

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2160

As Amended by House Committee on
Insurance

Brief*

HB 2160 would enact new law concerning structured settlements by establishing a process for selling or transferring a structured settlement agreement to another party. A structured settlement, as amended, is defined in this act as an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim. Provisions of the Structured Settlement Protection Act include:

- A transferee would be required to provide the payee a separate disclosure statement that includes the financial terms of the transaction at least three days prior to the date the payee signs a transfer agreement. The statement must include a provision that the payee has the right to cancel the transfer agreement, without penalty, within a three-day period;
- No direct or indirect transfer of structured settlement payment rights would be effective and no structured settlement obligor or annuity issuer would be required to make any payment directly, or indirectly, to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on the findings that the transfer:
 - is in the best interest of the payee, taking into account the welfare support of the payee's dependents;
 - provides that the payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer; and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- does not contravene any applicable statute or order of any court or government authority.
- An application for approval of a transfer of payment rights is to be made by the transferee; and
- The obligor and annuity issuer would be relieved from liability to make the payments which were subject to the transfer.

Background

The bill was requested by the National Association of Settlement Purchasers (NASP) whose representative indicated that this model act, based on the National Coalition of Insurance Legislators (NCOIL), would allow the association to do business in Kansas in a manner that complies with all applicable laws that would benefit both association members and customers. Kansas does not currently have a structured settlement transfers law.

The House Committee amendments remove the provisions in the bill that would allow settlements of workers' compensation claims to be considered as a structured settlement.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill would have no fiscal effect on the budget of any state agency.