AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL No. 510

Introduced by Senator Corbett
(Coauthor: Assembly Member Tran)

February 26, 2009

An act to amend Sections 10134, 10135, 10136, 10137, 10138, 10139, 10139.3, and 10139.5 of the Insurance Code, relating to structured settlements.

LEGISLATIVE COUNSEL'S DIGEST

SB 510, as amended, Corbett. Structured settlements: payment transfers.

Existing law provides that no direct or indirect transfer of structured settlement payment rights is effective unless the transfer has been approved in advance in a final court order based on certain written court findings.

This bill would specify that those provisions only apply to agreements with certain connections to California. This bill would also specify ~~additional~~ *new* information ~~that must~~ *to* be included in the written disclosure statement provided to the payee prior to executing the transfer agreement. This bill would specify circumstances the court must consider before approving the transfer. This bill would provide that every application for approval of a transfer of structured settlement payment rights shall contain specified information. This bill would also specify notice and disclosure requirements that must be complied with prior to any transfer.

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

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

SECTION 1. Section 10134 of the Insurance Code is amended to read:

10134. For the purposes of this article, the following terms have the following meanings:

(a) "Buyer's first right of refusal" means any provision in the transfer agreement or related documents that obligate the payee to give to the buyer the first choice or option to purchase any remaining structured settlement rights belonging to the payee.

(b) "Dependents" include the payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony.

(c) "Discounted present value" means the fair present value of future payments, as determined by discounting those 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.

(d) "Effective equivalent interest rate," with respect to a transfer of structured settlement payment rights, means the annualized rate of interest on the net advance amount, calculated by treating the transferred structured settlement payments as if they were installment payments on a loan, with each payment applied first to accrued unpaid interest and then to principal.

(e) "Expenses" means all broker's commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, and charges that a payee would have to pay to transfer the structured settlement payment rights of a structured settlement agreement or that would be deducted from the gross consideration that would be paid to the payee in connection with the transfer of the structured settlement payment rights of a structured settlement agreement.

(f) “Independent professional advice” means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser meeting all of the following requirements:

(1) The adviser is engaged by a claimant or payee to render advice concerning the legal, tax, or financial implications of a structured settlement or a transfer of structured settlement payment rights.

(2) The adviser’s compensation for rendering independent professional advice is not affected by occurrence or lack of occurrence of a settlement or transfer.

(3) A particular adviser is not referred to the payee by the transferee or its agent, except that the transferee may refer the payee to a lawyer referral service or agency operated by a state or local bar association.

(g) “Interested parties” means, with respect to a structured settlement agreement, the payee, the payee’s attorney, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee’s death, the annuity issuer, the structured settlement obligor, and any other party who has continuing rights or obligations under the structured settlement agreement. If the designated beneficiary is a minor, the beneficiary’s parent or guardian shall be an interested party.

(h) “Payee” means an individual who received tax-free payments pursuant to a structured settlement agreement.

(i) “Qualified assignment agreement” means an agreement providing for a qualified assignment within the meaning of Section 130 of Title 26 of the United States Code, as amended from time to time.

(j) “Structured settlement agreement” means an arrangement for periodic payment of damages established by settlement or judgment in resolution of a tort claim in which the payment of the judgment or award is paid in whole, or in part, in periodic tax-free payments rather than a lump-sum payment. A structured settlement agreement entered into pursuant to Section 667.7 of the Code of Civil Procedure or Section 970.6 or 984 of the Government Code is not subject to the provisions of this article other than the requirements of Section 10138.

(k) “Structured settlement obligor” means the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.

(*l*) "Structured settlement payment rights" means rights to receive periodic payments, including lump-sum payments, pursuant to a structured settlement agreement, whether from the settlement obligor or an annuity issuer.

(m) "Terms of the structured settlement" include, with respect to a structured settlement agreement, the terms of the structured settlement agreement, annuity contract, qualified assignment agreement, and any order or approval of a court or responsible administrative authority or other governmental authority authorizing or approving the structured settlement.

