of structured settlement payment rights in

1 contravention of applicable law or to give effect to any
2 transfer to structured settlement payment rights that is void
3 under applicable law.

4 Section 8 9. Applicability. <—

5 This act shall apply to any ~~application~~ PETITION for the <—
6 transfer of structured settlement payment rights under a
7 transfer agreement sought on or after the effective date of this
8 act, provided, however, that nothing contained in this act shall
9 imply that any transfer under a transfer agreement reached prior
10 to such date is effective or that any party is under any
11 obligation to make transferred payments to the transferee of any
12 such prior transfer.

13 Section 9 10. Effective date. <—

14 This act shall take effect in 60 days.