

Amendment No. 438

Senate Amendment to Senate Bill No. 332	(BDR 3-960)
Proposed by: Senate Committee on Judiciary	
Amendment Box: Replaces Amendment No. 192.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

NCA



Date: 4/18/2021

S.B. No. 332—Revises provisions relating to structured settlements. (BDR 3-960)



SENATE BILL NO. 332—SENATOR SCHEIBLE

MARCH 22, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to structured settlements. (BDR 3-960)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to structured settlements; requiring structured settlement purchase companies to register with the ~~Secretary of State;~~ **Consumer Affairs Division of the Department of Business and Industry;** prohibiting certain activities by structured settlement purchase companies and their employees and representatives; setting forth procedures and requirements concerning the transfer of structured settlement payment rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Structured settlements are arrangements in which periodic payments are made to a person who, because of a settlement or a judgment of a court, is entitled to receive payments for damages from a tort claim or workers' compensation claim. Such a person, known as a payee, may transfer the right to receive some or all of those periodic payments to another person, known as a structured settlement purchase company, in exchange for consideration such as a lump-sum payment. Existing law requires such transfers to be approved by a court and sets forth certain requirements relating to such transfers. (NRS 42.030) This bill replaces the existing requirements concerning such transfers with new requirements.

Sections 4-28 of this bill define necessary terms for the regulation of structured settlement purchase companies and their activities, including, without limitation, "payee," "structured settlement purchase company" and "transfer."

Section 29 of this bill: (1) requires structured settlement purchase companies to register with the ~~Secretary of State;~~ **Consumer Affairs Division of the Department of Business and Industry;** and (2) sets forth requirements concerning registration, such as obtaining a surety bond, letter of credit or cash bond in the amount of \$50,000. **Sections 30 and 31** of this bill set forth further requirements concerning registration, **section 33** of this bill sets forth further requirements concerning surety bonds obtained for registration and **section 34** of this bill provides that certain persons are not required to register.

Section 35 of this bill: (1) prohibits structured settlement purchase companies and their employees and representatives from engaging in various specified actions; and (2) provides a private right of action to payees and other structured settlement purchase companies to pursue and obtain damages and other remedies from a person who engages in prohibited activities. **Section 32** of this bill requires a structured settlement purchase company to notify the ~~Secretary of State;~~ **Division** and, if applicable, the surety which issued the applicable surety bond, if a judgment is obtained against the structured settlement purchase company.

Section 37 of this bill requires a structured settlement purchase company to provide to a payee an extensive disclosure statement before a transfer may occur.

Sections 36, 38 and 40 of this bill set forth requirements concerning: (1) the filings a structured settlement purchase company must make with a court before a transfer may occur; (2) the findings a court must make before a transfer may occur; and (3) procedures to be followed in obtaining court approval of a transfer, including, without limitation, notice requirements.

Section 39 of this bill describes the rights of various interested parties after the transfer of structured settlement payment rights, section 41 of this bill sets forth various protections for payees and sections 41 and 43 of this bill provide that the provisions of this bill apply only to transfer agreements entered into on or after October 1, 2021.

Section 44 of this bill repeals the existing statute which is being replaced by the provisions of this bill, and section 42 of this bill makes a conforming change to delete a reference to the repealed statute and add a new reference to the appropriate section in this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 42 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. *Sections 2 to 41, inclusive, of this act, may be known and cited as the Structured Settlement Protection Act.*

Sec. 3. *As used in sections 2 to 41, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 28, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Annuity issuer” means an insurer that has issued a contract to fund periodic payments under a structured settlement.*

Sec. 5. *“Assignee” means a person acquiring or proposing to acquire structured settlement payments from a structured settlement purchase company or transferee after, or concurrently with, the transfer of the structured settlement payment rights by the payee to the structured settlement purchase company or transferee.*

Sec. 6. *“Dependents” include a payee’s spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including, without limitation, alimony.*

Sec. 7. *“Discounted present value” means the present value of future payments determined by discounting such payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the Internal Revenue Service.*

Sec. 7.5. *“Division” means the Consumer Affairs Division of the Department of Business and Industry.*

Sec. 8. *“Gross advance amount” means the sum payable to the payee or for the payee’s account as consideration for a transfer of structured settlement payment rights, before any reductions for transfer expenses or other deductions to be made from such consideration.*

Sec. 9. *“Independent professional advice” means advice of an attorney, certified public accountant, actuary or other licensed professional adviser.*

Sec. 10. *“Interested party” means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee’s death, the annuity issuer, ~~the~~ ~~the~~ the structured settlement obligor and any party to the structured settlement that has continuing obligations to make payments under the structured settlement.*

1 Sec. 11. “Net advance amount” means the gross advance amount, less the
2 aggregate amount of the actual and estimated transfer expenses required to be
3 disclosed under section 37 of this act.

