

Comparison of Bills Modifying Transfers of Structured Settlement Payment Rights, SF 3636 and SF 3463
Civil Law and Data Practices Policy Committee
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March 17, 2022

Issue	SF 3636	Line	SF 3463	Line
Definitions	<p>Amends the following definitions under current law: “applicable law,” “independent professional advice,” “structured settlement payment rights,” and “transferee.”</p> <p>Creates new definitions for “assignee” and “effective equivalent annual interest rate.”</p>	1.8 – 2.2	<p>Amends the following definitions under current law: “application,” “discounted present value,” “independent professional advice,” “interested parties,” “qualified assignment agreement,” “structured settlement payment rights,” and “transfer.”</p> <p>Creates new definitions for the following terms: “assignee,” “commissioner,” “gross advance amount,” “net advance amount,” “periodic payments,” “structured settlement purchase company,” “structured settlement transfer proceeding,” “transfer expense,” and “transfer order.”</p> <p>Repeals the definition of “applicable law.”</p>	1.10 – 4.20 14.2
Registration & Surety Bond			Requires transferees or a person attempting to acquire structured settlement payment rights from a payee to register with the commissioner of commerce. Requires the transferee or person to secure a surety bond, letter of credit, or post a cash bond.	4.21 – 6.30
Prohibited practices	Prohibits the transferee from representing the payee; intervening in a pending structured settlement transfer proceeding if the transferee is not an interested party; offering incentives to induce a transfer; communicating excessively with the payee; soliciting payees with documents resembling a check or other forms of payment; and soliciting payees who are minors or their guardians.	8.12 – 8.30	Prohibits a transferee from refusing or failing to fund a transfer post court approval; acquiring payment rights without obtaining court approval; unless exempted, paying a commission or finder’s fee to a person arranging for a transfer; intentionally advertising false or misleading information; attempting to bribe or intimidate a payee; attempting to defraud parties to the transfer; unless exempted, intervening in a pending transfer proceeding; unless exempted, knowingly contacting a payee who has signed a transfer agreement; and failing to dismiss a pending transfer at the request of the payee.	7.1 – 8.23

Enforcement of prohibited practices	Provides that a violation of a prohibited practice is a deceptive practice under section 325F.69. Current law provides that the attorney general or county attorney may seek injunctive relief for violations of 325F.69. See section 325F.70 .	8.31 – 8.32	Permits a payee or a structured settlement purchase company to bring a civil action and recover damages for violations of prohibited practices. Permits the court to revoke a company’s registration, suspend registration for a certain period, and enjoin the company from filing for new transfers.	8.24 – 9.5
Required disclosures to payee	Adds new required disclosures to current law, including the effective equivalent annual interest rate, a statement that the payee should seek independent professional advice, and verification that the total fees and charges do not exceed 2% of the total compensation payable to the payee.	3.3 – 4.2	Adds new required disclosures to current law including the effective annual interest rate, that the payee has a right to cancel the agreement without penalty prior to court approval, that the payee has a right to seek independent professional advice, and the payee has the right to seek out additional offers.	9.6 – 10.5
Discount rate	Requires the discount rate under the transfer agreement to be under the annual percentage rate of prime plus five percentage points and provides for how to calculate that amount.	6.28 – 7.6		
Judicial considerations for approval of transfers	Requires the court to determine whether the financial terms of the proposed transfer are fair and reasonable based on a list of factors for the court to consider including the payee’s age, knowledge, capacity, employment status, and ability to meet ongoing and future living expenses.	4.3 – 4.19	Requires the court to consider the welfare and support of the payee’s dependents and that the payee has been advised to seek independent professional advice.	10.13 – 10.19
Independent evaluator	Permits the court to appoint an attorney to evaluate whether the financial terms of the proposed transfer agreement are fair and reasonable and in the best interests of the payee and the payee’s dependents.	5.8 – 5.13		
Predispute arbitration	Prohibits predispute arbitration	4.30		

Venue; choice of law	Requires an application for a transfer to be filed in the district court in the county where the payee resides.	7.12 – 7.13	Requires an application for a transfer to be filed in the district court in the county where the payee is domiciled, unless the structured settlement agreement requires it to be filed with the court that approved the structured settlement. Provides that all transfer agreements must require that disputes under the transfer agreement be venued in Minnesota and adjudicated under Minnesota law.	11.15 – 11.18 12.30 – 13.1
Filings with the court	Retains existing items and requires proof that the disclosure statement has been provided to the payee and their representatives.	7.16 – 8.11	Retains existing items but limits the current law required notices on all previous transfers involving the payee to only certain prior transfers.	11.26 – 12.22
Hearing	Requires the payee to appear in person unless good cause exists to excuse an in-person appearance.	7.14 – 7.15	Requires the payee to appear in person unless good cause exists to excuse an in-person appearance.	11.23 – 11.25
Confessions of judgment	Prohibits confessions of judgment	6.4 – 6.7	Prohibits confessions of judgment	13.1 – 13.2
Life-contingent settlements	Provides that for a transfer of a life-contingent settlement, the transferee must establish satisfactory procedures to periodically confirm the payee’s survival and provide prompt notice of the payee’s death to the annuity issuer and obligor.	9.7 – 9.13	Provides that for a transfer of a life-contingent settlement, the transferee must establish satisfactory procedures to periodically confirm the payee’s survival and provide prompt notice of the payee’s death to the annuity issuer and obligor.	13.3 – 13.8
Liability	Provides that the annuity issuer and structured settlement obligor may rely on the court order approving the transfer and discharges them from liability. Assigns liability to the transferee as to the obligor and annuity issuer.	5.14 – 5.33	Provides that the annuity issuer and structured settlement obligor may rely on the court order approving the transfer and discharges them from liability. Assigns liability to the transferee as to the obligor and annuity issuer. Exempts a payee from any liability to a proposed transferee or assignee of the transfer fails to comply with the sections established in this bill.	10.22 – 11.6 13.9 – 13.17
Application			Clarifies that this bill applies to transfers filed on or after August 1, 2022.	13.22 – 13.32