

IC 34-50-2

Chapter 2. Annuity Structured Settlements

IC 34-50-2-1

"Interested party" defined

Sec. 1. As used in this chapter, "interested party" refers to:

- (1) the payee;
- (2) the annuity issuer;
- (3) the structured settlement agreement obligor;
- (4) the payee's counsel who assisted in the establishment of the structured settlement;
- (5) a dependent of the payee; or
- (6) a family member or relative who is acting as a caregiver for the payee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-2

"Structured settlement" defined

Sec. 2. As used in this chapter, "structured settlement" means periodic payments of damages established by a settlement or a court judgment in resolution of a tort claim for personal injury.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-3

"Transfer" defined

Sec. 3. As used in this chapter, "transfer" means a:

- (1) sale;
- (2) assignment;
- (3) pledge;
- (4) hypothecation; or
- (5) any other form of alienation or encumbrance;

of structured settlement payment rights made by a payee for consideration.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-4

"Transferee" defined

Sec. 4. As used in this chapter, "transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer agreement.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-5

Court approval of transfers required

Sec. 5. A direct or indirect transfer of structured settlement payment rights is not effective, and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee, unless an Indiana court of competent jurisdiction has approved the transfer in a final order in accordance with sections 7 and 8 of this chapter.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-6

Disclosure statements

Sec. 6. Not less than ten (10) days before the date on which a payee becomes obligated under a transfer agreement, the transferee shall provide to the payee and other interested parties a disclosure statement, in boldface type of not less than fourteen (14) points in size, that includes the following:

- (1) The amounts and due dates of the structured settlement payments to be transferred under the transfer agreement.
- (2) The aggregate amount of the payments disclosed under subdivision (1).
- (3) An estimate of the present fair market value of the future periodic payments under the structured settlement agreement.
- (4) The gross amount payable to the payee as consideration for the transfer of the structured settlement payments disclosed under subdivision (1).
- (5) An itemized list of all:
 - (A) commissions;
 - (B) fees;
 - (C) costs;
 - (D) expenses; and
 - (E) charges;

payable by the payee or deductible from the gross amount payable to the payee, as disclosed under subdivision (4).

- (6) The net amount payable to the payee after any deduction is made from the gross amount payable to the payee, as described in subdivision (5).
- (7) The quotient, expressed as a percentage, obtained by dividing the net amount payable to the payee, as disclosed under subdivision (6), by the estimate of the present fair market value of the future periodic payments, as disclosed under subdivision (3).
- (8) The amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-7

Final orders; findings

Sec. 7. An Indiana court of competent jurisdiction may approve a transfer of structured settlement payment rights only in a final order that is based on the express findings of the court. The express findings must include all of the following:

- (1) The consideration that the payee will receive for the transfer reasonably reflects the present fair market value of the future periodic payments under the structured settlement agreement.
- (2) The transfer is in the best interest of the payee.
- (3) The transfer will not materially impair the payee's ability to

discharge the payee's obligations to the payee's dependents.
(4) If the transferee is the applicant, the transferee has provided to the payee a disclosure statement in accordance with section 6 of this chapter.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-8

Applications for approval of transfers

Sec. 8. (a) An application under this chapter for approval of a transfer of structured settlement payment rights must be filed in:

- (1) the Indiana court in which the underlying tort action was pending; or
- (2) the court of general jurisdiction in the Indiana county in which the payee resides.

(b) The following apply to an application filed under subsection (a):

(1) Upon filing of the application, the court shall set a date and time for a hearing on the application not earlier than twenty (20) days after the application is filed and shall notify the applicant of the date, time, and place of the hearing. The court shall give precedence to a hearing set under this section in accordance with Indiana Trial Rule 40.

(2) The applicant shall file with the court and shall serve on:

- (A) all interested parties;
- (B) the annuity issuer; and
- (C) the structured settlement obligor;

in the manner prescribed in the rules of civil procedure for the service of process, a notice of the proposed transfer.

(3) The notice required under subdivision (2) shall include:

- (A) a copy of the application;
- (B) a copy of the proposed transfer agreement, including the transferee's:
 - (i) name;
 - (ii) address; and
 - (iii) taxpayer identification number;
- (C) a copy of the disclosure statement provided by the transferee under section 6 of this chapter whenever the application is filed by a person other than the payee;
- (D) notification of the date, time, and place of the hearing on the application; and
- (E) notification that an interested party may support, oppose, or otherwise respond to the application, either in person or by counsel, by:

- (i) submitting to the court a written response containing the interested party's support of, opposition to, or comments on the application; or
- (ii) participating in the hearing.

(4) At the conclusion of the hearing on an application filed under subsection (a), the court may enter an order:

- (A) granting approval with or without modification; or

(B) denying approval;
of the transfer. If the court grants approval of the transfer, the court shall include in the order all of the express findings required under section 7 of this chapter. If the court denies the approval of the transfer, the court shall include in the order the reasons for the denial.

(5) An order of the court made under subdivision (4) is a final and appealable order.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-9

Effect of disapproval of transfers; waiver prohibited; unlawful transfers

Sec. 9. (a) A payee who proposes to make a transfer of structured settlement payment rights does not:

- (1) incur a penalty;
- (2) forfeit an application fee or other payment; or
- (3) otherwise incur a liability to the proposed transferee;

if the transfer is not approved by a court under section 7 of this chapter.

(b) A provision of this chapter may not be waived.

(c) This chapter does not:

- (1) authorize a transfer of structured settlement payment rights in contravention of applicable law; or
- (2) give effect to a transfer of structured settlement payment rights that is void under applicable law.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-10

Immunity

Sec. 10. After a transfer that has been approved in accordance with this chapter, a structured settlement obligor and an annuity issuer are immune from liability to a payee, or to a party other than a transferee who is claiming through the payee, for paying structured settlement payments to a transferee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-11

Failure to provide disclosure statement as incurable deceptive act

Sec. 11. Failure of a transferee of structured settlement payment rights to timely provide a true and complete disclosure statement to a payee under this chapter in connection with a direct or indirect transfer of structured settlement payment rights is an incurable deceptive act under IC 24-5-0.5.

As added by P.L.219-2001, SEC.6.