(n) "Transfer" means any sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made for consideration.

(o) "Transfer agreement" means the agreement providing for the transfer, and any other document used to effectuate the transfer, from the payee to the transferee of structured settlement payment rights of a structured settlement agreement.

(p) "Transferee" means any person receiving structured settlement payment rights resulting from a transfer.

SEC. 2. Section 10135 of the Insurance Code is amended to read:

10135. (a) This article is only applicable to transfers entered into on or after January 1, 2000.

(b) Notwithstanding subdivision (a), the changes to this article made by the act amending this section in the 2001–02 Regular Session shall only be applicable to transfers entered into on or after January 1, 2002.

(c) This article is only applicable to transfers of structured settlement payment rights if one of the following requirements is met:

(1) The payee is domiciled in California at the time the transfer agreement is signed by the payee.

(2) The payee is not domiciled in California at the time the transfer agreement is signed and the state where the payee is domiciled does not have a structured settlement transfer statute, but either the structured settlement obligor or annuity issuer is domiciled in California.

SEC. 3. Section 10136 of the Insurance Code is amended to read:

10136. (a) No direct or indirect transfer of structured settlement payment rights, shall be effective by a payee to which this article applies and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to a transferee, unless all of the provisions of this section are satisfied.

(b) Ten or more days before the payee executes a transfer agreement, the transferee shall provide the payee with a separate written disclosure statement, accurately completed with the information that applies to the transfer agreement, in substantially the following form, in at least 12-point type unless otherwise indicated (bracketed instructions shall not appear in the form):

“Disclosure Notice Required By Law [14-point boldface type]

You are selling (technically called ’transferring’) your right to receive your payments under a structured settlement. You should get this disclosure notice at least 10 days before you sign any contract.

IMPORTANT TERMS: [14-point boldface type]

~~Total dollar amount of payments you are selling:~~	~~$~~ ____________
~~Present value of amount you are selling:~~	~~$~~ ____________
~~Net amount paid to you:~~	~~$~~ ____________
~~Value you are giving up by this sale or transfer:~~	~~$~~ ____________

You have agreed to sell to the transferee future payments totaling ____ dollars ($____) in exchange for a purchase price of ____ dollars ($____).

Those future payments have a discounted present value equal to ____ dollars ($____), calculated by applying the discount rate of ____ percent utilized by the Internal Revenue Service to value annuities in probate proceedings.

The purchase price to be paid to you was calculated using a discount rate of ____ percent.

The purchase price payable to you is less than the present value of the future payments stated above because the discount rate of *your transaction is greater than the rate utilized by the Internal Revenue Service.*

For comparison purposes:

If you did not sell your right to receive structured settlement payments, but instead borrowed the net amount of $____ and paid that loan back in installments with each of the payments you are now selling, the equivalent interest rate you would be paying for that loan would be ____% per year.

[The text and information set forth above under 'IMPORTANT TERMS' shall be in 14-point type and circumscribed by a box with a bold border]

To figure the net amount we are paying, we have charged you for the following expenses:

[itemize in a list by type and amount]

for a total of $____ in expenses.

You should get independent professional advice about whether selling your structured settlement payments is a good idea for you and for your dependents.

You are advised to seek independent legal or financial advice regarding the transaction and, under the law, the cost of that advice, up to one thousand five hundred dollars ($1,500) will be paid by the transferee, the person or entity to whom you have agreed to transfer and assign the payments in question. The transferee or purchaser's accountant, counsel, or actuary may not advise you in this transaction.

You also should get independent professional advice from an accountant or lawyer experienced in tax matters about any income tax consequences from selling your structured settlement payments. We cannot give you the name of anyone to advise you.

Court approval is needed [14-point boldface type]. A court must approve any agreement you sign to sell your rights under a structured settlement. You will not receive any money until the court approves the sale. Court approval could take more than 30 days following the day you sign an agreement selling your rights under a structured settlement.