4 Sec. 12. “Payee” means a natural person who:

5 1. Is receiving tax-free payments under a structured settlement which
6 resolved a settled claim; and

7 2. Proposes to make a transfer of the structured settlement payment rights.

8 Sec. 13. “Periodic payments” includes both recurring payments and
9 scheduled future lump-sum payments.

10 Sec. 14. “Qualified assignment agreement” means an agreement providing
11 for a qualified assignment within the meaning of section 130 of the Internal
12 Revenue Code, 26 U.S.C. § 130.

13 Sec. 15. “Renewal date” means the date on which a registered structured
14 settlement purchase company is required to renew its registration pursuant to
15 section 29 of this act, which date is 1 year after the initial registration or any
16 subsequent renewal.

17 Sec. 16. “Settled claim” means the tort claim or workers’ compensation
18 claim resolved by a structured settlement.

19 Sec. 17. “Structured settlement” means an arrangement for periodic
20 payment of damages for personal injuries or sickness established by settlement or
21 judgment in resolution of a tort claim or workers’ compensation claim.

22 Sec. 18. “Structured settlement agreement” means the agreement,
23 judgment, stipulation or release embodying the terms of a structured settlement.

24 Sec. 19. “Structured settlement obligor” means, with respect to any
25 structured settlement, the party that has the continuing obligation to make
26 periodic payments to the payee under a structured settlement agreement or
27 qualified assignment agreement.

28 Sec. 20. “Structured settlement payment rights” means rights to receive
29 periodic payments under a structured settlement, whether from the structured
30 settlement obligor or the annuity issuer, ~~if any,~~ where the payee is domiciled in
31 this State or the structured settlement agreement was approved by a court in this
32 State.

33 Sec. 21. “Structured settlement purchase company” means a person that
34 acts as a transferee in this State and who is registered with the ~~Secretary of~~
35 ~~State~~ Division pursuant to section 29 of this act.

36 Sec. 22. “Structured settlement transfer proceeding” means a court
37 proceeding filed by a structured settlement purchase company seeking court
38 approval of a transfer in accordance with section 38 of this act.

39 Sec. 23. “Terms of the structured settlement,” with respect to any
40 structured settlement, includes, without limitation, the terms of the structured
41 settlement agreement, the annuity contract, any qualified assignment agreement
42 and any order or other approval of any court ~~in this State.~~

43 Sec. 24. “Transfer” means any sale, assignment, pledge, hypothecation or
44 other alienation or encumbrance of structured settlement payment rights made by
45 a payee for consideration. The term does not include the creation or perfection of
46 a security interest in structured settlement payment rights under a blanket
47 security agreement entered into with an insured depository institution, in the
48 absence of any action to redirect the structured settlement payments to the
49 insured depository institution, or an agent or successor in interest thereof, or
50 otherwise to enforce a blanket security interest against the structured settlement
51 payment rights.

52 Sec. 25. “Transfer agreement” means the agreement providing for a
53 transfer of structured settlement payment rights.

1 **Sec. 26.** *“Transfer expense” means all expenses of a transfer that are*
2 *required under the transfer agreement to be paid by the payee or deducted from*
3 *the gross advance amount, including, without limitation, court filing fees,*
4 *attorney’s fees, escrow fees, lien recordation fees, judgment and lien search fees,*
5 *finders’ fees, commissions and other payments to a broker or other intermediary.*
6 *The term does not include preexisting obligations of the payee payable for the*
7 *payee’s account from the proceeds of the transfer.*

8 **Sec. 27.** *“Transfer order” means an order approving a transfer in*
9 *accordance with section 38 of this act.*

10 **Sec. 28.** *“Transferee” means a party acquiring or proposing to acquire*
11 *structured settlement payment rights through a transfer.*

12 **Sec. 29.** 1. *A person shall not act as a transferee, attempt to acquire*
13 *structured settlement payment rights through a transfer from a payee who resides*
14 *in this State or file a structured settlement transfer proceeding in this State unless*
15 *the person is registered with the ~~Secretary of State~~ Division to do business in*
16 *this State as a structured settlement purchase company.*

