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A bill to be entitled

An act relating to insurance; amending s. 626.99296, F.S.; providing requirements for the direct or indirect transfer of structured-settlement-payment rights; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (3) of section 626.99296, Florida Statutes, is amended to read:

626.99296 Transfers of structured settlement payment rights.—

(3) CONDITIONS TO TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS AND STRUCTURED SETTLEMENT AGREEMENTS.—

(a) 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 a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer is authorized in advance in a final order by a court of competent jurisdiction which is based on the written express findings by the court that:

1. The transfer complies with this section and does not contravene other applicable law;
2. At least 10 days before the date on which the payee first incurred an obligation with respect to the transfer, the transferee provided to the payee a disclosure statement in bold

27 type, no smaller than 14 points in size, which specifies:

28 a. The amounts and due dates of the structured settlement

29 payments to be transferred;

30 b. The aggregate amount of the payments;

31 c. The discounted present value of the payments, together

32 with the discount rate used in determining the discounted

33 present value;

34 d. The gross amount payable to the payee in exchange for

35 the payments;

36 e. An itemized listing of all brokers' commissions,

37 service charges, application fees, processing fees, closing

38 costs, filing fees, referral fees, administrative fees, legal

39 fees, and notary fees and other commissions, fees, costs,

40 expenses, and charges payable by the payee or deductible from

41 the gross amount otherwise payable to the payee;

42 f. The net amount payable to the payee after deducting all

43 commissions, fees, costs, expenses, and charges described in

44 sub-subparagraph e.;

45 g. The quotient, expressed as a percentage, obtained by

46 dividing the net payment amount by the discounted present value

47 of the payments, which must be disclosed in the following

48 statement: "The net amount that you will receive from us in

49 exchange for your future structured settlement payments

50 represent .... percent of the estimated current value of the

51 payments based upon the discounted value using the applicable

52 federal rate";

53 h. The effective annual interest rate, which must be  
54 disclosed in the following statement: "Based on the net amount  
55 that you will receive from us and the amounts and timing of the  
56 structured settlement payments that you are turning over to us,  
57 you will, in effect, be paying interest to us at a rate of ....  
58 percent per year"; and

59 i. The amount of any penalty and the aggregate amount of  
60 any liquidated damages, including penalties, payable by the  
61 payee in the event of a breach of the transfer agreement by the  
62 payee;

63 3. The payee has established that the transfer is in the  
64 best interests of the payee, taking into account the welfare and  
65 support of the payee's dependents;

66 4. The payee has received, or waived his or her right to  
67 receive, independent professional advice regarding the legal,  
68 tax, and financial implications of the transfer;

69 5. The transferee has given written notice of the  
70 transferee's name, address, and taxpayer identification number  
71 to the annuity issuer and the structured settlement obligor and  
72 has filed a copy of the notice with the court;

73 6. The transfer agreement provides that if the payee is  
74 domiciled in this state, any disputes between the parties will  
75 be governed in accordance with the laws of this state and that  
76 the domicile state of the payee is the proper venue to bring any  
77 cause of action arising out of a breach of the agreement; and

78 7. The court has determined that the net amount payable to

79 the payee is fair, just, and reasonable under the circumstances  
80 then existing.

81 8. The discount rate used in determining the net amount  
82 payable to the payee, as provided in subparagraph 2., does not  
83 exceed an annual percentage rate of prime plus 5 percentage  
84 points calculated as if the net amount payable to the payee, as  
85 provided in sub-subparagraph 2.f., was the principal of a  
86 consumer loan made by the transferee to the payee, and if the  
87 structured settlement payments to be transferred to the  
88 transferee were the payee's payments of principal plus interest  
89 on such loan. For purposes of this subparagraph, the prime rate  
90 shall be as reported by the Federal Reserve Statistical Release  
91 H.15 on the first Monday of the month in which the transfer  
92 agreement is signed by both the payee and the transferee, except  
93 when the transfer agreement is signed before the first Monday of  
94 that month, in which case the prime rate shall be as reported by  
95 the Federal Reserve Statistical Release H.15 on the first Monday  
96 of the preceding month.

97 Section 2. This act shall take effect July 1, 2014.