

AMENDED IN SENATE JUNE 14, 2010

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 982

Introduced by Assembly Member Tran

February 27, 2009

An act to amend ~~Sections 10134, 10138, and 10139.5 of the Insurance Section 70377 of the Government Code, relating to structured settlements court facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 982, as amended, Tran. ~~Structured settlements; transfers. Court facilities.~~

Existing law establishes the State Court Facilities Construction Fund for the planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of court facilities, as specified. Existing law levies a state court construction penalty, as specified, upon every fine, penalty, and forfeiture imposed and collected for all criminal offenses, and for every parking offense for which a parking penalty, fine, or forfeiture is imposed. Existing law requires that moneys deposited in the county treasury pursuant to these provisions be transmitted to the Controller for deposit in the State Court Facilities Construction Fund, as specified. Existing law requires any amounts required to be transmitted by a county to the Controller pursuant to these provisions to be remitted no later than 45 days after the end of

the month in which the penalties were collected. Any remittance made later than this time is considered delinquent and is subject to specified penalties. Existing law requires the Controller, upon receipt of any delinquent payment, to calculate a penalty on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 1½% per month for the number of days the payment is delinquent. Existing law requires the county to pay the penalty amount calculated pursuant to these provisions to the Controller, as specified, and requires the Controller to deposit these moneys in the State Court Facilities Construction Fund.

This bill would additionally require the Controller to calculate the interest on the delinquent payment, as specified, and would revise the formula for calculating the penalty. The bill would also require a county, city and county, or court to pay the interest or penalty amounts calculated pursuant to these provisions, as specified, to the State Court Facilities Construction Fund. The bill would require that payment be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller.

~~Existing law provides definitions, including for “interested parties,” for purposes of the provisions regulating the transfer of structured settlement payment rights.~~

~~This bill would revise the definition of “interested parties” for purposes of those provisions.~~

~~Existing law prohibits the inclusion of various provisions in an agreement for the transfer of structured settlement payment rights and would make an agreement void and unenforceable if a prohibited provision is included. Among the provisions prohibited from being included in those agreements are any forum selection provision providing for jurisdiction to be in a court outside of California for any action arising under the contract and any choice-of-law provision that provides for controlling law to be other than California law in any action arising under the contract.~~

~~This bill would prohibit those 2 provisions if the payee is domiciled in California at the time that the transfer agreement is signed by the payee.~~

~~Existing law provides that a transfer of structured settlement payment rights is not effective unless the transfer has been approved in advance in a final court order based on certain findings. Existing law provides where such an application for approval shall be filed and provides for~~

~~a certain notice, which is to include specified documents, to be filed with the court and served on interested parties not less than 20 days prior to the scheduled hearing on the application for approval of a transfer of structured settlement payment rights.~~

~~This bill would make specified changes to the requirements regarding the court’s written findings, the county where a transfer approval application is required to be filed, and the documents to be included with the notice.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70377 of the Government Code is
2 amended to read:

3 70377. (a) Any amounts required to be transmitted by a county
4 to the Controller pursuant to this article shall be remitted no later
5 than 45 days after the end of the month in which the penalties were
6 collected. Any remittance made later than this time shall be
7 considered delinquent and subject to the penalties specified in this
8 section.

9 (b) Upon receipt of any delinquent payment required pursuant
10 to this section, the Controller shall ~~calculate a penalty on any~~
11 ~~delinquent payment by multiplying the amount of the delinquent~~
12 ~~payment at a daily rate equivalent to 1 1/2 percent per month for~~
13 ~~the number of days the payment is delinquent. do the following:~~

14 (1) Calculate the interest on the delinquent payment by
15 multiplying the amount of the delinquent payment at a daily rate
16 equivalent to the rate of return of money deposited in the Local
17 Agency Investment Fund pursuant to Section 16429.1 from the
18 date the payment was originally due to either 30 days after the
19 date of the issuance by the Controller of the final audit report
20 concerning the failure to pay or the date of payment by the entity
21 responsible for the delinquent payment, whichever comes first.

22 (2) Calculate a penalty at a daily rate equivalent to 1 1/2 percent
23 per month from the date 30 days after the date of the issuance by
24 the Controller of the final audit report concerning the failure to
25 pay.

26 (c) ~~Penalty-Interest or penalty~~ amounts calculated pursuant to
27 subdivision (b) shall be paid by the county, city and county, or

1 *court to the Controller State Court Facilities Construction Fund*
 2 *no later than 45 days after the end of the month in which the*
 3 *interest or penalty was calculated. All money received by the*
 4 *Controller under this section shall be deposited in the State Court*
 5 *Facilities Construction Fund. Payment shall be made by the entity*
 6 *responsible for the error or other action that caused the failure to*
 7 *pay, as determined by the Controller in notice given to that party*
 8 *by the Controller.*

9 (d) *If the penalty imposed by this section results from a court's*
 10 *failure to comply with the requirements for timely deposit of money*
 11 *with the county treasury, the court shall reimburse the county*
 12 *general fund in an amount equal to the actual penalty.*
 13 *Notwithstanding Section 77009, the court may pay this any penalty*
 14 *or interest imposed pursuant to this section due to an error or*
 15 *other action by the court from money received from the Trial Court*
 16 *Trust Fund. This section does not require an increase in a court's*
 17 *allocation from the Trial Court Trust Fund.*

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**All matter omitted in this version of the bill
 appears in the bill as amended in the
 Assembly, May 4, 2009. (JR11)**