

SF3636 - 3E - Structured Settlement Transfers

Chief Author: **Paul Utker**
 Committee: **Finance**
 Date Completed: **4/21/2022 2:07:40 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Secretary of State

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Secretary of State						
General Fund	-	-	13	(3)	1	
State Total						
General Fund	-	-	13	(3)	1	
Total	-	-	13	(3)	1	
Biennial Total			13			(2)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Secretary of State					
General Fund	-	-	-	-	-
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/21/2022 2:07:40 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Secretary of State						
General Fund		-	-	13	(3)	1
Total		-	-	13	(3)	1
Biennial Total				13		(2)
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Secretary of State						
General Fund		-	-	19	-	4
Total		-	-	19	-	4
Biennial Total				19		4
2 - Revenues, Transfers In*						
Secretary of State						
General Fund		-	-	6	3	3
Total		-	-	6	3	3
Biennial Total				6		6

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State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/21/2022 2:00:04 PM
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State Cost (Savings) Calculation Details

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*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

SF3636-3E amends the process for and approval of transfer of structured settlement payment rights; requiring structured settlement purchase companies to register and provide a surety bond; requiring disclosures to payees; prohibiting certain practices; authorizing enforcement of prohibited practices and judicial sanctions; requiring judicial consideration of best interest factors; and authorizing the appointment of an attorney evaluator to assess and advise the court regarding the financial terms of the proposed transfer agreement. Costs and fees for the evaluator shall be the responsibility of the transferee. This bill creates prohibited practices of a transferee and violation of these procedures and requirements constitute a deceptive practice in violation of Minn. Stat. § 325F.69.

Assumptions

This bill authorizes the court to appoint an attorney to make an independent assessment and advise the court on 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. It is assumed the evaluator will prepare a written report and file the report with the court. This bill is silent on whether the evaluator must serve a copy of the report on the payee or the transferee. Pursuant to the Minnesota Rules of Public Access to Records of the Judicial Branch, court records are presumed to be public. However, some court records are deemed non-public by public access rules. Court services records that are gathered at the request of a court to assist in the disposition in a case are non-public. It is assumed the evaluator’s report is a court service record and therefore, will be non-public. Minn. R. Pub. Access 4, subd. 1(b)(2).

It is assumed this bill places a higher burden on the transferee to prove to the court that the proposed structured settlement is fair and reasonable and in the best interests of the payee. It is assumed this bill may decrease the number of structured settlement filings in Minnesota.

This bill assumes the court will have access to a pool of attorneys who would be available for such appointment. It is unknown if there are attorneys who are qualified in performing these assessments or if attorneys would be willing and available for appointment. It is assumed some districts may create local rosters of qualified attorneys for use by the district courts for such appointments.

It is assumed this bill may increase hearing time and order writing time given the higher scrutiny on proposed structured settlement agreements.

It is assumed this bill may increase deceptive practice filings.

Expenditure and/or Revenue Formula

This bill may decrease the number of structured settlement filings, increase deceptive practice filings, and may increase hearing time and order writing time. It is assumed any impact will be absorbed by the courts.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

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Chief Author: **Paul Utke**
 Committee: **Finance**
 Date Completed: **4/21/2022 2:07:40 PM**
 Agency: **Secretary of State**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	-	13	(3)	1
Total	-	-	13	(3)	1
Biennial Total			13		(2)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 4/21/2022 11:22:36 AM
Phone: 651-284-6436 **Email:** christian.larson@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	13	(3)	1
Total		-	-	13	(3)	1
Biennial Total					13	(2)
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	-	19	-	4
Total		-	-	19	-	4
Biennial Total					19	4
2 - Revenues, Transfers In*						
General Fund	-	-	-	6	3	3
Total		-	-	6	3	3
Biennial Total					6	6

Bill Description

SF 3636 modifies requirements for the transfer of structured settlement payment rights. As it relates to the Office of the Secretary of State (OSS), the legislation specifically requires a transferee to register as a structured settlement purchase company with the Secretary of State and obtain a surety bond, letter of credit, or post a cash bond of \$50,000.

The portion of the bill impacting the OSS is in Section 18, and requires the OSS to create a registration system. Specifically:

Subdivision 1 requires any person seeking to acquire structured settlement payments rights to register with the OSS as a structured settlement purchase company (SSPC).

Subdivision 2 requires applicants for registration to use a form prescribed by the OSS, and requires the OSS to create such a form. Registrations are valid for one year and may be renewed annually.

Subdivision 3 requires applicants to submit a sworn statement to the OSS certifying that the applicant has secured a surety bond, has been issued a letter of credit, or posted a cash bond in the amount of \$50,000.

Subdivision 4 requires a SSPC to file a notice with the OSS within ten days following a judgment obtained against the company by a payee.

Subdivision 5 specifies that the liability of the surety issuing the surety bond is not affected by acts or omissions of the SSPC or insolvency or bankruptcy of the structured settlement purchase company. Provides that if a non-registered SSPC obtains a transfer order, that transfer order is not a qualified order under a federal law governing tax implications for the transfer of structured settlement payment rights.

Subdivision 6 prohibits the surety issuing the surety bond from cancelling or modifying the surety bond during the term it was issued unless written notice is provided to the OSS 20 days before the effective date of the cancellation or modification. If a modification or cancellation results in noncompliance with the sections in this bill, the SSPC's registration expires unless a new surety bond, letter of credit, or cash bond is issued prior to the cancellation or modification.

