

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1171

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, strike “a final” and substitute “an”; strike beginning with “and” in line 7 down through “in” in line 8; in line 10, after “parties;” insert “providing certain immunity to a structured settlement obligor or annuity issuer when a payee makes a transfer of structured settlement payment rights in violation of this subtitle; defining certain terms;”; and in line 14, strike “5-1103” and substitute “5-1105”.

AMENDMENT NO. 2

On page 1, after line 22, insert:

“(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “DISCOUNTED PRESENT VALUE” MEANS THE FAIR PRESENT VALUE OF FUTURE PAYMENTS, AS DETERMINED BY DISCOUNTING 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.

(C) “INDEPENDENT PROFESSIONAL ADVICE” MEANS ADVICE OF AN ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, ACTUARY, OR OTHER LICENSED PROFESSIONAL ADVISER:

(1) WHO IS ENGAGED BY A PAYEE TO RENDER ADVICE CONCERNING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS;

(Over)

(2) WHO IS NOT AFFILIATED WITH OR COMPENSATED BY THE TRANSFEREE OF THE TRANSFER; AND

(3) WHOSE COMPENSATION IS NOT AFFECTED BY WHETHER A TRANSFER OCCURS.

(D) “INTERESTED PARTIES” MEANS THE PAYEE, ANY BENEFICIARY 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 A STRUCTURED SETTLEMENT.

(E) “PAYEE” MEANS AN INDIVIDUAL WHO IS RECEIVING TAX-FREE DAMAGE PAYMENTS UNDER A STRUCTURED SETTLEMENT AND PROPOSES TO MAKE A TRANSFER OF PAYMENT RIGHTS.

(F) “RESPONSIBLE ADMINISTRATIVE AUTHORITY” MEANS ANY GOVERNMENT AUTHORITY VESTED WITH EXCLUSIVE JURISDICTION OVER THE SETTLED CLAIM RESOLVED BY A STRUCTURED SETTLEMENT.

(G) (1) “STRUCTURED SETTLEMENT” MEANS AN ARRANGEMENT FOR PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY ESTABLISHED BY SETTLEMENT OR JUDGMENT IN RESOLUTION OF A TORT CLAIM.

(2) “STRUCTURED SETTLEMENT” DOES NOT INCLUDE AN ARRANGEMENT FOR PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY ESTABLISHED BY A JUDGMENT BY CONFESSION.

(H) “STRUCTURED SETTLEMENT AGREEMENT” MEANS THE AGREEMENT, JUDGMENT, STIPULATION, OR RELEASE EMBODYING THE TERMS OF A STRUCTURED SETTLEMENT.

(I) “STRUCTURED SETTLEMENT OBLIGOR” MEANS A PARTY WHO HAS THE CONTINUING PERIODIC PAYMENT OBLIGATION TO THE PAYEE UNDER A

STRUCTURED SETTLEMENT AGREEMENT OR A QUALIFIED ASSIGNMENT AGREEMENT.

(J) "STRUCTURED SETTLEMENT PAYMENT RIGHTS" MEANS THE RIGHTS TO RECEIVE PERIODIC PAYMENTS, INCLUDING LUMP-SUM PAYMENTS UNDER STRUCTURED SETTLEMENT, WHETHER FROM THE SETTLEMENT OBLIGOR OR THE ANNUITY ISSUER, IF:

(1) AN INTERESTED PARTY IS DOMICILED IN THIS STATE;

(2) THE STRUCTURED SETTLEMENT AGREEMENT WAS APPROVED BY A COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY IN THIS STATE; OR

(3) THE SETTLED CLAIM WAS PENDING BEFORE A COURT OF THIS STATE WHEN THE PARTIES ENTERED INTO THE STRUCTURED SETTLEMENT AGREEMENT.

(K) "TERMS OF THE STRUCTURED SETTLEMENT" INCLUDES THE TERMS OF THE STRUCTURED SETTLEMENT AGREEMENT, THE ANNUITY CONTRACT, ANY QUALIFIED ASSIGNMENT, AND ANY ORDER OR APPROVAL OF ANY COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY AUTHORIZING OR APPROVING A STRUCTURED SETTLEMENT.

(L) "TRANSFER" MEANS ANY SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION, OR OTHER FORM OF ALIENATION OR ENCUMBRANCE MADE BY A PAYEE FOR CONSIDERATION.

(M) "TRANSFER AGREEMENT" MEANS THE AGREEMENT PROVIDING FOR THE TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS FROM A PAYEE TO A TRANSFEREE.

5-1102."

(Over)

AMENDMENT NO. 3

On page 1, in line 27, after “IF” insert “;

(1)”;

and in lines 27 and 28, strike “A FINAL” and substitute “AN”.

On page 2, strike beginning with “TO” in line 1 down through “AND” in line 2 and substitute ”;

(2)”;

in line 4, after “FUTURE” insert “;

(3) THE PAYEE RECEIVED INDEPENDENT PROFESSIONAL ADVICE REGARDING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF THE TRANSFER; AND

(4) THE TRANSFEREE DISCLOSED TO THE PAYEE THE DISCOUNTED PRESENT VALUE”.

On page 2, in line 5, strike “5-1102.” and substitute “5-1103.”; in line 9, strike “§ 5-1101” and substitute “§ 5-1102”; strike in their entirety lines 21 through 24, inclusive, and substitute:

“5-1104.

IF A PAYEE MAKES A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS IN VIOLATION OF THIS SUBTITLE, THE STRUCTURED SETTLEMENT OBLIGOR OR ANNUITY ISSUER SHALL NOT INCUR ANY ADDITIONAL LIABILITY.”;

and in line 25, strike “5-1103.” and substitute “5-1105.”.