

CONNECTICUT ANNOTATED STATUTES
TITLE 52. CIVIL ACTIONS
CHAPTER 900 COURT PRACTICE AND PROCEDURE

Conn. Gen. Stat. § 52-225f (2003)

§ 52-225f. Transfer of structured settlement payment rights. Court approval required.

Section 1. For the purposes of sections 1 to 6, inclusive, of this act:

- (1) 'Annuity issuer' means an insurer that has issued a contract to fund periodic payments under a structured settlement;
- (2) 'Dependents' include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony;
- (3) '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 United States Internal Revenue Service;
- (4) '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 any reductions for transfer expenses or other deductions to be made from such consideration;
- (5) 'Independent professional advice' means advice of an attorney, certified public accountant, actuary or other licensed professional adviser;
- (6) 'Interested parties' means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor and any other party that has continuing rights or obligations under such structured settlement;
- (7) 'Net advance amount' means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under subdivision (5) of section 2 of this act;
- (8) 'Payee' means an individual who is receiving tax-free payments under a structured settlement and proposes to transfer payment rights under the structured settlement;
- (9) 'Periodic payments' includes both recurring payments and scheduled future lump-sum payments;
- (10) 'Qualified assignment agreement' means an agreement providing for a qualified assignment within the meaning of Section 130 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended;
- (11) 'Responsible administrative authority' means, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by such structured settlement;
- (12) 'Settled claim' means the original tort claim or workers' compensation claim resolved by a structured settlement;
- (13) 'Structured settlement' means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;
- (14) 'Structured settlement agreement' means the agreement, judgment, stipulation or release embodying the terms of a structured settlement;

(15) 'Structured settlement obligor' means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement;

(16) 'Structured settlement payment rights' means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) 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;

(B) The structured settlement agreement was approved by a court or responsible administrative authority in this state; or

(C) The structured settlement agreement is expressly governed by the laws of this state;

(17) 'Terms of the structured settlement' include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement, and any order or other approval of any court or responsible administrative authority or other government authority that authorized or approved such structured settlement;

(18) 'Transfer' means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration, but 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, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights;

(19) 'Transfer agreement' means the agreement providing for a transfer of structured settlement payment rights;

(20) 'Transfer expenses' means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, but not limited to, court filing fees, attorney's fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions and other payments to a broker or other intermediary, but does not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer; and

(21) 'Transferee' means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

Sec. 2. Not less than three days prior to the date on which the payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in boldface type at least fourteen points in size, setting forth:

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

(2) The aggregate amount of such payments;

(3) The discounted present value of the payments to be transferred, which shall be identified as the 'calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities,' and the amount of the applicable federal rate used in calculating such discounted present value;

(4) The gross advance amount;

(5) An itemized listing of all applicable transfer expenses, other than attorney's fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;

(6) The net advance amount;

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

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

Sec. 3. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order or order of a responsible administrative authority based on express findings by such court or responsible administrative authority that:

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

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

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

Sec. 4. Following a transfer of structured settlement payment rights under sections 1 to 6, inclusive, of this act:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

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

(A) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer, and

(B) For any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or responsible administrative authority or arising as a consequence of the transferee's failure to comply with sections 1 to 6, inclusive, of this act;

(3) Neither the structured settlement obligor nor the annuity issuer may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of sections 1 to 6, inclusive, of this act.

Sec. 5. (a) An application under sections 1 to 6, inclusive, of this act for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the superior court for the judicial district in which the payee resides or in which the structured settlement obligor or annuity issuer maintains its principal place of business or in the superior court or before the responsible administrative authority that approved the structured settlement agreement.

(b) Not less than twenty days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 3 of this act, the transferee shall file with the court or responsible administrative authority and serve on all interested parties a notice of the proposed transfer and the application for its approval, including with the notice:

(1) A copy of the transferee's application;

(2) A copy of the transfer agreement;

- (3) A copy of the disclosure statement required under section 2 of this act;
- (4) A listing of each of the payee's dependents, together with each dependent's age;
- (5) Notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and
- (6) Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than fifteen days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

Sec. 6. (a) The provisions of sections 1 to 6, inclusive, of this act may not be waived by any payee.

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

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and agreed to maintain procedures reasonably satisfactory to the structured settlement obligor and the annuity issuer for:

(1) Periodically confirming the payee's survival; and

(2) Giving the structured settlement obligor and the annuity issuer prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of sections 1 to 6, inclusive, of this act.