Subdivision 7 exempts assignees and employees of a SSPC from registration requirements.

Subdivision 8 requires an initial application fee to be paid to the OSS of \$200 and a fee of \$115 for renewal.

The provisions of this section are effective January 1, 2023.

Assumptions

The creation of the database of Structured Settlement Purchasing Companies (SSPC) and necessary other materials for filing in compliance with Section 18 of the bill will require the following:

· **Creation of new data structures for the indexing of certain data, and ensuring that all documents submitted are scanned and linked to the SSPC filing records.** Specifically, this will include:

o Filing Actions: All documents included with each filing will be scanned into the system. The following SSPC actions will be data-entered into OSS database:

- Registration
- Renewal
- Cancellation
- Amendment
- Post Judgment Notice

o Data Elements Indexed/System-Required. The assumption is all data elements are required for all filing actions initiated by the SSPC.

- Business Name
- Principal Office Address
- Registration Number
- Filing Date
- Initial Registration Number - Registration number for SSPC will either be required to be provided by filer for any non initial registrations or internal process will be needed to look up initial registration number for the purpose of linking filings from the same SSPC entity.

· **Creation of a manually generated spreadsheet whenever a SSPC modifies any data elements on the public list.** Specifically, this work will include:

o A spreadsheet generated manually whenever an SSPC filing modifies any data elements on the public list or each month (or other interval decided by business owner) to include new registrations or remove registrations that have expired. It is assumed that one person and a backup will manage these filings and posting public list. A system generated report will be available on demand.

- Spreadsheet includes only Active Registrations.
- Active Registrations will expire one year from the initial registration date. The expiration date will be extended by one year after a renewal is filed with secretary of state.
- Assumption is if a renewal is not filed, the SSPC will be removed from the active list and will require a new registration.
- Public List will include statement that describes definition of active SSPC and may also include information on how to order copies of registration records.
- Include interface for internal staff to run public list report.
- Registration Data Elements available on public list:
 - Name

- Registration Number
- Filing Date
- Expiration Date
- Principal Office Address

· **Creation of a new SSPC entity type for indexing in OSS databases.** The OSS assumes that the following products will be used to implement logic and data requirements for an SSPC entity. These products will be used as part of the indexing process in the OSS database. The OSS assumes that SSPC Filings will only be accepted with an order origin of Mail.

- o Registration (Original Filing)
- o Renewal
- o Amendment
- o Cancellation
- o Post Judgment Notice
- o Copy SSPC - Assumption is we will provide non certified copies per statute 5.12. Certified copies is out of scope for SSPC.

· **Creation of forms for initial registration, amendment, or renewal of SSPC filings.** The OSS assumes limited costs with the creation of a paper (PDF) form that includes filing instructions, fees and data requirements for initial registration, renewal and amendment.

- o The OSS assumes that one form can be used to submit initial registration, amendment, or renewal.
- o This form must collect all indexed information, including registration number.
- o This form must be made fully ADA accessible.

· **Creation of a workflow process.** Specifically, the OSS assumes that staff will need to develop a workflow process and business rules that consider the following:

- o Data entry staff person to scan application with any additional submitted images.
- o OSS staff person will enter all required index data.
- o Validation logic maybe required for any non-initial registration to require a valid registration number to link all filings for an SSPC entity.
- o Validation logic will be implemented to require data entry for all indexed data elements.
- o It is assumed that secretary of state is not proving acknowledgment back to the submitter, unless it is required to provide registration number and filing date to filer.

The OSS is unable to further speculate on the number of new SSPCs that may file in subsequent years or the SSPCs that may decline to renew their filings. The OSS assumes that all filing fees collected will be deposited into the State's General Fund. The OSS assumes approximately 30 filings each year, based on the experience of other states. The OSS further assumes that these 30 initial filings will be renewed each year. The processing of 30 filings does not result in a negligible impact on the office due to the capacity as a filing office without regulatory enforcement.

The OSS assumes maintenance costs to all new systems of 20% of the initial cost of development.

The OSS assumes IT staff time costs at \$85 per hour of staff time.

Expenditure and/or Revenue Formula

Expenditures:

Creation of new data structures for the indexing of certain data, and ensuring that all documents submitted are scanned and linked to the SSPC filing records.	40 hours
Creation of a manually generated spreadsheet whenever a SSPC modifies any data elements on the public list.	80 hours
Creation of a new SSPC entity type for indexing in OSS databases.	40 hours
Creation of forms for initial registration, amendment, or renewal of SSPC filings.	40 hours
Creation of a workflow process.	20 hours
Total Hours	220 hours
Total Cost at \$85 Per Hour	(\$18,700) FY23

Revenue:

30 initial filings at 200	\$6,000 FY23
30 renewals per year at 115	\$3,450 annually

Long-Term Fiscal Considerations

The OSS assumes maintenance costs to all new systems of 20% of the initial cost of development per biennium.

Long Term Maintenance Costs: (\$3,740) biennially

Local Fiscal Impact

None.

References/Sources

Julie Strother 651.201.1342

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues associated with this proposed legislation.

If Information Technology costs are included, my agency's Chief Information Officer has reviewed the estimate.

Agency Contact: Ann Lindstrom (651-335-0055)

Agency Fiscal Note Coordinator Signature: Juin Charnell

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