17 2. *A person may apply pursuant to this section with the ~~Secretary of State~~*
18 *Division for a registration to do business in this State as a structured settlement*
19 *purchase company. An application for an initial or renewed registration must be*
20 *submitted on a form prescribed by the ~~Secretary of State~~ Division. An initial or*
21 *renewed registration expires 1 year after it is issued and may be renewed by the*
22 *registrant on or before the renewal date for additional 1-year periods.*

23 3. *The application must contain a sworn certification by an owner, officer,*
24 *director or manager of the applicant, if the applicant is not a natural person, or*
25 *by the applicant if the applicant is a natural person, certifying that:*

26 (a) *The applicant has secured a surety bond, has been issued a letter of credit*
27 *or has posted a cash bond in the amount of \$50,000 which relates to its business*
28 *as a structured settlement purchase company in this State;*

29 (b) *The surety bond, letter of credit or cash bond:*

30 (1) *Is intended to protect payees who do business with the applicant when*
31 *the applicant is acting as a structured settlement purchase company; and*

32 (2) *Complies with all applicable provisions of sections 2 to 41, inclusive,*
33 *of this act; and*

34 (c) *The applicant will comply with all of the provisions of sections 2 to 41,*
35 *inclusive, of this act when acting as a structured settlement purchase company*
36 *and filing structured settlement transfer proceedings in this State.*

37 4. *The applicant must submit to the ~~Secretary of State~~ Division with each*
38 *initial and renewal application a copy of the surety bond, letter of credit or cash*
39 *bond obtained by the applicant for the purposes of subsection 3.*

40 5. *A surety bond obtained for the purposes of subsection 3 must be payable*
41 *to the State of Nevada.*

42 6. *A surety bond, letter of credit or cash bond obtained for the purposes of*
43 *subsection 3 must be effective ~~for at least the period of time during which the~~*
44 *registration sought by the applicant is intended to be effective. concurrently with*
45 *the registration of the applicant and must remain in effect for not less than 3*
46 *years after the expiration or termination of the registration. The surety bond,*
47 *letter of credit or cash bond must be renewed each year as needed to keep it*
48 *continuously in effect when the registration of the applicant is renewed unless the*
49 *applicant obtains alternative security described in paragraph (a) of subsection 3*
50 *which complies with all applicable provisions of sections 2 to 41, inclusive, of this*
51 *act.*

52 7. *A surety bond, letter of credit or cash bond obtained for the purposes of*
53 *subsection 3 must:*

(a) Ensure that the structured settlement purchase company:

(1) Complies with the provisions of sections 2 to 41, inclusive, of this act which relate to a payee; and

(2) Performs its obligations to a payee pursuant sections 2 to 41, inclusive, of this act;

(b) Provide a source for recovery for a payee if the payee obtains a judgment against the structured settlement purchase company for a violation of sections 2 to 41, inclusive, of this act.

Sec. 30. 1. In addition to any other requirements set forth in sections 2 to 41, inclusive, of this act, a natural person who applies for the issuance or renewal of a registration as a structured settlement purchase company shall:

(a) Include the social security number of the applicant in the application submitted to the ~~[Secretary of State]~~ Division.

(b) Submit to the ~~[Secretary of State]~~ Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The ~~[Secretary of State]~~ Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the ~~[Secretary of State]~~ Division.

3. A registration may not be issued or renewed by the ~~[Secretary of State]~~ Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the ~~[Secretary of State]~~ Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 31. 1. If the ~~[Secretary of State]~~ Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is registered as a structured settlement purchase company, the ~~[Secretary of State]~~ Division shall deem the registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the ~~[Secretary of State]~~ Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The ~~[Secretary of State]~~ Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the ~~[Secretary of State]~~ Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the

1 person whose registration was suspended has complied with the subpoena or
2 warrant or has satisfied the arrearage pursuant to NRS 425.560.

3 Sec. 32. Not later than 10 days after a judgment is obtained against a
4 structured settlement purchase company by a payee, the structured settlement
5 purchase company shall file a notice with the ~~Secretary of State~~ Division and, if
6 applicable, the surety which issued the surety bond used by the structured
7 settlement purchase company to satisfy the requirements of section 29 of this act.
8 The notice must contain:

- 9 1. A copy of the judgment;
10 2. The name and address of the judgment creditor; and
11 3. The status of the matter, including, without limitation, whether the
12 judgment will be appealed or has been paid or satisfied.

