

CONNECTICUT GENERAL STATUTES ANNOTATED
TITLE 52. CIVIL ACTIONS
CHAPTER 900. COURT PRACTICE AND PROCEDURE

Current through 6-5-02

§ 52-225f. Transfer of structured settlement payment rights. Court approval required

(a) For purposes of this section:

(1) "Annuity issuer" means an insurer that has issued any insurance contract used to fund periodic payments under a structured settlement;

(2) "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 payable by the payee in connection with the proposed transfer or deductible from the gross consideration that would be paid to the payee in connection with the transfer;

(3) "Interested parties" means, with respect to any structured settlement, the payee, any beneficiary designated to receive payments following the payee's death or, if the designated beneficiary is a minor, the designated beneficiary's parent or guardian, the annuity issuer and the structured settlement obligor;

(4) "Payee" means an individual who is receiving payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

(5) "Structured settlement" means an arrangement for periodic payment of damages established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;

(6) "Structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or under an agreement providing for a qualified assignment within the meaning of Section 130 of the Internal Revenue Code of 1986, [FN1] or any subsequent corresponding internal revenue code of the United States, as from time to time amended;

(7) "Structured settlement payment rights" means rights to receive periodic payments, including lump sum payments, under a structured settlement, whether from the settlement obligor or the annuity issuer;

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

(9) "Transfer agreement" means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee; and

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

(b) No transfer of structured settlement payment rights, either directly or indirectly, shall be effective by any payee domiciled in this state or by any payee entitled to receive payments under a structured settlement funded by an insurance contract issued by an insurer domiciled in this state or owned by an insurer or corporation domiciled in this state and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of any such transfer unless (1) not less than ten days prior to the date on which the payee entered into the transfer agreement, the transferee provided to the payee a written disclosure statement setting forth (A) the amounts and due dates of the structured settlement payments to be transferred; (B) the aggregate amount of the payments; (C) the gross amount of all expenses; (D) the amount payable to the payee, net of all expenses, in

exchange for the payments; (E) the discounted present value of all structured settlement payments to be transferred and the discount rate used in determining such discounted present value; and (F) a statement that the payee may be subject to adverse federal and state income tax consequences as a result of the proposed transfer; and (2) such transfer has been approved by a court pursuant to subsection (c) of this section.

(c)(1) Prior to any transfer, the payee entitled to receive payments under such structured settlement shall commence a declaratory judgment action under section 52-29 for a determination as to whether the transfer of such structured settlement payment rights is in the best interests of the payee and is fair and reasonable to all interested parties under all of the circumstances then existing. The annuity issuer and the structured settlement obligor shall be made parties to such action. If the court determines, after hearing, that such transfer should be allowed, it shall approve such transfer upon such terms and conditions as it deems appropriate.

(2) The court in which the original action was or could have been filed or the court which has jurisdiction where the applicant resides shall have jurisdiction over any such action.

(3) The payee shall cause notice of the action to be served on all interested parties by a proper officer or other person lawfully empowered to make service. The notice of the action shall include (A) a copy of the payee's application to the court for approval of the transfer (B) a copy of the disclosure statement required under subsection (b) of this section and (C) notice of the hearing.

(4) The payee may seek an order setting the deadline for the filing of written objections. The payee shall give notice to all interested parties of the deadline for filing objections whether such deadline has been established by court order or by operation of the general statutes or court rule. Notice shall be mailed to all interested parties at least ten days before such deadline.

(5) The court shall hold a hearing on the application. The payee shall give notice of the hearing to all interested parties.

(d) Nothing contained in this section shall imply that any transfer under a transfer agreement dated prior to October 1, 1998, is binding upon any interested party or that any annuity issuer or structured settlement obligor is under any obligation to make transferred payments to the transferee of any such prior transfer.

(e) The provisions of this section may not be waived.

CREDIT(S)

(1998, P.A. 98-238, § 1.)

[FN1] 26 U.S.C.A. § 130.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

Codification

Gen.St., Rev. to 1999, codified 1998, P.A. 98-238, § 1 as C.G.S.A. § 52- 225f.

Effective Dates

1998 Act. 1998, P.A. 98-238, § 15, provided:

"This act shall take effect October 1, 1998, and shall be applicable to transfer agreements executed on or after said date."

CROSS REFERENCES

Security interest, restrictions on assignment or transfer, see C.G.S.A. §§ 42a-9-406, 42a-9-408.

LIBRARY REFERENCES

Encyclopedias
Words and Phrases (Perm.Ed.)

NOTES OF DECISIONS

"Annuity issuers" 1
Construction with common law--Anti-assignment provisions 2

1. "Annuity issuers"

Insurance company that issued annuity to fund structured settlement was an "annuity issuer" within the meaning of statute making the annuity issuer a necessary party in a declaratory judgment action to determine whether the payee may transfer his rights. Rumbin v. Utica Mut. Ins. Co. (2000) 757 A.2d 526, 254 Conn. 259.

2. Construction with common law--Anti-assignment provisions

The statute governing the transfer of structured settlement payment rights does not abrogate the common-law right to include an anti-assignment provision in a structured settlement agreement or annuity. Rumbin v. Utica Mut. Ins. Co. (2000) 757 A.2d 526, 254 Conn. 259.

Anti-assignment clause in annuity contract stating that no payment could be assigned did not render the payee's assignment of the annuity ineffective, but gave the annuity issuer the right to recover damages for breach; the provision limited the right to assign, but not the power to do so, and did not invalidate the assignment. Rumbin v. Utica Mut. Ins. Co. (2000) 757 A.2d 526, 254 Conn. 259.

An assignor who breaches an anti-assignment clause limiting his or her right to assign will be liable for any damages that result from that assignment. Rumbin v. Utica Mut. Ins. Co. (2000) 757 A.2d 526, 254 Conn. 259.

C. G. S. A. § 52-225f

CT ST § 52-225f

END OF DOCUMENT