A sale of future structured settlement payments will mean that you will no longer receive the future payments that are sold. You *are advised to enter into this transaction only after you have carefully considered the consequences of the transaction.*

You may cancel the contract before court approval [14-point boldface type]. You may cancel the agreement selling (or transferring) your rights under a structured settlement without any cost or obligation. You may cancel at any time before the court approves the contract. You will get notice of the date of the court hearing.

If you want to cancel, you do not need any special form. But, you must cancel in writing. Send your cancellation to: [insert transferee's name and address].

If you believe that you have been treated unfairly or have been misled, you should contact your local district attorney or the state Attorney General."

(c) The transfer agreement shall be written in at least 12-point type and shall be complete and without blank spaces to be completed after the payee's signature. The transfer agreement shall set forth clear and conspicuously, and in no less than 12-point type, all of the following:

(1) A statement that the agreement is not effective until the date on which a court enters a final order approving the transfer agreement and that payment to the payee pursuant to the transfer agreement will be delayed up to 30 days or more after the date the payee signed the transfer agreement in order for the court to review and approve the transfer agreement.

(2) The amounts and due dates of the structured settlement payments to be transferred.

(3) The aggregate amount of the structured settlement payments to be transferred. This amount shall be disclosed in the form prescribed in subdivision (b) ~~in the space for "Total dollar amount of payments you are selling."~~.

(4) The aggregate amount of all expenses, if any, to be deducted from the purchase price to be paid to the payee in exchange for the payments to be transferred, and an itemization of all expenses by type and amount.

(5) The amount payable to the payee, net of all expenses, in exchange for the payments to be transferred. This amount shall be disclosed in the form prescribed in subdivision (b) ~~in the spaces for "Net amount paid to you" and "net amount."~~.

(6) The discounted present value of all structured settlement payments to be transferred and a statement that "This is the value of your structured settlement in current dollars." This amount shall be disclosed in the form prescribed in subdivision (b) ~~in the space for "Present value of amount you are selling."~~.

(7) The federal rate, as described in subdivision (c) of Section 10134, used in determining the discounted present value.

(8) The effective equivalent interest rate, which shall be disclosed in the following statement:

"YOU WILL BE PAYING THE EQUIVALENT OF AN INTEREST RATE OF ____% PER YEAR.

Based on the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, if the transferred structured settlement payments were installment payments on a loan, with each payment applied first to accrued unpaid interest and then to principal, it would be as if you were paying interest to us of ____% per year, assuming funding on the effective date of transfer."

This percentage amount shall be disclosed in the form prescribed in subdivision (b) in the space for "the equivalent interest rate you would be paying for this loan would be ____% per year."

(9) The quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments.

(10) A statement that the payee should obtain independent professional advice regarding any federal and state income tax consequences arising from the proposed transfer, and that the transferee may not refer the payee to any specific adviser for that purpose.

(11) A statement that the court approving the transfer agreement retains continuing jurisdiction to interpret and monitor implementation of the agreement as justice may require.

(12) The following statement: "If you believe you were treated unfairly or were misled as to the nature of the obligations you assumed upon entering into this agreement, you should report those circumstances to your local district attorney or the office of the Attorney General."

(13) The following statement printed in 14-point type, circumscribed by a box with a bold border, and set forth immediately above or adjacent to the space reserved for the payee's signature: "You have the right to cancel this agreement without any cost or obligation until the date the court approves this agreement. You will receive notice of the court hearing date when approval may occur. You must cancel in writing and send your cancellation to [insert transferee's name and address]."

(d) The contract for transferring the structured settlement payment rights may not violate Section 10138.

(e) At any time before the date on which a court enters a final order approving the transfer agreement pursuant to Section 10139.5, the payee may cancel the transfer agreement, without cost or further obligation, by providing written notice of cancellation to the transferee.

SEC. 4. Section 10137 of the Insurance Code is amended to read:

10137. A transfer of structured settlement payment rights is void unless a court reviews and approves the transfer and finds the following conditions are met:

(a) The transfer of the structured settlement payment rights is fair and reasonable and in the best interest of the payee, taking into account the welfare and support of his or her dependents.

