

**VERNON'S ANNOTATED MISSOURI STATUTES**  
**TITLE XXVI. TRADE AND COMMERCE**  
**CHAPTER 407. MERCHANDISING PRACTICES**  
**STRUCTURED SETTLEMENT ACT**

Current through West ID 10 of the 2002 2nd Regular Session of the  
91st General Assembly

407.1060. Definitions

As used in sections 40.1060 to 407.1068, the following terms mean:

- (1) "Annuity issuer", an insurer that has issued an annuity contract to be used to fund periodic payments pursuant to a **structured settlement**;
- (2) "Code", the United States Internal Revenue Code, United States Code Title 26, as amended from time to time;
- (3) "Discounted present value", the fair present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;
- (4) "Disinterested counsel", legal counsel that has no business relationship with any transferee of **structured settlement** payment rights, will not receive any compensation directly or indirectly from any such transferee in connection with representing the payee, and whose compensation for representing the payee will not be affected by whether the transfer occurs or does not occur;
- (5) "Interested parties", 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;
- (6) "Payee", an individual who is receiving tax-free damage payments pursuant to a **structured settlement** and who wants to make a transfer of payment rights pursuant to the **structured settlement** agreement;
- (7) "Qualified assignment agreement", an agreement providing for a qualified assignment within the meaning of Section 130 of the Internal Revenue Code, 26 U.S.C. Sec. 130, as amended from time to time;
- (8) "Settled claim", the original tort claim resolved by a **structured settlement**;
- (9) "**Structured settlement**", an arrangement established by:
  - (a) a. Judgment or agreement in resolution of a tort claim providing for the periodic payment of damages excludable from the gross income of the recipient pursuant to Section 104(a)(2) of the Code; or
  - b. Agreement for the periodic payment of compensation pursuant to any workers' compensation act that is excludable from the gross income of the recipient pursuant to Section 104(a)(1) of the Code and which may be assigned pursuant to state law; and
- (b) Where the periodic payments are:

- a. Of the character described in subparagraphs (A) and (B) of Section 130(c)(2) of the Code; and
- b. Payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments pursuant to a qualified assignment in accordance with Section 130 of the Code;
- (10) "**Structured settlement** obligor", with respect to any **structured settlement**, the party that has the continuing periodic payment obligation to the payee pursuant to a **structured settlement** agreement or a qualified assignment agreement;
- (11) "**Structured settlement** payment rights", rights to receive periodic payments, including lump sum payments pursuant to a **structured settlement**, whether from the settlement obligor or the annuity issuer, where:
- (a) The payee is domiciled in this state; or
- (b) The **structured settlement** was approved by a court of this state;
- (12) "Transfer", any sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made for consideration;
- (13) "Transfer agreement", the agreement providing for transfer of **structured settlement** payment rights from a payee to a transferee;
- (14) "Transferee", a party acquiring or proposing to acquire **structured settlement** payment rights through a transfer from a payee.

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(L.1999, S.B. Nos. 1, 92, 111, 129 & 222, § A(§ 3).)

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

LIBRARY REFERENCES

2001 Main Volume

Trade Regulation  861 et seq.  
C.J.S. Trade to Marks, Trade to Names, and Unfair Competition § 380.

V. A. M. S. 407.1060

MO ST 407.1060

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407.1062. Transfer of structured settlement payment rights, approval

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 sections 407.1060 to 407.1068 and does not contravene other applicable law;
- (2) Not less than ten 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 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; and
  - (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;
- (3) The transfer is in the best interest of the payee and the payee's dependents;
- (4) The transferee has given written notice of the transferee's name, address and taxpayer identification number to all interested parties and has filed a copy of the notice with the court;
- (5) The payee has consented in writing to the transfer;
- (6) The payee has been represented by disinterested counsel in connection with the transfer or the payee understands the nature of the transaction and the economic consequences of the transaction; and
- (7) The payment to be made to the payee by the transferee is equal to the fair market value of the **structured settlement** rights being transferred.

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407.1064. Application for approval of transfer of structured settlement

1. An application pursuant to sections 407.1060 to 407.1068 for approval of a transfer of **structured settlement** payment rights may be brought in the circuit court in the county in which the payee is domiciled, or in any court which approved the **structured settlement** agreement.

2. Not less than twenty days prior to the scheduled hearing on any application for court approval of a transfer of **structured settlement** payment rights pursuant to section 407.1062, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its approval, including in the notice:

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

(2) A copy of the disclosure statement required pursuant to subdivision (2) of section 407.1062; and

(3) 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 may be filed by interested parties, which shall be not less than ten days after service of the transferee's notice, in order to be considered by the court.

3. The provisions of sections 407.1060 to 407.1068 may not be waived.

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407.1066. Rescission of transfer agreement--liquidated damages--jurisdiction

1. A payee who enters into a transfer agreement shall have an absolute, irrevocable right to rescind and cancel such transfer agreement, with no penalty or other obligation, by giving written notice of rescission to the transferee at any time during the five days following the signing of the transfer agreement.
2. Any provision in a transfer agreement to pay liquidated damages, penalties, fees, actual or punitive damages, attorneys' fees or costs of any kind or nature to any person, firm, corporation or other entity which will be a party or third-party beneficiary to the transfer or transfer agreement shall be unenforceable.
3. Nothing contained in sections 407.1060 to 407.1068 shall be construed to authorize any transfer of **structured settlement** payment rights or other rights arising under a tort claim or a workers' compensation claim in contravention of applicable law or to give effect to any transfer of such rights that is invalid under applicable law.
4. Any provision in a transfer agreement that consents to jurisdiction in the courts of another state, requires appointment of an agent for service of process, confesses judgment, or selects a forum for resolution of disputes arising out of a transfer agreement shall be unenforceable.

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407.1068. Application of provisions

The provisions of sections 407.1060 to 407.1068 shall apply to any transfer of **structured settlement** payment rights pursuant to a transfer agreement reached on or after August 28, 1999.

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