

HOUSE No. 1863

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Mahoney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to structured settlement payment protections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>1/17/2025</i>

HOUSE No. 1863

By Representative Mahoney of Worcester, a petition (accompanied by bill, House, No. 1863) of John J. Mahoney relative to structured settlement payment protections. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to structured settlement payment protections.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 231C of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking out the definition of “independent professional
3 advice” and replacing it with the following:-

4 “Independent professional advice”, advice of an attorney, certified public accountant,
5 actuary, or other licensed professional advisor.

6 SECTION 2. Said section 1 of said chapter 231C, as so appearing, is hereby amended by
7 inserting after the definition of “Interested party” the following definition:-

8 “Minor” an individual who is under 18 years of age.

9 And further by inserting after the definition of “Payee” the following two definitions:-

10 “Periodic payments”, includes both recurring payments and scheduled future lump-sum
11 payments.

12 “Protected person”, an individual:

13 With a mental or cognitive impairment that significantly affects decision-making
14 abilities, including, but not limited to conditions such as Alzheimer's disease, dementia,
15 traumatic brain injury, or intellectual and developmental disabilities, including autism;

16 Whose estate in the commonwealth or in any other jurisdiction is currently administered
17 by a guardian or conservator, due to such impairment, as appointed by a court; or

18 Who has been determined by the court to lack capacity.

19 And further by inserting after the definition of “Structured settlement payment rights” the
20 following definition:-

21 "Structured settlement purchase company", an entity, including an employee or other
22 representative thereof, that acts as a transferee in the state and who is registered with the attorney
23 general pursuant to section 6.

24 SECTION 3. Section 2 of said chapter 231C, as so appearing, is hereby amended by
25 striking section 2 in its entirety and inserting in place thereof the following section:-

26 Section 2. Transfers of structured settlement payment rights

27 (a) No direct or indirect transfer of structured settlement payment rights shall be
28 effective, and no structured settlement obligor or annuity issuer shall be required to make a
29 payment directly or indirectly to a transferee of structured settlement payment rights, unless the
30 transfer has been authorized in advance in a final order of a court of competent jurisdiction or
31 responsible administrative authority, such as an administrative law judge, based on the court's or
32 responsible administrative authority's written express findings that:

33 (1) the transfer complies with the requirements of this chapter and will not contravene
34 other applicable law;

35 (2) the transfer is in the best interests of the payee, taking into consideration the welfare
36 and support of the payee's dependents, if any;

37 (3) the payee has been advised in writing by the transferee to seek independent
38 professional advice pursuant to subsection (8)(xi) regarding the legal, tax, and financial
39 implications of the transfer and has received such advice, or waived the right to receive
40 independent professional advice regarding the legal, tax and financial implications of the
41 transfer, so long as the payee is not a minor or protected person, as defined in section 1, subject
42 to the provisions in sections 6 and 7;

43 (4) the transferee has given written notice of the transferee's name, address, and taxpayer
44 identification number to the annuity issuer and the structured settlement obligor and has filed a
45 copy of the notice with the court or responsible administrative authority;

46 (5) the transfer agreement provides that if the payee is domiciled in the commonwealth,
47 any disputes between the parties shall be governed, interpreted, construed, and enforced in
48 accordance with the laws of the commonwealth and that the domicile state of the payee is the
49 proper place of venue to bring any cause of action arising out of a breach of the agreement; and

50 (6) the court or responsible administrative agency has made a determination that the net
51 amount payable to the payee is fair, just and reasonable under the circumstances then existing;

52 (7) the payee has been informed of their right to cancel the transfer agreement, without
53 penalty of further obligation, until the transfer is approved by the court; and

54 (8) not less than ten days before the date on which the payee first incurred an obligation
55 with respect to the transfer, the transferee has provided to the payee a disclosure statement in
56 bold type, no smaller than 14 points, specifying:

