

REVISED STRUCTURED SETTLEMENT PROTECTION ACT (EXCERPT)
Act 296 of 2006

***** 691.1302.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2006 *****

691.1302.new Definitions.

Sec. 2. As used in this act:

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

(b) "Dependent" means a payee's spouse, minor child, or any other person for whom the payee is legally obligated to provide support, including alimony.

(c) "Discounted present value" means the present value of future payments determined by discounting the 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.

(d) "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 reduction in that sum for transfer expenses or other deductions.

(e) "Imminent financial hardship" means the inability of the payee, because of a change in the payee's circumstances after the execution of the initial structured settlement agreement, to purchase or pay for 1 or more of the following without the transfer:

(i) Medical care or a medical device for the payee or the payee's dependents.

(ii) Living quarters for the payee.

(iii) A motor vehicle necessary for the payee's transportation if the payee has no other suitable transportation options.

(iv) Education or job training expenses.

(v) Debts of the payee resulting from child support, alimony, a tax lien, funeral expenses, or a judgment.

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

(g) "Interested party" means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under an annuity contract to receive payments following the payee's death, an annuity issuer, a structured settlement obligor, or any other person that has continuing rights or obligations under the structured settlement.

(h) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 3(e).

(i) "Payee" means an individual who receives tax free payments under a structured settlement and who proposes to make a transfer of payment rights under the structured settlement.

(j) "Periodic payments" means both recurring payments and scheduled future lump sum payments.

(k) "Qualified assignment agreement" means an agreement providing for a qualified assignment as defined in section 130 of the internal revenue code, 26 USC 130.

(l) "Settled claim" means the original tort claim resolved by a structured settlement.

(m) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment to resolve a tort claim. Structured settlement does not include an arrangement for periodic payments to settle a worker's compensation claim.

(n) "Structured settlement agreement" means an agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(o) "Structured settlement obligor" means, with respect to a structured settlement, a person that has a continuing obligation to make periodic payments to a payee under the structured settlement agreement or a qualified assignment agreement.

(p) "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if 1 or more of the following conditions exist:

(i) The payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state.

(ii) The structured settlement agreement was approved by a court in this state.

(iii) The structured settlement agreement is expressly governed by the laws of this state.

(q) "Terms of the structured settlement" means, with respect to a structured settlement, the terms of the structured settlement agreement, an annuity contract, a qualified assignment agreement, or an order or other approval of a court that authorized or approved the structured settlement.

(r) "Transfer" means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights a payee makes for consideration; except that "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, unless action has been taken to redirect the structured settlement payments to the insured depository institution or to an agent or successor in interest of the depository institution, or action has been taken to otherwise enforce the blanket security interest against the structured settlement payment rights.

(s) "Transfer agreement" means an agreement providing for a transfer of structured settlement payment rights.

(t) "Transfer expenses" means all expenses of a transfer that the transfer agreement requires the payee to pay or have deducted from the gross advance amount, including, but not limited to, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. Transfer expenses do not include preexisting obligations of the payee that are payable for the payee's account from the proceeds of a transfer.

(u) "Transferee" means a person acquiring or proposing to acquire structured settlement payment rights through a transfer.

History: 2006, Act 296, Eff. Sept. 1, 2006.