13 Sec. 33. 1. The liability of the surety which issued a surety bond used by a
14 structured settlement purchase company to satisfy the requirements of section 29
15 of this act must not be affected by any:

16 (a) Breach of contract, breach of warranty, failure to pay a premium or other
17 act or omission of the structured settlement purchase company; or

18 (b) Insolvency or bankruptcy of the structured settlement purchase company.

19 2. A surety which issued a surety bond used by a structured settlement
20 purchase company to satisfy the requirements of section 29 of this act and the
21 structured settlement purchase company which obtained the surety bond shall not
22 cancel or modify the surety bond during the term for which it is issued unless the
23 surety or the structured settlement purchase company provides written notice to
24 the ~~Secretary of State~~ Division at least 20 days before the effective date of the
25 cancellation or modification.

26 3. If a surety bond used by a structured settlement purchase company to
27 satisfy the requirements of section 29 of this act is modified so as to make the
28 surety bond not comply with any provision of sections 2 to 41, inclusive, of this
29 act, or the surety bond is cancelled, the registration of the structured settlement
30 purchase company automatically expires on the effective date of the modification
31 or cancellation unless a new surety bond, letter of credit or cash bond which
32 complies with sections 2 to 41, inclusive, of this act is filed with the ~~Secretary of
33 State~~ Division on or before the effective date of the modification or cancellation.

34 4. A modification or cancellation of a surety bond used by a structured
35 settlement purchase company to satisfy the requirements of section 29 of this act
36 does not affect any liability of the bonded surety company incurred before the
37 modification or cancellation of the surety bond.

38 Sec. 34. 1. An assignee is not required to register as a structured
39 settlement purchase company to acquire structured settlement payment rights
40 ~~[from a transferee, structured settlement purchase company or another assignee,
41 or to take a security interest in structured settlement payment rights from a
42 transferee, structured settlement purchase company or another assignee, in a
43 transaction in which the assignee does not act as a structured settlement
44 purchase company or as a transferee under sections 2 to 41, inclusive, of this
45 act.] or to take a security interest in structured settlement payment rights that
46 were transferred by the payee to a structured settlement purchase company.~~

47 2. An employee of a structured settlement purchase company, if acting on
48 behalf of the structured settlement purchase company in connection with a
49 transfer, is not required to be registered.

50 Sec. 35. 1. A transferee, a structured settlement purchase company and
51 an employee or other representative of a transferee or structured settlement
52 purchase company shall not engage in any of the following actions:

1 (a) Pursue or complete a transfer with a payee without complying with all
2 applicable provisions of sections 2 to 41, inclusive, of this act.

3 (b) Refuse or fail to fund a transfer after court approval of the transfer.

4 (c) Acquire structured settlement payment rights from a payee without
5 complying with all applicable provisions of sections 2 to 41, inclusive, of this act,
6 including, without limitation, obtaining court approval of the transfer in
7 accordance with sections 2 to 41, inclusive, of this act.

8 (d) Intentionally file a structured settlement transfer proceeding in any court
9 other than the court specified in section 40 of this act, unless the transferee is
10 required to file in a different court by applicable law.

11 (e) Except as otherwise provided in this paragraph, pay a commission or
12 finder's fee to any person for facilitating or arranging a structured settlement
13 transfer with a payee. The provisions of this paragraph do not prevent a
14 structured settlement purchase company from paying:

15 (1) A commission or finder's fee to a person who is a structured
16 settlement purchase company or is an employee of a structured settlement
17 purchase company;

18 (2) To third parties any routine transfer expenses, including, without
19 limitation, court filing fees, escrow fees, lien recordation fees, judgment and lien
20 search fees, attorney's fees and other similar types of fees relating to a transfer;
21 and

22 (3) A reasonable referral fee to an attorney, certified public accountant,
23 actuary, licensed insurance agent or other licensed professional adviser in
24 connection with a transfer.

25 (f) Intentionally advertise materially false or misleading information
26 regarding the products or services of the transferee or structured settlement
27 purchase company.

28 (g) Attempt to coerce, bribe or intimidate a payee seeking to transfer
29 structured settlement payment rights.

30 (h) Attempt to defraud a payee or any party to a structured settlement
31 transfer or any interested party in a structured settlement transfer proceeding by
32 means of forgery or false identification.

