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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/01/2015	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 212 - 366

and insert:

~~5. 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;~~

~~5.6.~~ The transfer agreement provides that if the payee is domiciled in this state, any disputes between the parties will



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11 be governed in accordance with the laws of this state and that  
12 the domicile state of the payee is the proper venue to bring any  
13 cause of action arising out of a breach of the agreement; and

14 ~~6.7.~~ The court has determined that the net amount payable  
15 to the payee is fair, just, and reasonable under the  
16 circumstances then existing.

17 (b) If a proposed transfer would contravene the terms of  
18 the structured settlement, upon the filing of a written  
19 objection by any interested party and after considering the  
20 objection and any response to it, the court may grant, deny, or  
21 impose conditions upon the proposed transfer which the court  
22 deems just and proper given the facts and circumstances and in  
23 accordance with established principles of law. Any order  
24 approving a transfer must require that the transferee indemnify  
25 the annuity issuer and the structured settlement obligor for any  
26 liability, including reasonable costs and attorney ~~attorney's~~  
27 fees, which arises from compliance by the issuer or obligor with  
28 the order of the court.

29 (c) Any provision in a transfer agreement which gives a  
30 transferee power to confess judgment against a payee is  
31 unenforceable to the extent that the amount of the judgment  
32 would exceed the amount paid by the transferee to the payee,  
33 less any payments received from the structured settlement  
34 obligor or payee.

35 (d) In negotiating a structured settlement of claims  
36 brought by or on behalf of a claimant who is domiciled in this  
37 state, the structured settlement obligor must disclose in  
38 writing to the claimant or the claimant's legal representative  
39 all of the following information that is not otherwise specified



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40 in the structured settlement agreement:

41 1. The amounts and due dates of the periodic payments to be  
42 made under the structured settlement agreement. In the case of  
43 payments that will be subject to periodic percentage increases,  
44 the amounts of future payments may be disclosed by identifying  
45 the base payment amount, the amount and timing of scheduled  
46 increases, and the manner in which increases will be compounded;

47 2. The amount of the premium payable to the annuity issuer;

48 3. The discounted present value of all periodic payments  
49 that are not life-contingent, together with the discount rate  
50 used in determining the discounted present value;

51 4. The nature and amount of any costs that may be deducted  
52 from any of the periodic payments; and

53 5. Where applicable, that any transfer of the periodic  
54 payments is prohibited by the terms of the structured settlement  
55 and may otherwise be prohibited or restricted under applicable  
56 law; ~~and~~

57 ~~6. That any transfer of the periodic payments by the~~  
58 ~~claimant may subject the claimant to serious adverse tax~~  
59 ~~consequences.~~

60 (4) VENUE JURISDICTION; PROCEDURE FOR APPROVAL OF  
61 TRANSFERS; CONTENTS OF APPLICATION.—

62 (a) At least 20 days before the scheduled hearing on an  
63 application for authorizing a transfer of structured settlement  
64 payment rights under this section, the transferee must file with  
65 the court and provide to all interested parties a notice of the  
66 proposed transfer and the application for its authorization. The  
67 notice must include:

68 1.(a) A copy of the transferee's application to the court;



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69           ~~2.(b)~~ A copy of the transfer agreement;  
70           ~~3.(e)~~ A copy of the disclosure statement required under  
71 subsection (3);  
72           ~~4.(d)~~ Notification that an interested party may support,  
73 oppose, or otherwise respond to the transferee's application, in  
74 person or by counsel, by submitting written comments to the  
75 court or by participating in the hearing; and  
76           ~~5.(e)~~ Notification of the time and place of the hearing and  
77 notification of the manner in which and the time by which any  
78 written response to the application must be filed in order to be  
79 considered by the court. A written response to an application  
80 must be filed no later than 5 ~~within 15~~ days before the date  
81 after service of the scheduled hearing in order to be considered  
82 by the court transferee's notice.  
83           (b) An application must be made by the transferee and filed  
84 in the circuit court of the county where the payee is domiciled.  
85 However, if the payee is not domiciled in this state, the  
86 application may be filed in the court in this state which  
87 approved the structured settlement agreement or in the court  
88 where the settled claim was pending when the parties entered  
89 into the structured settlement.  
90           (c) The court shall hold a hearing on the application. The  
91 payee shall appear in person at the hearing unless the court  
92 determines that good cause exists to excuse the payee from  
93 appearing.  
94           (d) In addition to complying with the other requirements of  
95 this section, the application must include:  
96           1. The payee's name, age, and county of domicile and the  
97 number and ages of the payee's dependents;