(b) The transfer complies with the requirements of this article, will not contravene other applicable law, and the court has reviewed and approved the transfer as provided in Section 10139.5.

SEC. 5. Section 10138 of the Insurance Code is amended to read:

10138. (a) A transfer agreement, as defined in subdivision (o) of Section 10134, shall not include any provision described in the paragraphs below. Any inclusion of a prohibited provision, with respect to a seller who is a California resident, shall make the ~~contract~~ *provision* void and unenforceable.

(1) Any provision that waives the seller's right to sue under any law, or in which the seller agrees not to sue, or that waives jurisdiction or standing to sue under the contract.

(2) Any provision that requires the seller to indemnify and hold harmless the buyer, or to pay the buyer's costs of defense, in any claim or action brought by the seller or on the seller's behalf contesting the sale for any reason.

(3) Any provision that waives benefits or rights conferred by law with respect to garnishment of wages.

(4) Any provision providing that the contract is confidential or proprietary, belonging to the buyer.

(5) Any provision in which the seller stipulates to a confession of judgment.

(6) Any provision requiring the seller to pay the buyer's attorney's fees and costs if the purchase agreement is not completed.

(7) Any provision requiring the seller to pay any tax liability arising under the federal tax laws, other than the seller's own tax liability, if any, that results from the transfer.

(8) Any provision providing for brokerage fees incurred in the contract to be deducted from the purchase price disclosed pursuant to paragraph (5) of subdivision (b) of Section 10136.

(9) If the payee is domiciled in California at the time that the transfer agreement is signed by the payee, any forum selection provision providing for jurisdiction to be in a court outside of California for any action arising under the contract.

(10) If the payee is domiciled in California at the time that the transfer agreement is signed by the payee, any choice-of-law provision that provides for controlling law to be other than California law in any action arising under the contract.

(11) A provision that provides the transferee with a security interest or collateral interest in any structured settlement payment rights that exceed the actual dollar amount of the structured settlement payment rights being transferred.

(12) Any provision that creates a "buyer's first right of refusal" to purchase any remaining structured payment rights that the payee may desire to sell in the future.

(b) The provisions in this section may not be waived by agreement of the parties.

SEC. 6. Section 10139 of the Insurance Code is amended to read:

10139. (a) At the time of filing a petition pursuant to Section 10139.5 for court approval, the transferee shall file with the Attorney General a copy of the transferee's petition for approval, a copy of the written disclosure statement required by subdivision (a) of Section 10136, a copy of the transfer agreement as defined in subdivision (o) of Section 10134, and, ~~if available~~ *unless* *excepted pursuant to subparagraph (H) of paragraph (2) of subdivision (f) of Section 10139.5*, a copy of the annuity contract, any qualified assignment agreement, the underlying structured settlement agreement, or any order or approval of any court or responsible administrative authority authorizing or approving the structured settlement, and a copy and proof of notice to the interested parties, and a verified statement from the transferee stating that all of the conditions set forth in Sections 10136, 10137, and 10138 have been met.

(b) The Attorney General may, but is not required to, review any transfer agreement in order to ensure that the transfer meets the requirements of this article.

(c) The Attorney General may charge a reasonable fee for the filing of the transfer agreement as provided in this section. The fee shall be paid by the transferee.

(d) This section does not apply to a transfer by a payee who is not a resident of California at the time the payee executes the transfer agreement.

SEC. 7. Section 10139.3 of the Insurance Code is amended to read:

10139.3. (a) None of the provisions of this article may be waived by the payee.

(b) Compliance with the requirements set forth in Sections 10136, 10137, and 10138 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights.

(c) A payee who proposes to make a transfer of structured settlement payment rights shall not incur any penalty, shall not forfeit any application fee or other payment, and shall not otherwise incur any liability to the proposed transferee based on any failure of that transfer to satisfy the requirements of Sections 10136, 10137, and 10138.

