

# FINAL BILL REPORT

## EHB 1347

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Synopsis as Enacted

**Brief Description:** Creating the structured settlement protection act.

**Sponsors:** By Representatives Benson and Hatfield.

**House Committee on Financial Institutions & Insurance**

**Senate Committee on Labor, Commerce & Financial Institutions**

### **Background:**

In the settlement of large tort claims, damages are often paid by a defendant to a plaintiff in the form of a structured settlement.— In its simplest form, a structured settlement typically involves the initial payment of a lump sum, followed by a series of subsequent smaller payments that are made at specified intervals over a period of years (an annuity—).

This approach to the payment of damages can be advantageous to both parties. Structured settlements are usually paid by an insurance company (the obligor—), that obtains a benefit by paying off the obligation in installments over a long period of time, rather than as a single lump sum. The recipient of the structured settlement proceeds (the payee—) can benefit as well, since the annuity payments are not subject to federal income tax and the receipt of payments over the long term can provide financial security.

It has become commonplace for a payee to transfer his or her right to receive the annuity to a third party corporation (the transferee—), via a contract called a transfer agreement.— In return, the payee receives a single lump sum payment representing the discounted present value of the annuity.

Washington does not specifically regulate the practice of companies acquiring the right to receive the annuity proceeds of structured settlement agreements.

### **Summary:**

A statutory framework is created for regulating the transfer of rights under structured settlement agreements.

A transferee may not acquire a payee's right to receive annuity payments from an obligor under a structured settlement agreement unless a court approves the transferee's formal application for transfer.

The burden of acquiring the court order is on the transferee, who must arrange a court hearing and serve all interested parties, including the payee and obligor, with at least 20 days advance notice. The notice must describe the proposed transfer, contain a copy of the transfer agreement, list the names and ages of the payee's dependents, and describe the procedural rights of the parties.

A court may not enter an order approving a transfer agreement without first making factual findings that 1) the agreement is in the best interests of the payee and his or her dependents, 2) the payee received professional advice about the transfer or knowingly waived such advice in writing, and 3) the transfer does not violate any court order, statute, or government regulation.

The transferee is required to provide specific written disclosures to the payee not less than three days prior to the date on which the payee signs the transfer agreement. The disclosures must include: 1) the amount of the lump sum payment to be received by the payee and an itemization of any deductions for expenses; 2) the aggregate amount of the payments being transferred; 3) the discounted present value of the payments being transferred; 4) the amount of penalties or liquidated damages for which the payee may be liable in the event of breach of the agreement by the payee; and 5) the statement that the payee may cancel the agreement not later than the third business day after signing.

These requirements may not be waived by a payee, and any such waiver is void.

Once a transfer agreement has been formally approved via court order, the obligor is relieved of any legal obligation towards the payee with respect to the transferred payments. The legal obligations between the obligor and transferee are specified with respect to costs, fees, and taxes.

The transferee is solely responsible for compliance with these provisions and assumes all risks associated with noncompliance. The payee may not be held liable or in any way penalized for a transfer that violates these provisions.

The transfer agreement approval process may be undertaken through administrative proceedings rather than court action.

**Votes on Final Passage:**

House 93 0  
Senate 46 0 (Senate amended)  
House 85 0 (House concurred)

**Effective:** July 22, 2001