57 (i) the amounts and due dates of the structures settlement payments to be transferred;

58 (ii) the aggregate amount of the payments;

59 (iii) the discounted present value of the payments, together with the discount rate used in
60 determining the discounted present value;

61 (iv) the gross amount payable to the payee in exchange for the payments;

62 (v) an itemized listing of all brokers' commissions, service charges, application fees,
63 processing fees, closing costs, filing fees, referral fees, administrative fees, legal fees, notary
64 fees, and other commissions, fees, costs, expenses and charges payable by the payee or
65 deductible from the gross amount otherwise payable to the payee;

66 (vi) the net amount payable to the payee after deduction of all commissions, fees, costs,
67 expenses and charges described in clause (v);

68 (vii) the quotient, expressed as a percentage, obtained by dividing the net payment
69 amount by the discounted present value of the payments, which shall be disclosed in the
70 statement as follows: "The net amount that you will receive from us in exchange for your future
71 structured settlement payments represent ___% of the estimated current value of the payments";

72 (viii) the effective annual interest rate, which rate shall be disclosed in the statement as
73 follows: "Based on the net amount that you receive from us and the amounts and timing of the

74 structured settlement payments that you are turning over to us, you will, in effect, be paying
75 interest to us at a rate of ___% per year";

76 (ix) the amount of any penalty and the aggregate amount of any liquidated damages,
77 including penalties payable by the payee in the event of a breach of the transfer agreement by the
78 payee;

79 (x) that the payee has the right to cancel the transfer agreement, without penalty or further
80 obligation, until the transfer agreement is approved by the court;

81 (xi) that the payee has the right to seek independent professional advice from an attorney,
82 certified public accountant, actuary, or other licensed professional regarding the proposed
83 transfer and should consider doing so before agreeing to the transfer of any structured settlement
84 payment rights, with the additional statement as follows: "It is prohibited for us to refer you to a
85 specific independent professional advisor. We may refer you to a state or local referral service,
86 bar association, legal aid or any other entity unrelated to us which assists people with locating
87 independent professional advice, if requested"; and

88 (xii) the payee has the right to seek out and consider additional offers for transferring the
89 structured settlement payment rights and should do so.

90 (b) In determining whether a proposed transfer is in the best interest of the payee or the
91 payee's dependents, the court or administrative authority shall, among other things, consider the
92 following factors:

93 (1) the reasonable preference of the payee, in light of their age, mental capacity, maturity
94 level, understanding of the terms of the agreement, and stated purpose for the transfer;

95 (2) if the periodic payments are intended to cover future income, loss of income, or
96 medical expenses, and whether the payee has means of financial support aside from the
97 structured settlement to meet such obligations as they may occur.

98 (3) whether the payee can meet the financial needs of, and obligations to, the payee's
99 dependents if the transfer is allowed to proceed, including child support and spousal
100 maintenance;

101 (4) whether the payee completed previous transactions involving the payee's structured
102 settlement payment rights and actual use of the proceeds;

103 (5) the impact of the proposed transfer on current or future eligibility of the payee or the
104 payee's dependents for public benefits, including, but not limited to,

105 (6) any other factors or facts the court or administrative authority determines are relevant
106 to the proposed transfer.

107 (c) The transfer agreement shall also provide that the parties agree to the jurisdiction of
108 any court of competent jurisdiction located in the commonwealth. If the transfer would
109 contravene the terms of the structured settlement, upon the filing of a written objection by any
110 interested party and after considering the objection and any response to it, the court or
111 responsible administrative authority may grant, deny or impose conditions upon the proposed
112 transfer as the court or responsible administrative authority deems just and proper under the facts
113 and circumstances in accordance with established principles of law. Any order approving the
114 transfer shall require that the transferee indemnify the annuity issuer and the structured
115 settlement obligor for any liability including reasonable costs and attorney's fees arising from

116 compliance by the issuer or obligor with the order of the court or responsible administrative
117 authority.

