

## **BILL ANALYSIS**

Senate Research Center  
77R5387 AJA-F

C.S.S.B. 277  
By: Harris  
Jurisprudence  
3/27/2001  
Committee Report (Substituted)

### **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. C.S.S.B. 277 requires the court of original jurisdiction to approve such a transfer of payments and sets forth guidelines regarding such a transfer.

### **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 PROTECTION ACT**

Sec. 141.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Structured Settlement Protection Act.

Sec. 141.002. **DEFINITIONS.** Defines “annuity issuer,” “court,” “dependents,” “discounted present value,” “gross advance amount,” “independent professional,” “interested party,” “net advance amount,” “payee,” “periodic payments,” “qualified assignment agreement,” “settled claim,” “structured settlement,” “structured settlement agreement,” “structured settlement obligor,” “structured settlement payment rights,” “terms of the structured settlement,” “transfer,” “transfer agreement,” “transfer expenses,” and “transferee.”

Sec.141.003. **REQUIRED DISCLOSURES TO PAYEE.** Requires the transferee, at least three days before the date on which the payee (rather than the settlement recipient) signs a transfer agreement, to provide to the payee a separate disclosure statement, in bold type at least 14 points in size, that makes certain statements.

Sec. 141.004. **APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS.** Prohibits any direct or indirect transfer of structured settlement payment rights from being effective and prohibits any structured settlement obligor or annuity issuer from being 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 based upon certain express findings by the court.

Sec. 141.005. **EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS.** Sets forth guidelines regarding liability, division of periodic payments, and further transfer of structured settlement payment rights following a transfer of structured settlement payment rights under this chapter.

Sec. 141.006. PROCEDURE FOR APPROVAL OF TRANSFERS. (a) Requires that the transferee apply under this chapter for approval of a transfer of structured settlement payment rights and requires the application to be brought in the court.

(b) Requires the transferee recipient, at least 20 days before the date of the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under Section 141.004, to file with the court and serve on all interested parties, a notice of the proposed transfer and the application for authorization, including certain features.

(c) Requires written responses to the application under Subsection (b)(6) to be filed on or by a certain date.

Sec. 141.007. GENERAL PROVISIONS; CONSTRUCTION. (a) Prohibits the provisions of this chapter from being waived by any payee.

(b) Requires any transfer agreement entered into by a payee who resides in this state to provide that disputes under the transfer agreement, including certain claims of breach of agreement, be determined in and under the laws of this state. Prohibits the transfer agreement from authorizing the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) Prohibits transfer of structured settlement payment rights from being extended to any payments that are life-contingent except under certain conditions.

(d) Prohibits a payee 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 transferee or any assignee based on any failure of the transfer to satisfy the conditions of this chapter.

(e) Prohibits anything in this chapter from being construed to authorize a transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into before the effective date of this chapter is valid or invalid.

(f) Provides that compliance with the requirements in Section 141.003 and fulfillment of the conditions in Section 141.004 are solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer bear any responsibility for, or any liability arising from, noncompliance with the requirements or failure to fulfill the conditions.

SECTION 2. Effective date: September 1, 2001.

Makes application of this Act prospective.

### **SUMMARY OF COMMITTEE CHANGES**

Amends As Filed S.B. 277, as follows:

SECTION 1. Differs from original as follows:

#### **CHAPTER 141. STRUCTURED SETTLEMENT PROTECTION ACT (rather than STRUCTURED SETTLEMENT TRANSFERS)**

Sec. 141.001. SHORT TITLE. Omits text from original proposed Section 141.001.

Authorizes this chapter to be cited as the Structured Settlement Protection Act.

Sec. 141.002. DEFINITIONS. (rather than TRANSFERS OF STRUCTURED SETTLEMENTS ARISING FROM CERTAIN ACTIONS). Omits original proposed Section 141.002. Redesignates text from original proposed Section 141.001. Redefines “annuity issuer,” “interested party,” “periodic payments,” “structured settlement,” “structured settlement obligor,” “structured settlement payment rights,” and “transfer.” Defines “court,” “dependents,” “discounted present value,” “gross advance amount,” “independent professional advice,” “net advance amount,” “payee,” “terms of the structured settlement,” “transfer expenses,” and “transferee.” Omits the terms “responsible administrative authority,” “settlement recipient,” and “transfer recipient.”

Sec. 141.003. REQUIRED DISCLOSURES TO PAYEE. (rather than APPROVAL OF TRANSFERS). Redesignates some text from original proposed Section 141.002(c)(2) requiring the transferee, at least three days before the date on which the payee (rather than the settlement recipient) signs a transfer agreement, to provide to the payee a separate disclosure statement, in bold type at least 14 points in size, that makes certain statements. Omits original proposed Section 141.003.

Sec. 141.004. APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS (rather than DUTY TO INDEMNIFY). Omits original proposed Section 141.004. Prohibits any direct or indirect transfer of structured settlement payment rights from being effective and prohibits any structured settlement obligor or annuity issuer from being 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 based upon certain express findings by the court.

Sec. 141.005. EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS (rather than TRANSFERS OF STRUCTURED SETTLEMENTS NOT ARISING FROM JUDICIAL OR ADMINISTRATIVE ACTION). Omits original proposed Section 141.005. Sets forth guidelines regarding liability, division of periodic payments, and further transfer of structured settlement payment rights following a transfer of structured settlement payment rights under this chapter.

Sec. 141.006. PROCEDURE FOR APPROVAL OF TRANSFERS (rather than WAIVER; PENALTIES). Omits original proposed Section 141.006. Redesignates text from original proposed Section 141.003. Requires that the transferee (rather than the transferee recipient) apply under this chapter (rather than Section 141.002) for approval (rather than authorization) of a transfer of structured settlement payment rights and requires the application to be brought in the court. Omits text regarding appropriate courts or other administrative authorities. Makes conforming changes to redesignated text and changes the items required to accompany the filed notice.

Sec. 141.007. GENERAL PROVISIONS; CONSTRUCTION (rather than CONSTRUCTION). Redesignates text from original proposed Section 141.006 regarding waivers, penalties, forfeitures, and liabilities, and makes conforming changes.

Requires any transfer agreement entered into by a payee who resides in this state to provide that disputes under the transfer agreement, including certain claims of breach of agreement, be determined in and under the laws of this state. Prohibits the transfer agreement from authorizing the transferee or any other party to confess judgment or consent to entry of judgment against the payee. Prohibits transfer of structured settlement payment rights from being extended to any payments that are life-contingent except under certain conditions.

Redesignates some text from original proposed Section 141.007 regarding contravention of law

and agreements entered into before the effective date of this chapter.

Provides that compliance with the requirements in Section 141.003 and fulfillment of the conditions in Section 141.004 are solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer bear any responsibility for, or any liability arising from, noncompliance with the requirements or failure to fulfill the conditions

SECTION 2. Omits original proposed SECTION 2 amending Section 25.0003, Government Code, by adding Subsection (g) to provide that a statutory county court has jurisdiction in cases brought under Chapter 141, Civil Practice and Remedies Code. Redesignates text from original proposed SECTION 3 providing the effective date and making application of this Act prospective.