

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 alimony.

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) An application under this Act for approval of a  
23 transfer of structured settlement payment rights shall be  
24 made by the transferee and may be brought in the county in  
25 which the payee resides, in the county in which the  
26 structured settlement obligor or the annuity issuer maintains  
27 its principal place of business, or in any court or before  
28 any responsible administrative authority that approved the  
29 structured settlement agreement.

30 (b) Not less than 20 days prior to the scheduled hearing  
31 on any application for approval of a transfer of structured  
32 settlement payment rights under Section 15 of this Act, the  
33 transferee shall file with the court or responsible

1 administrative authority and serve on all interested parties  
2 a notice of the proposed transfer and the application for its  
3 authorization, including with the notice:

4 (1) a copy of the transferee's application;

5 (2) a copy of the transfer agreement;

6 (3) a copy of the disclosure statement required  
7 under Section 10 of this Act;

8 (4) a listing of each of the payee's dependents,  
9 together with each dependent's age;

10 (5) notification that any interested party is  
11 entitled to support, oppose, or otherwise respond to the  
12 transferee's application, either in person or by counsel,  
13 by submitting written comments to the court or  
14 responsible administrative authority or by participating  
15 in the hearing; and

16 (6) notification of the time and place of the  
17 hearing and notification of the manner in which and the  
18 time by which written responses to the application must  
19 be filed (which shall be not less than 15 days after  
20 service of the transferee's notice) in order to be  
21 considered by the court or responsible administrative  
22 authority.

23 Section 30. General provisions; construction.

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

26 (b) Any transfer agreement entered into on or after the  
27 effective date of this Act by a payee who resides in this  
28 State shall provide that disputes under the transfer  
29 agreement, including any claim that the payee has breached  
30 the agreement, shall be determined in and under the laws of  
31 this State. No such transfer agreement shall authorize the  
32 transferee or any other party to confess judgment or consent  
33 to entry of judgment against the payee.

1 (c) No transfer of structured settlement payment rights  
2 shall extend to any payments that are life-contingent unless,  
3 prior to the date on which the payee signs the transfer  
4 agreement, the transferee has established and has agreed to  
5 maintain procedures reasonably satisfactory to the annuity  
6 issuer and the structured settlement obligor for (1)  
7 periodically confirming the payee's survival, and (2) giving  
8 the annuity issuer and the structured settlement obligor  
9 prompt written notice in the event of the payee's death.

10 (d) No payee who proposes to make a transfer of  
11 structured settlement payment rights shall incur any penalty,  
12 forfeit any application fee or other payment, or otherwise  
13 incur any liability to the proposed transferee or any  
14 assignee based on any failure of the transfer to satisfy the  
15 conditions of this Act.

16 (e) Nothing contained in this Act shall be construed to  
17 authorize any transfer of structured settlement payment  
18 rights in contravention of any law or to imply that any  
19 transfer under a transfer agreement entered into prior to the  
20 effective date of this Act is valid or invalid.

21 (f) Compliance with the requirements set forth in  
22 Section 10 of this Act and fulfillment of the conditions set  
23 forth in Section 15 of this Act shall be solely the  
24 responsibility of the transferee in any transfer of  
25 structured settlement payment rights, and neither the  
26 structured settlement obligor nor the annuity issuer shall  
27 bear any responsibility for, or any liability arising from,  
28 non-compliance with those requirements or failure to fulfill  
29 those conditions.

30 Section 35. Applicability. This Act shall apply to any  
31 transfer of structured settlement payment rights under a  
32 transfer agreement entered into on or after the 30th day  
33 after the effective date of this Act; provided, however, that



1 nothing contained herein shall imply that any transfer under  
2 a transfer agreement reached prior to that date is either  
3 effective or ineffective.

4 (215 ILCS 5/155.34 rep.)

5 Section 97. The Illinois Insurance Code is amended by  
6 repealing Section 155.34.