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2 ENROLLED, An Act,

3 Relating to transfers of structured settlement
4 payment rights; to provide definitions of terms used in this
5 act, including a definition of the term "structured
6 settlement" that excludes workers' compensation settlements;
7 to provide for required disclosures to the payee; to require a
8 disclosure statement be provided to the payee by the
9 transferee not less than three days prior to the date on which
10 a payee signs a transfer agreement; to prescribe the style of
11 and what shall be set forth in the disclosure statement from
12 the transferee to the payee; to provide that the payee has the
13 right to cancel the transfer agreement within three business
14 days after the date the agreement was signed; to provide for
15 the approval of transfers of structured settlement payment
16 rights; to require advance authorization by a court or
17 administrative authority based on express findings made after
18 a factual hearing by the court or administrative authority in
19 order for a transfer of structured settlement payment rights
20 to be effective; to prescribe the express findings on which
21 the court or administrative authority shall base the advance
22 authorization; to provide for the effects of transfer of
23 structured settlement payment rights; to provide that the
24 structured settlement obligor and the annuity issuer have no
25 liability for the transferred payments as to all parties

1 except the transferee; to provide the circumstances when the
2 transferee will be liable to the structured settlement obligor
3 and the annuity issuer; to provide that the structured
4 settlement obligor and the annuity issuer may not be required
5 to divide periodic payments between the payee and transferee;
6 to prescribe the procedure for approval of transfers of
7 structured settlement payment rights; to provide where an
8 application for approval of a transfer of structured
9 settlement payment rights may be brought; to require the
10 transferee to file with the court or administrative authority
11 and serve all interested parties with a notice of the proposed
12 transfer and application not less than 20 days prior to the
13 hearing; to provide what shall be set forth and provided with
14 the notice; to provide that the provisions of this act may not
15 be waived by a payee; to provide that a transfer agreement
16 entered into on or after the effective date of this act by a
17 payee who resides in this state shall provide that disputes
18 under the transfer agreement shall be governed by the laws of
19 this state; to provide the procedures the transferee shall
20 establish and maintain to allow payments of structured
21 settlement payment rights that are life-contingent; to protect
22 a payee from liability to a proposed transferee or assignee
23 based on any failure of the transfer to satisfy the conditions
24 of this act; to prohibit transfers in contravention of any
25 law; to not imply that any transfer under a transfer agreement

1 prior to the effective date of this act is valid or invalid;
2 to provide that certain compliance requirements and the
3 fulfillment of certain conditions in this act are the
4 responsibility of the transferee and not the structured
5 settlement obligor or the annuity issuer; to provide that
6 nothing in the act shall require or allow the disclosure of
7 the terms of a confidential settlement; and to provide for an
8 effective date of this act.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. This act shall be known and referred to
11 as the "Structured Settlement Protection Act."

12 Section 2. As used in this act the following words
13 and terms shall have the following meanings:

14 (1) ANNUITY ISSUER. An insurer that has issued a
15 contract to fund periodic payments under a structured
16 settlement.

17 (2) DEPENDENTS. A payee's spouse and minor children
18 and all other persons for whom the payee is legally obligated
19 to provide support, including alimony.

20 (3) DISCOUNTED PRESENT VALUE. The present value of
21 future payments determined by discounting the payments to the
22 present using the most recently published applicable federal
23 rate for determining the present value of an annuity, as
24 issued by the United States Internal Revenue Service.

1 (4) GROSS ADVANCE AMOUNT. The sum payable to the
2 payee or for the payee's account as consideration for a
3 transfer of structured settlement payment rights before any
4 reductions for transfer expenses or other deductions to be
5 made from the consideration.

6 (5) INDEPENDENT PROFESSIONAL ADVICE. Advice of an
7 attorney, certified public accountant, actuary, or other
8 licensed professional adviser.

9 (6) INTERESTED PARTIES. With respect to any
10 structured settlement, the payee, any beneficiary irrevocably
11 designated under the annuity contract to receive payments
12 following the payee's death, the annuity issuer, the
13 structured settlement obligor, and any other party that has
14 continuing rights or obligations under such structured
15 settlement.

16 (7) NET ADVANCE AMOUNT. The gross advance amount
17 less the aggregate amount of the actual and estimated transfer
18 expenses required to be disclosed under Section 3(e) of this
19 act.

20 (8) PAYEE. An individual who is receiving tax free
21 payments under a structured settlement and proposes to make a
22 transfer of payment rights thereunder.

23 (9) PERIODIC PAYMENTS. Includes both recurring
24 payments and scheduled future lump sum payments.

1 (10) QUALIFIED ASSIGNMENT AGREEMENT. An agreement
2 providing for a qualified assignment within the meaning of
3 Section 130 of the United States Internal Revenue Code, United
4 States Code Title 26, as amended from time to time.

