



OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

Fiscal Note & Local Impact Statement

Bill: H.B. 223 of the 132nd G.A.

Status: As Reported by Senate Judiciary

Sponsor: Rep. Dever

Local Impact Statement Procedure Required: No

Subject: Transfer of structured settlement payment rights

State & Local Fiscal Highlights

- The bill's structured settlement provisions will have no fiscal effect on the state, in particular the Office of the Attorney General which has enforcement authority with regard to structured settlements under the existing Ohio Consumer Sales Practices Act.
- The bill's structured settlement provisions may have a minimal annual fiscal effect on the courts of common pleas whose subject matter jurisdiction includes the transfer of structured settlement payment rights.
- Probate courts are expected to utilize existing appropriated resources to absorb any additional work that may be created by the bill's interest on lawyer's trust account (IOLTA) provision. Current law requires the interest earned on IOLTAs be credited to the state's Legal Aid Fund (Fund 5740).¹ The amount of additional annual revenue that this provision may generate for Fund 5740 is indeterminate.

Detailed Fiscal Analysis

Transfer of structured settlement payment rights

Structured settlements are arrangements to provide long-term financial security to injury victims by structuring payments over a long period of time. Some payees (recipient of the damage award) seek to transfer future structured settlement payments to a third party in return for a lump sum. The bill revises the Ohio Structured Settlement Protection Act that governs the sale or transfer of the right to receive payments under a structured settlement agreement. Under the bill, existing filing and review procedures are streamlined, the effect of which primarily impacts private parties who apply to a court of common pleas for approval of the transfer and are subject to specified disclosure requirements.

¹ The state's Legal Aid Fund (Fund 5740) is administered by the Ohio Public Defender Commission for the purpose of providing financial assistance to legal aid societies that provide civil legal services to indigents.

Data from the National Association of Settlement Purchasers (NASP) suggests that transfers constitute a very small portion of any given Ohio court's overall workload with an annual average of 340 transfers completed statewide. Several provisions in the bill, to some degree, may affect the number of transfers requested and approved. The elimination of certain requirements relating to dual court approval and mandatory independent professional advice simplifies the transfer process which could possibly increase the number of transfers. However, additional disclosure requirements, which help the court in determining best interest, may make certain transfer applications less likely in the future. Conversations with the Ohio Judicial Conference suggest that the volume and frequency of transfers is expected to be generally similar to that under current law. Thus, the net of these possibilities may result in a minimal annual fiscal effect on courts of common pleas.

A violation of, or failure to comply with, the Ohio Structured Settlement Protection Act falls under the jurisdiction of the Office of the Attorney General as an unfair or deceptive act or practice enforceable as a civil matter under the Ohio Consumer Sales Practices Act (CSPA). Staff of the Attorney General cannot recall the last time that such a violation or failure occurred, which suggests that they are rare. The bill appears unlikely to make a violation or failure more or less likely. Thus, there will be no fiscal effect on the Attorney General, specifically the Consumer Protection Section which has authority over such matters.

Fiduciary funds in IOLTA accounts

The bill permits a fiduciary to transfer funds for deposit in an interest on lawyer's trust account (IOLTA) if the probate court, upon petition by the fiduciary, has approved the deposit. Although the frequency with which such petitions may be filed with any given probate court is uncertain, it is expected that the court will be able to absorb the additional work utilizing existing appropriated resources.

Under current law, all interest earned on an IOLTA is credited to the state's Legal Aid Fund (Fund 5740), which is administered by the Ohio Public Defender Commission for the purpose of providing financial assistance to legal aid societies that provide civil legal services to indigents. The amount of additional annual revenue that this provision of the bill may generate for crediting to Fund 5740 is indeterminate.