118 (d) A provision in a transfer agreement giving a transferee power to confess judgment
119 against a payee shall be unenforceable to the extent the amount of the judgment would exceed
120 the amount paid by the transferee to the payee, less any payments received from the structured
121 settlement obligor or the payee.

122 (e) In negotiating a structured settlement of claims brought by or on behalf of a claimant
123 who is domiciled in the commonwealth, the structured settlement obligor shall disclose in
124 writing to the claimant or the claimant's legal representative all of the following information that
125 is not otherwise specified in the structured settlement agreement:

126 (1) the amounts and due dates of the periodic payments to be made under the structured
127 settlement agreement; in the case of payments that will be subject to periodic percentage
128 increases, the amounts of future payments may be disclosed by identifying the base payment
129 amount, the amount and timing of scheduled increases, and the manner in which increases will
130 be compounded;

131 (2) the amount of the premium payable to the annuity issuer;

132 (3) the discounted present value of all periodic payments that are not life-contingent,
133 together with the discount rate used in determining the discounted present value;

134 (4) the nature and amount of any cost that may be deducted from any of the periodic
135 payments;

136 (5) where applicable, that any transfer of the periodic payments is prohibited by the terms
137 of the structured settlement and may otherwise be prohibited or restricted under applicable law;
138 and

139 (6) that any transfer of the periodic payments by the claimant may subject the claimant to
140 serious adverse tax consequences.

141 (f) The district court shall have non-exclusive jurisdiction over an application for
142 authorization of a transfer of structured settlement payment rights.

143 (g) Not less than 20 days before the scheduled hearing on an application for authorization
144 of a transfer of structured settlement payment rights, the transferee shall file with the court or
145 responsible administrative authority, any other government authority that previously approved
146 the structured settlement, and all interested parties a notice of the proposed transfer and the
147 application for its authorization. The notice shall include:

148 (1) a copy of the transferee's application to the court or responsible administrative
149 authority;

150 (2) a copy of the transfer agreement;

151 (3) a copy of the disclosure statement required under this section;

152 (4) notification that an interested party is entitled to support, oppose, or otherwise
153 respond to the transferee's application, either in person or by counsel, by submitting written
154 comments to the court or responsible administrative authority or by participating in the hearing;
155 and

156 (5) notification of the time and place of the hearing and notification of the manner in
157 which and the time by which written responses to the application shall be filed, in order to be
158 considered by the court or responsible administrative authority.

159 Written responses to the application shall be filed within 15 days after service of the
160 transferee's notice.

161 SECTION 4. Section 4 of said chapter 231C, as so appearing, is hereby amended by
162 striking out subsection (e) in its entirety and replacing it with the following four subsections:-

163 (e) No payee who proposes to make transfer of structured settlement payment rights shall
164 incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to
165 the proposed transferee or any assignee based on failure to satisfy the conditions of this chapter.
166 Compliance with the requirements set forth in this chapter are solely the responsibility of the
167 transferee in any transfer of a structured settlement payment rights.

168 (f) A payee may file a motion in the district court in which the structured settlement
169 transfer proceeding was pending alleging a violation of this chapter and may pursue all rights
170 and remedies to which the payee may be entitled pursuant to this chapter or any other applicable
171 law.

172 (g) If a court finds that a structured settlement purchase company or transferee is in
173 violation of this chapter, the court may:

174 (1) revoke the registration of the structured settlement purchase company;

175 (2) suspend the registration of the structured settlement purchase company for a period to
176 be determined at the discretion of the court;

177 (3) enjoin the structured settlement purchase company or transfer from filing new
178 structured settlement transfer proceedings in this state or otherwise pursuing transfers in this
179 state; and

180 (4) order any other equitable relief as determined at the discretion of the court.