5 (11) RESPONSIBLE ADMINISTRATIVE AUTHORITY. With
6 respect to a structured settlement, any government authority
7 vested by law with exclusive jurisdiction over the settled
8 claim resolved by such structured settlement.

9 (12) SETTLED CLAIM. The original tort claim resolved
10 by a structured settlement.

11 (13) STRUCTURED SETTLEMENT. An arrangement for
12 periodic payment of damages for personal injuries or sickness
13 established by settlement or judgment in resolution of a tort
14 claim.

15 (14) STRUCTURED SETTLEMENT AGREEMENT. The agreement,
16 judgment, stipulation, or release embodying the terms of a
17 structured settlement.

18 (15) STRUCTURED SETTLEMENT OBLIGOR. With respect to
19 any structured settlement, the party that has the continuing
20 obligation to make periodic payments to the payee under a
21 structured settlement agreement or a qualified assignment
22 agreement.

23 (16) STRUCTURED SETTLEMENT PAYMENT RIGHTS. Rights to
24 receive periodic payments under a structured settlement,

1 whether from the structured settlement obligor or the annuity
2 issuer, where:

3 a. The payee is domiciled in, or the domicile or
4 principal place of business of the structured settlement
5 obligor or the annuity issuer is located in, this state.

6 b. The structured settlement agreement was approved
7 by a court or responsible administrative authority in this
8 state.

9 c. The structured settlement agreement is expressly
10 governed by the laws of this state.

11 (17) TERMS OF THE STRUCTURED SETTLEMENT. Include,
12 with respect to any structured settlement, the terms of the
13 structured settlement agreement, the annuity contract, any
14 qualified assignment agreement and any order or other approval
15 of any court or responsible administrative authority or other
16 government authority that authorized or approved the
17 structured settlement.

18 (18) TRANSFER. Any sale, assignment, pledge,
19 hypothecation or other alienation or encumbrance of structured
20 settlement payment rights made by a payee for consideration;
21 provided that the term does not include the creation or
22 perfection of a security interest in structured settlement
23 payment rights under a security agreement entered into with a
24 bank or other insured depository institution or a subsidiary
25 or affiliate of a bank or other insured depository institution

1 ("secured party") until and unless the secured party redirects
2 the structured settlement payments to such secured party, or
3 an agent or successor in interest thereof, or otherwise
4 enforces the security interest against the structured
5 settlement payment rights.

6 (19) TRANSFER AGREEMENT. The agreement providing for
7 a transfer of structured settlement payment rights.

8 (20) TRANSFER EXPENSES. All expenses of a transfer
9 that are required under the transfer agreement to be paid by
10 the payee or deducted from the gross advance amount,
11 including, without limitation, court filing fees, attorneys'
12 fees, escrow fees, lien recordation fees, judgment and lien
13 search fees, finders' fees, commissions, and other payments to
14 a broker or other intermediary; the term does not include
15 preexisting obligations of the payee payable for the payee's
16 account from the proceeds of a transfer.

17 (21) TRANSFEREE. A party acquiring or proposing to
18 acquire structured settlement payment rights through a
19 transfer; provided that the term does not include a secured
20 party who has not received a transfer of the structured
21 settlement payment rights as the term "transfer" is defined in
22 subdivision (18).

23 Section 3. Not less than three days prior to the
24 date on which a payee signs a transfer agreement, the
25 transferee shall provide to the payee a separate disclosure

1 statement, in bold type no smaller than 14 points, setting
2 forth all of the following:

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

5 (2) The aggregate amount of the payments.

6 (3) The discounted present value of the payments to
7 be transferred, which shall be identified as the "calculation
8 of current value of the transferred structured settlement
9 payments under federal standards for valuing annuities," and
10 the amount of the applicable federal rate used in calculating
11 the discounted present value.

12 (4) The gross advance amount.

13 (5) An itemized listing of all applicable transfer
14 expenses, other than attorneys' fees and related disbursements
15 payable in connection with the transferee's application for
16 approval of the transfer, and the transferee's best estimate
17 of the amount of the fees and disbursements.

18 (6) The net advance amount.

19 (7) The amount of any penalties or liquidated
20 damages payable by the payee in the event of any breach of the
21 transfer agreement by the payee.

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

1 Section 4. No direct or indirect transfer of
2 structured settlement payment rights shall be effective and no
3 structured settlement obligor or annuity issuer shall be
4 required to make any payment directly or indirectly to any
5 transferee of structured settlement payment rights unless the
6 transfer has been approved in advance in a final court order
7 or order of a responsible administrative authority based on
8 express findings by the court or responsible administrative
9 authority determined after a factual hearing that include all
10 of the following:

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

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

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

21 Section 5. (a) Following a transfer of structured
22 settlement payment rights under this act:

23 (1) The structured settlement obligor and the
24 annuity issuer shall, as to all parties except the transferee,

1 be discharged and released from any and all liability for the
2 transferred payments.

