

# HOUSE BILL No. 5780

April 21, 2004, Introduced by Rep. Lipsey and referred to the Committee on Judiciary.

A bill to amend 2000 PA 330, entitled  
"Structured settlement protection act,"  
by amending section 2 (MCL 691.1192).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) "Annuity issuer" means an insurer that has issued an  
3 annuity contract used to fund periodic payments under a  
4 structured settlement.

5       (b) "Applicable law" means 1 or more of the following:

6       (i) The federal laws of the United States.

7       (ii) The laws of this state, including principles of equity  
8 applied in the courts of this state.

9       (iii) The laws of any other jurisdiction to which 1 or more  
10 of the following apply:

11       (A) The jurisdiction is the domicile of the payee.

1 (B) A settled claim was pending in a court in the  
2 jurisdiction when a structured settlement was reached.

3 (c) "Contractual assignment restriction" means a term  
4 prohibiting or restricting transfer of a structured settlement  
5 payments right in a contract or agreement including, but not  
6 limited to, an annuity contract, a structured settlement  
7 agreement, a qualified assignment agreement, or a court order or  
8 administrative order approving a structured settlement.

9 (d) "Dependent" includes a payee's spouse, minor child, or  
10 other person for whom the payee is legally obligated to provide  
11 alimony or other support.

12 (e) "Discounted present value" means, with respect to a  
13 proposed transfer of structured settlement payment rights, the  
14 fair value of future payments, as determined by discounting the  
15 payments to the present using the most recently published  
16 applicable federal rate for determining the present value of an  
17 annuity issued by the United States internal revenue service.

18 (f) "Independent professional advice" means advice of an  
19 attorney, certified public accountant, or other professional who  
20 meets all of the following concerning a transfer of a structured  
21 settlement payment right:

22 (i) He or she is qualified to advise payees and their  
23 dependents on the legal, tax, and financial implications of the  
24 structured settlement payment right.

25 (ii) He or she is not affiliated in any manner with the  
26 transferee of the structured settlement payment right.

27 (iii) His or her compensation for rendering the advice does

1 not depend, directly or indirectly, on whether the transfer of  
2 the structured settlement payment right occurs.

3 (g) "Payee" means an individual who is receiving tax-free  
4 damages payments under a structured settlement and proposes to  
5 make a transfer of his or her payment rights under the structured  
6 settlement.

7 (h) "Protected party" means, with respect to a structured  
8 settlement, the payee, a dependent of the payee, a beneficiary  
9 designated to receive payments following the payee's death, an  
10 annuity issuer, a structured settlement obligor, and any other  
11 party entitled to invoke the benefit of a contractual assignment  
12 restriction applicable to the structured settlement, whether as a  
13 party to or third party beneficiary of the annuity contract, the  
14 structured settlement agreement, the qualified assignment  
15 agreement, or the court order, administrative order, or other  
16 document in which the contractual assignment restriction  
17 appears.

18 (i) "Qualified assignment agreement" means an agreement  
19 providing for a qualified assignment within the meaning of  
20 section 130 of the internal revenue code, ~~of 1986~~ **26 USC 130**.

21 (j) "Settled claim" means the original ~~tert~~ claim resolved  
22 by a structured settlement.

23 (k) "Structured settlement" means an arrangement for periodic  
24 payment of damages for personal injuries established by  
25 settlement or judgment in resolution of a ~~tert~~ claim.

26 Structured settlement does not include **a payment under the**  
27 **worker's disability compensation act of 1969, 1969 PA 317, MCL**

1 418.101 to 418.941. However, structured settlement includes an  
2 arrangement for periodic payments ~~in settlement~~ as the result  
3 of or following the redemption of a worker's compensation claim.

4 (l) "Structured settlement agreement" means the agreement,  
5 judgment, stipulation, or release establishing the right of the  
6 payee to receive periodic payments and other terms of a  
7 structured settlement.

8 (m) "Structured settlement obligor" means, with respect to  
9 any structured settlement, the party that has the continuing  
10 periodic payment obligation to the payee under a structured  
11 settlement agreement or a qualified assignment agreement.

12 (n) "Structured settlement payment right" means a right to  
13 receive periodic payments including, but not limited to, lump sum  
14 payments under a structured settlement from the settlement  
15 obligor or the annuity issuer, where 1 or more of the following  
16 apply:

17 (i) The payee or a protected party is a resident of this  
18 state.

19 (ii) The settled claim was pending before a court of this  
20 state when the structured settlement was reached.

21 (o) "Transfer" means a sale, transfer, assignment, pledge,  
22 hypothecation, or other form of disposition, alienation, or  
23 encumbrance made for consideration.

24 (p) "Transfer agreement" means an agreement providing for  
25 transfer of a structured settlement payment right from a payee.

26 Enacting section 1. This amendatory act does not take  
27 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5781

1 (request no. 05870'03 a) of the 92nd Legislature is enacted into  
2 law.