181 (h) In addition to, and in furtherance of subsection (g), if the attorney general has reason
182 to believe that any transferee of structured settlement payment rights is in violation of this
183 chapter, the attorney general may bring a civil action for injunctive relief and such penalties and
184 other relief as may be appropriate to secure compliance with this chapter.

185 SECTION 5. Said chapter 231C of the General Laws, as so appearing, is hereby amended
186 by inserting after section 5 the following three sections:-

187 Section 6. Registration requirements of structured settlement purchase companies

188 (a) A person or entity shall not act as a transferee, attempt to acquire structured settlement
189 payment rights through a transfer from a payee who resides in the commonwealth, or file a
190 structured settlement transfer proceeding unless registered with the attorney general's office as a
191 structured settlement purchase company.

192 (b) A person or entity may apply pursuant to this section with the attorney general for
193 registration to do business in the commonwealth as a structured settlement purchase company by
194 submitting a form of application, for an initial or renewed registration, as prescribed by the
195 attorney general's office.

196 An initial registration is valid for one year from the date it is issued, expires one year
197 after it is issued, and may be renewed annually on or before the expiration date.

198 (c) Each initial or renewal application must contain a sworn certification by an owner,
199 officer, director, or manager of the applicant, if the applicant is not a natural person, or by the
200 applicant if the applicant is a natural person, certifying that they will comply with chapter 231C
201 when acting as a structured settlement purchase company and filing structured settlement transfer
202 proceedings.

203 (d) No later than ten days after a judgment is obtained against a structured settlement
204 purchase company by a payee, the structured settlement purchase company shall file a notice
205 with the attorney general. The notice shall contain (i) a copy of the judgement; (ii) the name and
206 address of the judgment creditor; (iii) the status of the matter, including whether the judgement
207 will be appealed, or has been paid or otherwise satisfied.

208 Section 7. Prohibited practices of structured settlement companies

209 (a) A transferee, structured settlement purchase company, or an employee or other
210 representative thereof shall not:

211 (1) pursue or complete a transfer with a payee without complying with the provisions of
212 sections 2, 6, 7, and 8 of this chapter;

213 (2) refuse or fail to fund a transfer after court approval of said transfer;

214 (3) acquire structured settlement payment rights from a payee without complying with all
215 applicable provisions of this chapter, including obtaining court approval of said transfer;

216 (4) attempt to coerce, bribe, or intimidate a payee seeking to transfer structured
217 settlement payment rights, including providing any gift, loan, extension of credit, advance, or

218 other forms of consideration paid to or given to the payee as an inducement to enter a transfer
219 agreement;

220 (5) attempt to defraud a payee or any party to a structured settlement transfer or
221 proceeding of such transfer by any means, including, but not limited to, forgery or false
222 identification;

223 (6) knowingly contact a payee who has signed a transfer agreement or is pursuing a
224 proposed transfer with another structured settlement purchase company for the purpose of
225 inducing the payee into canceling the proposed transfer or transfer agreement if a proceeding has
226 been filed by the other structured settlement purchase company and is pending.

227 (i) the provisions of this subsection do not apply if a hearing has not been held for the
228 pending structured settlement transfer proceeding within 90 days after the filing of such
229 proceeding.

230 (7) fail to dismiss a pending structured settlement transfer proceeding at the request of the
231 payee; provided that a dismissal of a structured settlement proceeding after a structured
232 settlement purchase company has violated the provisions of this chapter does not exempt the
233 structured settlement purchase company from any liability.

234 (8) solicit a prospective payee through the conveyance of a document which resembles a
235 check or other form of payment;

236 (9) provide a transfer agreement or related document that purports to give the transferee
237 the first choice or option to purchase any remaining structured settlement payment rights

238 belonging to the payee or a person associated with the payee which are not subject to the current
239 structured settlement transfer proceeding;

240 (10) communicate with a payee, prospective payee or person associated with the payee:

241 (i) after such person or persons has informed the structured settlement purchase company
242 to cease further communication;

243 (ii) at any time before 8am or after 9pm Eastern Standard Time, or knowingly at a time
244 that is inconvenient to the consumer or payee; or

245 (iii) repeatedly or continuously with intent to annoy, abuse, or harass a payee, prospective
246 payee, or person associated with the payee.