3 (2) The transferee shall be liable to the structured
4 settlement obligor and the annuity issuer in the following
5 cases:

6 a. If the transfer contravenes the terms of the
7 structured settlement, for any federal or state income taxes,
8 interest, fees, and penalties incurred by the parties,
9 including the annuity issuer and structured settlement
10 obligor, as a consequence of the transfer.

11 b. For any other liabilities or costs, including
12 reasonable costs and attorneys' fees, arising from compliance
13 by the parties with the order of the court or responsible
14 administrative authority or arising as a consequence of the
15 transferee's failure to comply with this act.

16 (b) Neither the annuity issuer nor the structured
17 settlement obligor may be required to divide any periodic
18 payment between the payee and any transferee or assignee or
19 between two or more transferees or assignees.

20 (c) Any further transfer of structured settlement
21 payment rights by the payee may be made only after compliance
22 with all of the requirements of this act.

23 Section 6. (a) An application under this act for
24 approval of a transfer of structured settlement payment rights
25 shall be made by the transferee and may be brought in the

1 county in which the payee resides, in the county in which the
2 structured settlement obligor or the annuity issuer maintains
3 its principal place of business, or in any court or before any
4 responsible administrative authority which approved the
5 structured settlement agreement.

6 (b) Not less than 20 days prior to the scheduled
7 hearing on any application for approval of a transfer of
8 structured settlement payment rights under Section 4 of this
9 act, the transferee shall file with the court or responsible
10 administrative authority a notice of the proposed transfer and
11 the application for its authorization. Such notice and
12 application shall include all of the following:

13 (1) A copy of the transferee's application.

14 (2) A copy of the transfer agreement.

15 (3) A copy of the disclosure statement required
16 under Section 3 of this act.

17 (4) A listing of each of the payee's dependents,
18 together with each dependent's age.

19 (5) Notification that any interested party is
20 entitled to support, oppose or otherwise respond to the
21 transferee's application, either in person or by counsel, by
22 submitting a written response to the court or responsible
23 administrative authority or by participating in the hearing.

24 (6) Notification of the time and place of the
25 hearing and notification of the manner in which and the time

1 by which written responses to the application must be filed,
 2 which shall be not less than 15 days after service of the
 3 transferee's notice, in order to be considered by the court or
 4 responsible administrative authority.

5 (c) The notice and application required by Section
 6 6(b) above shall be served on all interested parties in the
 7 manner provided by the Alabama Rules of Civil Procedure for
 8 the service of process.

9 Section 7. (a) The provisions of this act may not be
 10 waived by any payee.

11 (b) Any transfer agreement entered into on or after
 12 the effective date of this act by a payee who resides in this
 13 state shall provide that disputes under the transfer
 14 agreement, including any claim that the payee has breached the
 15 agreement, shall be determined in and under the laws of this
 16 state. Such a transfer agreement shall not authorize the
 17 transferee or any other party to confess judgment or consent
 18 to entry of judgment against the payee.

19 (c) No transfer of structured settlement payment
 20 rights shall extend to any payments that are life-contingent
 21 unless, prior to the date on which the payee signs the
 22 transfer agreement, the transferee has established and has
 23 agreed to maintain procedures reasonably satisfactory to the
 24 annuity issuer and the structured settlement obligor for (i)
 25 periodically confirming the payee's survival, and (ii) giving

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

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

9 (e) Nothing contained in this act shall be
10 constructed to authorize any transfer of structured settlement
11 payment rights in contravention of any law or to imply that
12 any transfer under a transfer agreement entered into prior to
13 the effective date of this act is valid or invalid.

14 (f) Compliance with the requirements set forth in
15 Section 3 of this act and fulfillment of the conditions set
16 forth in Section 4 of this act shall be solely the
17 responsibility of the transferee in any transfer of structured
18 settlement payment rights, and neither the structured
19 settlement obligor nor the annuity issuer shall bear any
20 responsibility for, or any liability arising from,
21 noncompliance with the requirements or failure to fulfill the
22 conditions.

23 Section 8. This act shall apply to any transfer of
24 structured settlement payment rights under a transfer
25 agreement entered into on or after the 30th day after the

1 effective date of this act; provided, however, that nothing
2 contained herein shall imply that any transfer under a
3 transfer agreement reached prior to such date is either
4 effective or ineffective.

5 Section 9. Nothing in this act shall be construed to
6 apply to any settlement under the Alabama Workers'
7 Compensation Law.

8 Section 10. Nothing in this act is intended to, or
9 shall, require or allow the disclosure, publication, or
10 dissemination of the terms of a settlement which is
11 confidential, whether the confidentiality is created by
12 agreement of the parties or by order of the court, or by both.

13 Section 11. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-FEB-06, as amended.

Greg Pappas
Clerk

Senate	17-APR-06	Amended and Passed
House	17-APR-06	Concurred in Senate Amendment