(d) The transferee and any assignee shall be liable to the structured settlement obligor and the annuity issuer for any and all taxes incurred as a consequence of the transfer or as a consequence of any failure of the transferee or assignee to comply with this article or the terms of the structured settlement agreement.

(e) Neither the annuity issuer nor the structured settlement obligor may be required to divide any structured settlement payment between the payee and any transferee or assignee or between two or more transferees or assignees.

SEC. 8. Section 10139.5 of the Insurance Code is amended to read:

10139.5. (a) 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 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 on express written findings by the court that:

(1) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(2) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received that advice or knowingly waived, in writing, the opportunity to receive the advice.

(3) The transferee has complied with the notification requirements pursuant to paragraph (2) of subdivision (f), the transferee has provided the payee with a disclosure form that complies with Section 10136, and the transfer agreement complies with Sections 10136 and 10138.

(4) The transfer does not contravene any applicable statute or the order of any court or other government authority.

(5) The payee understands the terms of the transfer agreement, including the terms set forth in the disclosure statement required by Section 10136.

(6) The payee understands and does not wish to exercise the payee's right to cancel the transfer agreement.

(b) When determining whether the proposed transfer should be approved, including whether the transfer is fair, reasonable, and in the payee's best interest, *taking into account the welfare and support of the payee's dependents,* the court shall consider the totality of the circumstances, including, but not limited to, all of the following:

(1) The reasonable preference and desire of the payee to complete the proposed transaction, taking into account the payee's age, mental capacity, legal knowledge, and apparent maturity level.

(2) The stated purpose of the transfer.

(3) The payee's financial and economic situation.

(4) The terms of the transaction, including whether the payee is transferring monthly or lump sum payments or all or a portion of his or her future payments.

(5) Whether, when the settlement was completed, the future periodic payments that are the subject of the proposed transfer were intended to pay for the future medical care and treatment of the payee relating to injuries sustained by the payee in the incident that was the subject of the settlement and whether the payee still needs those future payments to pay for that future care and treatment.

~~(6) The effect of the transfer on the welfare and support of the payee's dependents.~~

~~(7)~~

(6) Whether, when the settlement was completed, the future periodic payments that are the subject of the proposed transfer were intended to provide for the necessary living expenses of the payee and whether the payee still needs the future structured settlement payments to pay for future necessary living expenses.

~~(8)~~

(7) Whether the payee is, at the time of the proposed transfer, likely to require future medical care and treatment for the injuries that the payee sustained in connection with the incident that was the subject of the settlement and whether the payee lacks other resources, including insurance, sufficient to cover those future medical expenses.

~~(9)~~

(8) Whether the payee has other means of income or support, aside from the structured settlement payments that are the subject of the proposed transfer, sufficient to meet the payee's future financial obligations for maintenance and support of the payee's dependents, specifically including, but not limited to, the payee's child support obligations, if any. *The payee shall disclose to the transferee and the court his or her court-ordered child support or maintenance obligations for the court's consideration.*

~~(10)~~

(9) Whether the financial terms of the transaction, including the discount rate applied to determine the amount to be paid to the payee, the expenses and costs of the transaction for both the payee and the transferee, the size of the transaction, the available financial

alternatives to the payee to achieve the payee's stated objectives, are fair and reasonable.

~~(11)~~

(10) Whether the payee completed previous transactions involving the payee's structured settlement payments and the timing and size of the previous transactions and whether the payee was satisfied with any previous transaction.

~~(12) (A) Whether the transferee attempted previous transactions involving the payee's structured settlement payments that were denied.~~

~~(B) Whether the transferee attempted previous transactions involving the payee's structured settlement payments that were dismissed prior to a decision on the merits of the previous transaction within the four years prior to the current proposed transfer.~~

~~(13) (A) Whether, to the best of the transferee's knowledge after making inquiry with the payee, the payee attempted previous structured settlement payment transfer transactions with another person or entity, other than the transferee, that were denied.~~

~~(B) Whether, to the best of the transferee's knowledge after making inquiry with the payee, the payee attempted previous structured settlement payment transfer transactions with another person or entity, other than the transferee, that were dismissed or withdrawn prior to a decision on the merits by a court within the four years prior to the current proposed transfer.~~

(11) Whether the transferee attempted previous transactions involving the payee's structured settlement payments that were denied, or that were dismissed or withdrawn prior to a decision on the merits, within the past five years.

