SENATE BILL REPORT
SSB 5561

As Passed Senate, March 11, 2003

Title: An act relating to restrictions on assignments under Article 9A of the uniform commercial code.

Brief Description: Concerning restrictions on assignments under UCC Article 9A.

Sponsors: Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senator Prentice).

Brief History:
Committee Activity: Financial Services, Insurance & Housing: 2/6/03, 2/20/03 [DPS].
Passed Senate: 3/11/03, 49-0.

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5561 be substituted therefor, and the substitute bill do pass.
Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice and Zarelli.

Staff: Alison Mendiola-Hamilton (786-7576)

Background: The Uniform Commercial Code (UCC) is a model code governing commercial transactions with the intent of creating uniformity between states. Washington's UCC Article 9A has been adopted as proposed by the UCC.

The old UCC 9, which governs secured transactions, including the sales of accounts, permitted the assignment of a security interest in accounts and general intangibles for the payment of money due or to become due, including assignments containing restrictions.

Revised UCC 9, which went into effect in July 1999, changed this language. Now, any terms which prohibit or restrict assignments on accounts, promissory notes, or payment intangibles are generally ineffective.

Terms used in the UCC: 1) "accounts" include payment obligations; 2) "promissory notes" include an instrument that evidences a promise to pay a monetary obligation; and 3) "payment intangible" means a general intangible under which the account debtor's principle obligation is a monetary obligation.

Structured settlements are voluntary agreements that enable the payment of a damage award for injury victims to be paid through a stream of payments tailored to their needs, as opposed to payment in one lump sum. In order to create a structured settlement, with favorable tax treatment under the Internal Revenue Service (IRS) Code, the assignor must be able to impose certain restrictions.

Summary of Bill: Restrictions on assignments for accounts, promissory notes, and payment intangibles do not apply to the assignment or transfer or creation of a security interest in a claim or right to receive compensation for injuries or sickness through accident or health insurance, such as workers' compensation or under a special needs trusts. This allows these settlements to be paid in a phased out manner over a period of time as a "structured settlement."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Structured settlements are created for the benefit of an injured victim. The Revised UCC 9 contains unintended language which may impact the ability of companies to provide structured settlements. Forty other states have taken steps to correct this error. The drafters of the Revised UCC 9 and the IRS support these changes.

Testimony Against: Language must be prospective; otherwise there is a concern that current structured settlements which have been "cashed out" would not be paid. While the Revised UCC 9 may have created a gray area, the IRS has made no ruling on this particular issue.

Testified: Gary Strannigan, Safeco (pro); Kim McSheridan, Safeco (pro); Chris Wright, Metropolitan Mortgage (con).