

BILL ANALYSIS

Senate Research Center
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H.B. 2691
By: Counts (Harris)
Jurisprudence
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Engrossed

DIGEST

Currently, a lump sum payment in compensation for serious personal injuries may be dissipated, leaving the injured victim dependent on state and federal assistance programs. However, a structured settlement permits an injury victim to continuously receive assured tax-free payments. Since structured settlements are intended to protect injury victims against dissipation risks and potential tax liability, a structured settlement recipient is prohibited by contract from transferring the payments and ownership of the annuity contract under certain conditions. H.B. 2691 would set forth procedures for the transfer of structured settlement payment rights.

PURPOSE

As proposed, H.B. 2691 authorizes the sale, assignment, or transfer of structured settlements.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 140, as follows:

CHAPTER 140. STRUCTURED SETTLEMENT TRANSFERS

Sec. 140.001. DEFINITIONS. Defines “annuity issuer,” “interested party,” “periodic payments,” “qualified assignment agreement,” “responsible administrative authority,” “settled claim,” “settlement recipient,” “structured settlement,” “structured settlement agreement,” “structured settlement obligor,” “structured settlement payment rights,” “transfer,” “transfer recipient,” and “transfer agreement.”

Sec. 140.002. TRANSFERS OF STRUCTURED SETTLEMENT ARISING FROM CERTAIN ACTIONS. Provides that this section applies to any transfer of structured settlement payment rights established by a judgment or settled claim arising out of a civil action filed in certain courts or an administrative proceeding of another state to resolve a claim for workers’ compensation. Prohibits the settlement from entering into a structured settlement transfer agreement and transfer structured settlement payment rights to a transfer recipient before certain dates. Provides that the transfer of rights made before the specified date is not effective and a structured settlement obligor or annuity issuer is not required to make a payment to a transfer recipient, unless the transfer has been approved by the original court or certain other courts, based on certain findings regarding the transfer.

Sec. 140.003. APPROVAL OF TRANSFERS. Requires the transfer to be made by the recipient and to be brought in certain court. Requires the transfer recipient to file with certain courts or authorities and each interested party a notice of the proposed transfer, the application for authorization, and certain other required information, by a certain date. Prohibits the deadline provided under Subsection (b)(4) from being before the 15th day after the date the notice is served.

Sec. 140.004. DUTY TO INDEMNIFY. Defines “loss.” Requires the recipient to indemnify and hold harmless a settlement recipient against loss arising out of the transfer of structured settlement payment rights. Sets forth the duties of indemnification. Requires the settlement recipient to give

reasonable notice to the transfer recipient of certain rights and financial claims, unless the transfer recipient has been served as a party or otherwise has actual notice of the action in which the taxes, penalties, or interest are imposed.

Sec. 140.005. TRANSFERS OF STRUCTURED SETTLEMENTS NOT ARISING FROM JUDICIAL OR ADMINISTRATIVE ACTION. Provides that this section applies to a transfer of a structured settlement payment rights to which Section 140.002 does not apply. Establishes that the transfer of structured settlement payment rights is not effective, and a structured settlement obligor or annuity issuer is not required to make a payment to any transfer recipient, unless the transfer and transfer recipient have complied with certain requirements. Authorizes a settlement recipient of a structured settlement to rescind and cancel without penalty or further obligation, an agreement to transfer the rights before a certain date. Authorizes the settlement recipient to cancel the agreement by giving notice to the transfer recipient by a certain date of the agreement. Provides that a transfer to which this section applies is void and unenforceable unless the requirements of this section are satisfied.

Sec. 140.006. WAIVER; PENALTIES. Prohibits the provisions of this chapter from being waived. Prohibits the settlement recipient from incurring any penalty or other adverse consequences to the proposed transfer recipient based on any failure of the transfer to satisfy the conditions of Section 140.002.

Sec. 140.007. CONSTRUCTION. Prohibits this chapter from being construed to authorize a transfer of structured settlement payment rights in contravention of applicable law or to give effect to any transfer of structured settlement payment rights that is invalid under applicable law.

SECTION 2. Amends Section 25.0003, Government Code, by adding Subsection (f), to provide that a statutory court has jurisdiction in cases brought under Chapter 140., Civil Practice and Remedies Code.

SECTION 3. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 4. Emergency clause.