33 (i) Except as otherwise provided in this paragraph, intervene in a pending
34 structured settlement transfer proceeding if the transferee or structured
35 settlement purchase company is not a party to the proceeding or an interested
36 party relative to the proposed transfer which is the subject of the pending
37 structured settlement transfer proceeding. The provisions of this paragraph do
38 not prevent a structured settlement purchase company from intervening in a
39 pending structured settlement transfer proceeding if the payee has signed a
40 transfer agreement with the structured settlement purchase company within 60
41 days before the filing of the pending structured settlement transfer proceeding
42 and the structured settlement purchase company which filed the pending
43 structured settlement transfer proceeding violated any provision of sections 2 to
44 41, inclusive, of this act in connection with the proposed transfer that is the
45 subject of the pending structured settlement transfer proceeding.

46 (j) Except as otherwise provided in this paragraph, knowingly contact a
47 payee who has signed a transfer agreement and is pursuing a proposed transfer
48 with another structured settlement purchase company for the purpose of inducing
49 the payee into cancelling the proposed transfer or transfer agreement with the
50 other structured settlement purchase company if a structured settlement transfer
51 proceeding has been filed by the other structured settlement purchase company
52 and is pending. The provisions of this paragraph do not apply if no hearing has

1 *been held in the pending structured settlement transfer proceeding within 90 days*
2 *after the filing of the pending structured settlement transfer proceeding.*

3 *(k) Fail to dismiss a pending structured settlement transfer proceeding at the*
4 *request of the payee. A dismissal of a structured settlement proceeding after a*
5 *structured settlement purchase company has violated the provisions of this*
6 *paragraph does not exempt the structured settlement purchase company from any*
7 *liability under this paragraph.*

8 *2. A payee may pursue a private action as a result of a violation of*
9 *subsection 1 and may recover all damages and pursue all rights and remedies to*
10 *which the payee may be entitled pursuant to sections 2 to 41, inclusive, of this act*
11 *or any other applicable law.*

12 *3. A structured settlement purchase company may pursue a private action to*
13 *enforce paragraphs (d), (g), (i), (j) and (k) of subsection 1 and may recover all*
14 *damages and pursue all remedies to which the structured settlement purchase*
15 *company may be entitled pursuant to sections 2 to 41, inclusive, of this act or any*
16 *other applicable law.*

17 *4. If a court determines that a structured settlement purchase company or*
18 *transferee is in violation of subsection 1, the court may:*

19 *(a) Revoke the registration of the structured settlement purchase company;*

20 *(b) Suspend the registration of the structured settlement purchase company*
21 *for a period to be determined at the discretion of the court; and*

22 *(c) Enjoin the structured settlement purchase company or transferee from*
23 *filing new structured settlement transfer proceedings in this State or otherwise*
24 *pursuing transfers in this State.*

25 **Sec. 36. 1. At the time ~~a transfer order is to be signed by a court in which~~**
26 **~~a structured settlement transfer proceeding is filed, each transferee must provide~~**
27 **~~evidence satisfactory to the court]~~ an application is made under sections 2 to 41,**
28 **inclusive, of this act for the approval of a transfer of structured settlement**
29 **payment rights, the application of the transferee must include evidence that the**
30 **transferee is registered to do business in this State as a structured settlement**
31 **purchase company.**

32 *2. Except as otherwise provided in this subsection, a transfer order signed*
33 *by a district court of competent jurisdiction pursuant to sections 2 to 41,*
34 *inclusive, of this act constitutes a qualified order under 26 U.S.C. § 5891. If a*
35 *transferee to which the transfer order applies is not registered as a structured*
36 *settlement purchase company pursuant to sections 2 to 41, inclusive, of this act at*
37 *the time the transfer order is signed, the transfer order does not constitute a*
38 *qualified order under 26 U.S.C. § 5891.*

39 **Sec. 37. Not less than 3 days before the date on which a payee signs a**
40 **transfer agreement, the transferee shall provide to the payee a separate disclosure**
41 **statement, in bold type no smaller than 14-point font, setting forth the following:**

42 *1. The amounts and due dates of the structured settlement payments to be*
43 *transferred.*

44 *2. The aggregate amount of such payments.*

45 *3. The discounted present value of the payments to be transferred, which*
46 *must be identified as the "calculation of current value of the transferred*
47 *structured settlement payments under federal standards for valuing annuities,"*
48 *and the amount of the Applicable Federal Rate used in calculating such*
49 *discounted present value.*

50 *4. The gross advance amount.*

51 *5. An itemized listing of all applicable transfer expenses, other than*
52 *attorney's fees and related disbursements, payable in connection with the*

transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such attorney's fees and related disbursements.

