

1 AN ACT concerning structured settlements.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Structured Settlement Protection Act.

6 Section 5. Definitions. For purposes of this Act:

7 "Annuity issuer" means an insurer that has issued a
8 contract to fund periodic payments under a structured
9 settlement.

10 "Dependents" include a payee's spouse and minor children
11 and all other persons for whom the payee is legally obligated
12 to provide support, including maintenance.

13 "Discounted present value" means the present value of
14 future payments determined by discounting such payments to
15 the present using the most recently published Applicable
16 Federal Rate for determining the present value of an annuity,
17 as issued by the United States Internal Revenue Service.

18 "Gross advance amount" means the sum payable to the payee
19 or for the payee's account as consideration for a transfer of
20 structured settlement payment rights before any reductions
21 for transfer expenses or other deductions to be made from
22 such consideration.

23 "Independent professional advice" means advice of an
24 attorney, certified public accountant, actuary, or other
25 licensed professional adviser.

26 "Interested parties" means, with respect to any
27 structured settlement, the payee, any beneficiary irrevocably
28 designated under the annuity contract to receive payments
29 following the payee's death, the annuity issuer, the
30 structured settlement obligor, and any other party that has
31 continuing rights or obligations under such structured

1 settlement.

2 "Net advance amount" means the gross advance amount less
3 the aggregate amount of the actual and estimated transfer
4 expenses required to be disclosed under item (5) of Section
5 10 of this Act.

6 "Payee" means an individual who is receiving tax free
7 payments under a structured settlement and proposes to make a
8 transfer of payment rights thereunder.

9 "Periodic payments" includes both recurring payments and
10 scheduled future lump sum payments.

11 "Qualified assignment agreement" means an agreement
12 providing for a qualified assignment within the meaning of
13 Section 130 of the United States Internal Revenue Code,
14 United States Code Title 26, as amended from time to time.

15 "Responsible administrative authority" means, with
16 respect to a structured settlement, any government authority
17 vested by law with exclusive jurisdiction over the settled
18 claim resolved by such structured settlement.

19 "Settled claim" means the original tort claim or workers'
20 compensation claim resolved by a structured settlement.

21 "Structured settlement" means an arrangement for periodic
22 payment of damages for personal injuries or sickness
23 established by settlement or judgment in resolution of a tort
24 claim or for periodic payments in settlement of a workers'
25 compensation claim.

26 "Structured settlement agreement" means the agreement,
27 judgment, stipulation, or release embodying the terms of a
28 structured settlement.

29 "Structured settlement obligor" means, with respect to
30 any structured settlement, the party that has the continuing
31 obligation to make periodic payments to the payee under a
32 structured settlement agreement or a qualified assignment
33 agreement.

34 "Structured settlement payment rights" means rights to

1 receive periodic payments under a structured settlement,
2 whether from the structured settlement obligor or the annuity
3 issuer, when:

4 (1) the payee is domiciled in, or the domicile or
5 principal place of business of the structured settlement
6 obligor or the annuity issuer is located in, this State;

7 (2) the structured settlement agreement was
8 approved by a court or responsible administrative
9 authority in this State; or

10 (3) the structured settlement agreement is
11 expressly governed by the laws of this State.

12 "Terms of the structured settlement" include, with
13 respect to any structured settlement, the terms of the
14 structured settlement agreement, the annuity contract, any
15 qualified assignment agreement, and any order or other
16 approval of any court or responsible administrative authority
17 or other government authority that authorized or approved
18 such structured settlement.

19 "Transfer" means any sale, assignment, pledge,
20 hypothecation, or other alienation or encumbrance of
21 structured settlement payment rights made by a payee for
22 consideration; provided that the term "transfer" does not
23 include the creation or perfection of a security interest in
24 structured settlement payment rights under a blanket security
25 agreement entered into with an insured depository institution
26 in the absence of any action to redirect the structured
27 settlement payments to such insured depository institution or
28 an agent or successor in interest thereof or otherwise to
29 enforce such blanket security interest against the structured
30 settlement payment rights.

31 "Transfer agreement" means the agreement providing for a
32 transfer of structured settlement payment rights.

33 "Transfer expenses" means all expenses of a transfer that
34 are required under the transfer agreement to be paid by the

1 payee or deducted from the gross advance amount, including,
2 without limitation, court filing fees, attorneys fees, escrow
3 fees, lien recordation fees, judgment and lien search fees,
4 finders' fees, commissions, and other payments to a broker or
5 other intermediary; "transfer expenses" do not include
6 preexisting obligations of the payee payable for the payee's
7 account from the proceeds of a transfer.

8 "Transferee" means a party acquiring or proposing to
9 acquire structured settlement payment rights through a
10 transfer.

11 Section 10. Required disclosures to payee. Not less than
12 3 days prior to the date on which a payee signs a transfer
13 agreement, the transferee shall provide to the payee a
14 separate disclosure statement, in bold type no smaller than
15 14 points, setting forth all of the following:

16 (1) the amounts and due dates of the structured
17 settlement payments to be transferred;

18 (2) the aggregate amount of the payments;

19 (3) the discounted present value of the payments to
20 be transferred, which shall be identified as the
21 "calculation of current value of the transferred
22 structured settlement payments under federal standards
23 for valuing annuities", and the amount of the Applicable
24 Federal Rate used in calculating the discounted present
25 value;

26 (4) the gross advance amount;

27 (5) an itemized listing of all applicable transfer
28 expenses, other than attorneys' fees and related
29 disbursements payable in connection with the transferee's
30 application for approval of the transfer, and the
31 transferee's best estimate of the amount of any such fees
32 and disbursements;

33 (6) the net advance amount;

1 (7) the amount of any penalties or liquidated
2 damages payable by the payee in the event of any breach
3 of the transfer agreement by the payee; and

4 (8) a statement that the payee has the right to
5 cancel the transfer agreement, without penalty or further
6 obligation, not later than the third business day after
7 the date the agreement is signed by the payee.

