



SPONSOR: Rep. VanSant & Rep. Ewing & Sen. Bonini & Sen. Vaughn

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 168

AN ACT TO AMEND TITLE 10 CHAPTER 66 OF THE DELAWARE CODE RELATING TO THE SALE OR TRANSFER OF STRUCTURED SETTLEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 10, Section 6601 by adding a new subsection (t) thereto as follows:

"(t) 'Transferee' or 'payor' shall mean the person, firm or entity purchasing or receiving the assignment, pledge, hypothecation or other form of alienation or encumbrance made by a payee for consideration under a structured settlement agreement."

Section 2. Amend Title 10, Section 6603(b) by deleting said subsection and substituting in lieu thereof the following:

"(b) Not less than 20 days prior to the scheduled hearing on any application for authorization of a transfer of structured settlement payment rights under §6601 of this Title, the transferee shall file with the Court and serve on any other government authority which previously approved the structured settlement and on all interested parties a notice of the proposed transfer and application of its authorization, including in such notice:

(1) a copy of the transferee's application;

(2) a copy of the transfer agreement;

(3) a copy of the disclosure statement required under §6601(b) of this Title;

(4) notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the Court or responsible administrative authority or by participating in the hearing; and

(5) 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 application must be filed (which shall be not less than fifteen [15] days after service of the transferee's notice) in order to be considered by the Court or responsible administrative authority."

21 Section 3. Amend Title 10, Section 6603 by adding a new subsection (d) thereto as follows:

22 "(d) In cases where the payee shall not be represented by counsel, or where the payee and the transferee shall be
23 represented by the same counsel, the Court, in its discretion, may appoint an attorney *ad litem* who shall certify to the
24 Court that the requirements of §6601 have been met. The costs and fees incurred by such attorney *ad litem* shall be borne
25 by the payor or transferee and shall not be passed on to the payee or deducted from the payee's structured settlement
26 agreement proceeds.

SYNOPSIS

The purpose of this legislation is to amend Chapter 66 as follows:

(1) It provides a definition of a transferee which was lacking in the original legislation.

(2) Since the structured settlement agreement is a contractual agreement between private parties, the bill removes the Attorney General, Director of Consumer Affairs and the Insurance Commissioner as persons who shall receive notice since the State is not generally a party to such private agreements. Moreover, the original legislation provided no guidance with respect to the role of such State officials in proceedings under this Chapter.

(3) It allows the Court discretion to retain the services of an independent attorney *ad litem* who can assist the Court in its determination of whether the transfer is in the best interests of the payee and protects the payee from potential fraud or overreaching by the transferee or payor. The costs of such services shall be paid by the transferee or payor without pass through to the payee.