(e) Nothing contained in sections 1 to 6, inclusive, of this act shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this section is valid or invalid.

(f) Compliance with the requirements set forth in section 2 of this act and fulfillment of the conditions set forth in section 3 of this act shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

(g) The provisions of sections 1 to 6, inclusive, of this act shall be applicable to transfer agreements executed on and after October 1, 2003.

Sec. 7. Section 52-225f of the general statutes is repealed and the following is substituted in lieu thereof:

(a) For purposes of this section:

(1) 'Annuity issuer' means an insurer that has issued any insurance contract used to fund periodic payments under a structured settlement;

(2) 'Expenses' means all broker's commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs and charges payable by the payee in connection with the proposed transfer or deductible from the gross consideration that would be paid to the payee in

connection with the transfer;

(3) 'Interested parties' means, with respect to any structured settlement, the payee, any beneficiary designated to receive payments following the payee's death or, if the designated beneficiary is a minor, the designated beneficiary's parent or guardian, the annuity issuer and the structured settlement obligor;

(4) 'Payee' means an individual who is receiving payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

(5) 'Structured settlement' means an arrangement for periodic payment of damages established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;

(6) 'Structured settlement obligor' means, with respect to any structured settlement, the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or under an agreement providing for a qualified assignment within the meaning of Section 130 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended;

(7) 'Structured settlement payment rights' means rights to receive periodic payments, including lump sum payments, under a structured settlement, whether from the settlement obligor or the annuity issuer;

(8) 'Transfer' means any sale, assignment, pledge, hypothecation or other form of alienation or encumbrance made for consideration;

(9) 'Transfer agreement' means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee; and

(10) 'Transferee' means any person receiving structured settlement payment rights resulting from a transfer.

(b) No transfer of structured settlement payment rights, either directly or indirectly, shall be effective by any payee domiciled in this state or by any payee entitled to receive payments under a structured settlement funded by an insurance contract issued by an insurer domiciled in this state or owned by an insurer or corporation domiciled in this state and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of any such transfer unless (1) not less than ten days prior to the date on which the payee entered into the transfer agreement, the transferee provided to the payee a written disclosure statement setting forth (A) the amounts and due dates of the structured settlement payments to be transferred; (B) the aggregate amount of the payments; (C) the gross amount of all expenses; (D) the amount payable to the payee, net of all expenses, in exchange for the payments; (E) the discounted present value of all structured settlement payments to be transferred and the discount rate used in determining such discounted present value; and (F) a statement that the payee may be subject to adverse federal and state income tax consequences as a result of the proposed transfer; and (2) such transfer has been approved by a court pursuant to subsection (c) of this section.

(c) (1) Prior to any transfer, the payee entitled to receive payments under such structured settlement shall commence a declaratory judgment action under section 52-29 for a determination as to whether the transfer of such structured settlement payment rights is in the best interests of the payee and is fair and reasonable to all interested parties under all of the circumstances then existing. The annuity issuer and the structured settlement obligor shall be made parties to such action. If the court determines, after hearing, that such transfer should be allowed, it shall approve such transfer upon such terms and conditions as it deems appropriate.

(2) The court in which the original action was or could have been filed or the court which has jurisdiction where the applicant resides shall have jurisdiction over any such action.

(3) The payee shall cause notice of the action to be served on all interested parties by a proper officer or other person lawfully empowered to make service. The notice of the action shall include (A) a copy of the payee's application to the court for approval of the transfer, (B) a copy of the disclosure statement required under subsection (b) of this section and (C) notice of the hearing.

(4) The payee may seek an order setting the deadline for the filing of written objections. The payee shall give notice to all interested parties of the deadline for filing objections whether such deadline has been established by court order or by operation of the general statutes or court rule. Notice shall be mailed to all interested parties at least ten days before such deadline.

(5) The court shall hold a hearing on the application. The payee shall give notice of the hearing to all interested parties.

(d) Nothing contained in this section shall imply that any transfer under a transfer agreement dated prior to October 1, 1998, is binding upon any interested party or that any annuity issuer or structured settlement obligor is under any obligation to make transferred payments to the transferee of any such prior transfer.

(e) The provisions of this section may not be waived.

(f) The provisions of this section shall be applicable to transfer agreements executed on and after October 1, 1998, and prior to October 1, 2003.