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98           2. A copy of the transfer agreement;

99           3. A copy of the disclosure statement required under  
100 subsection (3);

101           4. An explanation of reasons as to why the payee is seeking  
102 approval of the proposed transfer; and

103           5. A summary of each of the following:

104           a. Any transfers by the payee to the transferee or an  
105 affiliate, or through the transferee or an affiliate to an  
106 assignee, within the 4 years preceding the date of the transfer  
107 agreement.

108           b. Any transfers within the 3 years preceding the date of  
109 the transfer agreement made by the payee to any person or entity  
110 other than the transferee or an affiliate, or an assignee of a  
111 transferee or an affiliate, to the extent such transfers were  
112 disclosed to the transferee by the payee in writing or are  
113 otherwise actually known by the transferee.

114           c. Any proposed transfers by the payee to the transferee or  
115 an affiliate, or through the transferee or an affiliate to an  
116 assignee, for which an application was denied within the 2 years  
117 preceding the date of the transfer agreement.

118           d. Any proposed transfers by the payee to any person or  
119 entity other than the transferee, or an assignee of a transferee  
120 or an affiliate, to the extent such proposed transfers were  
121 disclosed to the transferee by the payee in writing or are  
122 otherwise actually known by the transferee, for which  
123 applications were denied within the year preceding the date of  
124 the transfer agreement.

125           (5) WAIVER PROHIBITED; NO PENALTIES INCURRED BY PAYEE;  
126 RELIANCE ON COURT ORDER; COMPLIANCE; RELEASE FROM LIABILITY;



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127 CONSTRUCTION.—

128 (a) The provisions of this section may not be waived by the  
129 payee.

130 (b) If a transfer of structured settlement payment rights  
131 fails to satisfy the conditions of subsection (3), the payee who  
132 proposed the transfer does not incur any penalty, forfeit any  
133 application fee or other payment, or otherwise incur any  
134 liability to the proposed transferee.

135 (c) In any transfer of structured settlement payment  
136 rights, the transferee is solely responsible for compliance with  
137 the requirements of paragraph (3)(a) and subsection (4), and  
138 neither the structured settlement obligor nor the annuity issuer  
139 shall incur any liability arising from noncompliance.

140 (d) Following issuance of a court order approving a  
141 transfer of structured settlement payment rights under this  
142 section, the structured settlement obligor and annuity issuer:

143 1. May rely on the court order in redirecting future  
144 structured settlement payments to the transferee or an assignee  
145 in accordance with the order; and

146 2. Are released and discharged from any liability for the  
147 transferred payments to any party except the transferee or an  
148 assignee, notwithstanding the failure of any party to the  
149 transfer to comply with this section or with the orders of the  
150 court approving the transfer.

151 (e) If the terms of the structured settlement prohibit  
152 transfer of payment rights:

153 1. A court is not precluded from hearing an application for  
154 approval of a transfer of such payment rights or ruling on the  
155 merits of the application and any objections to the application;



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156 and

157 2. The parties to such structured settlement are not  
158 precluded from waiving or asserting their rights under such  
159 terms.

160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete lines 4 - 26

163 and insert:

164 definitions; revising specified disclosures and  
165 notices that are or may be required to be given in  
166 order to effect transfers of structured settlement  
167 payment rights and payments under such rights;  
168 revising the time limit by which a written response to  
169 an application for transferring such rights must be  
170 filed; specifying requirements for the filing and  
171 contents of the application; requiring the court to  
172 hold a hearing on the application; requiring a payee  
173 to appear in person unless the court determines that  
174 good cause exists to excuse the payee; providing that  
175 the transferee is solely responsible for compliance  
176 with certain requirements; providing that following  
177 issuance of a court order approving the transfer, the  
178 structured settlement obligor and annuity issuer may  
179 rely on the order in redirecting certain payments and  
180 are released and discharged from certain liability;  
181 providing for construction if the terms of the  
182 structured settlement prohibit transfer for payment  
183 rights; conforming