6. The effective annual interest rate, which must be disclosed in a statement in the following form:

On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect be paying interest to us at a rate of ___ percent per year.

7. The net advance amount.

8. The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee.

9. That the payee has the right to cancel the transfer agreement, without penalty or further obligation, until the transfer is approved by the court.

10. That the payee has the right to seek and receive independent professional advice regarding the proposed transfer and should consider doing so before agreeing to transfer any structured settlement payment rights.

11. That the payee has the right to seek out and consider additional offers for transferring the structured settlement payment rights and should do so.

Sec. 38. A direct or indirect transfer of structured settlement payment rights is not effective, and a structured settlement obligor or annuity issuer is not required to make any payment directly or indirectly to any transferee or assignee of structured settlement payment rights, unless the transfer has been approved in advance in a final court order based on express findings by the court that all of the following apply:

1. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, if any;

2. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived in writing the opportunity to seek and receive such advice; and

3. The transfer does not contravene any applicable statute or any applicable order of any court or other governmental authority.

Sec. 39. 1. Following a transfer of structured settlement payment rights, the structured settlement obligor and ~~if applicable,~~ the annuity issuer may rely on the transfer order in redirecting periodic payments to an assignee or transferee in accordance with the transfer order and is, as to all parties except the transferee or an assignee designated by the transferee, discharged and released from any and all liability for the redirected payments. The discharge and release is not affected by the failure of any party to the transfer to comply with sections 2 to 41, inclusive, of this act or with the transfer order.

2. The transferee is liable to the structured settlement obligor and ~~if applicable,~~ the annuity issuer:

(a) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by the structured settlement obligor or annuity issuer as a consequence of the transfer; and

(b) For any other liabilities or costs, including reasonable costs and attorney's fees, arising from:

(1) Compliance by the structured settlement obligor or annuity issuer with the transfer order; and

(2) The failure of any party to the transfer to comply with sections 2 to 41, inclusive, of this act.

1 3. The structured settlement obligor and ~~if applicable,~~ the annuity issuer
2 are not required to divide any periodic payment between the payee and any
3 transferee or assignee or between two or more transferees or assignees.

4 4. Any further transfer of structured settlement payment rights by the payee
5 may be made only after compliance with all of the requirements of sections 2 to
6 41, inclusive, of this act.

7 Sec. 40. 1. An application under sections 2 to 41, inclusive, of this act for
8 approval of a transfer of structured settlement payment rights must be made by
9 the transferee. The application must be brought in the district court of the county
10 in which the payee is domiciled, except that if the payee is not domiciled in this
11 State, the application must be brought in the court in this State that approved the
12 structured settlement agreement.

13 2. A timely hearing must be held on an application for approval of a
14 transfer of structured settlement payment rights. The payee must appear in
15 person at the hearing, unless the court determines that good cause exists to
16 excuse the payee from appearing in person.

17 3. Not less than 20 days before the scheduled hearing on any application
18 for approval of a transfer of structured settlement payment rights pursuant to
19 sections 2 to 41, inclusive, of this act, the transferee shall file with the court and
20 serve on all interested parties a notice of the proposed transfer and the
21 application for authorization. The notice and application must include all of the
22 following:

23 (a) A copy of the transferee's application.

24 (b) A copy of the transfer agreement.

25 (c) A copy of the disclosure statement required by section 37 of this act.

26 (d) The payee's name, age and county of domicile, and the age of each of the
27 payee's dependents, if any.

28 (e) A summary of:

29 (1) All prior transfers by the payee to the transferee or an affiliate of the
30 transferee, or through the transferee or an affiliate of the transferee to an
31 assignee, within the 4 years immediately preceding the date of the transfer
32 agreement;

33 (2) All proposed transfers by the payee to the transferee or an affiliate of
34 the transferee, or through the transferee or an affiliate of the transferee, the
35 applications for approval of which were denied within the 2 years immediately
36 preceding the date of the transfer agreement;

37 (3) All prior transfers by the payee to any person or entity other than the
38 transferee or an affiliate of the transferee or an assignee of the transferee or an
39 affiliate of the transferee within the 3 years immediately preceding the date of the
40 transfer agreement ~~to the extent that the transfers or proposed transfers have~~
41 been disclosed to the transferee by the payee in writing or otherwise are actually
42 known to the transferee; and

43 (4) All prior proposed transfers by the payee to any person or entity other
44 than the transferee or an affiliate of the transferee or an assignee of a transferee
45 or affiliate of the transferee, the applications for approval of which were denied
46 within the 1 year immediately preceding the date of the current transfer
47 agreement, to the extent that the transfers or proposed transfers have been
48 disclosed to the transferee by the payee in writing or otherwise are actually
49 known to the transferee.