8 Section 15. Approval of transfers of structured
9 settlement payment rights. No direct or indirect transfer of
10 structured settlement payment rights shall be effective and
11 no structured settlement obligor or annuity issuer shall be
12 required to make any payment directly or indirectly to any
13 transferee of structured settlement payment rights unless the
14 transfer has been approved in advance in a final court order
15 or order of a responsible administrative authority based on
16 express findings by such court or responsible administrative
17 authority that:

18 (1) the transfer is in the best interest of the
19 payee, taking into account the welfare and support of the
20 payee's dependents;

21 (2) the payee has been advised in writing by the
22 transferee to seek independent professional advice
23 regarding the transfer and has either received such
24 advice or knowingly waived such advice in writing; and

25 (3) the transfer does not contravene any applicable
26 statute or the order of any court or other government
27 authority.

28 Section 20. Effects of transfer of structured settlement
29 payment rights. Following a transfer of structured settlement
30 payment rights under this Act:

31 (1) the structured settlement obligor and the
32 annuity issuer shall, as to all parties except the

1 transferee, be discharged and released from any and all
2 liability for the transferred payments;

3 (2) the transferee shall be liable to the
4 structured settlement obligor and the annuity issuer:

5 (A) if the transfer contravenes the terms of
6 the structured settlement, for any taxes incurred by
7 the parties as a consequence of the transfer; and

8 (B) for any other liabilities or costs,
9 including reasonable costs and attorneys' fees,
10 arising from compliance by the parties with the
11 order of the court or responsible administrative
12 authority or arising as a consequence of the
13 transferee's failure to comply with this Act;

14 (3) neither the annuity issuer nor the structured
15 settlement obligor may be required to divide any periodic
16 payment between the payee and any transferee or assignee
17 or between 2 or more transferees or assignees; and

18 (4) any further transfer of structured settlement
19 payment rights by the payee may be made only after
20 compliance with all of the requirements of this Act.

21 Section 25. Procedure for approval of transfers.

22 (a) No annuity issuer or structured settlement obligor
23 may make payments on a structured settlement to anyone other
24 than the payee or beneficiary of the payee without prior
25 approval of the circuit court or responsible administrative
26 authority. No payee or beneficiary of a payee of a
27 structured settlement may assign in any manner the structured
28 settlement payment rights without the prior approval of the
29 circuit court or responsible administrative authority.

30 (b) An application under this Act for approval of a
31 transfer of structured settlement payment rights shall be
32 made by the transferee and shall be brought in the circuit
33 court of the county in which an action was or could have been

1 maintained or before any responsible administrative authority
2 that approved the structured settlement agreement.

3 Section 30. General provisions; construction.

4 (a) The provisions of this Act may not be waived by any
5 payee.

6 (b) Any transfer agreement entered into on or after the
7 effective date of this Act by a payee who resides in this
8 State shall provide that disputes under the transfer
9 agreement, including any claim that the payee has breached
10 the agreement, shall be determined in and under the laws of
11 this State. No such transfer agreement shall authorize the
12 transferee or any other party to confess judgment or consent
13 to entry of judgment against the payee.

14 (c) No transfer of structured settlement payment rights
15 shall extend to any payments that are life-contingent unless,
16 prior to the date on which the payee signs the transfer
17 agreement, the transferee has established and has agreed to
18 maintain procedures reasonably satisfactory to the annuity
19 issuer and the structured settlement obligor for (1)
20 periodically confirming the payee's survival, and (2) giving
21 the annuity issuer and the structured settlement obligor
22 prompt written notice in the event of the payee's death.

23 (d) No payee who proposes to make a transfer of
24 structured settlement payment rights shall incur any penalty,
25 forfeit any application fee or other payment, or otherwise
26 incur any liability to the proposed transferee or any
27 assignee based on any failure of the transfer to satisfy the
28 conditions of this Act.

29 (e) Nothing contained in this Act shall be construed to
30 authorize any transfer of structured settlement payment
31 rights in contravention of any law or to imply that any
32 transfer under a transfer agreement entered into prior to the
33 effective date of this Act is valid or invalid.

1 (f) Compliance with the requirements set forth in
2 Section 10 of this Act and fulfillment of the conditions set
3 forth in Section 15 of this Act shall be solely the
4 responsibility of the transferee in any transfer of
5 structured settlement payment rights, and neither the
6 structured settlement obligor nor the annuity issuer shall
7 bear any responsibility for, or any liability arising from,
8 non-compliance with those requirements or failure to fulfill
9 those conditions.

10 Section 35. Applicability. This Act shall apply to any
11 transfer of structured settlement payment rights under a
12 transfer agreement entered into on or after the 30th day
13 after the effective date of this Act; provided, however, that
14 nothing contained herein shall imply that any transfer under
15 a transfer agreement reached prior to that date is either
16 effective or ineffective.

17 (215 ILCS 5/155.34 rep.)

18 Section 97. The Illinois Insurance Code is amended by
19 repealing Section 155.34.