

BILL ANALYSIS

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S.B. 277
By: Harris
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DIGEST AND PURPOSE

Currently, under a structured settlement, a person receives damage payments periodically for personal injuries or sickness. Sometimes, the person entitled to these payments sells the rights to the payments to a third party in return for a lump sum at a reduced amount. This practice is not always in the best interest of the injured person. As proposed, S.B. 277 requires the court of original jurisdiction to approve such a transfer of payments.

RULEMAKING AUTHORITY

This bill does not expressly 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 141, as follows:

CHAPTER 141. STRUCTURED SETTLEMENT TRANSFERS.

Sec. 141.001. 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.141.002. TRANSFERS OF STRUCTURED SETTLEMENTS ARISING FROM CERTAIN ACTIONS. (a) 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 a federal court, a court of this state or another state, or an administrative proceeding of another state to resolve a claim for worker’s compensations.

(b) Prohibits a settlement recipient, except as provided by Subsection (c), from entering into a structured settlement transfer agreement and transfer structured settlement payment rights to a recipient before the later of the fifth anniversary of the date of the original structured settlement or the date that the settlement recipient turns 25 years old.

(c) Provides that a direct or indirect transfer of structured settlement payment rights made before the date specified by Subsection (b) is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transfer recipient unless the transfer has been approved by the court of original jurisdiction, a statutory county court, or a responsible administrative authority based on findings by the court or responsible administrative authority that certain conditions have been met.

Sec. 141.003. APPROVAL OF TRANSFERS. (a) Requires that the transfer recipient apply

under Section 141.002 for authorization of a transfer of structured settlement payment rights. Authorizes such an application to be brought in the appropriate state court of original jurisdiction, a statutory county court in the county in which the settlement recipient resides, or before any responsible administrative authority that approved the structured settlement agreement.

(b) Requires the transfer recipient, at least 20 days before the date of the scheduled hearing on an application for authorization of a transfer of structured settlement payment rights under Section 141.002, to file with the court or responsible administrative authority and serve on any other government authority that previously approved the structured settlement, and each interested party, a notice of the proposed transfer and the application for authorization, including certain features.

(c) Prohibits the deadline for written responses to the application under Subsection (b)(4) from being before the 15th day after the date the notice is served.

Sec. 141.004. DUTY TO INDEMNIFY. (a) Defines “loss.”

(b) Requires a transfer recipient to indemnify and hold harmless a settlement recipient against loss arising out of the transfer of structured settlement payment rights.

(c) Provides that the duty to indemnify under this section applies without regard to the manner in which the action is concluded and is in addition to any duty to indemnify established by law, contract, or otherwise.

(d) Requires a settlement recipient eligible for indemnification under this section to give reasonable notice to the transfer recipient of any claim that the transfer of the structured settlement payment rights has resulted in additional taxes, penalties, or interest to the settlement recipient, annuity issuer, or settlement obligor, 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. 141.005. TRANSFERS OF STRUCTURED SETTLEMENTS NOT ARISING FROM JUDICIAL OR ADMINISTRATIVE ACTION. (a) Provides that this section applies to a transfer of structured settlement payment rights to which Section 141.002 does not apply.

(b) Provides that a direct or indirect transfer of structured settlement payment rights to which this section applies is not effective, and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to any transfer recipient of structured payment rights, unless certain conditions are met.

(c) Authorizes a settlement recipient of a structured settlement to rescind and cancel without penalty or further obligation an agreement to transfer structured settlement payment rights before the end of the seventh business day after the date on which the agreement is made. Authorizes the settlement recipient to rescind and cancel the agreement by giving notice to the transfer recipient by registered mail postmarked not later than the seventh day after the date that the agreement is made.

(d) Provides that a transfer to which this section applies is void and unenforceable unless the requirements of this section are satisfied.

Sec. 141.006. WAIVER; PENALTIES. Prohibits the provisions of this chapter from being waived. Prohibits a settlement recipient who proposes to make a transfer of structured settlement payment rights from incurring any penalty, forfeiting any application fee or other payment, or otherwise incurring any liability to the proposed transfer recipient based on any

failure of the transfer to satisfy the conditions of Section 141.002.

Sec. 141.007. 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 (g) as follows:

(g) Provides that a statutory county court has jurisdiction in cases brought under Chapter 141, Civil Practice and Remedies Code.

SECTION 3. Effective date: September 1, 2001.

Makes application of this Act prospective.