
ASSEMBLY BILL NO. 166—ASSEMBLYMEN BROWN, KNECHT, ANDERSON, ANDONOV, ARBERRY, BEERS, BUCKLEY, CARPENTER, CHOWNING, CHRISTENSEN, GEDDES, GIUNCHIGLIANI, GRADY, GRIFFIN, GUSTAVSON, HARDY, HETTRICK, HORNE, MABEY, MARVEL, MCCLEARY, MORTENSON, OCEGUERA, PERKINS, SHERER AND WEBER (BY REQUEST)

FEBRUARY 20, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning transfer of right to receive payment pursuant to structured settlements. (BDR 3-231)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to structured settlements; requiring the approval of the court for the transfer of the right to receive payment pursuant to a structured settlement; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 42 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 ***1. A person who owns the right to receive payments pursuant***
4 ***to a structured settlement may enter into an agreement to transfer***
5 ***the right to such payments to another person only if approved by a***
6 ***district court. The district court shall approve such a transfer if it***
7 ***determines that the transfer is:***
8 ***(a) In the best interests of the person receiving payments; and***
9 ***(b) Fair and reasonable to all interested parties under the***
10 ***circumstances.***



* A B 1 6 6 *

- 1 2. *An action pursuant to subsection 1 must be commenced in*
- 2 *the district court:*
- 3 (a) *Located where the original claim which gave rise to the*
- 4 *structured settlement was or could have been filed; or*
- 5 (b) *Within the county in which the person receiving payments*
- 6 *resides.*
- 7 3. *A person who commences an action pursuant to subsection*
- 8 *1 must include as a party to the action each person who has an*
- 9 *interest in the structured settlement, including, without limitation,*
- 10 *any insurer that has issued a contract of insurance to fund*
- 11 *periodic payments owed pursuant to the structured settlement and*
- 12 *the person who has the obligation to make the payments pursuant*
- 13 *to the structured settlement.*
- 14 4. *A person who commences an action pursuant to subsection*
- 15 *1 must provide to the court with the proposed agreement a*
- 16 *disclosure from the person to whom the rights to payment are*
- 17 *proposed to be transferred setting forth:*
- 18 (a) *The amounts and due dates of the payments under the*
- 19 *structured settlement proposed to be transferred;*
- 20 (b) *The aggregate amount of the proposed payments to be*
- 21 *transferred;*
- 22 (c) *The gross amount of all expenses that the person who owns*
- 23 *the rights to receive payments pursuant to the structured*
- 24 *settlement will be required to pay and which will be deducted from*
- 25 *the amount paid to the person for the right to receive such*
- 26 *payments, including, without limitation, any commission owed to a*
- 27 *broker, service charges, application or processing fees, costs of*
- 28 *closing on the agreement, filing or administrative charges, legal*
- 29 *fees and fees paid to a notary public;*
- 30 (d) *The amount to be paid to the person who owns the right to*
- 31 *receive payments pursuant to the structured settlement;*
- 32 (e) *The discounted present value of the payments under the*
- 33 *structured settlement that are proposed to be transferred and the*
- 34 *discount rate used to determine that value; and*
- 35 (f) *A statement which informs the person proposing to transfer*
- 36 *his rights to receive payments pursuant to the structured*
- 37 *settlement that such a transfer may subject him to adverse*
- 38 *consequences in the payment of federal income tax.*
- 39 5. *Compliance with the requirements set forth in this section*
- 40 *may not be waived.*

41 **Sec. 2.** NRS 104.9406 is hereby amended to read as follows:
42 104.9406 1. Subject to subsections 2 to 8, inclusive, an
43 account debtor on an account, chattel paper or a payment intangible
44 may discharge its obligation by paying the assignor until, but not
45 after, the account debtor receives a notification, authenticated by the



1 assignor or the assignee, that the amount due or to become due has
2 been assigned and that payment is to be made to the assignee. After
3 receipt of the notification, the account debtor may discharge its
4 obligation by paying the assignee and may not discharge the
5 obligation by paying the assignor.

6 2. Subject to subsection 8, notification is ineffective under
7 subsection 1:

8 (a) If it does not reasonably identify the rights assigned;
9 (b) To the extent that an agreement between an account debtor
10 and a seller of a payment intangible limits the account debtor's duty
11 to pay a person other than the seller and the limitation is effective
12 under law other than this article; or

13 (c) At the option of an account debtor, if the notification notifies
14 the account debtor to make less than the full amount of any
15 installment or other periodic payment to the assignee, even if:

16 (1) Only a portion of the account, chattel paper or payment
17 intangible has been assigned to that assignee;

18 (2) A portion has been assigned to another assignee; or

19 (3) The account debtor knows that the assignment to that
20 assignee is limited.

21 3. Subject to subsection 8, if requested by the account debtor,
22 an assignee shall seasonably furnish reasonable proof that the
23 assignment has been made. Unless the assignee complies, the
24 account debtor may discharge its obligation by paying the assignor,
25 even if the account debtor has received a notification under
26 subsection 1.

27 4. Except as otherwise provided in subsection 5 and NRS
28 104.9407 and 104A.2303, and subject to subsection 8, a term in an
29 agreement between an account debtor and an assignor or in a
30 promissory note is ineffective to the extent that it:

31 (a) Prohibits, restricts or requires the consent of the account
32 debtor or person obligated on the promissory note to the assignment
33 or transfer of, or the creation, attachment, perfection or enforcement
34 of a security interest in, the account, chattel paper, payment
35 intangible or promissory note; or

36 (b) Provides that the assignment or transfer, or the creation,
37 attachment, perfection or enforcement of the security interest may
38 give rise to a default, breach, right of recoupment, claim, defense,
39 termination, right of termination, or remedy under the account,
40 chattel paper, payment intangible or promissory note.

41 5. Subsection 4 does not apply to the sale of a payment
42 intangible or promissory note.

43 6. Subject to subsections 7 and 8, a rule of law, statute, or
44 regulation, that prohibits, restricts, or requires the consent of a
45 government, governmental body or official, or account debtor to the



1 assignment or transfer of, or creation of a security interest in, an
2 account or chattel paper is ineffective to the extent that the rule of
3 law, statute or regulation:

4 (a) Prohibits, restricts, or requires the consent of the
5 government, governmental body or official, or account debtor to the
6 assignment or transfer of, or the creation, attachment, perfection, or
7 enforcement of a security interest in, the account or chattel paper; or

8 (b) Provides that the assignment or transfer, or the creation,
9 attachment, perfection, or enforcement of the security interest may
10 give rise to a default, breach, right of recoupment, claim, defense,
11 termination, right of termination, or remedy under the account or
12 chattel paper.

13 7. Subject to subsection 8, an account debtor may not waive or
14 vary its option under paragraph (c) of subsection 2.

15 8. This section is subject to law other than this article which
16 establishes a different rule for an account debtor who is an
17 individual and who incurred the obligation primarily for personal,
18 family or household purposes.

19 9. This section does not apply to an assignment of a health-
20 care-insurance receivable ~~§~~ *or to a transfer of a right to receive*
21 *payments pursuant to section 1 of this act.*