50 (f) Notification that any interested party is entitled to support, oppose or
51 otherwise respond to the transferee's application, either in person or by counsel,
52 by submitting written comments to the court or by participating in the hearing.

(g) Notification of the time and place of the hearing and notification of the manner in which and the date by which written responses to the application must be filed to be considered by the court, which date must not be less than 5 days before the hearing.

(h) Evidence of the transferee's registration to do business in this State as a structured settlement purchase company.

Sec. 41. 1. The provisions of sections 2 to 41, inclusive, of this act may not be waived by a payee.

2. Any transfer agreement entered into by a payee who is domiciled in this State must provide that disputes under the transfer agreement, including, without limitation, any claims that the payee has breached the agreement, must be determined under the laws of this State. A transfer agreement must not authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

3. A transfer of structured settlement payment rights must not extend to any payments that are life-contingent unless, before the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the structured settlement obligor and the annuity issuer ~~if any~~ for periodically confirming the payee's survival and giving the structured settlement obligor and the annuity issuer prompt written notice in the event of the payee's death.

4. If the payee cancels a transfer agreement, or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee must promptly request the dismissal of the application.

5. A payee who proposes to make a transfer of structured settlement payment rights does not incur any penalty, forfeit any application fee or other payment or otherwise incur any liability to the proposed transferee or any assignee based on any failure of the transfer to satisfy the conditions of sections 2 to 41, inclusive, of this act.

6. Nothing contained in sections 2 to 41, inclusive, of this act ~~may be~~ shall:

(a) Be construed to authorize any transfer of structured settlement payment rights in contravention of any applicable law or to imply that any transfer under a transfer agreement entered into before October 1, 2021, is valid or invalid.

(b) Affect the validity of any transfer of structured settlement payment rights, whether under a transfer agreement entered into before or after October 1, 2021, in which the structured settlement obligor and annuity issuer waived, or have not asserted their rights under, terms of the structured settlement prohibiting or restricting the sale, assignment or encumbrance of the structured settlement payment rights.

7. Compliance with the requirements set forth in sections 2 to 41, inclusive, of this act and fulfillment of the conditions set forth in sections 2 to 41, inclusive, of this act are solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer, if any, has any responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

8. Sections 2 to 41, inclusive, of this act apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after October 1, 2021. ~~including, without limitation, any transfer in which the structured settlement obligor and annuity issuer, if any, waived, or have not objected to the transfer based upon, the terms of the settlement agreement~~

~~prohibiting sale, assignment or encumbrance of the payee's structured settlement payment rights.~~

Sec. 42. NRS 104.9406 is hereby amended to read as follows:

104.9406 1. Subject to subsections 2 to 8, inclusive, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

2. Subject to subsection 8, notification is ineffective under subsection 1:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(1) Only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(2) A portion has been assigned to another assignee; or

(3) The account debtor knows that the assignment to that assignee is limited.

3. Subject to subsection 8, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection 1.

4. Except as otherwise provided in subsection 5 and NRS 104.9407 and 104A.2303, and subject to subsection 8, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible or promissory note.

5. Subsection 4 does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under NRS 104.9610 or an acceptance of collateral under NRS 104.9620.

6. Subject to subsections 7 and 8, a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach,

1 right of recoupment, claim, defense, termination, right of termination, or remedy
2 under the account or chattel paper.

3 7. Subject to subsection 8, an account debtor may not waive or vary its option
4 under paragraph (c) of subsection 2.

5 8. This section is subject to law other than this article which establishes a
6 different rule for an account debtor who is a natural person and who incurred the
7 obligation primarily for personal, family or household purposes.

8 9. This section does not apply to an assignment of a health-care-insurance
9 receivable or to a transfer of a right to receive payments pursuant to ~~NRS 42.030.~~
10 *section 36 of this act.*

11 **Sec. 43.** 1. The provisions of this act do not apply to a transfer agreement
12 entered into before October 1, 2021.

13 2. As used in this section, "transfer agreement" has the meaning ascribed to it
14 in section 25 of this act.