247 (11) instruct a payee to hire or directly refer a payee or a prospective payee to seek
248 independent professional advice from a specific person concerning the legal, tax and financial
249 implications of a transfer of structured settlement payment rights, except that a structured
250 settlement purchase company may refer a payee to a state or local referral service, bar
251 association, legal aid, or any other entity unrelated to the structured settlement purchase
252 company.

253 (i) a person rendering independent professional advice to a payee or prospective payee
254 shall not be affected by whether a transfer occurs or does not occur and must not in any manner
255 be affiliated with or compensated by the transferee or a structured settlement purchase company
256 unless ordered by the court.

257 (ii) notwithstanding newly inserted section 2, a minor or protected person, pursuant to
258 section 1, must receive independent professional advice regarding the legal, tax, and financial
259 implications of a transfer pursuant to this chapter.

260 Section 8. Structured settlement transfers involving minors and protected persons

261 (a) The court shall appoint an attorney in any case involving:

262 (1) a proposed transfer of a minor's structured settlement payments rights by a parent,
263 conservator, or guardian where the attorney must advise the court on whether the proposed
264 transfer is of direct benefit to the minor; or

265 (2) a proposed transfer of structured settlement payment rights involving a payee if it
266 appears to the court that the payee may suffer from a mental or cognitive impairment or may be
267 considered a protected person pursuant to section 1.

268 (b) The transferee shall file a motion for the appointment of an attorney prior to a hearing
269 on the proposed transfer if the transferee:

270 (1) is aware that the underlying structured settlement arose from a case in which a finding
271 was made in a court record of a mental or cognitive impairment on the part of the payee; or

272 (2) is aware of any other case in which a finding was made in a court record of mental or
273 cognitive impairment on the part of the payee, pursuant to section 1; or

274 (c) In conjunction with the motion, the transferee shall provide to the court, either in-
275 camera or as directed by the court in a way to protect the privacy of the payee, any such findings
276 known to the transferee that describe the nature, extent or consequences of the payee's mental or
277 cognitive impairment.

278 (d) No direct or indirect transfer of a minor's structured settlement payment rights by a
279 parent, conservator, or guardian shall be effective unless, in addition to the requirements
280 provided in section 2, the court also finds that:

281 (1) the proceeds of the proposed transfer would be applied solely for support, care,
282 education, health, and welfare of the minor payee; and

283 (2) any excess proceeds would be preserved for the future support, care, education,
284 health, and welfare of the minor payee, and transferred to them upon emancipation.

285 (e) No direct or indirect transfer of a protected person's structured settlement payment
286 rights shall be effective unless, in addition to the requirements provided in section 2, the court
287 also finds that:

288 (1) the proceeds of the proposed transfer would be applied solely for support, care,
289 education, health, and welfare of the payee and their dependents, if any; and

290 (2) any excess proceeds would be preserved for the future support, care, education,
291 health, and welfare of the payee, and their dependents, if any.

292 (f) Notwithstanding any general or special law to the contrary, any court records relating
293 to the settlement of a minor or protected person's claim pursuant to this chapter shall not be
294 subject to disclosure to any person who is not a party to a structured settlement, or made
295 available for public or inspection, except upon motion and show of good cause.

296 SECTION 6. Nothing in this act shall be construed to authorize a transfer of structured
297 settlement payment rights in contravention of any applicable law or to imply that any transfer
298 under a transfer agreement entered into before the effective date of this act is valid or invalid.

299 SECTION 7. Sections 1 to 6 of this act shall be effective as of January 1, 2027, and will
300 apply to any transfer of structured settlement payment rights filed on or after this date.