

**78B-6-1502 Definitions.**

For purposes of this part:

- (1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.
- (2) "Dependents" include:
  - (a) a payee's spouse;
  - (b) a payee's minor children; and
  - (c) all other persons for whom the payee is legally obligated to provide support, including alimony.
- (3) "Discounted present value" means the present value of future payments determined by discounting the 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) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from the consideration.
- (5) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.
- (6) "Interested parties" means, with respect to any structured settlement:
  - (a) the payee;
  - (b) any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death;
  - (c) the annuity issuer;
  - (d) the structured settlement obligor; and
  - (e) any other party that has continuing rights or obligations under the structured settlement.
- (7) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under Subsection 78B-6-1503(5).
- (8) "Payee" means an individual who:
  - (a) is receiving tax free payments under a structured settlement; and
  - (b) proposes to make a transfer of payment rights under the settlement.
- (9) "Periodic payments" includes both recurring payments and scheduled future lump sum payments.
- (10) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of Section 130 of the United States Internal Revenue Code.
- (11) "Responsible administrative authority" means, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.
- (12) "Settled claim" means the original tort claim resolved by a structured settlement.
- (13) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.
- (14) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.
- (15) "Structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.
- (16) "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer if:

- (a)
    - (i) the payee is domiciled in this state; or
    - (ii) the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in this state;
  - (b) the structured settlement agreement is approved by a court in this state; or
  - (c) the structured settlement agreement is expressly governed by the laws of this state.
- (17) "Terms of the structured settlement" include, with respect to any structured settlement, the terms of:
- (a) the structured settlement agreement;
  - (b) the annuity contract;
  - (c) any qualified assignment agreement; and
  - (d) any order or other approval of any court or other government authority that authorized or approved the structured settlement.
- (18)
- (a) Subject to Subsection (18)(b), "transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.
  - (b) "Transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to:
    - (i) redirect the structured settlement payments to:
      - (A) the insured depository institution; or
      - (B) an agent or successor in interest to the insured depository institution; or
    - (ii) otherwise enforce a blanket security interest against the structured settlement payment rights.
- (19) "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights.
- (20)
- (a) Subject to Subsection (20)(b), "transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including:
    - (i) court filing fees;
    - (ii) attorney fees;
    - (iii) escrow fees;
    - (iv) lien recordation fees;
    - (v) judgment and lien search fees;
    - (vi) finders' fees;
    - (vii) commissions; and
    - (viii) other payments to a broker or other intermediary.
  - (b) "Transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.
- (21) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

Renumbered and Amended by Chapter 3, 2008 General Session