15 **Sec. 44.** NRS 42.030 is hereby repealed.

16 **Sec. 45.** 1. This act becomes effective on October 1, 2021.

17 2. Sections 30 and 31 of this act expire by limitation on the date on which the
18 provisions of 42 U.S.C. § 666, the federal law requiring each state to establish
19 procedures under which the state has authority to withhold or suspend, or to restrict
20 the use of professional, occupational and recreational licenses of persons who:

21 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
22 to determine the paternity of a child or to establish or enforce an obligation for the
23 support of a child; or

24 (b) Are in arrears in the payment for the support of one or more children,
25 ➤ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

42.030 Court approval of agreement to transfer structured settlement required.

1. An agreement to transfer the right to receive payments pursuant to a structured settlement to a transferee is valid and enforceable only if the transfer is approved by a district court. The transferee must petition the district court for such approval and the court shall approve the transfer if it determines that:

(a) The transfer is in the best interest of the payee, considering the totality of the circumstances, including, without limitation, the welfare and support of the dependents of the payee;

(b) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has received such independent professional advice or has knowingly waived such advice in writing; and

(c) The transfer does not violate any applicable law or the order of any court.

2. An action pursuant to subsection 1 must be commenced in the district court:

(a) Located where the original claim which gave rise to the structured settlement was filed; or

(b) Within the county in which the payee resides.

3. Not later than 7 days before a hearing on a petition pursuant to subsection 1, the transferee must file with the district court and serve on all interested parties and any attorney who represented the payee in the action which resulted in the

settled claim a notice of the proposed agreement and the petition for authorization of the proposed agreement. The notice must include, without limitation:

- (a) A copy of the petition of the transferee;
- (b) A copy of the proposed agreement;
- (c) A copy of the disclosure required pursuant to subsection 4;
- (d) A list which includes the name and age of each dependent of the payee;
- (e) A statement that any interested party may support, oppose or otherwise respond to the petition of the transferee by appearing in person or by counsel during the hearing on the petition or by submitting written comments to the court; and

(f) Notice of the time and place of the hearing, the manner in which a written response to the application must be filed and the date by which a written response to the petition must be filed for consideration by the court.

4. A transferee who commences an action pursuant to subsection 1 must provide to the court with the proposed agreement a disclosure setting forth:

(a) The amounts and due dates of the payments under the structured settlement proposed to be transferred;

(b) The aggregate amount of the proposed payments to be transferred;

(c) The amount to be paid to the payee for the transfer before deducting any expenses;

(d) An itemized list of all expenses that the payee will be required to pay other than attorney's fees and which will be deducted from the amount paid to the payee for the transfer, including, without limitation, any commission owed to a broker, service charges, application or processing fees, costs of closing on the agreement, filing or administrative charges and fees paid to a notary public;

(e) The amount to be paid to the payee for the transfer after deducting the expenses;

(f) The amount of any liquidated damages which the payee is required to pay if the payee breaches the transfer agreement;

(g) The discounted present value of the payments under the structured settlement that are proposed to be transferred and the discount rate used to determine that value; and

(h) If adverse tax consequences exist, a statement which informs the payee that such a transfer may subject the payee to adverse tax consequences with regard to the payment of federal income tax.

5. Compliance with the requirements set forth in this section may not be waived.

6. As used in this section:

(a) "Annuity issuer" means an insurer who has issued a contract to fund periodic payments under a structured settlement;

(b) "Dependents" include, without limitation, the spouse of a payee, any minor child of a payee and any other person for whom the payee is legally obligated to provide support, including, without limitation, alimony;

(c) "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser;

(d) "Interested parties" means the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the death of the payee, the annuity issuer, any person who is obligated to make payments pursuant to the structured settlement and any other party who has continuing rights or obligations under the structured settlement;

(e) "Payee" means a person who is receiving tax-free payments under a structured settlement and proposes to make a transfer of the right to receive payments under that structured settlement;

(f) "Periodic payments" includes, without limitation, both recurring payments and scheduled future lump-sum payments;

(g) "Settled claim" means the original tort claim or workers' compensation claim resolved by a structured settlement;

(h) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;

(i) "Transfer" means any sale, assignment, pledge, hypothecation or other alienation or encumbrance by a payee for consideration of the right to receive payments pursuant to a structured settlement; and

(j) "Transferee" means a party acquiring or proposing to acquire the right to payments pursuant to a structured settlement through a transfer.