

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.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 409, sec. 2, effective July 15, 1998.