(12) Whether, to the best of the transferee's knowledge after making inquiry with the payee, the payee has attempted structured settlement payment transfer transactions with another person or entity, other than the transferee, that were denied, or which were dismissed or withdrawn prior to a decision on the merits, within the past five years.

~~(14)~~

(13) Whether the payee, or his or her family or dependents, are in or are facing a hardship situation.

~~(15)~~

(14) Whether the payee received independent legal or financial advice regarding the transaction. The court may deny or defer ruling on the petition for approval of a transfer of structured settlement payment rights if the court believes that the payee does not fully understand the proposed transaction and that independent legal or financial advice regarding the transaction should be obtained by the payee.

~~(16)~~

(15) Any other factors or facts that the payee, the transferee, or any other interested party calls to the attention of the reviewing court or that the court determines should be considered in reviewing the transfer.

(c) Every petition for approval of a transfer of structured settlement payment rights, except as provided in subdivision (d), shall include, to the extent known after the transferee has made reasonable inquiry with the payee, all of the following:

(1) The payee's name, address, and age.

(2) The payee's marital status, and, if married or separated, the name of the payee's spouse.

(3) The names, ages, and place or places of residence of the payee's minor children or other dependents, if any.

(4) The amounts and sources of the payee's monthly income and financial resources and, if presently married, the amounts and sources of the monthly income and financial resources of the payee's spouse.

(5) Whether the payee is currently obligated under any child support or spousal support order, and, if so, the names, addresses, and telephone numbers of any individual, entity, or agency that is receiving child or spousal support from the payee under that order or that has jurisdiction over the order or the payments in question.

(6) Information regarding previous transfers or attempted transfers, as described in paragraph (11), (12), or (13) of subdivision (b). The transferee or payee may choose to provide this information by providing copies of pleadings, transaction documents, or orders involving any previous attempted or completed transfer or by providing the court a summary of available information regarding any previous transfer or attempted transfer, such as the date of the transfer or attempted transfer, the payments transferred or attempted to be transferred by the payee in the earlier transaction, the amount of money received by the

payee in connection with the previous transaction, and generally the payee's reasons for pursuing or completing a previous transaction. The transferee's inability to provide the information required by this paragraph shall not preclude the court from approving the proposed transfer, if the court determines that the information is not available to the transferee after the transferee has made a reasonable effort to secure the information, including making an inquiry with the payee.

(d) With respect to the information required to be included in every petition for approval of a transfer of structured settlement payment rights pursuant to paragraphs (2), (3), (4), (5), and (6) *of subdivision (c)*, that information shall be deemed to be included in the petition if it is provided at ~~any~~ *the* scheduled hearing on the proposed transfer through oral testimony or ~~papers~~ *documentary evidence* filed with the court ~~for the court's consideration~~ *and made a part of the record consistent with the rules of evidence and procedure*.

(e) Following a transfer of structured settlement payment rights under this article:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments.

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer if the transfer contravenes the terms of the structured settlement for the following:

(A) Any taxes incurred by those parties as a consequence of the transfer.

(B) Any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by those parties with the order of the court or arising as a consequence of the transferee's failure to comply with this article.

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two, or more, transferees or assignees.

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this article.

(f) (1) A petition under this article for approval of a transfer of structured settlement payment rights shall be made by the transferee and brought in the county in which the payee resides at the time the transfer agreement is signed by the payee, or, if the payee is not domiciled in California, in the county in which the payee resides or in the county where the structured settlement obligor or annuity issuer is domiciled.

