

BALDWIN'S KENTUCKY REVISED STATUTES ANNOTATED
TITLE XLII. MISCELLANEOUS PRACTICE PROVISIONS
CHAPTER 454. MISCELLANEOUS CIVIL PRACTICE PROVISIONS
TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

Current through End of 2002 Reg. Sess.

454.430 DEFINITIONS FOR KRS 454.430 TO 454.435

As used in KRS 454.430 to 454.435:

- (1) "Annuity issuer" means an insurer that has issued an annuity contract to be used to fund periodic payments under a structured settlement;
- (2) "Payee" means an individual who is receiving tax-free damage payments under a structured settlement and who wants to make a transfer of payment rights under the structured settlement agreement;
- (3) "Protected parties" means, with respect to any structured settlement, the payee, any named beneficiary designated in the annuity contract or structured settlement to receive payments following the payee's death, or, if the named beneficiary is a minor, the named beneficiary's parent or guardian, the annuity issuer, and the structured settlement obligor;
- (4) "Qualified assignment agreement" means an agreement providing for a qualified assignment that meets the requirements of Section 130 of the Internal Revenue Code, 26 U.S.C. sec. 130, as amended from time to time;
- (5) "Settled claim" means the original tort claim resolved by a structured settlement;
- (6) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim;
- (7) "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 a qualified assignment agreement;
- (8) "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, where:
 - (a) The payee or any other protected party is domiciled in this state; or
 - (b) The settled claim was pending before the courts of this state when the structured settlement was reached;

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

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

CREDIT(S)

HISTORY: 1998 c 409, § 1, eff. 7-15-98

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

HISTORICAL AND STATUTORY NOTES

Note: 1998 c 409, § 4, eff. 7-15-98, reads: The provisions of Sections 1 to 3 of this Act shall apply to any transfer of structured settlement payment rights under a transfer agreement reached on or after the effective date of this Act.

KRS § 454.430

KY ST § 454.430

END OF DOCUMENT

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454.431 REQUIREMENT FOR COURT APPROVAL OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS; EXPRESS FINDINGS THAT ARE REQUIRED

No transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of any transfer of structured settlement payment rights unless the transfer has been approved in advance in an order of a court of competent jurisdiction, based on the court's express findings that:

(1) The transfer complies with the requirements of KRS 454.430 to 454.435 and does not contravene other applicable law;

(2) Not less than ten (10) days prior to the date on which the payee entered into the transfer agreement, the transferee has provided to the payee a disclosure statement in bold type, no smaller than fourteen (14) point, 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 discounted present value of the payments, together with the discount rate or rates used in determining the discounted present value;

(d) The gross amount payable to the payee in exchange for the payments;

(e) An itemized listing of all brokers' commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee; and

(f) The amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of any breach of the transfer agreement by the payee;

(3) The payee has established that the transfer is necessary to enable the payee to avoid imminent financial hardship;

(4) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and had filed a copy of the notice with the court; and

(5) The payee has consented in writing to the transfer.

CREDIT(S)

HISTORY: 1998 c 409, § 2, eff. 7-15-98

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

HISTORICAL AND STATUTORY NOTES

Note: 1998 c 409, § 4, eff. 7-15-98, reads: The provisions of Sections 1 to 3 of this Act shall apply to any transfer of structured settlement payment rights under a transfer agreement reached on or after the effective date of this Act.

KRS § 454.431

KY ST § 454.431

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454.435 JURISDICTION OF THE CIRCUIT COURT; NOTICE AND HEARING REQUIREMENTS; NONWAIVERABILITY OF KRS 454.430 TO 454.435

(1) The Circuit Court in the county in which the original action was or could have been filed, or the county where the applicant resides, shall have jurisdiction over any application for approval of a transfer of structured settlement payment rights under KRS 454.431.

(2) Not less than twenty (20) days prior to the scheduled hearing on any application for court approval of a transfer of structured settlement payment rights under KRS 454.431, the payee or transferee shall file with the court and serve on all protected parties a notice of the proposed transfer and the application for its approval, including in the notice:

(a) A copy of the transferee's application to the court;

(b) A copy of the disclosure statement required under KRS 454.431(2); and

(c) 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 ten (10) days after service of the transferee's notice, in order to be considered by the court.

(3) The provisions of KRS 454.430 to 454.435 may not be waived.

CREDIT(S)

HISTORY: 1998 c 409, § 3, eff. 7-15-98

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

HISTORICAL AND STATUTORY NOTES

Note: 1998 c 409, § 4, eff. 7-15-98, reads: The provisions of Sections 1 to 3 of this Act shall apply to any transfer of structured settlement payment rights under a transfer agreement reached on or after the effective date of this Act.

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