



Report on Public Policy Position

Name of Committee:

Civil Procedure and Courts Committee

Contact Person:

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Bill Number:

SB 541 (Sanborn) Torts; civil procedure; revised structured settlement protection act; enact. Creates new act & repeals 2000 PA 330 (MCL 691.1191 - 691.1197).

Date position was adopted:

6-18-05

Process used to take the ideological position:

Discussion and vote

Number of members in the decision-making body:

13 present

Number who voted in favor and opposed to the position:

13-0

Position:

The committee voted unanimously to recommend that Sec. 6(1) be revised to read as follows:

“The transferee shall apply for approval of a transfer of structured settlement payment rights with the court or responsible administrative authority that approved the structured settlement agreement.”

Rationale: The committee believes that the approval of a transfer of a structured settlement should be in the hands of the court or authority that approved the settlement. The revision would remove the options of seeking approval in the counties where the payee resides, or where the structured settlement obligor or annuity issuer have their places of business, if these are not where the approval occurred.

The committee further voted unanimously to recommend that Sec. 2(k) be revised to specify the “government authorities” that are intended by the phrase “responsible administrative authority.”

Rationale: It is unclear exactly what government authorities are “vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.” The statute should name such authorities to avoid possible interpretation problems.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-SB-0541>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

Not provided.

Arguments against the position (if any):

Not provided.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

Not provided.

Fiscal implications of the recommended policy to the State Bar of Michigan:

Not provided.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller- permissible explanation:

Not provided.