(2) Not less than 20 days prior to the scheduled hearing on any petition for approval of a transfer of structured settlement payment rights under this article, the transferee shall file with the court and serve on all interested parties~~, including any spouse or domestic partner who the payee owes or to whom the payee is paying child support, via regular mail at the parties current or last known address,~~ a notice of the proposed transfer and the petition for its authorization, and shall include the following with that notice:

(A) A copy of the transferee's current petition and any other prior petition whether approved or withdrawn.

(B) A copy of the proposed transfer agreement and disclosure ~~statement~~ *form* required by paragraph (3) of subdivision (a).

(C) A listing of each of the payee's dependents, together with each dependent's age.

(D) A copy of the disclosure required in subdivision (b) of Section 10136.

(E) A copy of the annuity contract, if available.

(F) A copy of any qualified assignment agreement, if available.

(G) A copy of the underlying structured settlement agreement, if available.

(H) If a copy of a document described in subparagraph (E), (F), or (G) ~~are~~ *is* unavailable or cannot be located, then the transferee is not required to attach a copy of that document to the petition or notice of the proposed transfer if the transferee ~~confirms to~~ *satisfies* the court that reasonable efforts to locate and secure a copy of the document have been made, including making inquiry with the payee. If the documents are available, but contain a confidentiality or nondisclosure provision, then the transferee ~~may~~ *shall* summarize in the petition the payments due and owing to the payee, and, if requested by the court, shall provide copies of the documents to the court at a scheduled hearing.

(I) Proof of service showing compliance with the notification requirements of this paragraph.

(J) Notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's petition, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(K) Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the petition must be filed, which may not be less than 15 days after service of the transferee’s notice, in order to be considered by the court.

(L) If the payee entered into the structured settlement at issue within ~~____~~ *five* years prior to the date of the transfer agreement ~~and the purchase price to be received by the payee is more than $____,~~, then the transferee shall provide the following notice to the payee’s attorney of record at the time the structured settlement was created, if the attorney is licensed to practice in California, at the attorney’s address on file with the State Bar of California. The notice shall be delivered by regular mail and shall contain the following language:

“Your former client, (insert name, address and telephone number of payee), the ‘payee,’ has entered into a contract with (insert name of transferee) to transfer and assign certain future structured settlement payment rights. The transaction is subject to court review and approval under California law. As the payee’s former attorney, you are entitled to receive this notice. You are not required to represent, advise, or consult with the payee in connection with the proposed transaction. You are not required to take any action at all in response to this notice. You may, but are not required to, contact the payee regarding the transaction. The payee is not required to consult with you or provide you any information regarding the transaction, but the payee may do so if he or she wishes.”

The notice to the former attorney described in this section is not required to be provided if the payee in the transaction was not a party to the original structured settlement at issue (for example, if the payee is an heir or beneficiary of the person who was a party to the original structured settlement). Also, if the payee cannot recall or identify his or her former attorney and if the identity of the former attorney cannot be ascertained from the available structured settlement documents, then the notice described in this *subparagraph is not required to be provided and the transfer may proceed without the notice.*

(g) All court costs and filing fees shall be paid by the transferee.

(h) No later than the time of filing the petition for court approval, the transferee shall advise the payee of the payee's right to seek independent counsel and financial advice in connection with the transferee's petition for court approval of the transfer agreement, and shall further advise the payee that if the payee retains counsel, a licensed certified public accountant, or a licensed actuary in connection with a petition for an order approving the transfer agreement, that the transferee shall pay the fees of the payee's counsel, accountant, or actuary, regardless of whether the transfer agreement is approved, and regardless of whether the attorney, accountant, or actuary files any document or appears at the hearing on the petition for transfer, in an aggregate amount not to exceed one thousand five hundred dollars ($1,500). The transferee's accountant, counsel, or actuary may not advise the payee.

(i) The court shall retain continuing jurisdiction to interpret and monitor the implementation and closing of the transaction that is the subject of the transfer agreement as justice requires.

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